

## MINISTERIAL DETERMINATION

### Development Contributions for the Wyong Employment Zone

Under section 94EE of the *Environmental Planning and Assessment Act 1979*

I hereby determine that:

- (a) a Special Infrastructure Contribution will be applied to development within the Wyong Employment Zone Special Contributions Area to contribute to the funding of infrastructure in the Wyong Employment Zone.
- (b) The level and nature of contribution will be calculated and collected in accordance with the Special Infrastructure Contribution Plan 2008 at **Attachment C**.

Date: 28/10/08



The Hon Kristina Keneally MP  
Minister for Planning



NSW GOVERNMENT  
**Department of Planning**

# **SPECIAL INFRASTRUCTURE CONTRIBUTIONS PLAN**

## **WYONG EMPLOYMENT ZONE—SPECIAL CONTRIBUTIONS AREA**

**August 2008**

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## **PART A – OVERVIEW**

### **1. Purpose**

- 1.1. The Plan outlines a proposal in relation the funding mechanism for the provision of sub-regional and regional infrastructure necessary for the release and development of the land within the Wyong Employment Zone (WEZ).
- 1.2. Part 5, Division 6, Subdivision 4 of the *Environmental Planning and Assessment Act 1979* (the Act) enables the collection of a special infrastructure contribution to support the provision and extension of transport and other infrastructure. The purpose of these provisions is to strengthen the Government's ability to deliver infrastructure, amenities and services in new land release areas and other areas where there will be co-ordinated growth and development.
- 1.3. A special contributions area is to be created for the WEZ. The creation of a special contributions area will enable the Minister for Planning (the Minister) to determine the level and nature of development contributions to be imposed for the provision of infrastructure under section 94EE of the Act.
- 1.4. Once a determination is made the Minister will be able to impose a condition requiring the payment of a special infrastructure contribution (SIC) as a condition of project approval. The Minister will also be able to direct the Wyong Shire Council (Council) to impose a SIC as a condition of development consent.
- 1.5. Section 94EE(4) of the Act requires the Minister to publicly exhibit a proposal in relation to the level of development contributions and seek submissions within a reasonable time.
- 1.6. Any submission made during the public consultation period will be considered by the Minister. The Act requires that any determination by the Minister must contain reasons for the level and nature of the development contributions and be made publicly available.

### **2. Background**

- 2.1. The New South Wales Government's *Draft Central Coast Regional Strategy* (2006) identifies the WEZ as a major employment area for the Central Coast. The area is envisaged to ultimately generate an additional 4,000 to 6,000 jobs and to protect lands of high conservation value.
- 2.2. The State Government recognises the State and regional significance of the WEZ. In 2005 the State Government announced the WEZ would be considered as a potential State significant site.
- 2.3. The WEZ is 709 hectares in total, with approximately 245.3 hectares of Net Developable Area. The Site is strategically located on a key transport interchange between the Sydney to Newcastle Freeway (F3) and the Warnervale Town Centre, North of the existing settlement of Wyong, and is wholly within the local government area of Wyong. The extent of the Wyong Employment Zone is shown on the Land Application Map reproduced in figure 1 of this Plan. Development is already underway in the South Western portion of the Site which includes the Woolworths distribution facility.
- 2.4. It is anticipated that the development of the Site will create additional pressure on existing road network. This Plan outlines the transport and other infrastructure that is necessary to facilitate the development of the Wyong Employment Zone.

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### 3. Application

- 3.1. This Plan should be read in conjunction with the *Metropolitan Strategy (2005)*, the *Draft Central Coast Regional Strategy* and the *draft State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)*.
- 3.2. This Plan applies to the land within the local government area of Wyong shown edged heavy black on the map marked "Wyong Employment Zone—Special Contributions Area" at **Attachment A**.
- 3.3. The creation of a special contributions area by order published in the New South Wales Government Gazette will enable the Minister to determine the level and nature of development contributions to be imposed for the provision of infrastructure under section 94EE of the Act.
- 3.4. This Plan outlines the transport and other infrastructure that is necessary to facilitate the development of the Wyong Employment Zone that will be funded through the application of a special infrastructure contribution (SIC) levied on all development which require consent within the Wyong Employment Zone—Special Contributions Area. The principles relevant to the determination of the contribution are set out below.

### 4. Principles

- 4.1. A special infrastructure contribution can only be levied on development within a special contributions area.
- 4.2. Any contribution must only be for the provision of infrastructure, as defined in section 94ED of the Act. The funds generated by the SIC are to be used towards the Sparks Road upgrade and connections to the Sydney to Newcastle Motorway (F3).
- 4.3. The requirement for the payment of the special infrastructure contribution will not apply to development consents granted before the date of commencement of this Plan but it will apply to development applications lodged but not determined prior to the commencement of this Plan.

### Notes

- The Minister has, as far as is reasonably practicable, made the contribution reasonable having regard to the cost of the provision of infrastructure in relation to the development.
- Infrastructure may be regarded as being provided in relation to development whether or not the infrastructure is provided on land within a special contributions area.
- A condition imposed requiring a special contribution is one that may be imposed in addition to a condition imposed for local contributions under section 94 or 94A of the Act.
- The Council may, subject to the consent of the Minister, accept the provision of a material public benefit for the construction cost components of infrastructure, as outlined in this Plan as an alternative to the payment of a monetary contribution.
- The contribution will not be levied on exempt or complying development.
- The special contributions area can be repealed or changed by the Minister by way of an order published in the Gazette, provided the Minister consults with the peak industry organisations that the Minister considers relevant.

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## **PART B – SPECIAL INFRASTRUCTURE CONTRIBUTION**

### **5. Introduction**

- 5.1. The development of the WEZ will place pressure on existing State level transport infrastructure requiring the future upgrades of a number of roads and freeway access ramps.
- 5.2. A special infrastructure contribution (SIC) has been prepared by the Department of Planning that requires developers to contribute towards the cost of State level infrastructure whose need is generated as a result of the development of the area.
- 5.3. The SIC is calculated as 75% of the cost of the infrastructure that arises as a result of the WEZ in accordance with Planning Circular PS 07-018, *Development Contributions* of 6 November 2007.
- 5.4. The Department of Planning (the Department) has considered the impact of surrounding development when determining the rate of infrastructure apportionment to the WEZ. This means that the 75% contribution is not calculated on the total infrastructure costs but only the proportion attributable to the WEZ.
- 5.5. The contribution payable will be kept under review and may be amended in accordance with any determinations made by the Minister under section 94EE(1) of the Act.

### **6. Justification for the special infrastructure contribution**

The imposition of a special infrastructure contribution for the WEZ is justified having regard to:

- The need to provide infrastructure with development, and to reasonably fund its provision;
- Land value increases, where land is being rezoned for employment, and the strategic land value given proximity to the Central Coast and Hunter Regions Warnervale Town Centre, Sparks Road and the Sydney-Newcastle Freeway (F3);
- Contributions required for similar infrastructure requirements in other new release areas;
- The cost of providing infrastructure, related to the development of the WEZ;
- The impact on development feasibility and affordability.

### **7. The infrastructure that the contribution will provide for**

- 7.1. The SIC will contribute an indicative total of \$22.4 million towards an appropriate proportion of the cost of sub-regional roads necessary for the functioning, access and appropriate distribution of traffic passing through and connecting to the WEZ; and an appropriate proportion of the cost of connections to the adjoining motorways.
- 7.2. The contribution towards the cost of these matters is outlined below.

<b>Infrastructure Item</b>	<b>Contribution</b>
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	\$250,000
<b>TOTAL</b>	<b>\$22.4 million</b>

## **8. The level and nature of the contribution**

8.1. To fulfil this cost with a Net Developable Area of 245.3 hectares, the SIC contribution rate for the Wyong Employment Zone—Special Contributions Area will be \$91,000 per hectare of Net Developable Area for industrial uses.

8.2. The Net Developable Area is:

*“expressed in hectares and is the area of industrial zoned land excluding land for trunk drainage and roads”.*

8.3. For the purpose of determining the Special Infrastructure Contribution, the following will be excluded from the calculation of Net Developable Area:

- flood affected land, below the 1 in 100 year flood level;
- land zoned for Environmental Conservation E2;
- land that is subject to existing approved or lawful urban development (unless subject to new or intensified development or a change of land use zoning);
- land set aside for publicly owned community facilities community services provided under the provision of section 94 of the EP&A Act;
- land used for public schools, TAFE colleges and higher education facilities;
- land used for publicly owned health facilities;
- land used for ambulance stations, fire stations and police stations;
- land used for bus depots, bus transfer stations; and
- areas for facilities provided by Gosford Wyong Councils Water Supply Authority.

## **9. Credits for works-in-kind**

9.1. The Council may, subject to the consent of the Minister, accept the provision of a material public benefit for the construction cost components of infrastructure, as outlined in this Plan as an alternative to the payment of a monetary contribution.

9.2. Such credits will only be given for the provision of infrastructure outlined identified in this Plan.

9.3. Where a previous development contribution has been made towards the infrastructure identified in the Plan, the contribution payable will be reduced accordingly (to avoid double dipping).

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- 9.4. Any material public benefit can only be credited against items identified in this Plan provided that they are designed and constructed to the satisfaction of the Roads and Traffic Authority (RTA).
  - 9.5. Any land dedication or other material public benefit provided must be in place or complete at the time that contributions would normally be required.
  - 9.6. Where works involve connections to motorways or arterial roads, the RTA must endorse the scope and design and, where works-in-kind are proposed to be provided as a material public benefit, these must also be constructed to the satisfaction of the RTA.

## **10. Timing of payments and benefits provided**

- 10.1. Payment of monetary contributions must be made:
  - a. where subdivision is involved; prior to the issue of a subdivision certificate;
  - b. where development is to occur without subdivision; prior to the issue of a construction certificate;
  - c. in cases where a construction certificate may not be required; prior to the commencement of works or prior to occupation (whichever the case may be);; and
  - d. in cases where a title is created by Crown plan; prior to registration of title.
- 10.2
  - a. in the case of the provision of a material public benefit or the dedication of land, works must occur prior to or concurrent with the registration of title, or where no subdivision occurs; prior to the issues of a construction certificate (unless otherwise agreed by the Department of Planning in writing).
  - b. However, despite (a) above, works may occur after the said times if a bond or unconditional bank guarantee acceptable to the Department of Planning and RTA and equal to or greater than 150% of the estimate of the value of any outstanding works is lodged with the Department. The bond is to ensure that sufficient funds are available to allow relevant works to be completed on default by the developer. The bond will only be realised on satisfactory completion of the works.
- 10.3. No contribution will be required for a subdivision involving the excision of an existing habitable dwelling or a residue lot with no development potential.
- 10.4. Approval to defer monetary contributions payable under this Plan will not be granted.

## **11. Process for the Provision of and credit for works-in-kind**

- 11.1. The process for the provision of and credit for works-in-kind is that the applicant will approach the Department of Planning with an offer to construct works relevant to their precinct or development site (e.g. roads) included in this Plan as a material public benefit as an alternative to the payment of a monetary contribution or the dedication of land.
- 11.2. If the Department of Planning agrees, the applicant is then to approach the public authority responsible for the provision of infrastructure (eg RTA) to determine the standards, supervision arrangements, timing and any other appropriate arrangements for the works. The applicant will then enter into a contract with the authority for the supply of the works and lodge an appropriate bond or guarantee.
- 11.3. Once the applicant has entered into contractual and bonding arrangements to the satisfaction of the infrastructure agency, that agency will advise the Department of

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Planning. The Department of Planning will then determine the reduction in the applicant's special infrastructure contribution (SIC) by deducting the value of the infrastructure provided in-kind from the SIC the applicant will pay.

- 11.4. On completion of the works the applicant will supply a letter of certification from the authority advising that the works have been satisfactorily completed and have been taken over by the authority. Alternatively, the applicant will supply a letter of certification from the authority advising that satisfactory arrangements have been entered into for the staged delivery of the works.

## **12. Collection of the contribution**

- 12.1 All contributions will be collected by the Council and will be paid into the Special Contributions Area Infrastructure Fund established under section 94EJ of the Act. The fund will be administered by the Director-General of the Department or other nominated Government Department.

### **Notes**

- The infrastructure costs are subject to indexation. When necessary, this Plan will be reviewed by the Department of Planning to account for infrastructure indexation.