

February 26 2003  
To the Ordinary Meeting of Council

Director's Report  
Strategic Planning Department

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**Glenning Valley Local Environmental Plan/Development Control Plan and  
Section 94 Plan**

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**SUMMARY**

A draft Local Environmental Plan, Development Control Plan and Section 94 Contributions Plan for the Glenning Valley area was placed on public exhibition from August 21 2002 to October 4 2002. 104 submissions were received on the draft plans. This report outlines the issues raised in these submissions.

**RECOMMENDATION**

- 1 *That prior to the draft Plan being referred to the Minister for Planning for gazettal, Council enter into a Deed of Agreement with the owners of the land currently zoned 7(a) Conservation and proposed 7(a) Conservation requiring that the 7(a) land be dedicated to Council at the time of subdivision.*
- 2 *That the General Manager be authorised to sign and seal all necessary documentation.*
- 3 *That, following the signing of the Deed referred to in 1 above, the Minister for Planning be requested to create the Local Environmental Plan.*
- 4 *That draft Revised Contribution Plan No 1 – Southern Lakes be re-advertised for 28 days and, should no submissions be received, the plan be adopted upon gazettal of the draft Local Environmental Plan and appropriate public notice be given within 28 days.*
- 5 *That upon gazettal of the draft Local Environmental Plan, the draft Development Control Plan be adopted and appropriate public notice be given within 28 days.*
- 6 *That the applicant be advised of the decision.*
- 7 *That those who made written objection to the plans be advised of the decision.*
- 8 *That Council's Section 149 Certificates be noted.*

## **Glennings Valley Local Environmental Plan/Development Control Plan and Section 94 Plan (contd)**

### **BACKGROUND**

The Glennings Valley area has been subject to various planning investigations from the mid 1980s. The 1992 Glennings Valley Planning Study (Attachment 1) identified the following as constraints to further development in the Valley:

- \* Increased nutrient loading on local streams;
- \* Loss of rural amenity;
- \* The aesthetic impact of further development;
- \* The existing subdivision pattern.

The Valley largely retains a rural residential character through larger allotments and the retention of areas of natural vegetation along creeklines and ridgetops.

One area that was identified for possible future urban development was the area known as the Wyong Road/Anderson Road Precinct. The identification of this area for possible future development is reflected in the State Government's Urban Development Program for the region.

Council prepared a Discussion Paper on the future development options for Glennings Valley in 1998. This Discussion Paper was distributed to the Glennings Valley Community with public meetings also held seeking community comment on the Paper. Council considered a report on the outcome of the Discussion Paper in October 1998. At that time, Council resolved to prepare a draft local environmental plan for the Wyong Road/Anderson Road Planning Precinct. However, prior to the exhibition of the draft plan, Council resolved that the following had to be satisfied:

- a Council staff investigate the usefulness of a minimum lot size of 1000 square metres for any proposed lots adjoining the creek as a water quality control measure, and that alternative or alternate solutions be canvassed;
- b Any future development will not impact threatened species and/or ecologically valuable vegetation communities or species within and surrounding Quandong Creek or the development site;
- c Any future development should not impact upon the quality of water entering Quandong Creek;
- d Noise control measures are included within the development to limit noise impacts from Wyong Road to future residents.

## **Glenning Valley Local Environmental Plan/Development Control Plan and Section 94 Plan (contd)**

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The applicant for the rezoning, Andrews Neil Architects Planners, undertook further investigation to support the rezoning of the area known as the Wyong Road/Anderson Road Precinct. Council considered a further report on this matter in December 2001 and, having resolved the issues of the October 1998 report, endorsed the exhibition of an amended draft local environmental plan, draft development control plan and amendment to the Section 94 Contributions Plan for Southern Lakes. Council's resolution included that if no significant objections are received, the draft LEP be forwarded to the Minister for Planning for gazettal. As discussed in this report, significant objection has been received on the proposed rezoning.

Council's resolution of December 2001 also required that:

*"Prior to the draft Plan being referred to the (then) Minister for Urban Affairs and Planning for gazettal, Council enter into a Deed of Agreement with the owners of the land currently zoned 7(a) Conservation and proposed 7(a) Conservation requiring that the 7(a) land be dedicated to Council at the time of subdivision". The General Manager was delegated authority to sign and seal all necessary documentation pertaining to the deed.*

Since that time, Council has prepared the draft plans and consulted with relevant government authorities under Section 62 of the Environmental Planning and Assessment Act. The issues raised in these submissions were addressed with the draft plans being placed on exhibition from August 21 2002 until October 4 2002.

### **DRAFT LOCAL ENVIRONMENTAL PLAN**

The land subject to the draft local environmental plan is currently zoned 7(c) Scenic Protection. The 7(c) zone has a minimum lot size of 2 hectares, although under the WLEP 1991, bonus lot provisions allow a minimum lot size of 1 hectare (if 7(a) Conservation land is dedicated to Council or an equivalent contribution is paid for Council to acquire other 7(a) land).

The draft Local Environmental Plan (Attachment 2) proposes to amend the zoning of this area to 2(a) Residential and 7(a) Conservation. The 2(a) Residential zone is proposed for that area that is considered to be able to accommodate further residential development whilst the area to be rezoned to 7(a) Conservation has been identified to provide protection to the area surrounding Quandong Creek. The corridor adjoining Quandong Creek contains an endangered ecological community (as defined under the Threatened Species Conservation Act) and a threatened plant, *Melaleuca biconvexa*.

In considering this rezoning, it should be noted that the 2(a) Residential allows for the development of dual occupancies.

## **Glenning Valley Local Environmental Plan/Development Control Plan and Section 94 Plan (contd)**

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### **DRAFT DEVELOPMENT CONTROL PLAN**

Draft Development Control Plan (DCP) No 89 applies not only to the area proposed to be rezoned but also to the remainder of the Glenning Valley Rural Residential Area. The draft DCP includes the following objectives:

- a For the Rural Residential Precinct
  - i Reinforce and enhance the rural residential lifestyle;
  - ii Maintain the natural environment;
  - iii Minimise the impact, both within and outside the Valley, of future development;
  - iv Encourage a local sense of community;
  - v Promote the establishment of a high quality living environment through planning
  - vi Principles that encourage rural residential development.
- b For the Anderson Road/Wyong Road Precinct (proposed development area)
  - i Provide a high quality residential development which integrates with the existing Berkeley Vale residential area;
  - ii Provide a safe and efficient system of roads and pathways for vehicular, pedestrian and cycle movements;
  - iii Provide for the protection and enhancement of the environment and in particular:
    - Not impact upon the quality of water entering Quandong Creek;
    - Not unduly impact upon the quality of the rural residential environment of the Glenning Valley Rural/Residential Precinct.

### **DRAFT AMENDMENT TO CONTRIBUTIONS PLAN NO 1 – SOUTHERN LAKES**

The Southern Lakes Contributions Plan was amended to include a contribution from the proposed development for water quality works and land, roadworks, open space and community facilities and studies.

### **PUBLIC EXHIBITION**

The draft plans were placed on exhibition between Wednesday, August 21 2002 and Friday, October 4 2002.

The exhibition material was also forwarded to relevant government authorities and a number of community groups. The material was also placed on Council's web site.

## **Glenning Valley Local Environmental Plan/Development Control Plan and Section 94 Plan (contd)**

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### **GLENNING VALLEY RURAL RESIDENTS COMMITTEE MEETING**

A Senior Strategic Land Use Planner of Council attended a public meeting of the Glenning Valley Rural Residents Committee on September 10 2002. The meeting was attended by approximately 60 people. At the conclusion of the meeting, a vote was taken, with residents objecting unanimously to the proposed rezoning of land adjoining Wyong and Anderson Roads to Residential 2(a). The Rural Residents Committee had further meetings and provided a written submission to the proposed rezoning.

### **SUBMISSIONS**

A total of 104 submissions were received. This included a form letter. 82 copies of the form letter were received and therefore a copy of this letter is attached as Attachment 3. All of the issues raised in the submission are documented in Attachment 4.

### **SUMMARY OF COMMENTS**

The following list summarises the principal issues raised in the submissions received. A detailed review of the submissions is contained in Attachment 4.

- \* Traffic/pedestrian safety
- \* Impact on the rural/residential lifestyle and qualities of Glenning Valley.
- \* Environmental impacts
- \* Proposal sets an undesirable precedent
- \* Inadequate infrastructure to support development eg schools, roads, sewer, water
- \* Objection to various detailed controls on development of proposed residential in dDCP
- \* Requirement to dedicate 7(a) land unreasonable
- \* Viability of land to be rezoned
- \* Objection to proposed 30 metre wide buffer
- \* Objection to proposed boundary between 2(a) and 7(a) land
- \* Objection to denying access to Wyong Road

A number of other issues were also raised and these are tabled in Attachment 4.

### **STATE GOVERNMENT URBAN DEVELOPMENT PROGRAM**

Glenning Valley is identified in the State Government's Urban Development Program (UDP) as an area that can accommodate further residential development. Currently 40 lots are proposed within the area as part of the UDP. If Council resolved not to proceed with the rezoning of this land to allow residential, Council should seek an amendment to the UDP to remove any potential for further residential allotments within the Glenning Valley area as defined within the UDP.

## **Glenning Valley Local Environmental Plan/Development Control Plan and Section 94 Plan (contd)**

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### **RECOMMENDED AMENDMENTS**

No amendments are proposed to the draft LEP following exhibition.

A number of minor amendments to the draft DCP are recommended to address the issues raised in the submissions. These amendments include:

- \* Removal of the reference to "large lots" within the Glenning Valley Rural Residential Precinct;
- \* Additional provisions within the DCP in relation to protection of privacy and views for existing development adjoining Lot 8;
- \* Amendments to the reference in the DCP that the 7(a) land is to be fenced;
- \* Amendments to provisions in the DCP that stated "No further access across Quandong Creek will be permitted";
- \* Minor amendments to Figure 4- within the DCP to accurately reflect those areas affected by the need for acoustic controls, specific setbacks and single storey dwellings only. These are only minor drafting amendments.

The amended DCP is provided as an enclosure to this Business Paper.

It is not proposed to re-advertise the draft DCP as the amendments are considered minor and are proposed to address the issues raised in the submissions.

The draft amended Section 94 Contributions Plan is to be amended to include the cost of relevant studies that were funded by Pyoand are recouped through contributions from further development of the Wyong Road/Anderson Road Precinct. Only those costs relevant to preparing Section 94 Plans can be recouped in accordance with the relevant legislation and guidelines. Council had previously agreed to this approach for the rezoning of this area, however this was not reflected in the draft plan. Amendments to the Contributions Plan require it to be re-advertised. There is sufficient time for this to occur without delaying the rezoning process or adoption of the DCP due to the anticipated time before a deed is signed by all parties and the LEP is gazetted.

### **Deed of Agreement**

Prior to Council originally endorsing the proposal to rezone land at Glenning Valley to 2(a), it was recognised that the area of existing and proposed 7(a) Conservation land which includes and adjoins Quandong Creek should be transferred to Council. Council's previous consideration of the proposal required that a Deed of Agreement be signed by all owners of the subject 7(a) land. The Deed is to require the owners to dedicate the land, at no cost, to Council. This will then bring part of a corridor along a significant drainage line to Tuggerah Lakes into Council's ownership and control.

**Glenning Valley Local Environmental Plan/Development Control Plan and  
Section 94 Plan (contd)**

The exhibition of the draft plans raised a number of issues that need to be incorporated in the Deed that Council previously resolved to prepare to ensure the transfer of the 7(a) land to Council. The proposed Deed should include the following requirements:

- a The 7(a) land is to be transferred, at no cost, to Council at the time of approval of linen plans for future subdivision;
- b Prior to the land being transferred to Council, weed removal and regeneration of the area is to be undertaken;
- c Council will provide a right of access for Lot 2 DP 48169 and Lot 191 DP 733469 to the southern side of the corridor. Formal approval for such access will only be granted when Council considers a development application for development on the south side of that corridor and all relevant issues are satisfactorily addressed. Council will grant this right of access at no cost to the landowner.

**IMPLICATIONS OF 7(a) LAND BEING OWNED BY COUNCIL**

Upon transfer of the 7(a) land to Council, which would occur at the time of subdivision of the proposed 2(a) land, Council will have ongoing management responsibilities for the area.

Draft DCP 89 which applies to the proposed residential development, requires that a road front the proposed reserve. This arrangement will provide surveillance of the reserve (as opposed to backyards/fences adjoining the reserve), a fuel free area between the proposed development and the reserve and an access road for fire fighting and maintenance purposes. Adjoining development will also be required to comply with the NSW Bushfire Guidelines in terms of setbacks etc.

The responsibility for weed management will also become Council's in this area when the land is transferred. It is therefore recommended that a weed control program be undertaken for the area before Council accepts the transfer of the land.

**Glenning Valley Local Environmental Plan/Development Control Plan and  
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Although the 7(a) land is proposed to be transferred to Council, part of Lot 191 DP 733469 and Lot 2 DP 48169 will remain zoned 7(c) Scenic Protection. Both of these lots would have further development potential under the 7(c) zone that allows subdivision, with Council consent, to 1 hectare allotments (using bonus lot provisions). The creation of the 7(a) land as a separate parcel to be dedicated to Council cannot result in the creation of "land locked" parcels with no access to a public road. As Council has not received any application for development of the remaining 7(c) land at this stage, the detailed assessment of providing access and other issues such as flora and fauna, bushfire, waste management etc. for the development of the remaining 7(c) land has not been considered. To ensure that "land locked" parcels are not created, it is proposed that the deed of agreement relating to the transfer of 7(a) land to Council include a provision for right of access across the land for any potential future rural residential development of the 7(c) land remaining south of Quandong Creek. Provision of such access would be considered in detail when considering an application for development of the 7(c) land.

**OTHER OPTIONS**

Should Council resolve not to support the draft local environmental plan to rezone the Wyong Road/Anderson Road Precinct to 2(a) Residential, the following should be noted:

- a Council should request the State Government to exclude the land from the Urban Development Program;
- b Council should proceed with that part of draft DCP 89 that relates to the Glenning Valley Rural Residential Precinct only. The submissions received did not raise objection to the provisions of the draft DCP for the Glenning Valley Rural Residential Precinct;
- c The draft revised Section 94 Contributions plan would need to be amended to exclude the Wyong Road/Anderson Road Precinct.

If Council resolved to proceed in this manner, both the draft DCP and Section 94 Contributions Plan would need to be readvertised as these are significant amendments to the previously advertised plans.

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**CONCLUSION**

The rezoning of the Wyong Road/Anderson Road precinct from 7(c) Scenic Protection to 7(a) Conservation and 2(a) Residential represents a minor extension to an existing urban area as identified in the Urban Development Program. A number of controls are proposed to ensure minimal environmental impact of the proposed development. The draft Development Control Plan for the area also extends to include controls for additional rural/residential development throughout the Glenning Valley precinct.

**Attachment 1**  
**Attachment 2**  
**Attachment 3**  
**Attachment 4**

**Study Area (1 page)**  
**Draft Local Environmental Plan (1 page)**  
**Form Letter Objecting to Proposed Rezoning (1 page)**  
**Summary of Submissions (15 pages)**

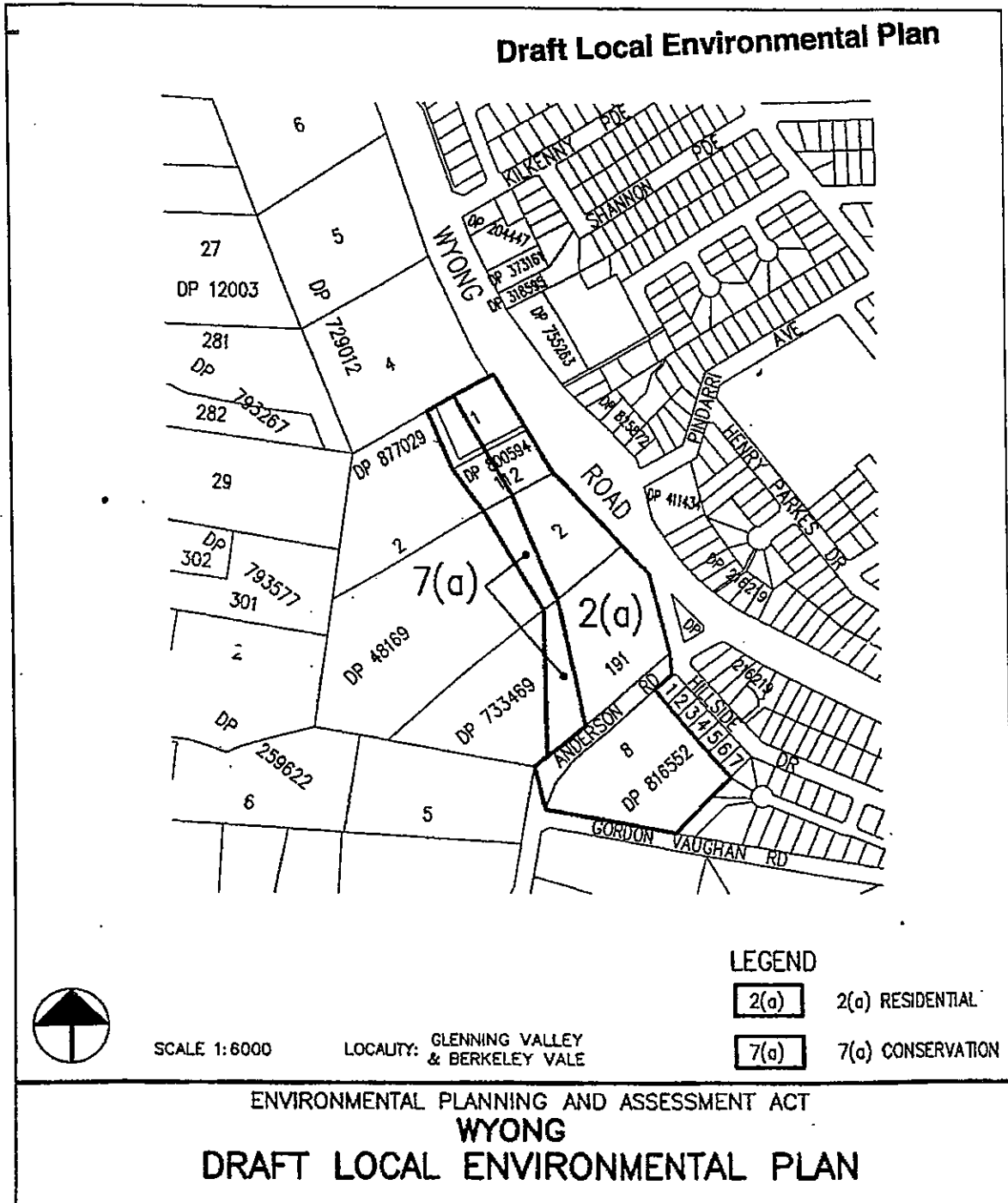
**Enclosure**

**Draft Development Control Plan No 89**

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**Glenning Valley Local Environmental Plan/Development Control Plan and  
Section 94 Plan (Attachment 2)**



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**Glennings Valley Local Environmental Plan/Development Control Plan and  
Section 94 Plan (Attachment 3)**

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Date:

**Copy of Form Letter Objecting to Proposed Rezoning**

Mr. John Dawson  
General Manager  
Wyong Shire Council  
P.O. Box 20  
Wyong NSW 2259

Dear Mr. Dawson,

Re: Glennings Valley Planning Precinct Draft Council