

File No. 100/07
Our Ref: RAP

22 March 2007

Dear Councillor

You are kindly requested to attend an **ORDINARY COUNCIL MEETING** of Wingecarribee Shire Council to be held in the Council Chambers, Elizabeth Street, Moss Vale on **Wednesday, 28 March 2007** commencing at **3.00 pm**.

Yours faithfully

Mike Hyde
General Manager

| | |
|--------|--|
| 3.00pm | Council meeting |
| | Open Council (Mayor vacates Chair) |
| | Nominated Councillor to Chair Open Committee |
| 4.30pm | Mayor resumes Chair |
| 5.30pm | Questions from the Public |
| 7.15pm | Closed Council |

BUSINESS

1. OPENING OF THE MEETING
2. PRAYER – *Reverend Stephen Fifer of Bowral Anglican Church*
3. PUBLIC FORUM
4. APOLOGIES
5. ADOPTION OF MINUTES OF ORDINARY MEETING *held on Wednesday, 14 March 2007*
6. BUSINESS ARISING FROM THE MINUTES
7. DECLARATIONS OF INTEREST
8. MAYORAL MINUTE *(if any)*
9. OPEN COUNCIL *chaired by Cllr May King*
 - Visitor Matters
 - Environment and Planning
 - Corporate Services
 - Technical Services
10. MAYOR TO RESUME CHAIR AT 4.30PM
11. COUNCIL MATTERS
 - General Manager
 - Corporate Services
12. NOTICES OF MOTION
13. DELEGATES REPORTS
14. PETITIONS
15. QUESTIONS FROM THE PUBLIC
16. CORRESPONDENCE FOR ATTENTION
17. QUESTIONS WITH NOTICE
18. COMMITTEE REPORTS *(Tabled)*
19. COMMITTEE REPORTS *(Attached)*
20. GENERAL BUSINESS
21. CLOSED COUNCIL (7.15PM)

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ORDINARY MEETING OF COUNCIL
held in the Council Chamber, Civic Centre, Elizabeth St,
Moss Vale on Wednesday, 28 March 2007



DECLARATIONS OF INTEREST

DECLARATION OF INTEREST

101/3

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



MAYORAL MINUTE

c-MM1 Lapsing of Development Consents

REF. MAYOR 5302 (CC 102/5)

Seeking changes in the period development consents lapse in Wingecarribee Shire.

REPORT

I have been concerned for some time that when we issue a development consent, the applicant doesn't have to act on that consent for up to five years. I have also been concerned at the extremely low height the Land and Environment Court sets the bar for people claiming that they have commenced work on their development consent, effectively extending that five year period even further.

The problems with five year consents can arise when there are ongoing changes to the make-up of the local community, changing expectations of the local community and importantly, changes in planning legislation or controls. For instance, something may be approved as a permissible use and in five years time that use is prohibited.

The Director of Environment & Planning advises that Section 95 of the Environmental Planning Assessment Act sets out the rules for the life of consents (lapsing of consents) with five years the default standard. Council, by resolution, can reduce this to 2, 3 or 4 years. There are some restrictions and Council should seek legal advice before finalising any change.

If we reduce it to 2, 3 or 4 years, then an applicant can ask for an extension of 12 months, provided of course, they make application for an extension before the original time runs out. Before granting an extension Council would need to be satisfied that the applicant has shown good cause for considering such an extension.

The provisions have been included in the Act to allow a reasonable time for an applicant to get organised. It allows time to secure finance, get construction certificates approved, adjust to the market and seek s96 amendments if necessary.

The question is how long is reasonable. As mentioned earlier, the problem with five year consents is that a lot can happen in a community in five years.

Adding weight to the argument to reduce the time frame from five years to something less is the fact that our Local Environmental Plan and Development Control Plans are being changed.

For this reason I would suggest that it would be prudent to restrict consents to a reasonable life span of 2 years, with provision for an extension to 3 years if the applicant can show good cause indicating an extension of twelve months is reasonable in the circumstances.



Following on from restricting the life of consents is the question of how easy it is for applicants to keep a consent alive. '*Commencement*' in terms of the Act and the interpretation of the Land and Environment Court is not what most reasonable people would consider commencement to be.

It is no good Council restricting the life of consents if they can be kept alive by driving a peg in the ground or building a driveway crossing. If you want examples, you need to look no further than recent quarry and water extraction consents.

I believe Council needs to lobby the Minister and utilise the Local Government and Shires Association to have the rules tightened. Otherwise, we could have situations where whole new communities have been established only to find the peaceful back paddock is in fact an approved waste dump.

ATTACHMENTS

There are no attachments to this report.

RECOMMENDATION

1. THAT subject to concurrence with legal advice, Wingecarribee Shire Council reduces the period of a valid consent from the current time of five (5) years to two (2) years, with provision for the applicant to ask for a further extension of twelve (12) months if they can show good cause for considering such an extension.
2. THAT Council lobbies both the Minister for Planning and the Local Government & Shires Association to have the provisions tightened to ensure that '*commencement*' within the terms of the Environmental Planning and Assessment Act is much more reasonable in reflecting community expectations.

Gordon Lewis
Mayor

22 March 2007

OPEN COUNCIL

ENVIRONMENT & PLANNING DIVISION

o-EP1 Development Consents Under Delegated Authority

REF: DCM 5302

Submitting list of development consents executed under delegated authority of the Director of Environment and Planning between 7/3/07 and 20/3/07.

RECOMMENDATION

THAT the information relating to Development Consent Nos 1-6 under Delegated Authority be received and noted.

**Development Applications (DAs) Determined – 07/03/07 and 20/03/07
(Excluding Small Lot Subdivisions and Domestic Applications)**

| | | | |
|---|------------|--|--|
| 1 | LUA06/0300 | Lot 25 DP 748741 Old Hume Hwy, Welby (cnr Applegate Close) | 2 lot residential subdivision |
| 2 | LUA06/1126 | Lot 2 DP 706941 Wingecarribee Street, Bowral (Springetts Arcade) | Alterations & additions to commercial premises |
| 3 | LUA06/1138 | Lot 3 DP 1053325, 13-15 Old Dairy Close, Moss Vale | Warehouse / Workshop plus Strata Subdivision |
| 4 | LUA06/1377 | Lot 1 DP 197253, 3 Church Street, Bundanoon | Retail Shop |
| 5 | LUA06/1378 | Lot 1 DP 802339, 1 Church Street, Bundanoon | Addition to Shop |
| 6 | LUA07/0177 | Lot 3 DP 1068045 – Unit 1 Sedgewick Place off Lackey Road, Moss Vale | Light mechanical repairs |



o-EP2 List of Development Applications Received By Council

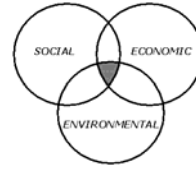
REF: DCM 5302

Submitting list of development applications which have been received between 6/3/07 and 20/3/07, some of which will be dealt with under delegated authority of the Director of Environment & Planning.

RECOMMENDATION

THAT the information regarding the List of Land Use Applications Nos 1-16 received by Council be received and noted.

SEE ATTACHED



| |
|--|
| H – Heritage T – Traffic M – Master Plan E – Economic Devt En - Environment |
|--|

**Development Applications (DAs) Received – 06/03/07 to 20/03/07
(Excluding Small Lot Subdivisions and Domestic Applications)**

| | Date Lodged | LUA Number | Legal Description | Property Address | Description | W & P | Delegation | Committee Referrals |
|---|-------------|------------|------------------------------------|---|--|-------|------------|---------------------|
| 1 | 7/03/2007 | LUA07/0233 | Lot 22 DP 883242 | THE GULLIES ROAD, BUNDANOON (Morven Valley Guesthouse) | Relocation of 2 single Storey existing Guest Cottages with Minor Modification | | ✓ | |
| 2 | 7/03/2007 | LUA07/0241 | Lot 19 DP 260997 | 23 BANKSIA STREET, HILL TOP (Near corner Wattle Street) | Boundary Adjustment – reduce existing access to 6m & adding 6m opposite boundary | | ✓ | |
| 3 | 7/03/2007 | LUA07/0242 | Lot 9 DP 1040207 | GOLDEN VALE ROAD, SUTTON FOREST (Fronting Hume Highway) | 5 x Lot Subdivision (40-44 ha each) | ✓ | | |
| 4 | 8/03/2007 | LUA07/0244 | Lot 1 DP 715213 | 19 DRAPER ROAD, COLO VALE (Near corner Gantry Place) | Warehouse & Office Building – new 1500m ² building, new 2 storey office (ground floor parking). Single storey ablutions block adjacent. | | ✓ | |
| 5 | 8/03/2007 | LUA07/0243 | Lot 8 DP 21133 | 76 STATION STREET, BOWRAL East side of Railway | Shop Fitout of Proposed Building As Fruit Shop & Smallgoods Shop & Sec 68's | | ✓ | |
| 6 | 12/03/2007 | LUA07/0254 | Lot 10 DP 25888 Lot 1 DP 728065 | 57 PARK ROAD, BOWRAL (corner Purcell Street) | 2 x Lot Subdivision (2 x 700m ²) | | ✓ | |
| 7 | 12/03/2007 | LUA07/0256 | Lot 11 DP 1091676 | 197 OLD HUME HIGHWAY, MITTAGONG (Mittagong Marketplace) | Donut King | | ✓ | |



**Development Applications (DAs) Received – 06/03/07 to 20/03/07
(Excluding Small Lot Subdivisions and Domestic Applications) - Continued**

| | Date Lodged | LUA Number | Legal Description | Property Address | Description | W & P | Delegation | Committee Referrals |
|----|-------------|------------|---|--|---|-------|------------|---------------------|
| 8 | 12/03/2007 | LUA07/0257 | Part Lot 13 DP 1002962 | COOWONG, TUGALONG ROAD, CANYONLEIGH | 4 x Lot Rural Subdivision | ✓ | | |
| 9 | 13/03/2007 | LUA07/0260 | Lot 50 DP 734532 | 10 DAVEY STREET, MITTAGONG (under construction) (corner Cavendish Street) | Bulky goods office furniture & machinery & stationery | | ✓ | |
| 10 | 14/03/2007 | LUA07/0274 | Lot 100 DP 869890 and Lot 1 DP 1074502 | BONG BONG ROAD, MITTAGONG (Renwick) | Subdivision 62 single dwg lots & 2 super lots for integrated housing (Integrated DAs to be lodged separately). Road linking upgraded bridge with Renwick. | ✓ | | T |
| 11 | 14/03/2007 | LUA07/0275 | Lots 6, 7, 8 Sec 12 DP 758098 | 29 WINGECARRIBEE STREET, BERRIMA (cnr Surrey Street) | Garage | | ✓ | |
| 12 | 14/03/2007 | LUA07/0272 | Lot 1 Sec 44 DP 1374 | 14 CAVENDISH STREET, MITTAGONG (cnr Davy Street) | 5 Industrial Units & demolition of existing buildings | | ✓ | |
| 13 | 16/03/2007 | LUA07/0281 | Lot 1 DP 585987 | WORKS DEPOT, 83 PARKES ROAD, MOSS VALE | Shed for Berrima Rescue Squad | | ✓ | |
| 14 | 16/03/2007 | LUA07/0282 | Lots 1,2,5 Sec 18 DP 758098 | OLDBURY STREET, BERRIMA (corner Burwan Street) | New Dwelling | | ✓ | |
| 15 | 16/03/2007 | LUA07/0283 | Lot 2 DP 1037716 | South Side RANGE ROAD, MITTAGONG (900m from intersection Old South Road & Range Road) | 2 lot subdivision (1 x 40ha 1 x 47ha) | | ✓ | |
| 16 | 19/03/2007 | LUA07/0290 | Lot 131 DP 1056257 | TUDOR PARK, 7 WINDSOR CRESCENT, MOSS VALE (off Watkins Drive) | 2 storey dwelling with 5 bedrooms | | ✓ | |



o-EP3 Development Control Plan No. 58

REF: SPM

5700/58

The purpose of this report is to present to Council a request for a variation to DCP 58, received from the owner of the subject land in Bowral Road, Mittagong.

REPORT

The purpose of Development Control Plan No. 58 (Attachment A) is to control future development on the total area of land now zoned 3(a) Business as a result of the rezoning from Special Uses (Railways) to 3(a) Business. LEP 122 was gazetted on 16 February, 2007 and DCP 58 came into force on 7 March, 2007. This DCP will remain in force until the new Shire-wide LEP is gazetted and the new Mittagong Town Plan DCP comes into force.

During the public exhibition of draft LEP 122 a total of 38 submissions were received from residents objecting to the rezoning of the Bowral Road site, expressing concern that the rezoning would create a large area of land zoned 3(a) Business which could then be developed for a discount department store or supermarket.

These concerns were addressed through the drafting of DCP No.58 which applies to the entire parcel of 3(a) zoned land, including both the previous zoned land and that rezoned to 3(a) as a result of the LEP amendment. The DCP applies a height restriction of one storey and site coverage of 0.05:1. At its Meeting of 11 October, 2006 Council resolved to approve the DCP.

On 27 February, 2007 Council received a written request from Bureaucracy Busters on behalf of the owner of the properties known as 96a-102 Bowral Road Mittagong that Council remove the height and floor space controls from DCP 58. A copy of the request is provided as Attachment B.

The concern is that the removal of these restrictions could then allow the site to be developed for an inappropriate scale and type of development. Such a potential outcome was the expressed concern of local residents and the reason the DCP was prepared.

Notwithstanding this, the current zoning of the site allows a broad range of activities. If a proposal were submitted to Council which justified a variation to the DCP and was considered both suitable and acceptable, approval for the variation of the DCP can be granted at that time.

CONCLUSION

In supporting the rezoning of the land previously, Council wanted to ensure that inappropriate development did not occur in the period prior to the Shire-wide LEP and new Mittagong Town Centre DCP coming into force. There have been no changes in planning circumstance since then to warrant a change.

The 0.5:1 site coverage restriction reflects existing development on the site. Council has the discretion to allow a greater site coverage if a proposal is assessed or appropriate.



ATTACHMENTS

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

1. Development Control Plan No. 58 – Bowral Road Mittagong.
2. Written request from Bureaucracy Busters.

RECOMMENDATION

1. THAT the existing height restriction and site coverage controls contained in DCP 58 be retained.
2. THAT the Council advise the applicant of its decision.

o-EP4 Draft LEP 124 – Exeter Quarry and Vine Lodge sites

REF: SPM

5813/3

The purpose of this report is to submit draft LEP 124 relating to the Exeter Quarry and Vine Lodge sites and recommend it be adopted by Council.

REPORT

BACKGROUND

Draft LEP 124 relates to Lot 1, DP 611935, Pt Lot 1, DP 857562, Lot 2, DP 537292, Lot B, DP 395847, Lots 4,5,6 and Pt Lot 7, Section 1, DP 978852 and Lot A, DP 927745, Lot 4, DP 660174 and road reserve. The LEP covers two separate sites described as the Exeter Quarry and the property known as Vine Lodge.

The purpose of the draft Plan as exhibited is to allow the former Exeter Quarry site to be developed for a maximum of 25 rural residential allotments as well as limiting the development of the land attached to the property known as Vine Lodge zoned Residential 2(a2) and immediately adjoining the northern boundary of Exeter Park also to 25 allotments. In addition to this, a subdivision application has been submitted over the Exeter Quarry site.

At the meeting on 22 March 2006 Council resolved, inter alia,

1. THAT Council endorses the draft Local Environmental Plan No. 124 as attached.
2. THAT the draft LEP be forwarded to the Department of Planning requesting that Certification be given to placing the draft LEP on public exhibition.'

PUBLIC EXHIBITION

The Department issued the Section 65 Certificate on 20 November 2006 and the Plan was placed on public exhibition from 6 December 2006 to 31 January 2007. A public information session was also held at Exeter Hall on 12 December 2006 where 15 people attended. A total of nine submissions were received, which are summarised as follows:

Exeter Village Association (EVA)

Comments received

1. General support for Plan.
2. Particularly in favour of the 'loop' concept which would enable residents (both existing and proposed) to move, largely off-road, between the subdivision, school, general store and railway station.
3. Suggest a shared walk/cycle path alongside Rockleigh Road and down to the underpass.
4. Access to Exeter Park.

Response

1. Comments noted.
2. This can be achieved through the creation of an open space allotment.
3. This will be considered as part of the subdivision application.
4. Noted.

Exeter Park Management Committee

Comments received

1. General support for Plan.
2. Want to see the inclusion of provisions for protection of Exeter Park.
3. Suggest a shared walk/cycle path from Badgery's Way/Werai Road intersection to Werai Road/Rockleigh Road.
4. Notes that the Plan does not include any design guidelines. Design for houses fronting Werai Road should be appropriate for the surrounding area. Offers some design guidelines.

Response

1. Comments noted.
2. It is not appropriate to include provisions in the LEP for the protection of Exeter Park.
3. This will be considered as part of the subdivision application.
4. The Exeter DCP can be extended to include the subject site to provide design guidelines for future development.

Friends of Indigo Creek (FOIC), (sub-group of EVA)

Comments received

1. General support for Plan.
2. Recommend that Council create one further non-building block off the southern boundary of proposed lot 25 to protect the remnant EEC listed vegetation along Indigo Creek.
3. Recommend a Landscape Rehabilitation Plan for the quarried areas of lot 25.
4. Suggest a shared walk/cycle along the western boundary of lot 24 from Indigo Creek to Rockleigh Road.
5. Suggest a shared footpath along Rockleigh Road.
6. Suggest a noxious & environmental weed survey plus flora and fauna survey of Indigo Creek area.

Response

1. Comments noted.
2. The option of creating a 26th allotment over the Exeter Quarry land has substantial merit and community and environmental benefits. Further comments on this aspect are discussed in the report.
3. Remaining suggestions can be considered as part of the DA process.

6 individual submissions

Comments received

1. General support for Plan.
2. General support for the FOIC recommendations particularly access to and protection of Indigo Creek, and rehabilitation of the quarried area.
3. One resident expressed concern about the extension to the existing Exeter Village and the preference for a broader range of lot sizes.
4. Several residents wanted reassurance that dwellings fronting Werai Road are designed to fit into the rural environment.
5. Support for ensuring that dwellings complied with energy efficiency standards.
6. Concern that water run-off effects are

Response

1. Comments noted.
2. Comments noted.
3. Due to the size of the allotments, 2ha – 30+ha, the subdivision is not considered to be part of the immediate village area. It is also noted the zoning will remain Environmental Protection.
4. DCP provisions will ensure the new dwellings are sympathetic to the character of the surrounding area.
5. Remaining comments noted. For the development on each lot created, a

- | | |
|---|---|
| <p>adequately addressed.</p> <p>7. Concern that land stability and other geo-technical issues not addressed in proposed subdivision pattern.</p> <p>8. Prohibition of planting of Leylandii trees along boundaries.</p> | <p>landscape plan will be required to be submitted.</p> |
|---|---|

GOVERNMENT AGENCY RESPONSES

Sydney Catchment Authority

Comments received

1. Request that Clause 2 of the LEP be amended to include the following aim:

To protect and enhance watercourses and water quality within the drinking water hydrological catchments so as to enable the achievement of the water quality objectives.

2. Instructions as to what would need to be required as part of the Water Cycle Management Study for the Vine Lodge site.

3. Request that the LEP be amended to include:

In determining an application for consent for subdivision of the former Exeter Quarry, the Council requires the full rehabilitation of the site.

Response

1. Noted and agreed to include.

2. Noted.

3. This will be required as part of the consent for the subdivision. It is noted that the rehabilitation work has already been largely commenced.

Department of Environment and Conservation

Comments received

1. Supports the proposed measures to retain scattered remnant vegetation.

2. Recommends that the EEC listed vegetation along Indigo Creek be provided with the highest level of zoning protection outside reserves (E2 under the LEP template).

3. Recommends that a new Aboriginal heritage assessment be completed incorporating an archaeological assessment and a cultural heritage assessment.

Response

1. Noted.

2. The subject land will initially be included in the 7(a) Environmental Protection zone under WLEP 1989 and then E2 under the new LEP.

3. This will be required to be finalised prior to issuing a subdivision certificate.



**NSW Heritage Office
Comments received**

No objection to the draft LEP proceeding.

Response

This response is noted.

INDIGO CREEK PROTECTION

A meeting was held in 2 February 2007 between representatives of the Friends of Indigo Creek, Malcolm Holdings and the Council. This meeting recommended that a public reserve along Indigo Creek be dedicated to Council. Madeleine Malcolm took this recommendation back to Malcolm Holdings and the company has agreed, in concept, to such a dedication.

Maintenance Issues

At the Council Information Session on 14 March 2007 Councillors were briefed on the results of the exhibition of the draft LEP and the option of creating an extra allotment as a Public Bushland Reserve. As a result, Councillors requested that a summary of the probable ongoing costs to Council of maintaining this land be assessed. It has been noted that some weed control work has already commenced on site by the current owners and ongoing maintenance could be minimised by requiring, as a condition of consent for the subdivision application, that the developer makes a contribution towards, or pays for, the primary weeding of the area. This will bring the bushland up to a reasonable quality and enable the local community Landcare group, Friends of Indigo Creek, to undertake maintenance weeding thereafter. Council can support the work of this community group through the existing bushcare program and, because the area is an 'Endangered Community', regional and state government funding is also available to assist with its management.

To support the Landcare group with technical expertise, the Council bush regenerators may be available depending on timing. They are currently funded from the environment levy.

In the planning of the boundary between the proposed dedication and the future residential blocks an allowance has been made for an Asset Protection Zone. Maintenance of the APZ will only require slashing twice per year at a cost of about \$600 per annum.

Access

Public access to the open space land will be provided via two locations. Pedestrian access only will be provided from School Lane, across Indigo Creek and into the reserve. The unmade section of School Lane has now been dedicated as a Council public road. The second access from Rockleigh Road will be primarily for pedestrian use, however, it will also allow vehicles into the reserve for routine maintenance and emergency services.

These arrangements will facilitate pedestrian access between the new development and Exeter Village, including the school.

Changes to the draft LEP

As a result of the comments from the community and Council's consideration of the outcomes of the information session on 14 March, it will be necessary to amend the exhibited LEP to read 26 allotments over the Exeter Quarry site, however only allowing 25 allotments



to have a dwelling house entitlement on each. The twenty-sixth allotment would be dedicated to Council for use as a public bushland reserve.

The Department of Planning (Southern Region) has been consulted on the proposed change and has advised that the alteration is unlikely to warrant re-exhibition of the plan as it was generated through community feedback and all parties involved have backed the proposal.

CONCLUSIONS

The approval of the LEP adds more certainty to the cessation of the quarry operations in accordance with the MOU between Council and Malcolm Holdings Pty Ltd. In the long term, the residents of Exeter will have access to public open space in a bushland setting of which there is currently little available in the immediate area.

The ongoing costs to Council will be kept to a minimum as the land is not an active open space area requiring substantial Council resources such as mowing etc. The major forms of maintenance will be weed control and hazard reduction as required.

POLICY IMPLICATIONS

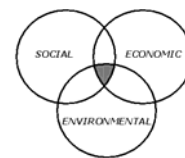
The Wingecarribee Our Future Strategic Plan aims to protect areas of native vegetation, in particular Endangered Ecological Communities.

BUDGET IMPLICATIONS

There will be minimum budget impacts from the maintenance of the dedicated land. There is an active Landcare group, Friends of Indigo Creek, who could take responsibility for the ongoing maintenance of the reserve, set up as a 355 Committee. Council can support this work through the existing bushcare program and, because the area is an 'Endangered Community', regional and state government funding is also available. Maintenance of the Asset protection Zone along the creek will require approximately \$600 per annum for clearing.

ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

- (i) **Environmental Factors**
 - o Protection of the Endangered Ecological Community.
 - o Cessation of quarry operations with elimination of noise and dust pollution.
- (ii) **Social Factors**
 - o Increase in the supply of public open space.
 - o Provision of more opportunities for a range of housing within Exeter.
- (iii) **Economic Factors**
 - o Not applicable.



ATTACHMENTS

There is one attachment to this report (Draft LEP 124) which has been

RECOMMENDATION

1. THAT Council proceed with the draft LEP 124 included in Attachment 1 to the report, subject to any amendments required by Parliamentary Counsel.
2. THAT the LEP be implemented in accordance with the procedures under the Environmental Planning and Assessment Act and Regulations.
3. THAT the applicant be advised of Council's decision.
4. THAT all persons/organisations that made a submission be advised of Council's decision.
5. THAT Council resolve to amend DCP 54 – Exeter Village so as to have the controls for erecting a dwelling house in the Exeter Village area apply to the Exeter Quarry Lands.

o-EP5 S.94 Administration Plan Review

REF: SPM 5701

Reporting on the anticipated advantages of proposed improvements to the current practices associated with the Administration (calculation of and collection of funds) of s.94 plans. This report recommends an amendment to the existing s.94 plan for Administrative Resources.

REPORT

BACKGROUND

Council originally adopted the s.94 Developer Contributions Plan for Administrative Resources in December 2001 to employ a qualified planner to administer its many contributions plans. This plan was amended in 2002 to reflect actual costs more accurately which is set out under (as at 2007 values).

Current Plan

| <i>Item</i> | <i>Description</i> | <i>Est \$ (per annum)</i> |
|-------------------------------------|---|---------------------------|
| Engagement of Contributions Planner | Salary and on-costs including vehicle turnover cost allowance | \$97,000 |
| Engagement of Clerical Support | Clerical support at 3 days per week including on-costs | \$35,000 |
| Materials and Support | Computer software, stationary, training, equipment etc. | \$8,000 |
| TOTAL | | \$140,000 |

The plan as adopted only applies to residential development which leaves some inequities as contributions levied from commercial, industrial and tourism development also generate the need for administrative resources.

In addition, Council staff have implemented changes to the computer system which will change the way contributions are administered and will enable contributions to be receipted and monitored more efficiently.

Review

An internal review was undertaken considering the proposed computer system advantages and the current inequities. The review concluded that:

- The anticipated development be reduced from 350 to 325 lots/units per annum.
- Contributions Planner to remain the same;
- Clerical Support should remain the same;
- Materials and support should be increased to an annual amount of \$14,000 for specialist consultants for new plans, reviews of existing plans and other administrative related matters; and
- Council should seek a contribution from commercial and industrial developments for administrative costs.



In summary, the review recommends:

| <i>Item</i> | <i>Description</i> | <i>Est \$ (per annum)</i> |
|-------------------------------------|--|---------------------------|
| Engagement of Contributions Planner | Salary and on-costs (40%) including vehicle turnover cost | \$97,000 |
| Engagement of Clerical Support | Clerical support at 1 day per week including on-costs (40%) | \$35,300 |
| Materials and Support | Consultants, computer software, stationary, training, equipment etc. | \$14,000 |
| | TOTAL | \$146,300 |

A comparison between the tables shows a \$6,300 increase for s.94 Administration Resources.

Anticipated Development

Residential

The current plan adopts a development trend of 350 lots/residential units per annum to calculate the contribution. The review recommends reducing this estimate to reflect the anticipated development trends of 325 lots/residential units per annum. It is also proposed to include an assumption regarding tourism, commercial and industrial development. The current Administration rate for residential development is \$359 per lot and proposed to be increased to \$380 per lot/ET.

Tourism

Tourism development trends fluctuate from year to year. They vary in size, scale and generation of infrastructure. Tourism development to date has covered accommodation and commercial types of development such as restaurants. Council has been generally proactive in encouraging appropriate tourism development to boost the local economy. In the last two years only three (3) applications for tourism paid s.94 contributions.

Considering the number of tourism accommodation applications and the relatively small scale, along with Council's proactive approach, it is proposed to not collect an administration contribution for tourism accommodation development, regardless of size. Should the application also include commercial or industrial uses, the rates applicable to commercial or industrial shall apply. This approach will form Council's policy on this matter.

Industrial and Commercial

Development trends for commercial and industrial development were analysed over the last four years. Industrial and Commercial developments account for between 10% to 15% of all applications received that pay developer contributions. To this extent it is proposed to collect 15% of the value of the contribution plan from industrial and commercial developments.

The current Administration rate for residential development is \$359 per lot (January 2007). The amount of contributions levied for commercial and industrial developments could be said to be consistent with the size of the development and demand on infrastructure, and/or the cost of the development. In considering the best way to levy the administrative resource from commercial and industrial developments, it was considered the most reasonable method in terms of cost and relative need for administrative resources was to scale the levy to the estimated cost of the development. This way the contribution rate applied will be not only reasonable but also affordable.



ET for commercial or industrial applications value for every \$500,000 in value of the Project. For example, a \$200,000 industrial/business development would pay 1 ET (\$280) and a \$1.1M industrial/business development would pay 2 ET (currently \$760).

Proposed Contributions and anticipated development

\$146,300

 (325 Residential lots/units + 60 Commercial or
 industrial building ET's)

Therefore the contribution rate has been calculated as follows:

| | | | | |
|-----------------------|---------------------------------|----------|-------|-------------------------------|
| Residential | 325 lots/dwellings per annum | at \$380 | (85%) | \$123,500 |
| Commercial/Industrial | 60 ET's | at \$380 | (15%) | <u>\$ 22,800</u> \$146,300 |

STATUTORY IMPLICATIONS

Section 94 of the Environmental Planning and Assessment Act and related Regulations require Councils to exhibit reviews of plans for 28 days.

The s.94 Manual as prepared by the Department of Planning permits the collection of funds for the employment of a specialist s.94 officer and resources.

FINANCIAL IMPLICATIONS

This report proposes to continue to fully fund administrative resources for s.94 from developers.

| |
|--|
| ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES |
|--|

(i) Environmental Factors

Not applicable.

(ii) Social Factors

Not applicable.

(iii) Economic Factors

The proposed new approach to funding administrative resources as it will formally introduce a contribution for commercial and industrial development and has the impact of increasing contributions for residential development by \$21 per lot.

The rate applicable to small scale (less than \$500,000) development is not significant at \$280 per application and an additional \$280 for every \$500,000 in development value above this.



ATTACHMENTS

The draft s.94 Developer Contributions Plan for Administration Resources is attached.

RECOMMENDATION

1. THAT the draft s.94 plan for Administrative Resources incorporating a contribution for commercial and industrial development and a reduction in the residential levy be exhibited for 28 days.
 2. THAT a report be submitted to Council for consideration following the exhibition period.
-

o-EP6 Draft LEP (126) – Moss Vale South East Residential Release Areas

REF: SPM

PN 267400, PN1678200

The purpose of this report is to seek a resolution of Council to make a minor amendment to the draft LEP Amendment No. 126 in relation to Broughton Street Moss Vale prior to seeking a section 65 Certificate from the Department of Planning to enable exhibition.

REPORT

1. INTRODUCTION

Council resolved on 24 May 2006:

- ‘1. *THAT Council endorses the draft LEP (generally as shown in Attachment 2,) to rezone land known as the South West Moss Vale site from Zone No 1(a) (Rural “A”) and 1(c) (Rural (Smallholdings) Zone) to Zone No 2(a) (Residential “A” Zone), under Wingecarribee Local Environmental Plan 1989.*
2. *THAT Council refers the draft LEP and supporting documentation to the Department of Planning, seeking a certificate under section 65 of the Environmental Planning and Assessment Act to enable the draft LEP to be publicly exhibited.*
3. *THAT Council informs all interested parties that its adopted policy is to enter into a Planning Agreement when dealing with the rezoning of potential urban release areas.*
4. *THAT Council enters into negotiations with the applicant for the drafting of a planning agreement.’*

The Department of Planning responded in August 2006 stating that Council should proceed with the preparation of the LEP. The Department recommended that the Local Environmental Study be expanded to include various other matters prior to seeking a certificate under s.65.

These matters have now been addressed and as a result of further investigations and consultation with the Department of Environment and Conservation (DEC), the following changes are recommended:

- The two largest areas of the site with medium conservation value are proposed to be zoned 6(a) public recreation.
- The area of high Aboriginal Conservation value on private property will remain in the surrounding zone with a restriction to user through a s.88B Instrument.
- A s.88B Instrument be used to conserve important habitat trees on land parallel to the railway line on the northern site.



This above approach also reflects the Strategic Planning staff experience with DEC and their approach to conservation. The Plan of Management for these areas will reflect the conservation values of the land. The LEP Map and written document will need to be amended as a result of the recommendation.

In addition, whilst the draft LEP map identifies all the parcels of land to which the LEP applies, lot 2 DP 603903 (being a 2000 sq/m block fronting Broughton Street) was omitted from the property description. It is proposed to address this error. Feedback from the Renwick draft LEP has provided guidance for the wording of clauses 38Q and 38R which have been amended accordingly.

Other Matters

- Voluntary Planning Agreement (VPA) – A VPA and infrastructure schedule for the site on the west side of the railway line is being drafted.
- Maintenance of Future Council Infrastructure – At this stage, the level of infrastructure proposed on the site does not appear to warrant a differential rate structure over the site.
- Draft Development Control Plan (DCP) – The applicant is investigating the need to prepare site specific DCP or utilise Council's existing Residential DCP for the development of the site. A draft Masterplan has been prepared and will accompany the exhibition of the draft LEP.

MANAGEMENT PLAN ISSUES OR IMPLICATIONS

Not Applicable.

POLICY IMPLICATIONS

The recommendation is a minor amendment to Council's original draft LEP endorsed in May 2006.

BUDGET IMPLICATIONS

The preparation of a proposed Voluntary Planning Agreement with Council and the owner/developer will address many of the budget implications of this development site.

ATTACHMENTS

There is one attachment to this report being the draft LEP written document and map, which has been circulated separately.



RECOMMENDATION

1. THAT Council amend the draft LEP Amendment No. 126 to include rezoning part of the land to which the plan applies to 6(a) Open Space (Existing Recreation) Zone as generally shown in attachment 1 under *Wingecarribee Local Environmental Plan 1989*; and Lot 2 DP 603903 in the property description.
 2. THAT Council refer the draft LEP, and supporting documentation to the Department of Planning seeking a certificate under section 65 of the Environmental Planning and Assessment Act to enable the draft LEP to be publicly exhibited.
-

o-EP7 Draft LEP for development on 'Wongabri', Moss Vale Rd, Burradoo

REF: SPM

5800/17

The purpose of this report is to advise Council on the appointment of consultants to prepare a report for presentation to the Department of Planning regarding the Wongabri development proposal.

REPORT

BACKGROUND

On 6 March 2007, a letter from the Director General of the NSW Department of Planning was received by Council advising that the draft LEP for Wongabri was not supported on the grounds that:

- It proposes to permit development that would be inconsistent with the objectives of the 7(b) Environmental Protection zone;
- The intent of the amendment is inconsistent with SEPP (Seniors Living) 2004 which are not permitted in areas designated as environmentally sensitive land;
- It is inconsistent with Council's strategies for the locality aimed at protecting the Burradoo Landscape Conservation area which forms the Green Belt between Moss vale and Bowral/Burradoo;
- It alters controls protecting land with a scenic preservation designation without demonstrating that this change in designation is appropriate and justified;
- It would enable a substantial development, the scale and location of which would erode the important visual buffer between the urban areas of Moss Vale and Bowral/Burradoo.

However, the Director General offered Council the opportunity to make a presentation to the LEP Review Panel if "Council considers that it can satisfactorily respond to the issues outlined above".

At its meeting on 14 March 2007 Council resolved:

'THAT Council, at the cost of the owner of Wongabri, engage a consultant (mutually agreed with the owner) to respond to the letter from the Department of Planning dated 28/2/07.

THAT the response be presented to Council at the meeting to be held on Wednesday, 28 March 2007.

THAT a letter be sent to the Department of Planning indicating that Council wishes to make a submission to the LEP Review Panel and upon receipt of a report will make an appointment to present to the LEP Review Board.'

A consultant, approved by the applicant, has been appointed to prepare a report, however due to work commitments, this report cannot be presented to Council on 28 March, but will be presented at the 11 April 2007 meeting.



A letter, dated 16 March 2007 and signed by the General Manager was sent to the Director General advising him that Council would accept his offer to address the LEP Review Panel.

An appointment has been made with Ms Lois Gray to address the LEP Review Panel on 19 April 2007, the earliest date available following the Council meeting.

ATTACHMENTS

There are no attachments to this report.

RECOMMENDATION

Submitted for information.



o-EP8 Audit Report

REF: DCM

LUA05/0085; LUA04/1328

Reporting on results of an investigation by Department of Planning.

REPORT

Council has recently received results of an preliminary investigation of Council in its capacity as a Certifying Authority from the Department of Planning. The Department has authority to conduct audits of Local Councils and Private Certifiers pursuant to the *Environmental Planning & Assessment Act 1979*.

The audit was conducted on 8 September 2005 by two authorised departmental auditors, and one of the applications reviewed was LUA04/1328, being alterations and additions to a service station and dwelling in Railway Avenue, Bundanoon.

A requirement of the *Environmental Planning & Assessment Act 1979* is that a report furnished to the Council under the Act must be presented to the Council after the report is received. The Council must give written notice to the Director General (Planning) of things done or proposed to be done to give effect to any recommendations contained in the report.

A summary of the issues raised commentary and recommended actions is now provided:

ISSUE 1:

Alleged breach of Clause 139(2) Endorsement of date upon receipt of Construction Certificate application.

COMMENT:

Council's processes involve the electronic registration of date received and also the physical dating on a fee sheet of date received. This only occurs when all fees are paid and receipted. The fee sheet is attached to the file and the date submitted is detailed on the front of the file.

Whilst the application form is not physically stamped, there are a number of processes to ensure date of full receipt with fee payment is recorded.

Recommended Action:

Date stamping to be discussed with Department of Planning with EPA Regulations 2000 clause 139(2). Existing measures may satisfy intent of legislation.

ISSUE 2:

Alleged breach of Clause 145(1)(b) – Inadequate details on plans relating to External wall fire rating under the Building Code of Australia.

COMMENT:

The assessment of BCA compliance was completed on Council's standard check list where the need for a 90/90/90 external wall fire rating pursuant to the BCA was established. This was then carried into the advisory notes attached to the Construction Certificate with a note stating '*The Structural Engineer shall certify the compliance of all reinforced concrete elements with regard to the above.*'

This approach reflects the practical application of the BCA as applied by Accredited Certifiers where details for footings, walls and trusses are submitted and certified by the engineer throughout the construction process. The plans also showed construction using material that was capable of achieving the required ratings (concrete block work).

Recommended Action:

No further action is considered necessary as the approach taken reflects current industry practice to reduce the burden of full details and certification at the Construction Certificate application stage of the process.

ISSUE 3:

Alleged breach of Clause 146(c) of EPA Regulation. Conditions 26 and 35 of development consent LUA04/1328 to be satisfied prior to issue of Construction Certificate.

COMMENTS:

- (a) Condition 26 related to an 'Environmental Management Plan.' This does not appear to have been submitted. Details for a 'Kwikflo' oil separator were submitted, it would appear, post issue of Construction Certificate. Comments from Council's Environmental Officer on LUA04/1328 indicates:

'The Environment & Health Branch feels that the applicant is attempting to improve the environmental management of his business by lodging this application and is trying to do the right thing. Installation of the floor sump and separator will result in oily water being diverted from discharge to the stormwater system to allow appropriate pre-treatment and disposal to sewer.'

- (b) Condition 38 relates to the application for Trade Waste approval to be obtained prior to the issue of the Construction Certificate. This application does not appear to have been submitted.

Recommended Action:

The details relating to Conditions 26 and 38 do not appear to have been submitted prior to issue of Construction Certificate. Processes will need to be put in place to ensure recommended procedures are followed.



ISSUE 4:

Alleged breach of Clause 147(1)(c) – incorrect BCA building classification.

COMMENT:

Under the Building Code a service station building is classed as 6 and not 8, as shown on Council's documentation.

Recommended Action:

Re-issue consent with correct classification. Ensure correct Building Classification occurs through oversight by Senior Building Surveyor of current approval process.

ISSUE 5:

Alleged breach of Clause 168(3)(c) of EPA Regulation – incomplete information on Fire Safety Schedule.

COMMENT:

This clause of the Regulation requires the certifying authority to distinguish between existing and proposed fire safety measures within the building. This includes fire safety measures such as fire extinguishers and fire hose reels. The Council's application form for consent requires applicants to detail these measures. Council's standard consent, however, does not provide for an easy means of identification between existing and proposed fire safety measures.

Recommended Action:

Change Council's standard conditions of consent to more readily allow specification of existing and proposed Fire Safety measures on the Fire Safety Schedule.

ISSUE 6:

Alleged breach of Clause 139(1)(a) of EPA Regulation – insufficient information to show provision for fire safety and fire resistance as required by Clause 6(3)(a)(iv) of Part 3 Schedule 1.

COMMENT:

This matter has been covered in detail at Issue 2 comments and recommended action.

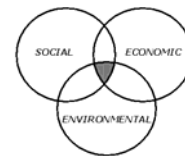
ISSUE 7:

Alleged unsatisfactory performance in referencing a maintenance Australian Standard for Portable Fire Extinguisher Installation in Fire the Safety Schedule.

COMMENT:

The Fire Safety schedule should solely cover the installation standards, however, Clause 175 of the Regulation does indicate –

'175 – An annual fire safety statement is a statement issued by or on behalf of the owner of a building to the effect that:



- (a) *each essential fire safety measure specified in the statement has been assessed by a properly qualified person and was found, when it was assessed, to be capable of performing:*
- (i) *in the case of an essential fire safety measure applicable by virtue of a fire safety schedule, to a standard no less than that specified in the schedule.'*

This provision does question the point raised in the audit that a maintenance standard where relevant, such as with the Fire Extinguishers, should be within the Fire Safety Schedule.

Recommended Action:

Clarify the provisions of Clause 175 of the EPA Regulation 2000 with the Building Professionals Board officers.

The Department of Planning have outlined a number of recommendations (see **Attachment 1**). The audit findings suggest some procedural changes are necessary to correct potential deficiencies in Council's consent processes. Other points require clarification and further discussion with departmental auditors.

MANAGEMENT PLAN ISSUES OR IMPLICATIONS

Need to ensure correct internal procedures are in place.

CONCLUSION

The recommendations should be subject of further discussion with the Department of Planning, given the comments and recommended actions contained in this report. Internal procedural changes where confirmed are being implemented expeditiously.

ATTACHMENTS

There is one attachment to this report (Department of Planning recommendations).

RECOMMENDATION

THAT the recommendations contained throughout the body of the report be discussed with the Department of Planning and, where appropriate, amendments to Council's approval processes be put in place immediately.

ATTACHMENT 1

RECOMMENDATIONS

In order to assist the Council to ensure that the abovementioned breaches of the EP&A Regulation do not recur and that the Council performs its work and activities in its capacity as a certifying authority in a satisfactory way it is recommended that:

1. Council review its procedures for receiving applications for construction certificates taking into consideration the requirements of clause 139 of the EP&A Regulation.
2. Council implement any changes necessary to ensure that all construction certificate applications are endorsed with the date of receipt immediately upon receipt of an application in accordance with clause 139 (2) of the EP&A Regulation.
3. Council implement any changes necessary to ensure that all construction certificate applications contain the information and are accompanied by the documents, specified in Part 3 of Schedule 1 of the EP&A Regulation.
4. Council review its procedures for determining construction certificate applications and issuing construction certificates taking into consideration the requirements of clauses 145, 146, 147 of the EP&A Regulation.
5. Council review its procedures to ensure that the decisions of the Council's officers in determining applications for construction certificates and in issuing construction certificates are adequately supported by appropriate documentation which is then retained on the relevant Council file.
6. Council review its procedures for issuing fire safety schedules taking into consideration the requirements of clause 168 of the EP&A Regulation. The schedule must specify the current and proposed fire safety measures that should be implemented in the building premises.

It is also the certifying authority's role to specify the minimum standard of performance for each fire safety measure included in the schedule. Reference to the standard for maintenance is not appropriate.

7. The Council after receiving a copy of this report present this report at the next meeting of the Council in accordance with section 118P (4) of the EP&A Act.
8. The Council, within 40 days of receiving a copy of this report, give written notice to the Director-General of the Department of Planning of the things done or proposed to be done to give effect to the recommendations contained in this report in accordance with section 118P (5) of the EP&A Act.

Report prepared by:



Kay Harlor
**Senior Departmental Investigator
Building Professionals Branch
Department of Planning**

Report reviewed by



Lee Miller 8/2/07
**Team Leader, Investigations
Building Professionals Branch
Department of Planning**



o-EP9 Council Response to Vehicular Advertising

REF: EHM

5700/33, 5504

The purpose of this report is to provide advice regarding Council's response to advertising on vehicles.

REPORT

BACKGROUND

There is an ongoing concern within the Shire, particularly in Mittagong, Moss Vale and Bowral of the presence and resulting visual impact of advertising attached to vehicles. This principally relates to signs attached to trailers which are parked on roads for long periods of time.

The Rangers unit is responsible for the compliance monitoring of vehicles and trailers carrying advertising structures located on public land, including the road reserve.

Council has two policy documents that in part relate to the issue. Clause 38 (2) of Council's Local Environment Plan No 89 (LEP) states

A person must not use any public land or a public road for the purpose of parking a vehicle or trailer that includes or carries an advertising structure that is extraneous to the vehicle, that is, a structure that is not a standard fitting on a vehicle trailer of that kind and that protrudes or extends beyond the ordinary shape of the vehicle or trailer.

Additionally, Council's Advertising and Signage Development Control Plan No 33 (DCP) has a clause for all zones within the Shire that prohibits

Any off-site signage including any advertising attached to a trailer, motor vehicle or the like deliberately parked on a road for more than one (1) day in any one (1) month period.

Rangers are proactively attempting to address this issue. Where these policies are contravened, Ranger staff prepare letters of correspondence (see attached) to the owner of the business and the registered owner of the vehicle (trailer).

A review of relevant legislation seems to indicate a lack of direct enforceable action that enables the immediate moving or relocation of the offending vehicle. Similarly there does not appear to be any provision that enables Rangers to issue on the spot penalty notices.

Whilst the legislation may be limiting in the extent to which a penalty notice can be issued Council does have some recourse through the issuing of Orders under both the *Local Government Act* and the *Environmental Planning and Assessment Act*.

Council could issue an Order (Order No. 27) under S. 124 of the *Local Government Act* requiring

removal of an object or matter from a public place or prevent any object or matter being deposited there



The Order would be issued as a result of the following circumstance

The object or matter:(a) is causing or is likely to cause an obstruction or encroachment of or on the public place and the obstruction or encroachment is not authorised by or under any Act, or(b) is causing or is likely to cause danger, annoyance or inconvenience to the public

And is served on a

Person causing obstruction or encroachment or owner or occupier of land from which the object or matter emanates or is likely to emanate

Order 5 under S. 121b of the Environmental Planning and Assessment Act is another Order that could be issued however, Rangers do not currently have delegated authority to issue these orders. The Order would be served

To alter, obliterate, demolish or remove an [advertisement](#) and any associated [advertising structure](#)

The Order would be served under the following circumstances

(a) The [advertisement](#) is unsightly, objectionable or injurious to the amenity of any natural [landscape](#), foreshore, [public reserve](#) or [public place](#) at or near where the [advertisement](#) is displayed(b) The [advertisement](#) is displayed contrary to a provision made by or under this Act(c) The [advertising structure](#) is erected contrary to a provision made by or under this Act

and would be issued to

The [person](#) who caused the [advertisement](#) to be displayed or [advertising structure](#) to be erected or the [owner](#) or [occupier](#) of the [premises](#) on which the [advertisement](#) is displayed or the [advertising structure](#) is erected

Providing Rangers are provided the appropriate delegation, Order 5 under S. 121B of the EPA Act appears to be the most effective Order to address the matter, however, it may not always be straightforward in identifying the person who caused the advertisement to be displayed.

However, the process of issuing an order is not without its limitations. By way of example, a Notice of Proposed Order (NOPO) is required to be issued in the first instance. The NOPO would state that the parking of an advertising trailer in a public place is prohibited and an Order is to be issued requiring the offending article to be removed from a public place. The NOPO provides the opportunity for representations to be made in writing to Council expressing why the Order should not be issued. Usually 7 days from the date of the letter is considered an appropriate timeframe as this takes into account the time taken for the Order to be mailed and received.

The Order itself would need to stipulate a timeframe for the article to be removed, however there is a statutory provision that does not allow enforcement action for 28 days. Section 138 of the Local Government Act allows for a 28 day appeal to the Land and Environment Court. If however the Order was not complied with and no appeal made to the Court a Penalty Notice could be issued.



MANAGEMENT PLAN ISSUES OR IMPLICATIONS

This section has been considered but is not relevant.

POLICY IMPLICATIONS

The advice and recommendations contained within this report do not have any implications on current policy, management or corporate plans.

BUDGET IMPLICATIONS

This section has been considered but is not relevant

ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

(i) Environmental Factors

The issuing of an Order to remove the offending advertising 'vehicle' will result in an improvement of the visual pollution the advertising creates.

(ii) Social Factors

The ability for Rangers to better manage the presence of this form of advertising will improve the amenity of the Shire and provide for improved social outcomes through better streetscapes and reduced visual pollution.

(iii) Economic Factors

If adopted, the recommendations within this report may result in potential though small amounts of revenue to Council as a result of the issuing of Penalty Infringement Notice's.

Arguably the removal of this form of advertising could have an impact on the economic viability of the advertised business, though it is reasonable to conclude that no business should prosper from prohibited activities.

ATTACHMENTS

Letter sent by Rangers to owners of trailers and the business being advertised.



RECOMMENDATION

1. THAT Council consider the report.
2. THAT Council endorse providing Rangers with the delegations to issue the appropriate Orders under the EPA Act to address the problem of unauthorised advertising on vehicles parked on roadways.
3. THAT the practice of issuing Order 5 under S. 121B of the *Environmental Planning and Assessment Act* be supported
4. THAT EHM seek further legal advice and liaises with other Councils to gain clarity on this matter and that the EHM provide this advice in the Circular.



A handwritten signature in black ink, appearing to read 'Scott Lee'.

Scott Lee
Director, Environment & Planning

21 March 2007



ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth St,
Moss Vale on Wednesday, 28 March 2007

REPORT OF DIRECTOR ENVIRONMENT & PLANNING



ATTACHMENT 1

Our Ref: DB PN 1718670
Contact: Mr D Baxter

X December 2006

Name
Address
NSW 2XXX

Dear Mr XX

Re: Parking of Trailer Registered No XXX on X Road advertising

The above trailer has been parked on XX Street, Moss Vale. The trailer has been parked in the same position during daylight hours for over seven (7) days.

You are advised that under Clause 38 of Council's Local Environment Plan N0 89 (LEP) the parking of a trailer on a public road that carries an advertising structure that is not a standard fitting on the trailer is prohibited. The cage carrying the above sign is not part of the ordinary shape of the trailer and requires immediate removal.

Additionally, under Council's Development Control Plan No 33 (DCP) any off-site signage including any advertising attached to a trailer that is parked on a road for more that one (1) day in any one (1) month period is prohibited in all zones, including residential, commercial and industrial. Copies of the relevant clauses are enclosed for your information.

Council requests your co-operation in the immediate removal of the trailer and advertisement to avoid the necessity for Council having to take any further enforcement action

If you require any further information please contact Council's Senior Ranger Mr David Baxter on telephone 02 48680865.

Yours faithfully

Andrew deMontemas
Manager Environment & Health
Enc

CORPORATE SERVICES DIVISION

o-CS1 Membership Wingecarribee Housing Strategy Group Membership

| | | |
|------|-----|--------|
| REF. | MAS | 5600/8 |
|------|-----|--------|

Reporting on the resignation of Councillor Nick Campbell-Jones from the Wingecarribee Housing Strategy Group.

REPORT

Council at its meeting held on Wednesday 31 January 2007 considered a report in relation to Membership for the Wingecarribee Housing Strategy Group and resolved as follows:

1. THAT Council endorses an amendment to the Terms of Reference of the Wingecarribee Housing Strategy Group to include two (2) Councillor representatives and ten (10) member participants (two of which may be nominated by Argyle Housing) AND THAT Rod Aistrope be endorsed as an alternate delegate for Argyle Housing.
2. THAT Mr Desmond Kennard, a member of the Economic Development Committee, be appointed as an alternative community representative to participate on the Housing Strategy Group.
3. THAT Council endorses as members of the Wingecarribee Housing Strategy Group
 - (a) Councillor N. Campbell-Jones
 - (b) Councillor J Mauger
 - (c) Brian Murnane, Executive Manager Development, Argyle Housing
 - (d) Lesley Oatley, Executive Manager Administration Argyle Housing
 - (e) Michael Oelofse, Senior Policy Officer Centre for Affordable Housing.
 - (f) Donald Proctor, director Resource Planning Greater Western Sydney NSW Housing.
 - (g) Carl Pemberton, Economic Development Office (WSC)
 - (h) Member of the Economic Development Committee
 - (i) Mark Pepping Manager Strategic Planning (WSC)
 - (j) Margo McClelland, Social Planner. (WSC)
 - Rod Aistrope, Board Member Argyle Housing (Alternate Delegate)
 - Desmond Kennard, Economic Development Committee (Alternate Delegate).

Councillor Nick Campbell- Jones has indicated his intention verbally that he wishes to resign from the Wingecarribee Housing Strategy Group effective immediately.

As there are two (2) Councillors appointed to this committee, Council should now consider making an appointment on the Committee to fill the vacancy of Councillor Nick Campbell-Jones.



REPORT OF DIRECTOR CORPORATE SERVICES

ATTACHMENTS

There are no attachments to this report.

RECOMMENDATION

THAT Council appoint Councillor _____ as member of the
Wingecarribee Housing Strategy Group.

Barry W Paull
Director Corporate Services

22 March 2007

COUNCIL MATTERS

GENERAL MANAGER'S REPORTS

c-GM1 Weekly Circulars

| | | |
|------|----|-----------------|
| REF. | GM | 100/8, 203/2007 |
|------|----|-----------------|

Confirming receipt of weekly circulars from the Local Government Association and Council weekly circulars.

REPORT

Weekly circulars from the Local Government Association and Council weekly circulars have been received and circulated to all Councillors.

ATTACHMENTS

There are no attachments to this report.

RECOMMENDATION

THAT the information relating to Local Government Weekly Circulars Nos 10/07 and 11/07 and Council Weekly Circulars Nos 10/07 and 11/07 be noted.

Mike Hyde
General Manager

22 March 2007

QUESTIONS WITH NOTICE

OTHER MATTERS

QUESTIONS WITH NOTICE

c-QWN1 QWN 01/07 – Proposed 53 Lot SEPP Development – Corner Moss Vale Road & Links Road

REF. GM 101/2

To: General Manager
From: Clr J Mauger
Received: 21 March 2007

Question: 1. What effects do the findings of the Land & Environment Court hearing **Bowral 2004 – Conceal Pty Ltd versus WSC** for a 13 lot subdivision have on the current proposal.

2. When was a 149 Certificate or 88B Instrument issued for “Karrara” (in particular is it flood prone), who applied for the same and who issued it?

Answer: **DIRECTOR ENVIRONMENT & PLANNING**

1. The current application for SEPP SL on the corner of Moss Vale Road is supported by a flood study. Floor levels of dwellings are designed accordingly. During the hearing of the Court matter, extensive evidence was presented in relation to flooding. This will be considered in assessing the current application. This report indicates no flood affectation on the Karrara site. If there are any apparent inconsistencies between the information available, that will need to be clarified through discussion with the applicant.
2. The latest 149 Certificate issued by Council for the Karrara site has been circulated under separate cover.

RECOMMENDATION

THAT the information be received and noted.

QUESTIONS WITH NOTICE

c-QWN2 QWN 02/07 – BU2 Catchment

REF. GM 101/2

To: General Manager
From: Clr J Mauger
Received: 21 March 2007

- Question:**
- 1. Why has Council engaged a firm of surveyors to carry out yet another survey of drainage easements west of Moss Vale Road when they have not as yet accepted the Boyden & Partners Flood Study for the BU2 catchment.**
 - 2. Wasn't a detailed survey carried out by Campbell & Anderson Surveyors and they paid for the same?**
 - 3. In view of this how much have we already spent on surveys and studies of BU2 catchment?**
 - 4. How much are the current surveys costing?**
 - 5. When was the initial Flood Study commissioned?**

Answer: DIRECTOR TECHNICAL SERVICES

1. This matter was the subject of reports to the Works & Planning Committee on 5 July 2006 and 6 September 2006. The report of 6 September 2006 explains the reasons for the current survey work. The relevant extract is reprinted below:-

The principal recommendation of the Boyden & Partners Report is to construct a detention basin upstream of Moss Vale Road. The Boyden & Partners Report retains the status of a working document and has not been adopted by Council.

An indicative cost of the proposed detention basin, widening of Moss Vale Road and associated work is in the order of \$1.5 million. Associated with this is the loss of usable residential land due to construction work, purchase of easements and inundation resulting from the basin.

Due to the high cost and potentially limited number of properties that would benefit from the basin, it is suggested that funds could be better used to improve drainage downstream of Moss Vale Road and to address any specific flooding problems. This may be a more cost effective approach for flood mitigation in the catchment.

The extent of the existing potential flooding problem in the catchment downstream of Moss Vale Road is not known at this time. Additional investigations will determine the extent of the existing problem so that the costs versus benefits of the individual remedial measures can be assessed to better determine a future course of action in the area.

The intention is to undertake a two stage analysis of the catchment.

- 1. Documenting the potential flood problem downstream of Moss Vale Road. This includes mapping the extent of the 1 in 100 year design flood and PMF and determining flood levels in relation to existing floor levels in the extent of the PMF, and (subject to the outcomes from Stage 1);*
- 2. Investigate options and assess the cost effectiveness of proposed remedial measures on stormwater mitigation and recommend best approach.*

It is suggested that by undertaking additional study work we can provide a suitable solution for the catchment that will cost significantly less than the current \$1.5 Million proposal.

The resolutions made by Council relating to this matter are re-printed below:-

Extract from Works & Planning meeting 5 July 2006 – adopted by Council 12 July 2006

WP 56/06

RECOMMENDATION moved by Cllr T D Gair and seconded by Cllr M Murray:

- 1. THAT this matter be the subject of a Councillor Information Session at a date to be decided.*
- 2. THAT the Boyden & Partners report retains the status of a working document and not be adopted by Council*

PASSED

Extract from Works & Planning Meeting 6 September 2006 – adopted by Council on 13 September 2006

WP 73/06

RECOMMENDATION moved by Cllr T D Gair and seconded Cllr M Murray:

- 1. THAT Council engages Cardno Lawson Treloar to undertake further investigations of the stormwater catchment Burradoo BU2, funded from Section 94 Developer Contributions collected for Catchment BU2.*
 - 2. THAT a strategy for stormwater management in Catchment BU2 be discussed at a future Councillor Information Session once the additional investigations are complete.*
-

In summary, the Boyden & Partners report retains the status of a working document and has not been adopted by Council.

The current survey work is part of a project that is being undertaken to determine if a more cost effective catchment management strategy can be implemented downstream of Moss Vale Road rather than the \$1.5 million detention basin upstream of Moss Vale Road proposed in the Boyden & Partners report.

2 The work undertaken by Campbell & Anderson Surveyors consisted of surveying cross sections of a portion of the water course. The current survey work extends on this survey work and is necessary to map the extent of the 1 in 100 year design floodplain downstream of Moss Vale Road, including floor levels of all dwellings. The earlier survey work is being merged into the current survey work.

3 The Boyden & Partners study has cost \$55,300 GST exclusive. The Campbell & Anderson survey work cost \$2,500 GST exclusive.

4 The current survey is being undertaken by Lawrence Group at a quoted cost of \$14,580 GST exclusive. Lawrence Group have been commissioned by consultants Cardno Lawson Treloar, who obtained competitive quotations for this work on behalf of Council.

5. The issue date of the purchase order to Boyden & Partners was 16 November 2004. This

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| RECOMMENDATION |
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THAT the information be received and noted.

QUESTIONS WITH NOTICE

c-QWN3 QWN 03/07 – Rate Arrears

REF. GM 101/2

To: General Manager
From: Clr M Murray
Received: 21 March 2007

- Question:**
- 1. How many arrangements are in place with ratepayers for payment of rates by instalments?**
 - 2. What is the total amount due for outstanding rates which are subject to payment arrangements?**
 - 3. Are Councillors able to take advantage of the payment arrangement option? Are there any limitations or prohibitions under the Local Government Act?**
 - 4. Who approves the arrangements?**
 - 5. On what criteria does Council enter into payment arrangements?**

Answer: FINANCIAL SERVICES MANAGER

1. There are 215 Current Rate Arrangements.
2. The overdue amounts of the above arrangements are \$124,784.50
3. All ratepayers are able to apply to make an arrangement if they are unable to finalise the debt by the due date. There is no restriction on Councillors.
4. Financial Services Manager
5. If ratepayers are unable to finalise the overdue amount by the due date the ratepayer is able to apply to make an arrangement.

Interest Charges apply on all overdue amounts regardless of whether an arrangement is in place. The current rate of interest is 9% per annum.

RECOMMENDATION

THAT the information be received and noted.

COMMITTEE REPORTS

COMMITTEE REPORTS TABLED

| | |
|--------------|--|
| c-CR1 | Management and Advisory Committee Reports |
|--------------|--|

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|------|-----|-------|
| REF. | DCS | 107/1 |
|------|-----|-------|

Submitting minutes of one (1) Committee meeting that will be tabled for information.

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| REPORT |
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1. Seniors Committee meeting Tuesday 6 March 2007

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| ATTACHMENTS |
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There are no attachments to this report.

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

COMMITTEE REPORTS

COMMITTEE REPORTS ATTACHED

c-CR2 Minutes of the WSC Sustainability Committee (Refer minutes page 47)

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| REF | EHM | 5450/9 |
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Submitting minutes of the WSC Sustainability Committee Meeting held Wednesday, 7 March 2007.

RECOMMENDATION

THAT recommendations 1 to 3 as detailed in the minutes of the WSC Sustainability Committee Meeting held Wednesday, 7 March 2007 be adopted.

c-CR3 Minutes of the China Friendship Relationship Working Party (Refer minutes page 51)

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| REF. | MAS | 600/26 |
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Submitting Minutes of the China Friendship Relationship Working Party meeting held on Thursday, 8 March 2007

RECOMMENDATION

THAT recommendations 1 and 2 as detailed in the minutes of the China Friendship Relationship Working Party meeting held on Thursday, 8 March 2007 be adopted.

**MINUTES OF THE WSC SUSTAINABILITY COMMITTEE MEETING
HELD ON WEDNESDAY, 7 MARCH 2007**

File: 5450/9

PRESENT:

Clr. Jim Clark (Chairman), Peter Lach Newinsky, Grant Williams,

IN ATTENDANCE:

Andrew de Montemas (Manager Environment & Health), Sharon Makin (Environment Review Officer), Miles Lochhead (Manager Resource Recovery), Heath James (Strategic Planner),

APOLOGIES:

Francine Bartlett, Clr. Larry Whipper,

The meeting commenced at 9.10 am.

1. APOLOGIES

Were received and noted.

**2. MINUTES OF THE PREVIOUS MEETING HELD ON WEDNESDAY 8TH
NOVEMBER 2006**

The Minutes of the Local Agenda 21 Committee meeting held on 8th November 2006 be accepted as a true and accurate record.

**3. MATTERS ARISING FROM THE MINUTES OF THE MEETING OF WEDNESDAY
8TH NOVEMBER 2006**

- a) Requested that Development Control comment on the value of the REP training and the issues perceived with making assessment under the REP.

Action: Comment still required from Development Control as to the implications of the REP.

- b) Report on the viability of Council vehicles using ethanal blended fuels and bio diesel to be prepared.

Report has not been prepared due to lack of resources and priority of works.

Action: briefing note to be prepared for next meeting

COMMITTEE REPORTS

c) Environment committee were approached to fund printing of footprint brochure.
Funding agreed and brochure was printed and issued with the Wingecarribee Today in February 2007.

d) Appointment of further community representatives
Still waiting on the outcome of the Functional review.

Action: *Invitation to be extended to the Economic Development Officer to attend the next meeting with a presentation on economic development progressing throughout the Shire and the role of sustainability.*

Action: *Manager Environment and Health to proceed with presentation to Economic Development committee on sustainability and opportunities.*

e) Indicators report

Has been approved by Council to be included in the State of the Environment report on an annual basis.

f) Noted that Committee has now changed name to WSC Sustainability Committee

g) That information be provided which looks at the costings associated with energy usage and efficiency for whole of life usage for street lighting and Council managed buildings.

Has not been progressed as yet due to lack of resources and priority of work.

Action: *Briefing note to be prepared for next meeting*

h) WCF Partnership – feedback on meeting and proposed partnership documentation.

Action: *Feedback to be provided next meeting.*

4. FEEDBACK FROM COUNCIL MEETING (Clr Jim Clark)

Environment Policy approved

Sustainability Indicators discussed and approved for inclusion in State of Environment Report with clarification of some of the data required.

5. SUSTAINABILITY ACTION PLAN REVIEW

Action plan reviewed and updated.

Action 2 of plan – need for better process and more resources to actively review Land Use Assessment environmental consultant reports eg REFs, EISs, SISs, however may be addressed in functional review so need to wait for outcome. Area specific DCPs being developed which will outline the processes and ESD requirements for LUAs.

Recommendation 1

That the Sustainability committee be involved in the review of the draft DCPs as they become available, with the Moss Vale and Rural Lands DCPS to be first.

Action 4 of plan – Actively promote progress and expand the “Green Car” project.

Action: *Nathan Lammers to be invited to next meeting to provide update*

6. GENERAL BUSINESS

a) Buy and Eat Local Campaign (P Lach Newinsky)

Discussion as to opportunities of a Buy and Eat Local campaign.

Agreed that Council would not be able to support financially but principally in kind, once ideas for the campaign are confirmed.

Recommendation 2

Sustainability Committee supports the concept of a Buy and Eat Local Campaign as a community initiative

b) Sustainability demonstration site at Bong Bong Common (P Lach Newinsky)

Ideas outlined as to possibility of social and sustainability demonstration site at Bong Bong Common. Sustainability committee supports the ideas, however proposed that the community representatives refer to the Bong Bong Management Committee directly.

c) Productivity Commission waste report (Francine Bartlett)

Request that Council write to the Productivity Commission re the nature of this report. Waste Report has already been issued by the Productivity commission and the submission phase for providing comments has passed. Little value seen in providing comments at this stage.

d) Sustainability Week / Green Power Tour (Sharon Makin)

Program of events arranged for Sustainability week and funding agreement being put in place for a Green Power tour with Dept of Energy, Utilities and Sustainability.

e) CANWin (Clr Clark)

CANWin are currently developing a range of projects and will seek Council support as required.

f) The Zero Waste Centre (Miles Lochhead)

The plan for the “Zero waste centre” at the RRC was outlined. Funding will be sought through grant applications.

Recommendation 3

That the Committee provides in principle support for the concept of a “Zero Waste Centre” and the seeking of grant funding.

g) Grant funding approvals (Andrew de Montemas)

Three funding applications have been approved associated with Wingecarribee Shire Council and sustainability.

- NSW Environment Trust - Urban Sustainability Seed Funding, \$20 000 to undertake sustainability review of Council operations
- NSW Environment Trust – Urban Sustainability Major Funding, \$250 000 over three years to run ecological footprint program with business, schools and the community.
- NSW Environment trust – Urban Sustainability major funding, \$2million in association with the Southern Region of Councils for a sustainable business program.

h) Meeting frequency (Francine Bartlett)

Due to commitments with other meetings, meetings remained at 3 monthly.

7. NEXT MEETING

Next meeting to be held on Wednesday 9th May 2007 at 9.00am in Council's Meryla Room.

The meeting concluded at 11.30am

**MINUTES OF THE CHINA FRIENDSHIP RELATIONSHIP WORKING PARTY
HELD ON THURSDAY 8 MARCH 2007**

File: 600/26

PRESENT:

Mayor Gordon Lewis, Clr Jim Mauger, Eugene Liu (Community Representative) Brian Whyte (Community Representative) and Peter Nelson (Manager Administration Services)

IN ATTENDANCE:

Carl Pemberton (Economic Development Officer)

APOLOGIES:

Clr Penny George

The meeting commenced at 3.30pm

APOLOGIES

Were received from Clr Penny George and noted.

MINUTES OF THE PREVIOUS MEETING HELD ON THURSDAY 27 JULY 2006

The Minutes of the China Friendship relationship Working Party held on Thursday 26 July 2006 be accepted as a true and accurate record.

Moved by Clr Jim Mauger and Seconded by Brian Whyte.

MATTERS ARISING FROM THE MINUTES OF THE MEETING OF THURSDAY 27 JULY 2006

Nil

1. Amalgamation of Friendship Working Party with Economic Development committee.

Mr Carl Pemberton advised that the matter was discussed at the recent Economic Development Committee and confirmed that his area has taken on an ambitious work agenda for 2007.

It was suggested that at this time and having regard to the issues associated with the Mayor's fighting Fund and Sister City relationships being pursued with Kaifeng City that the two Committees remain separate.

Recommendation No 1.

THAT the Friendship Working Party not be amalgamated with the Economic Development Committee.

Moved by Clr Gordon Lewis and seconded by Clr Jim Mauger.

2. Mayors Fighting Fund for International College in Kaifeng City, China.

Discussion was held in relation to how funds could be raised for the Mayors Fighting Fund ie involvement of local schools, Cultural concert etc and it was suggested that in the first instance the local School Principals be invited to meet with the Working Party to discuss the Model Middle School Project and how schools may be involve in any project.

Recommendation No 2

THAT an invitation be forwarded to the Principal of each School in the Shire inviting them or a representative of the School to an information meeting to discuss fund raising options towards the International College at the Model Middle School in Kaifeng City.

Moved by Clr Gordon Lewis and Seconded by Clr Jim Mauger.

3. Sister City relationship.

Further research was still being undertaken in relation to any proposal toward Sister City relationships with Kaifeng City.

Action: Manager Administration Services to undertake further investigations with the Department of Foreign Affairs in the first instance.

4. Proposed Delegation Visit to Kaifeng City in October 2007.

It was noted that the Economic Development Officer has held a Business Breakfast in February and that there was great interest in a business delegation attending Kaifeng city in October this year.

5. Correspondence forwarded to Kaifeng City

The Manager Administration Services distributed correspondence forwarded by Mayor Lewis to former Mayor Mr Liu Changchun and newly appointed Mayor of Kaifeng City Mr Zhou Yizhong.

GENERAL BUSINESS

1. Chinese New Year Cards

Councillor Jim Mauger referred to recent Chinese new year cards received from representatives of Kaifeng City and requested that appropriate cards be purchased to acknowledge the cards received.

Mr Eugene Liu advised that he would be able to purchase appropriate cards on behalf of the Mayor.

2. Trade Mission to China

Mr Carl Pemberton, Economic Development Officer advised of Council decision on 14 March 2007 for him to attend a Trade Mission in conjunction with Mr Terry Oakes Ash and Mr Eugene Liu (both independently sponsored) to participate in an Expo in Zhengzhou, China on 26 to 28 April 2007.

Next meeting to be held on a date to be determined following the meeting with the principals of local schools in the shire.

The meeting concluded at 4.40pm.



ORDINARY MEETING OF COUNCIL
held in the Council Chamber, Civic Centre, Elizabeth Street,
Moss Vale on Wednesday, 28 March 2007



COMMITTEE REPORTS



ORDINARY MEETING OF COUNCIL
held in the Council Chamber, Civic Centre, Elizabeth Street,
Moss Vale on Wednesday, 28 March 2007



COMMITTEE REPORTS
