

# REPORT TO HUNTER & CENTRAL COAST JOINT REGIONAL PLANNING PANEL

**TITLE** DEVELOPMENT APPLICATION NO. 42013/2012 PART 1  
APPLICANT: GHAZI AL ALI ARCHITECTS  
PROPOSED: EDUCATIONAL ESTABLISHMENT AND  
DEMOLITION OF EXISTING DWELLING AND STRUCTURES  
(JRPP) ON LOT: 87 DP: 755253, 2964 WISEMANS FERRY ROAD  
MANGROVE MOUNTAIN  
Directorate: Environment and Planning  
Business Unit: Development

---

*The following item is defined as a planning matter pursuant to the Local Government Act, 1993 & Environmental Planning & Assessment Act, 1979.*

## EXECUTIVE SUMMARY

### Reason for Referral to Joint Regional Planning Panel (JRPP)

The proposed educational establishment is classified as regional development under Part 4 of SEPP (State and Regional Development) 2011 and Schedule 4A of the EP&A Act 1979 Clause 6(b) – Private infrastructure and community facilities over \$5 million.

### Assessing Officer

D Spithill

### Reviewing By

Independent Development & Environment Panel (IDEP)  
Deputy Director Environment and Planning  
General Manager

### Date Application Received

28/03/2012

### Proposal

Educational Establishment and Demolition of Existing Dwelling and Structures (JRPP)

### Zone

1(a) Rural (Agriculture) -IDO122

### Area

25.5 hectares

### Permissible Development

The proposed educational establishment is permissible on land zoned 1(a) Rural (Agriculture) under Interim Development Order No 122

### Public Submissions

114

**Pre-DA Meeting**

A Pre-DA Meeting was held.

**Political Donations**

None declared

**Relevant Statutory Provisions**

- 1 Environmental Planning & Assessment Act, 1979 – Section 79C and Schedule 4A
- 2 Rural Fires Act 1993
- 3 Water Management Act 2000
- 4 Water Act 2012
- 5 Threatened Species Conservation Act 1995
- 6 Local Government Act 1993 – Section 89
- 7 Interim Development Order No 122
- 8 State Environmental Planning Policy (State and Regional Development) 2011 – Part 4
- 9 State Environmental Planning Policy 55 – Remediation of Land
- 10 State Environmental Planning Policy (Infrastructure) 2007
- 11 State Environmental Planning Policy 19 – Urban Bushland
- 12 Sydney Regional Environmental Plan 20- Hawkesbury Nepean River
- 13 Sydney Regional Environmental Plan 8 – Central Coast Plateau Areas
- 14 Sydney Regional Environmental Plan 9 – Extractive Industries
- 15 Draft Local Environmental Plan 2009

**Key Issues**

1. Background
2. The Proposal
3. The Site / Surrounding Environment
4. Statutory Framework
5. Relevant Provisions – Interim Development Order No 122 (Permissibility, Zone Objectives, Character)
6. Draft Gosford Local Environmental Plan 2009
7. Relevant State Environmental Planning Policies and Sydney Regional Environmental Plans
8. Central Coast Regional Strategy
9. Services and Accessibility to the Site
10. Water Supply / Comments Food Surveillance Officer
11. Environmental Impacts
12. Ecological Assessment
13. Assessment Comment – Environmental Officer
14. Impact on Drinking Water Catchment
15. Assessment Comment – Water and Sewer
16. On Site Sewerage Management
17. Assessment Comment – Waste Services
18. Tree Removal
19. Assessment Comment – Tree Management Officer
20. Scenic Quality / Rural Character
21. Assessment Comments – Council's Architect
22. Disabled Access
23. Building requirements
24. Vehicle Access and Car Parking
25. Engineering Requirements, Traffic Impacts, Flooding and Drainage
26. Comments Roads and Maritime Service (RMS)
27. Stormwater Disposal

28. Solid Waste Management
29. Bushfire Protection
30. Cut and Fill
31. Amenity Impacts
32. External Referrals
33. NSW Department of Primary Industries
34. Integrated Approval – NSW Rural Fire Service
35. Public Submissions

## **Recommendation**

Refusal

---

## **REPORT**

### **Background**

The proposed site being Lot 87 DP 755253 was formerly part of a citrus orchard farm which was known as “Coolamatong” on Lots 1 DP 780183 and Lots 192 and 87 DP 755253 with a total area of 41.56 hectares and was planted with approximately 40,000 trees. The property has not been operated as a citrus farm for over 13 years as the industry has been in decline around Mangrove Mountain for a number of years and all the citrus trees on the property have since been removed. The three adjoining properties remain in the ownership of the present owner.

Development Application No. 6066/1999 for a place of public worship was refused by Council on 4 May 2000 for the following reasons:

1. *The proposed development is inconsistent with the aims and objectives of the Sydney Regional Environmental Plan No 8 with specific relation to clause 6(5)*
2. *The proposed development is not supported by NSW Agriculture*
3. *Non-compliance with the Building Code of Australia*
4. *Approval of the development would not be within the public's interest.*

### **The Proposal**

The proposal is for a privately operated agricultural college at No. 2964 Wisemans Ferry Road, Mangrove Mountain on Lot 87 DP 755253. The proposed development includes demolition of the existing dwellings and rural outbuildings.

The Statement of Environmental Effects (SEE) advises that the school will accommodate some 90 to 100 senior secondary students in Years 10, 11 and 12, of which approximately 75% to 80% will be boarders with the balance comprising day students from Gosford/Wyong. A total of 14 full time and part time staff will be employed including up to 8 teachers, a principal and support staff. The proposed school is intended to be operated as a private, non-denominational, coeducational senior secondary college. The focus of the school will be on agricultural studies, together with a range of other subjects catered for in the NSW Higher School Certificate.

The school building has a total floor area of 3,362m<sup>2</sup> and will comprise 6 classrooms, library, administration, amenities, kitchen and dining facilities area, an indoor recreation space (northern wing) and student accommodation (southern



the southern boundary. The site contains two dwelling houses, rural sheds located approximately 180 to 200 metres west of the Wisemans Ferry Road frontage.

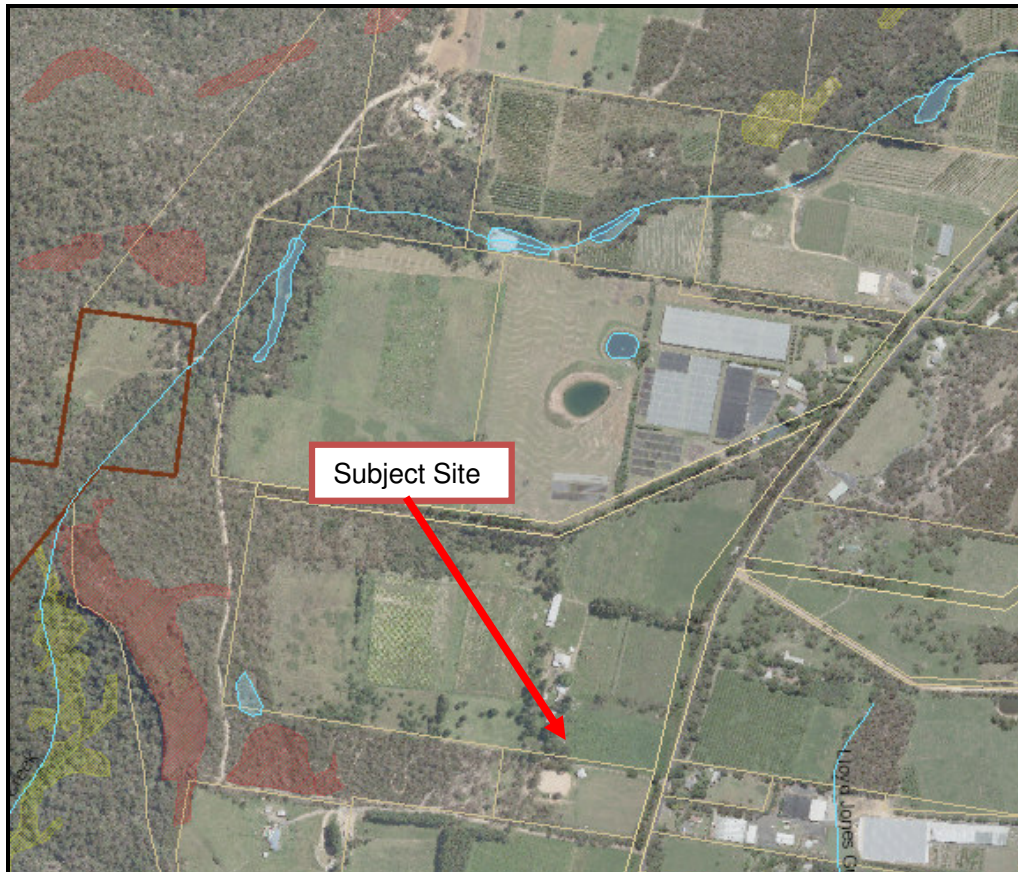
The site comprises level to gently sloping topography (less than 5% gradient), which falls towards an existing bushland recreation reserve at the rear of the site. The land drains to the southwest, through this reserve into Crafts Creek, which discharges directly into Mangrove Creek approximately 1.2 kilometres from Mangrove Creek Weir, being the major raw water supply conduit for Gosford City's water supply. A former, partially filled farm dam is located in the southwest corner of the site.

The site is classified as prime agricultural land. The property is currently run down and in a state of disrepair, is largely unfenced and has been previously used for field crops and the grazing of a small number of livestock. Various structures are located on the property including dwellings and machinery sheds.

The majority of the property is cleared land, with treed areas (primarily re-growth with no remnant understorey) in the northeast corner and along the rear boundary and northwest portion of the site. A row of Radiata pine trees, mostly in poor condition, extend west along the existing access driveway off Wisemans Ferry Road. Small clusters of trees are also located within the cleared portion of the site, e.g. near the existing dwelling and rural sheds. There are a limited number of eucalypt and exotic trees scattered around the site.

### **Surrounding Development**

The site is located within a predominantly rural area and is characterised by areas of natural bushland and agriculture such as horticulture and grazing and related rural uses such as wholesale plant nurseries. A crown road reserve adjoins the northern boundary of the site. Land to the north of this road reserve comprises a large wholesale nursery "Marrion Grove" adjoining Wisemans Ferry Road and to the rear of this nursery is cleared grazing land. To the west, northwest and southwest of the site is a Crown Land recreation reserve comprising natural bushland, with a fire access trail extending north-south near the western boundary of the site. To the south of the site is the Mangrove Mountain Pony Club, of which the rear two third's comprises natural bushland. To the east, the site is adjoined by Wisemans Ferry Road. On the eastern side of this road are orchards, a wholesale plant nursery and a rural residential allotment. An aerial photograph of the locality is shown below in **Figure 2.**



**Figure 2 - Aerial Photograph Site and Surroundings**

### **Assessment**

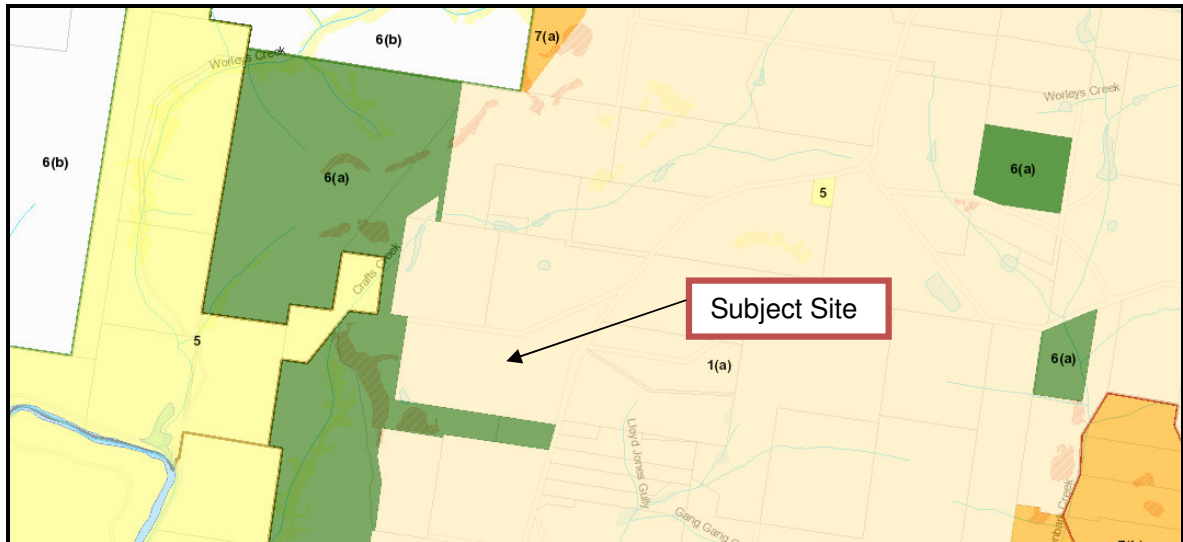
This application has been assessed using the heads of consideration specified under Section 79C of the Environmental Planning & Assessment Act 1979, Council policies and adopted Management Plans. The assessment supports refusal of the application and has identified the following key issues which are elaborated upon for Council's information.

### **Statutory Framework**

#### **Interim Development Order 122**

##### **(a) Permissibility**

The subject site is zoned 1(a) Rural (Agriculture) under Interim Development Order No. 122 and an "*educational establishment*" is permissible with consent in this zone.



**Figure 3: Zoning Map**

**(b) Objectives of Zone**

Clause 5(3) of Interim Development Order No 122 stipulates that consent must not be granted for development of land within the prescribed zone, unless the objectives of the zone have been taken into consideration in conjunction with the objectives of the Local Government Act 1993, pertaining to Ecologically Sustainable Development. The objectives of the 1(a) Rural (Agriculture) Zone are as follows:

- (a) to identify and provide suitable land for agricultural use;*
- (b) to protect the agricultural potential of land identified as suitable for agricultural use;*
- (c) to prevent the fragmentation of prime agricultural land;*
- (d) to enable uses which are complementary to, and compatible with, the use of land for agriculture;*
- (e) to protect the rural landscape quality of the area; and*
- (f) to protect water catchments, water quality, soil conditions, and important ecosystems such as streams, estuaries, and wetlands, from inappropriate development and land management practices.*

The proposal has potential to impact on the water quality of the Mangrove Creek Weir drinking water catchment and adjoining hanging swamp and is therefore inconsistent with objective (f). **(Refer section of report – Impact on Drinking Water Catchment and Environment Officers Comments).** The Department of Primary Industries and public submissions have also raised concerns in relation to the compatibility of the proposed educational establishment with agricultural uses (e.g. odours, use of chemical and pesticide sprays for agricultural activities may impact on students) and the use of prime agricultural land for non agricultural uses and reduction in the agricultural potential of prime agricultural land. Such impacts are considered elsewhere in the report.

In this instance, it is considered that the proposal is inconsistent with the stated objective (f) of the 1(a) Rural (Agriculture) zone as well as being inconsistent with the principles of Ecologically Sustainable Development, as specified within the Local Government Act 1993.

**(Refer Reason for Refusal No. 1)**

**(c) Character**

Clause 5(4) of Interim Development Order No 122 stipulates that the Council must not grant consent for development unless it has taken into consideration the character of the development site and the surrounding area, where, for the purpose of this provision, character means the qualities that distinguish each area and the individual properties located within that area. – **Also Refer Comments Scenic Quality**

In this instance, the proposal does not detract from the character of the immediate locality.

**Draft Gosford Local Environmental Plan 2009**

The application has been assessed under the provisions of Draft Gosford Local Environmental Plan 2009 in respect to zoning, development standards and special provisions.

The Draft LEP proposes to zone the subject land RU1 Primary Production. Educational establishments are identified as **prohibited** development in the RU1 Zone.

The Draft LEP contains transitional provisions at clause 1.8A that enable Development Applications to be assessed and approved under the existing planning controls, where such applications have been submitted prior to gazettal of the proposed Draft LEP.

The objectives of the RU1 zone under the draft plan (exhibited) are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within the zone and within adjoining zones.*
- *To ensure development is compatible with the desired future character of the area covered by this zone.*
- *To protect biodiversity, water catchments, water quality, soil conditions and important ecosystems such as streams (and associated riparian areas), sedgelands, estuaries and wetlands from inappropriate development and land management practices.*
- *To ensure the plateau remains free from landuses that may sterilise sustainable primary production and natural resource use and minimise potential incompatible landuses.*

The proposal is considered to be inconsistent with the objectives of the RU1 zone to protect water catchments, water quality, sedgelands from inappropriate development. The assessment concludes that the proposal is inconsistent with the objectives of the Draft Plan.

**(Refer Reason for Refusal 1)**

## Biodiversity

This land has been identified by the Natural Resource Sensitivity Biodiversity maps and Council has considered in the assessment of this development application the matters contained in Clause 7.10.3 and 7.10.4 of Draft Gosford Local Environmental Plan 2009.

## **Relevant State Environmental Planning Policies and Sydney Regional Environmental Plans**

### ***Sydney Regional Environmental Plan No. 8 - Central Coast Plateau Areas***

SREP 8 - Central Coast Plateau Areas aims to provide environmental protection for the Central Coast plateau areas and provide a basis for evaluating competing land uses. The SREP seeks to encourage use of land of high agricultural capability for that purpose and as much as possible and direct development for non-agricultural purposes to land of lesser agricultural capability.

The SREP also aims to protect regionally significant mining resources and extractive materials, enable development of extractive industries in specified locations, protect natural ecosystems and opportunities for wildlife movement and discourage rezonings that would permit rural-residential development.

The SEE contends that the proposed development is consistent with these aims and objectives of the SREP in that the proposal:

- *“Will maintain the majority of the subject land in agricultural use, particularly those parts of the site identified as higher quality agricultural land.*
- *Does not impact on significant extractive resources or existing extractive industries in the area, nor do those industries impact on the proposed development, due to separation distance.*
- *Will maintain the natural ecosystem of the area and existing opportunities for wildlife movement are protected.*
- *Does not include or facilitate rural-residential development.”*

## Prime Agricultural Land

The subject land is located on the Central Coast plateau and is classified as prime agricultural land, as defined in the SREP. The Department of Primary Industries has indicated that the land is classified as predominantly Class 3, with an area of Class 2 land extending east to Wisemans Ferry Road and an area of land classed 3 to 4 to the east and a small section adjoining Wisemans Ferry Road. **Figure 4** identifies the agricultural land capability of the subject land.

The most valuable agricultural land is Class 1 which is not identified on the subject land. Class 2 land is arable land suitable for regular cultivation for crops but not suited to continuous agriculture. Class 3 is grazing land or land suited to pasture improvement which may be cultivated for crops in rotation with pastures.

It should be noted the adjoining properties to the north of the subject land being lots 1 DP 780183 and Lot 192 DP755253 are also owned by the present owner and previously formed part of the original citrus farm “*Coolamatong*” with a total area of 41.56 hectares. Such land parcel is consistent with the minimum subdivision size of 40 hectares for subdivision of land zoned 1(a) Rural (Agriculture) and is a viable size for productive farming land.



**Figure 4: Showing the approximate boundaries of the agricultural land class 2 and 3 suitable for fruit, vegetables, crops and pastures and some land with a mix of agricultural land class 3 and 4 suitable for crops and pastures.**

#### Alternative Sites

The aim of the SREP is to direct development for non-agricultural purposes to land of lesser agricultural capability. Clause 6(5) requires that the Council **shall not** consent to the carrying out of development for a purpose other than agriculture, unless it is satisfied that no other land to which the SREP applies, not being prime agricultural land, could provide a viable or workable alternative site for the carrying out of the development.

In relation to alternative sites, the SEE contends that:

*"It would be possible to find a land holding of sufficient size in the area that is not prime agricultural land, in order to accommodate the proposed senior secondary agricultural college. Such lower agricultural land would most cases require at least some removal of native vegetation and would provide land of a quality only suitable for grazing. This would be contrary to the primary objective of the college, which is to provide secondary school level training in agriculture, including a broad range of agricultural activities, including livestock, cropping, horticulture and other forms of intensive farming that require good agricultural*

*land. It is considered that the proposal is consistent with the intent of clause 6(5)."*

### **Assessment Comment**

An educational establishment is permissible with consent in all rural zones - 1(a),1(b),1(c), and 2. Village, under IDO 122. The infrastructure SEPP permits educational establishments within the prescribed rural zones (RU2 Rural Landscape, RU4 Rural Small Holdings and RU5 - Village and RU6 –Transition). The equivalent zone applicable to the 1(a) Rural (Agriculture) zone is RU1. Educational establishments are prohibited under the draft LEP in the RU1 zone and are not included in the prescribed zones applicable to permit educational establishments with consent under the Infrastructure SEPP. While the agricultural report contends that *"The logical place to locate an agricultural high school is in a rural zone"*, alternative and appropriately zoned land which has been previously cleared is available for the establishment of an agricultural school in the region (Central Coast Plateau Area) without the need to locate such facility on prime agricultural land. Such land could be pasture and soil improved to facilitate the growing of non-commercial crops (i.e. agricultural demonstration plots) and other agricultural farm enterprise activities undertaken at the school.

The Department of Primary Industries does not support the proposal on prime agricultural land and maintains that other more suitable rural zoned land is available. **(Refer External Referrals – Department of Primary Industries Comments)**

### **Potential Future Expansion of the School**

There is potential for the proposed educational establishment to adversely affect the present or future use of other prime agricultural land for the purposes of agriculture, particularly if the size of the school and student numbers are increased in the future. Alternative sites exist to allow for an agricultural school in the region which would allow for future expansion of the school without creating further pressure on prime agricultural land.

Should the application be supported, conditions of consent should be imposed restricting the location and area occupied by school buildings and non agricultural uses to lower quality class 3-4 agricultural land to ensure a minimum of 80% of the site area is maintained for agricultural use in accordance with the areas nominated for agricultural activities on the master plan. The size of the school and total student numbers would also be restricted to a maximum of 100 students.

However, should the agricultural use of the land cease or the educational establishment cease to operate as an agricultural school, it is likely that the use of the land for agricultural purposes would be compromised, and conditions of consent may be ineffectual in ensuring continued agricultural use of the land, particularly if there is pressure for the school to expand in the future.

It is therefore considered that the proposal is inconsistent with Clauses 6(5) of SREP 8 – Central Coast Plateau Areas, as the application has not adequately demonstrated that no other land to which the SREP applies, not being prime agricultural land, could provide a viable or workable alternative site for the carrying out of an agricultural school in accordance with Clause 6(5) of SREP 8. **(Refer Reason for Refusal 2)**

### **Impact on present and future agricultural uses / Land Use Conflict**

Clause 6(2) of the SREP 8 requires that the Council be satisfied that the carrying out of development would not adversely affect the present or future use of other prime agricultural land for the purposes of agriculture.

The SEE provides the following comments in relation to the relevant provisions under the SREP 8:

*"More than 80% of the site will be used for agricultural purposes associated with the school's role as an agricultural college. The prime agricultural land (Class 2), to the east of the school facilities, will be utilised for horticulture, cropping and other intensive farming activities such as vegetable and flower growing. The balance of the undeveloped portion of the site comprising lower quality Class 3 agricultural land is to be used for livestock and related grazing activities, together with a retained area of native vegetation. It may be expected that the agricultural productivity of the land will increase compared to the existing grazing use of the site. School facilities are to be located on the lower quality agricultural land within the site.*

*The land is adjoined by prime agricultural land to the north and east. The proposed school facilities have been located to optimise separation distance from adjoining prime agriculture. Proposed minimum separation distances (at least 120m to the north and more than 200m to the east) ensure that agricultural activities on those adjoining properties are not constrained by the proposed development, nor do agricultural activities on those lands impact on the proposed agricultural college use of the subject land."*

The Department of Primary Industries has raised objection to the placement of an educational establishment, mainly for boarders, within an active agricultural locality (**Refer External Referrals below**). Public submissions have also raised concerns in relation to the compatibility of the proposed non agricultural use with agricultural activities (i.e. noise, odour, chemical spray drift etc) and impact on prime agricultural land.

A subsequent agricultural report dated 9 July 2012, prepared by AgriBiz Consulting has been submitted to support the application and address issues raised in submissions. The report examines the compatibility of the agricultural school's activities with the current land use on neighbouring properties and the impact the current land use on neighbouring properties may have on the proposed agricultural school.

The report assesses the suitability of the site for the agricultural activities that will be conducted by the school and looks at the resource needed for these activities and has advised that: *"The agricultural activities will be primarily carried out as demonstration units for the educational purposes of the school, but may also supply the school with produce, or operate as small scale commercial enterprises that provide some income for the school from the sale of produce".*

The report concludes that the proposed agricultural high school:

- *"is a permitted use under the current Rural 1(a) zoning;*
- *that the bulk of the land (80%) would be used for practical agricultural activities associated with the teaching of agriculture at the school and hence would be similar in nature to those activities carried out on surrounding farms;*  
*and*

- *that the school is unlikely to interfere with the agricultural activities of the immediate neighbours, or other farms in the surrounding area, in any significant way.*
- *The incorporation into the Master Plan of 30 metre buffer zones and setbacks in excess of 80 metres for all school buildings and residences, will insure that spray drift from neighbouring properties does not impact the school.*
- *From an agricultural perspective there are no legitimate reasons why the school should not be able to operate successfully on this site. The land area is large enough for the school to carry out all the activities it needs in terms of teaching and practical agricultural activities.*
- *The land itself is fertile enough and the climate conducive to the range of agricultural activities that are needed to provide students with a diversity of agricultural experiences. If the school did go ahead it would contribute to the local community and the broader agriculture sector, by the provision of a scarce private educational resource with flow on economic benefits to both."*

The report provides the following advice (as summarised) in relation to potential land use conflict impacts:

#### Amenity

In relation to amenity impact associated with noise, dust and vehicle movements the agricultural report advises the following:

*"Some aspects of the commercial agricultural operations on surrounding farms may impact in a minor way on the amenity of the staff and students. This must be expected, and accepted, by the school members if they choose to operate in the Rural Zone 1(a), which has as its key objective the preservation of agricultural activities. I would put into this category occasional noise from tractors and other agricultural implements, the possibility of some raised dust from cultivation and traffic movements, dust from broadcast fertilizers, vehicle movement and reversing noises, livestock noises such as cattle mooing etc., security lights. These are things that can be normally be expected in a Rural Zone, where the land is used for farming and are seldom more than a minor irritant at worst."*

#### Vegetated buffer zones

The report advises that the following vegetated buffer distances are provided to adjoining agricultural uses:

- *A vegetative buffer zone 30 metres wide, between the proposed school and the "Marion Grove" nursery. A small section of the buffer zone will require further plantings, but for the most part the existing native vegetation along the northern boundary is adequate.*
- *On the eastern side of Wisemans Ferry Road there is an existing tree barrier around the neighbouring citrus orchard approximately 25 metre wide. Together with the vegetation along the roadside verges and a low planting of native species and some trees, as indicated on the Master Plan on the eastern boundary, should provide an adequate spray drift buffer with the citrus orchard.*

The report provides the following details in relation to landscaping requirements within the proposed buffer zones:

*"The Master Plan shows the 30m buffer zone along the northern boundary. Along much of the boundary a sufficient buffer zone of native vegetation already exists. Where it is deficient, new plantings consisting of a selection of native vegetation to a height of at least 20 metres when fully grown, will be made. The buffer zone should contain a random planting of native shrubs and trees with a range of heights and differing growth habits to ensure a complete foliage barrier. It should contain some fast growing species so that a barrier of at least 2 metres in height will be in place prior to occupancy of the school."*

#### Bird scaring devices

The report advises the following in relation to the potential impact on the school from the use of bird scaring devices:

*"Bird scaring devices are used by stone fruit growers to ward off birds when the fruit ripen, so they are used only seasonally and for relatively short periods of time during daytime when the birds threaten to damage the fruit. While loud, like a shotgun report and fired off frequently in season, the noise should not disrupt the school to the extent that it would prevent any normal activities."*

#### Chemical Spray drift

In relation the potential for spray drift to impact on the proposed agricultural school, The agricultural report advises that:

*"The potential for spray drift is likely to be the most important issue regarding the neighbouring farms because chemical sprays are used extensively on at least one neighbouring property, the wholesale nursery on "Marion Grove".*

*It is likely the chemicals used on the "Marion Grove" nursery will range in toxicity from relatively benign chemicals that have been used for many years with little known toxicity problems for humans, such as glyphosate, to some potentially harmful chemicals such as the fungicides and insecticides which will be more highly toxic. The setbacks and buffers suggested have been designed with this range of toxicities in mind.*

*When diluted for spraying the likelihood of human exposure to toxic levels of the chemicals is remote, however the spray operators would need to take precautions to ensure that spraying does not take place during adverse weather conditions when spray could drift towards the school. The existing setbacks should, with an additional buffer zone, prevent any spray drift onto the school.*

*The decision to release a pesticide into the environment rests with the person with the most control over the situation, that is, the person carrying out the spray application. There may be a number of individuals involved in a decision to apply a pesticide such as advisor agronomist, State Government Departmental advisors etc. but the ultimate control of the situation falls back on the person applying the pesticide as only they have the ability to judge if the application conditions are suitable and that application machinery is set up and calibrated and adjusted to suit the application that it is to be used for. It is a requirement in NSW that people applying pesticides in a commercial operation are required to undertake a competency based training program in the use of*

*pesticides - (known as Chemsert). Only holders of a current Chemcert certificate should apply pesticides."*

The report contends that proposed setback distances to buildings and vegetated buffer zones are adequate to mitigate against the impact of spray drift:

*"an 80 metres separation should be adequate to protect the school residential area from any spray drift from the "Marion Grove" nursery. The school residential buildings are more than twice the set back from the boundary with "Marion Grove" than the distance recommended as sufficient and the road and vegetative buffer of 30 metres add to the protection measures."*

*The buffer (30 m buffer zone along the northern boundary) will provide a permeable barrier, allowing air to move through it, but disrupting the uniformity of any breezes likely to carry spray drift. This will shield the school from any spray drift from the north.*

*Little spraying is likely to be undertaken on the beef property across Wisemans Ferry Road and the set back from this property plus existing roadside vegetations should be adequate to control any adverse effects of spray drift from this source. A 25 metre wide vegetative buffer of fully grown trees already surrounds the citrus orchard next to the south on Wisemans Ferry Road and in conjunction with the existing vegetation along the roadside verges and tree planting along the boundary as well as the set back of the school buildings etc. Similarly with Scotts Tubes wholesale nursery, indicated that their plants were all housed within hot houses so there was little or no spray drift emitted from the hot houses.*

*The south and west of the property are the Pony Club and Crown Land which are unlikely to be sprayed with anything other than an occasional benign herbicide like Roundup and so are unlikely to cause any spray drift problems because of the vegetative barriers that already exist. It is the onus of the operator to make sure that they only spray when conditions are safe Pesticide Act 1999."*

### **Assessment Comment**

It is considered that potential land use conflict impacts may be managed and mitigated to an acceptable level by the provision and maintenance of appropriate vegetated buffer zones and setback distances and as such refusal of the application on this basis is not warranted.

Future expansion of the school however would be restricted.

### **Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean River**

SREP 20 applies to land which falls within the catchment of the Hawkesbury-Nepean River. The subject land drains to Crafts Creek, which drains to the Hawkesbury River via Mangrove Creek. The aim of SREP 20 is to protect the environment of the Hawkesbury- Nepean River system by ensuring that the impacts of proposed land uses are considered in a regional context. Clause 6 of the plan stipulates specific planning policies and recommended strategies to achieve this aim. Strategies which are of particular relevance to the proposal include the following:

Total catchment management: The strategy requires consideration of the impact of the development on the catchment and the cumulative environmental impact of development proposals on the catchment.

Water quality: The strategy seeks to ensure the current water quality to be maintained or improved and requires consideration of the impact of any predicted increase in pollutant loads on receiving waters and the impact of the removal of water from groundwater sources associated with the development. The strategy advises that development involving on-site disposal of sewage effluent should not be carried out if it will adversely affect the water quality of the river or groundwater and requires implementation of erosion and sediment control plan and best management practices.

Water quantity The strategy requires consideration of ecosystems which may be adversely affected by development which changes the flow characteristics of surface or groundwater in the catchment, encourages on-site stormwater retention, infiltration and (if appropriate) reuse and the need for restricting or controlling development requiring the withdrawal or impoundment of water because of the effect on the total water budget of the river and the impact of the development on the level and quality of the water table.

Agriculture: The strategy advises that agriculture must be planned and managed to minimise adverse environmental impacts and be protected from adverse impacts of other forms of development. Priority is to be given to agricultural production in rural zones, ensuring zone objectives and minimum lot sizes support the continued agricultural use of Class 1, 2 and 3 agricultural land and of any other rural land that is currently sustaining agricultural production. The strategy requires effective separation between intensive agriculture and adjoining uses to mitigate noise, odour and visual impacts and seeks to protect agricultural sustainability from the adverse impacts of other forms of proposed development, including the ability of the site to sustain over the long term the development concerned.

In addition, Clause 17 of the SREP stipulates additional matters for consideration by the consent authority for sewerage systems or works, including on-site disposal systems:

- (a) *Whether the proposed development will be capable of connection to a Sydney Water Corporation Limited or council sewerage system either now or in the future.*
- (b) *The suitability of the site for on-site disposal of effluent or sludge and the ability of the sewerage systems or works to operate over the long-term without causing significant adverse effects on adjoining property.*
- (c) *The likely effect of any on-site disposal area required by the proposed development on:*
  - *any water bodies in the vicinity (including dams, streams and rivers), or*
  - *any mapped wetlands, or*
  - *any groundwater, or*
  - *the floodplain.*
- (d) *The scope for recycling and reusing effluent or sludge on the site.*
- (e) *The adequacy of wet weather storage and the wet weather treatment capacity (if relevant) of the proposed sewerage system or works.*
- (f) *Downstream effects of direct discharge of effluent to watercourses.*
- (g) *The need for ongoing monitoring of the system or work*

#### **Assessment Comment**

Stormwater drainage is to be managed so that there is no increase in stormwater discharge to bushland areas and all such stormwater is detained and treated to a suitable standard before being discharged into the adjoining recreation reserve. Effluent will be collected and treated on-site to an appropriate water quality standard.

Notwithstanding, the proposal has potential to impact on the water quality of Mangrove Creek Weir Catchment Area. Council's Water and Sewer Section **do not support** the proposed development within the water supply catchment area as it is considered that the location of the site is not conducive for a development of this magnitude. The proposed number of pupils and staff accessing and residing on site, and the horticultural and agricultural activities proposed introduce broad ranging impacts to the water supply catchment area which are considered inappropriate within a raw water supply catchment area. The size of the development is reflected in the significant volume of effluent / wastewater it generates (13,275 litres/day of effluent). It is considered that there is opportunity for failure and subsequent contamination of Gosford's water supply. Failure of the AWTS at this location has potential to cause serious harm to the public health or to the environment. Such risk is unacceptable. (**Refer Assessment Comments – Water and Sewer**)

In addition, Council's Environment Officer has also raised concern over indirect impacts associated with the proposed development that have the potential to adversely impact on the endangered ecological community listed as Coastal Upland Swamp in the Sydney Basin Bioregion. (**Refer Assessment Comments – Environment Officer**)

The impact on groundwater and hydrology is unknown. The applicant has not applied for a commercial groundwater licence from the NSW Office of Water at this stage. Council's Environment Officer has raised concerns in relation to potential for bore water extraction leading to changes in the local soil moisture gradient which may adversely impact on the Coastal Upland Swamp.

As such, the proposal is considered to be inconsistent with clause 6 of the SREP No 20 to limit impacts of the proposal on the water quality of *Mangrove Creek Weir Catchment Area*. (**Refer Reason for Refusal No.3**)

### ***Sydney Regional Environmental Plan No. 9 - Extractive Industries***

SREP 9 aims to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of regional significance. The provisions of SREP 9 relating to development of extractive industries are not relevant to the proposed secondary agricultural college development. SREP 9 also includes restrictions on development in the vicinity of extractive resource sites. These provisions are designed to avoid sterilisation of quarry resources and prevent new development, such as residential land use too close to a quarry, which might result in restrictions on quarry operations as a result of dust, noise and other quarry impacts.

The SEE advises that:

*"The area in which the development is located contains extractive industries/resources identified in the maps to SREP 9. Identified extractive resources/industries in SREP 9 within the area include the Hymix Quarry off George Downes Drive, Kulnurra, some 9kms to the north of the site and the Boral Peats Ridge Quarry off Bushells Road, some 2kms to the east of the site. The subject quarries, identified above, could not be described as being in the vicinity of the subject land, due to their substantial separation distance.*

*Typically a 1 kilometre separation distance to quarries is considered to be an acceptable buffer. The closest quarry is at least 2kms from the site."*

Due to ample separation distance, the proposal does not impinge on the ongoing operations of the identified quarries, nor is the school likely to be affected by activities associated with the identified quarries. The proposal is therefore considered to be consistent with the objectives and relevant provisions of SREP 9 - Extractive Industries. The Department of Primary Industries has raised no issues in their submission in relation to the impact of extractive industries on the proposal.

### **State Environmental Planning Policy No. 19 - Urban Bushland**

SEPP 19 applies to land containing or adjoining urban bushland and to land adjoining land zoned or reserved for public open space. The subject land adjoins to the west and south, land zoned for public open space.

The SEE advises that:

*"The bush land to the south of the site is used by the Mangrove Mountain Pony Club and contains trails for horse riding. The proposed development will have no adverse impact on bushland within the Pony Club land. A landscaping buffer, some 5 metres deep and comprising native trees and shrubs, is to be provided along the side boundary to the bushland within the Pony Club site. Bushland to the west of the site forms part of a public recreation reserve extending along Crofts Creek. This bush land area is undeveloped and used for passive recreation purposes such as bushwalking and also contains a fire trail. Existing bushland within the subject land, along the western boundary will be retained to a depth of more than 30 metres and provides a vegetated buffer to the public bushland recreation area."*

While the SEE contends that the proposed development will have no significant impact on bushland within or adjoining the site, Council's Environment Officer has identified indirect impacts associated with the proposed development that have the potential to adversely impact on the endangered ecological community listed as Coastal Upland Swamp in the Sydney Basin Bioregion. **(Refer Reason for Refusal No 4 and 6)**

### **State Environmental Planning Policy (Infrastructure) 2007**

SEPP (Infrastructure) 2007 is concerned with the effective delivery of infrastructure across the State of NSW. Division 3 of the SEPP deals with educational establishments. The subject land does not fall within any of the prescribed zones set out in clause 27 of the SEPP. The "equivalent zone" to the existing 1(a) Rural Zone is the RU1 Primary Production Zone. As such, Division 3 of the SEPP **does not apply** to educational establishments in the RU1 Zone and the application has been assessed on its merits.

SEPP Infrastructure includes requirements relating to traffic generating developments. The proposed educational establishment with over 50 students is classified under Schedule 3 (column 2) of the SEPP as a traffic generating development which is required to be referred to the Roads and Maritime Service for comment.

The proposal envisages 75% to 80% of students being accommodated on-site as boarders, therefore only a relatively minor increase in traffic will occur on Wisemans

Ferry Road. The Traffic Impact Assessment, dated February 2012, prepared by Traffix has addressed the traffic and parking aspects of the proposal.

The application has been referred to the Roads and Maritime Authority, for consideration. The RMS have raised no objections to the proposal subject to conditions of consent. **(Refer RMS Comments – External Referrals and Traffic Impacts)**

### **State Environmental Planning Policy No. 55 - Remediation of Land**

SEPP 55 - Remediation of Land aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Clause 79(1) of the SEPP states that Council must not consent to any development on land unless;

- "(a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."*

*The SEE advises that:*

*"The subject land has a long history of use for grazing and orcharding and there is unlikely to be any contamination from past farming practices, such as horticulture that could not be suitably addressed prior to construction of the school. The proponent has commissioned Douglas Partners to undertake a Stage 1 Contamination Assessment.*

*This Stage 1 Contamination Assessment indicates the site is generally suitable for the proposed school use, from a contamination perspective, and recommends that following demolition of existing buildings, a contamination assessment involving "intrusive investigations" should be undertaken and any requisite remediation and validation undertaken before the proposed school use commences. The site is considered suitable for the proposed development and further contamination assessment is not considered necessary prior to issue of Development Consent."*

If approved, conditions of consent would be imposed requiring a land contamination assessment in accordance with the NSW EPA's endorsed guidelines, including *Contaminated Sites: Guidelines for Assessing Former orchards and market Gardens* prior to issue of a Construction Certificate and that in the event that any contamination is identified, appropriate remediation be undertaken in accordance with legislative requirements, including preparation and implementation of a Remediation Action Plan, with the site remediated and validated for the proposed school use, prior to the issue of an Occupation Certificate.

### **Central Coast Regional Strategy**

The Central Coast Regional Strategy is the NSW Government's long term land use plan for the region, which covers the Gosford City and Wyong Shire local government areas. The regional strategy contains policies and actions designed to cater for the

region's projected housing and employment growth over the period 2006 to 2031. The primary purpose of the Regional Strategy is to ensure that adequate land is available and appropriately located to sustainably accommodate the projected housing needs and promote local employment opportunities over the next 25 years.

In relation to water supply, the strategy states that: *"the Central Coast plateaus and Wyong valleys are important water catchment areas and are coming under increased pressure for development. Future growth across the Region needs to be sensitive to both its impact on the quality of the water supply and the increased demand on the water supply system."*

The key water challenges identified by the strategy include:

- providing a sustainable long term water supply for residential, employment and environmental purposes;
- protecting the health of the Region's rivers, lakes, underground water sources and estuaries;
- protecting water catchment areas from inappropriate development;
- managing population growth in relation to the capacity of water supply; and
- investigating alternative water sources that are sustainable in the longer term."

The proposal is considered to be inconsistent with the objectives of the strategy to protect the Mangrove Weir drinking water catchment from inappropriate development for reasons previously identified in the report. **(Refer Water and Sewer Comments)**

In relation to resource lands, the Strategy seeks to limit expansion of the urban footprint by protecting land west of the F3 Freeway from further residential development. The strategy advises that: *"The western half of the Region (west of the F3 Freeway) is largely comprised of the Central Coast plateaus and Wyong valleys. These lands support agricultural production and contain water supply catchments which must be protected from urban and rural residential uses. The natural environment also includes a number of resource areas that need to be balanced with biodiversity values."*

One of the key environmental challenges identified by the Strategy is accepting the value of rural lands as food-producing lands and ensuring the long term protection of these assets. The strategy requires the identification of agricultural land that requires protection from inappropriate development and seeks to avoid fragmentation of agricultural lands and subsequent loss of efficiencies and conflict with other resource land uses such as extractive industries and identifies the need to address environmental issues, to preserve agricultural land use potential and avoid impacts on productive resource lands.

The proposal involves a non agricultural use (Educational Establishment) on prime agricultural land. The Department of Primary Industries and public submissions have raised concerns in relation to the use of prime agricultural land for non agricultural use.

Notwithstanding, the proposal is for an Agricultural School which will retain approximately 80% of the site for agricultural and open space purposes (this figure includes the effluent disposal area and native vegetation area). Buildings are relatively small in scale and the development will occupy largely the centre of the site which contains lower class 3 agricultural land. Student numbers would be limited to a

maximum of 100 students. However, should the nature of the school change and agricultural use of the land cease or there is pressure to expand and increase the size of the school facilities in the future, such change may result in land use conflict, loss of efficiencies and impact on agricultural land use potential.

### **Services and Accessibility to the Site**

The site is located approximately 36km distance or 36 minutes by road from Gosford. Sealed road access and electricity and telephone services are available to the land.

The school site is in a relatively isolated location from urban areas. The public bus service provides a limited and infrequent service. Notwithstanding, approximately 80% of the students attending the school will be boarders. The SEE advises that a minibus service (i.e. 12 seater) will be provided for the school. The site is sufficiently accessible by road to Gosford-Wyong to enable staff that cannot live locally, to commute within a reasonable 30 to 35 minute timeframe.

The locality is not provided with a reticulated water and sewerage service.

### **Water Supply**

Water supply will be provided on-site utilising rainwater and ground water pumped to water storage tanks. The SEE advises that the existing water bore is located centrally within the site (near the existing dwelling), which currently provides a farm water supply and is intended to supply the potable water supply needs of the school.

The SEE contends that:

*“the existing bore provides a reliable water source in sufficient quantity to meet the potable water supply needs of the school. The school is estimated to require a water supply capable of meeting a daily potable water consumption of 125 litres per staff/student boarder and 10 litres per day student/staff person. A total daily consumption of some 9,250 litres of potable water is therefore anticipated. A potable water storage tank and reticulated potable water supply will be installed as part of the development, with water sourced from the existing bore on the site.”*

The applicant was requested to confirm the type and capacity of all ground water licenses (type and capacity) issued by the NSW Office of Water for ground water extraction for the subject property. The applicant has advised that the following licences have been issued: 20WA100707 Domestic and Stock, 20WA211658 Domestic and Stock and 20CA211462 Irrigation. No details of water quantity or water extraction rates permitted under the existing licenses have been provided.

The NSW Office of Water has advised that an agricultural school would require a Part 5 groundwater licence under the *Water Act 1912*, for the purpose of commercial uses. The existing stock and domestic licence on the property would not be sufficient for the proposed school. A copy of the licence and details (type and extraction rate) is required to confirm the bore is sufficient in terms of capacity to meet the needs of the school for potable water supply (**Refer Reason for Refusal No 8**).

The SEE advises that: “the bore water has been tested and found to be of good quality, but some on-site treatment is required to bring it up to potable water supply quality. In accordance with the relevant guidelines, the proposed effluent disposal

area is located "downstream" and at least 250 metres from the subject bore, so as to ensure ground water drawn from the bore is not adversely impacted.

Cardno ITC has prepared a *Water and Fire Services Report*, which recommends a 50,000 litre tank for storage of potable water that will provide a working volume of 20,000 litres and at least two day's additional supply (30,000 litres). Potable water will be UV treated to "Class A" quality and potable and non-potable water supply pipe work will be separated.

**Council's Food Surveillance Officer** has reviewed the application and the Cardno report and has raised **no objection** to the proposal subject to conditions of consent including requirements for private water supply which requires:

*"Water for human consumption or in the processing of food and sanitation of utensils and food preparation surfaces is to comply with the Australian Drinking Water Guidelines, 2011; Private Water Supply Guidelines; Quality Assurance Program in accordance with the Public Health Act 2010 and Regulation 2012. In addition the approval of New South Wales Food Authority and New South Wales Health Department is required".*

A one megalitre (1000m<sup>3</sup>) volume stormwater collection pond will be provided in the central portion of the site, to the west of the school playground. A dam requires consent of Council under SREP 8 and IDO 122. The NSW Office of Water have advised that as no ordered streams run through lot 87/755253 and the proposed dams capacity is 1ML no approval from the Office of Water is required to construct the dam as it falls within harvestable rights. The dam may be used for irrigation, non potable use and bushfire protection purpose (i.e. static water supply).

## **Environmental Impacts**

### **Ecological Assessment**

The SEE advises the following in relation to native vegetation clearing:

*"Minimal clearing of native vegetation is proposed and no clearing of sedgelands is proposed. Additional landscaping is to be provided, with the result that there will be a net increase in trees and native vegetation on the site. The subject land does not contain any significant natural features and has been substantially cleared and used for agricultural purposes for many years. A limited area of tree re-growth has occurred within the site along the western boundary and along the northern boundary within the western portion of the site. This area of re-growth contains no remnant understorey or significant vegetation and is of minimal ecological value.*

*Council's vegetation mapping indicates that existing bushland on the site primarily comprises disturbed canopy, with a narrow band of exposed Hawkesbury Woodland extending along the western boundary of the site. The proposed development is sited well clear of existing bushland in the western and northwest portions of the site and will have no adverse impact on that bush land.*

*The development application is accompanied by an Ecological Assessment Report (dated March 2012), prepared by Travers Bushfire and Ecology. This assessment includes a "7 part Test" and confirms that the subject land is of minimal biodiversity value and does not contain threatened flora habitat. The*

*assessment concludes that the proposed development would not have a significant impact on any locally occurring threatened species and therefore a Species Impact Statement would not be required."*

#### **Assessment Comment – Environmental Officer**

Council's Environmental Assessment Officer has provided the following assessment in relation to the environmental impact of the proposal:

##### *"Assessment*

*In light of concerns raised by Council's W&S directorate (memos dated 13/06/12 & 23/08/12) particularly given 'failure of the AWTS at this location has the potential to cause serious harm to the public or to the environment' the following comments are provide in regards to potential ecological impacts.*

##### *Coastal Upland Swamp in the Sydney Basin Bioregion*

*The subject land is situated directly upslope of an area of hanging swamp vegetation that forms part of the endangered ecological community listed as Coastal Upland Swamp in the Sydney Basin Bioregion. This vegetation type is a ground water dependant ecosystem that is sensitive to any changes in the local soil moisture gradient.*

*The proposed education establishment will primarily rely on groundwater extraction from an existing bore for potable water supply needs. Daily potable water consumption has been estimated at ~9250 litres although this may be greater given estimated wastewater flows are stated to be ~13275 L/day. It is unclear if water extraction at these levels over time will adversely affect existing water table levels leading to draw down impacts. Any draw down of the water table could result in a drying effect on the hanging swamp and potentially lead to a significant impact on the floristic and structural composition of this endangered ecological community.*

*In addition to potential impacts on the local soil moisture gradient, the proposal will result wastewater disposal of ~13275 L/day. This will result in increased nutrient loading to the soil profile in particular nitrogen and phosphorus. The typical nutrient status of the Somersby Soils Landscape is very low and this is reflected in the surrounding vegetation that comprises of a high number of plant specimens from phosphorus sensitive families such as Proteaceae (Banksia, Hakea, Grevillea, Persoonia, Petrophile etc). Whilst nitrogen and phosphorus uptake has been considered in the nutrient budget as part of OSSM the long term capacity of the disposal area to hold phosphorus is unknown. Further, any failure of the AWTS could negatively impact on phosphorus sensitive flora species and substantially and adversely modify the composition of this endangered ecological community.*

*Essentially indirect impacts associated with the proposed development that have the potential to adversely impact on the endangered ecological community listed as Coastal Upland Swamp in the Sydney Basin Bioregion are;*

- *Bore water extraction leading to changes in the local soil moisture gradient;*

- Failure of the AWTS at this location has the potential to cause increased phosphorus levels that could substantially and adversely modify species composition;
- Failure of the AWTS at this location has the potential to cause increased nutrients leading to increased potential for weed incursions;
- Pond / dam overflows through OSSM disposal areas could lead to OSSM failure;

*A Section 5A assessment (7-part test) has not been completed for potential indirect impacts on the Coastal Upland Swamp in the Sydney Basin Bioregion.*



*Plate 1: Coastal Upland Swamp in the Sydney Basin Bioregion adjacent the subject site*

#### Red-crowned Toadlet

*Coastal Upland Swamps provide known habitat for the vulnerable listed Red-crowned Toadlet (NSW Scientific Committee 2012). It is unknown if a population of this species occurs within the hanging swamp to the west of the site although any failure of the AWTS could significantly impact on potential habitat for the Red-crowned Toadlet.*

*A Section 5A assessment (7-part test) has not been completed for potential indirect impacts on the Red-crowned Toadlet.*

#### Conclusion

*The objectives of the relevant policies, zoning objectives and potential environmental impacts associated with the proposal have been considered. The application is not supported due to potential adverse impacts on the natural environment as summarised below;*

*The proposed development is positioned upslope of an area containing the endangered ecological community listed as Coastal Upland Swamp in the Sydney Basin Bioregion. Indirect impacts associated with this development that may adversely impact on this community are;*

- *Bore water extraction leading to changes in the local soil moisture gradient;*
- *Failure of the AWTS at this location has the potential to cause increased phosphorus levels that could substantially and adversely modify species composition;*

- Failure of the AWTS at this location has the potential to cause increased nutrients leading to increased potential for weed incursions;
- Pond / dam overflows through OSSM disposal areas could lead to OSSM failure;

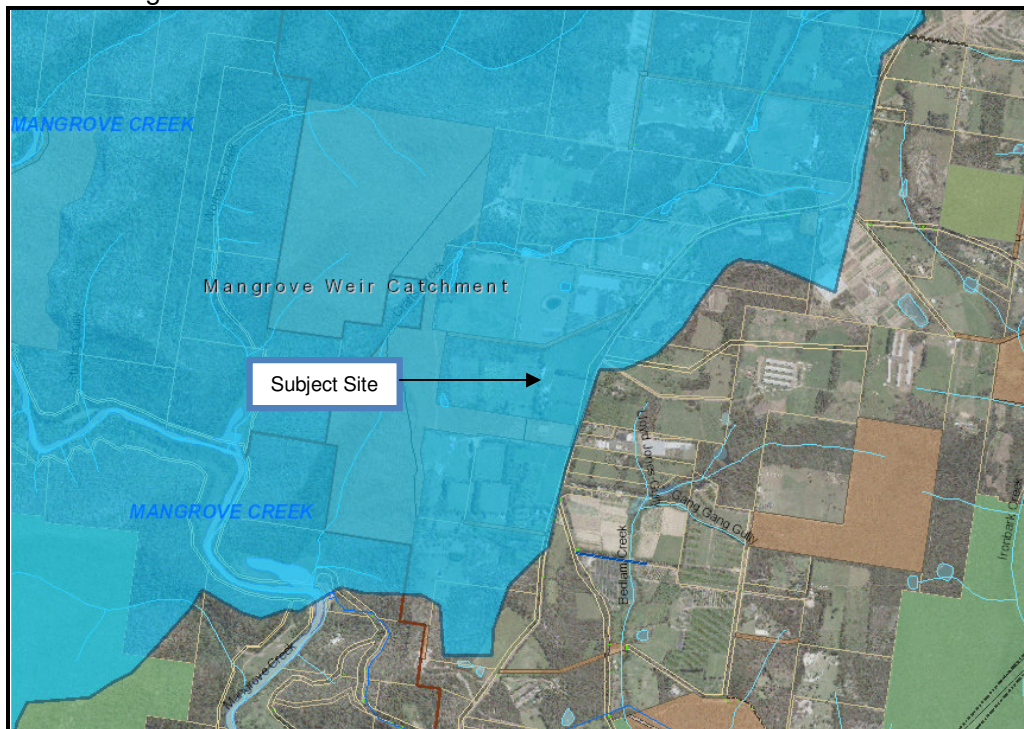
*A Section 5A assessment (7-part test) has not been completed for potential indirect impacts on the Coastal Upland Swamp in the Sydney Basin Bioregion or the Red-crowned Toadlet.*

*Failure of the AWTS at this location has the potential to cause serious harm to the natural environment. Based on the precautionary principle this application **should not be supported.***

**(Refer Reason for Refusal No. 4)**

### **Impact on Drinking Water Catchment**

The proposal is located within the Mangrove Creek drinking water catchment as shown in Figure 5. below:



**Figure 5 : Location of Mangrove Weir Drinking Water Catchment**

Council Policy D6.41 (Water Supply Catchment Area Development Policy) applies to the land and is intended to restrict developments that pose a risk to water quality and supply security, or where not restricted, ensures land use and development within the water supply catchment areas are of a standard to substantiate “zero” impact on water quality.

### **Assessment Comment – Water and Sewer**

The application was referred to Council’s Water and Sewer Section who have provided the following assessment in relation to the impact of the proposal on the drinking water catchment:

*“the proposed development is situated approximately 1.2 kilometres from Mangrove Creek Weir, being the major raw water supply conduit for Gosford City’s water supply. The subject development abuts Crafts Creek which discharges directly into Mangrove Creek at Mangrove Creek Weir. The weir itself provides the collection point for raw water captured within the Mangrove Creek Weir Catchment Area and water which has been released from Mangrove Creek Dam. From this collection point the raw water is pumped to Somersby water treatment plant for processing prior to distribution throughout the water supply network to consumers.*

*The sites topography naturally falls toward Crafts Creek. At its closest location the property is approximately 250 metres from Crafts Creek and across this distance the land reduces in height in the vicinity of 80 to 100 metres.*

*W&S are unable to support the proposed development within the water supply catchment area. Primarily the location of the site is not conducive for a development of this magnitude.*

*The proposed number of pupils and staff accessing and residing on site, and the horticultural and agricultural activities proposed introduce broad ranging impacts to the water supply catchment area which are considered inappropriate within a raw water supply catchment area.”*

#### Technical Comments

*Reports submitted by the applicant have documented methods and systems which suggest the development can be serviced and have a limited impact on water quality. The size of the development is reflected in the significant volume of effluent / wastewater it generates. The 13, 275L / day of effluent is proposed to be treated to a secondary treatment standard within the site and discharged in an on – site application of sub – surface irrigation. Comprehensive technical reports detailing the proposed treatment have been provided by the applicant which assert to the AWTS (Aerated Wastewater Treatment System) meeting the relevant industry standard for a development of this size.*

*Also covered within the reports are the mitigating measures proposed by the applicant to address geological limitations which exist on the site. While the area proposed for the sub - surface irrigation or effluent disposal area has been increased to accommodate the reduced ability of the site’s soil to accept nutrient loading is noted, and calculations allowed for the impacts of average rainfall on the system, extreme rainfall events or the prolonged saturation of the site identified have not been covered. Notwithstanding these and other possible technical deficiencies within the proposed developments submitted documentation, the applicant has not ensured there is no opportunity for failure and subsequent contamination of Gosford’s water supply. Submissions for a development of this magnitude should be accompanied by detailed analysis, particularly in the areas of containment, treatment and site management, including the management of receiving watercourse(s) and downstream systems. It is essential to apply the principles of high level risk management and ensure compliance with policy D6.41 (Water Supply Catchment Area Development Policy), including environmental and risk management plans to ISO 9001 and ISO14000.*

## Risk

*The purpose for which the Water directorate of Gosford Council are involved in assessment of this application is to ensure security of water quality within the water supply catchment area and in turn the quality of Gosford Council's drinking water supply. Gosford Council's policy D6.41 (Water Supply Catchment Area Development Policy ) is intended to restrict developments that pose a risk to water quality and supply security, or where not restricted ensures land use and development within the water supply catchment areas are of a standard to substantiate "zero" impact on water quality.*

*The applicant has implied the treated effluent is of a quality which meets industry standard and this claim is not in question. Of serious concern are the volume, methodology, location and management principles involved in operating a system of this type within such close proximity to the Mangrove Weir raw water supply intake. The location and proximity of the proposed development presents cautionary assessment as any possibility to limit / reduce potential impact via a barrier created by distance from the critical flow path of the raw water supply is negligible. A development of the size and nature proposed at the subject location affords no "buffer" to Crafts Creek and ultimately the intake point of the city's water supply at Mangrove Creek Weir. Similarly the absence of a "buffer" offers nil or extremely limited opportunity for inflow dilution to potential contaminants prior to entry to the raw water conduit. Failure of the AWTs at this location has potential to cause serious harm to the public or to the environment.*

*Gosford City's effective management of catchment areas relies upon the elimination of risk by restricting access and removing activities from catchment areas which pose*

*a risk to water quality. To permit development of the proposed nature would expose the raw water supply to an unacceptable increased risk of contamination.*

*It is recommended the Precautionary Principle be considered when determining this application, details of which are outlined in the W&S directorate's previous comments regarding this matter.*

## Conclusion

*The W&S directorate strongly object to this proposal, as with any proposal which is likely to expose water quality within the water supply catchment area to a risk of contamination. The applicant has failed to comply with the requirements of Policy D6.41 and the proposal **is not supported** by the W&S directorate."*

**(Refer Reason for Refusal 5)**

## **On-Site Sewage Management (OSSM)**

### **Assessment Comment – OSSM Officer**

Council's Waste Services Officer (OSSM) has provided the following assessment comment in relation to on-site sewage management:

*"Further assessment has been undertaken by Waste Services in relation to DA 42013, proposed agricultural school, on-site sewage management. Additional information has been submitted by the applicant including a groundwater*

*impact assessment prepared by Douglas Partners numbered 75370.01, dated July 2012, sewage treatment plant design prepared by Standard Industries P/L dated July 2012 numbered 2500-PID-0-101 to 2500-PID-0-111 and technical specification prepared by Standard Industries P/L, undated. Comments on the proposal are provided below:*

- *The proposed sewage treatment system is of a commercial nature and the design effluent parameters are equivalent to a secondary treatment standard with further disinfection. This is consistent with the Effluent Disposal Assessment prepared by Douglas Partners numbered 75370.00 dated 15 February 2012 and complies with The Environment & Health Protection Guidelines for OSSM.*
- *The conservative nature of the sewage treatment plant design prepared by Standard Industries P/L allows for failures within the system and up to 3 days storage of effluent in the event of an emergency breakdown.*
- *The Effluent Disposal Assessment prepared by Douglas Partners requires a total area of 9219m<sup>2</sup> for effluent disposal which is based on the limiting factor of nutrient, (nitrogen), within the wastewater. The size of the area is designed so as to accommodate the nutrients within the treated effluent and eliminate potential for nutrient migration. It should be noted that the size of the effluent disposal area required to accommodate a peak daily hydraulic load of 13275L is 3995m<sup>2</sup>. This calculation takes into account soil types and allows for average rainfall within the area. The additional 5200m<sup>2</sup> disposal area is an added safety factor which will considerably reduce the risk of effluent ponding or run-off provided the entire 9219m<sup>2</sup> area is irrigated.*
- *The treated effluent disposal area will consist of shallow sub-surface drippers with appropriate soil bunding to prevent run-on of stormwater. This system is designed to reduce the risk of overland flow affecting the disposal area. The location of the primary disposal area is over 125metres from the dam located within the south east corner of the property and over 250metres from the nearest groundwater bore. It is also over 100metres from mapped EEC's shown on Councils Dekho mapping system and well over 100metres to any permanent surface water - (river, stream, lake). These buffer distances far exceed those required under the relevant standards and guidelines.*
- *A comprehensive Operations and Procedures Manual is required to be prepared for commercial on-site sewage systems. This has been identified within the proposals supporting information and will be a requirement upon application to Council for installation.*  
*NOTE: Within the introduction to the technical specification prepared by Standard Industries P/L, reference to the treated effluent being stored within the existing dam/settling ponds prior to disposal has been incorrectly inserted into the report. This was confirmed by contacting the author of the report. Modification will be required.*
- *Although a groundwater impact assessment has been prepared by Douglas Partners it is noted that the report is based on a desktop study with information obtained from a previous investigation associated with the Effluent Disposal Report. Further information and consideration may be*

*required by both Water & Sewer and Environment Assessment to satisfy zero impact on the water supply with a catchment area and any nearby EEC.*

*The following recommendations are made by **Waste Services**:*

- 1. The on-site sewage management proposal and supporting documentation complies with the intent of the relevant Guidelines and Standards. Support is given for the proposal in principle however further assessment by Water & Sewer is required prior to final OSSM comments being made. NOTE: Further treatment may be added to the proposed treatment plant to improve effluent quality if required.*
- 2. Further assessment is required to be undertaken by Water & Sewer in relation to long term implications and potential impacts to drinking water quality in accordance with the Water Supply Catchment Area Policy D6.41. and satisfying zero impact. Further assessment may also be required by Environmental Assessment. It is noted that the ground water assessment prepared by Douglas Partners numbered 75370.01 dated July 2012 does not provide a statement of zero impact.*
- 3. If the proposed sewage treatment system is to be supported by all parties it is recommended that, due to the size of the sewage treatment system, the infrastructure and housing associated with the system be shown on architectural plans.*
- 4. If the proposed sewage treatment system is to be supported by all parties the introduction to the technical specification prepared by Standard Industries P/L, should be amended to exclude comments regarding effluent being stored within holding ponds/dams.*
- 5. The surface depression identified within the primary land application area will require remediation with fill material consistent with surrounding materials as part of any application to install an on-site sewage management system.*
- 6. A comprehensive Operations and Procedures Manual is required to be prepared for commercial on-site sewage systems. This has been identified within the proposals supporting information and will be a requirement upon application to Council for installation.*

## **Tree Removal**

The SEE advises the following in relation to tree removal:

*“There are a number of introduced large pine trees on the site, primarily alongside the access driveway off Wisemans Ferry Road and scattered around the site near the existing dwelling. Most of these trees are in poor condition due to disease and should be removed. There are also a limited number of Red Bloodwoods scattered around the site. The Development Application is accompanied by an Arborist Report (dated February 2012) prepared by Tree Talk Arboricultural Consulting. The Report notes that existing trees are mostly over-mature and there are no individual trees that are either highly significant trees in good condition or obviously remnant or endemic species. Two existing Chinese Elms are considered to have potential as feature trees and are*

*recommended to be retained, or transplanted elsewhere on the site. The report advises that trees in fair or poor condition in high usage areas should be removed, with retention and management of trees in fair or poor condition in low usage areas. A small number of non-significant trees are required to be removed to accommodate school buildings and ancillary facilities. The Report recommends replacement tree planting using locally endemic species and advises that weed management be undertaken and mulching provided to retained and new trees."*

### **Assessment Comment – Tree Management Officer**

Council's tree management officer has provided the following assessment in relation to tree removal:

*"The subject application has been considered with the report "Revised Tree Protection Measures Aug 2012" by TreeTalk Arboricultural Consulting and noted that it has nominated removal of five groups of existing trees, nominated as Groups A, F, G, H, I.*

*Details of tree groups are provided in the Arboricultural Impact Assessment February 2012 by TreeTalk Arboricultural Consulting.*

*The most prominent tree group to be removed is the avenue of Pine trees along the existing and proposed access. All trees are a mixture of over mature and deteriorating specimens of Radiate Pine that are also exempt from Council's TPO.*

*Other tree groups to be removed are mostly planted Pines and other ornamental species with the occasional Eucalypt among the groups.*

*I have **no objection** to the proposed tree removal for the proposal.*

*The Landscape Plan, Sept 2012 nominates the planting of over 120 native trees throughout the site which will result in an improved native canopy cover than what currently exists."*

### **Scenic Quality**

DCP 89 – Scenic Quality provides assessment of Gosford's landscape character and guidelines for the management of the landscape character. The subject land is located within the "Plateau" geographic unit of the DCP and forms part of the Peats Ridge "Land-Unit."

The "Plateau" geographic unit is identified as being of local landscape, rather than regional landscape significance. Features of the "Plateau" geographic unit include gently rolling plateau landscapes on moderately fertile sandy loam soils. Distinctive features in the agricultural areas are wind row tree plantings, plantations of citrus, natural forest verges and remnant native stands. Scenic quality objectives emphasise limiting development densities and maintaining and encouraging provision of wind row tree planting, natural forest verges and stands to protect landscape character of the agricultural areas, particularly as viewed from major roads in the area.

The applicant contends that the proposed development achieves the scenic quality objectives under DCP89, for the following reasons:

*“Existing wind row tree planting will be maintained and enhanced, within and along the boundaries of the site, including removal of a number of diseased trees and provision of replacement trees. Existing stands of native vegetation are to be substantially retained.*

*A landscaping plan has been prepared for the site that has regard to the scenic quality objectives of DCP No. 89. Existing gaps in wind rows and screen planting along the front boundary and a portion of the southern boundary will be addressed by the provision of additional trees and shrubs, with an emphasis on native plantings.*

*School buildings are located so as to provide substantial setback to property boundaries and are partially excavated into the site, with landscaping extending over the roof of the buildings to minimise visual impact. These measures, coupled with additional screen planting along the Wisemans Road frontage, will ensure that school buildings will not be visible from Wisemans Ferry Road.”.....*

The proposal will not detract from the character and scenic quality of the locality when viewed from Wisemans Ferry Road and neighbouring properties. In this regard, the site will remain predominantly a rural landscape with the majority of farmland and native vegetation retained. The single storey school buildings are sensitively located, articulated and designed to minimise impact on the scenic qualities of the area and new landscaping is designed to maintain and enhance "green" boundaries around the site. The proposal will have minimal impact on the visual qualities and rural character of the area and is considered to be consistent with the objections and provisions of DCP No. 89 - Scenic Quality.

### **Council Architect's Comments**

Council's Architect has provided the following assessment comments in relation to the design and visual impact of the proposal:

*“The application for the construction of an agricultural high school for 90-100 students, 80% of which will be boarders. It proposes three connected wings opening to an open court yard.*

*There is no specific DCP 159 Character Statement for the Mangrove Mountain however the desired character for Mixed Use Corridor (Scenic Buffer) in the Glossary of Character is relevant to the site.*

*This recommends the following:*

- *Protect and enhance semi-rural frontages.*
- *Garden setbacks surrounding all buildings.*
- *Hedges and see through front fences.*
- *Parking courts and terraces screened behind hedges.*
- *Control front road signs.*
- *Retain natural slopes and prevent fragmentation of bushland canopy.*
- *Conserve prominent bushland remnants along road reserves.*
- *Locate large buildings to preserve roadway vistas.*
- *Divide floor space into separate pavilion structures.*
- *All roofs to have similar gentle pitches with eaves.*
- *The form and architecture of all buildings are generally compatible and incorporate wide verandahs.*

*The eastern wing facing Wiseman's Ferry Road contains six class rooms, light wells, library, offices, dining room and kitchen. This is located approximately*

*180 metres from the road in a low single storey building and is buried and landscaped on the eastern side minimising its visual impact when viewed from the road. The use of landscaped earth berms to screen the carpark further reduces the visual impact from the street.*

- *Protect and enhance semi-rural frontages. Garden setbacks surrounding all buildings. Parking courts and terraces screened behind hedges.*

*The northern wing contains an indoor sports area and the southern wing the bedrooms and common area.*

*The courtyard created by the three wings of the building is a semi-enclosed outdoor area with views down the slope to the west with a path and a series of landscaped spaces stepping down the site to the playground area. The application has architectural merit. The use of earth covered buildings facing Wiseman's Ferry Road reduces the visual impact of the development and the higher wings at the rear create a usable and appropriately scaled outdoor space.*

- *Locate large buildings to preserve roadway vistas. Divide floor space into separate pavilion structures.*

*The architecture, though contemporary and different from surroundings developments, is partially buried and relatively small scale. The use of metallic cladding has similarities to traditional rural sheds and is considered compatible with the desired character."*

## **Disabled Access**

The proposal makes provision for disabled access with a maximum gradient of 1:14. School buildings and associated facilities are designed to facilitate disabled access in accordance with the relevant Australian Standards. Two "disabled accessible" car spaces, toilet and shower facilities are provided.

The Development Application is accompanied by a Disability Access Report, dated February 2012, prepared by Access Solutions. This assessment confirms the development complies with the relevant disability access 'benchmarks' including the *Disability Discrimination Act (1992)*, *Disability (Access to premises - Buildings) Standard (2010)* (Access Code) and *Australian Standard AS 1428.1(2009) "Design for access and mobility, General requirements for Access", New Building Work*. The Disability Access Report includes recommendations in relation to access from the boundary, main entrance, car parking, sanitary facilities, doorways, hearing augmentation and signage, which can be addressed by conditions of consent.

## **Building Requirements**

Council's Senior Building Surveyor has provided the following building assessment:

*"Council's interpretation of the classification of buildings and structures in accordance with Part A3 of the BCA is: 3, 5, 6, 9b*

*The subject application has been assessed and the level of detail provided was not sufficient to carry out a BCA compliance assessment in relation to:*

- *Exit locations and travel distance,*
- *Light & ventilation for bedrooms and classrooms,*

- *Nomination of an accessible sole occupancy unit (D3.1) for student accommodation,*
- *Nomination of separate staff toilets,*
- *Nomination of separate male & female toilets,*
- *Construction of rooms containing WC,s to determine if airlocks required, and*
- *The exact number of students in relation to toilet facilities (based on 100 students and 80 boarding, the number of facilities indicated are **not sufficient**).*

*The building is capable of complying with the BCA, however, a more detailed assessment needs to be carried out by the accredited certifier at the time of preparation for the construction certificate plans and documentation."*

### **Vehicle Access and Car Parking**

The existing access driveway off Wisemans Ferry Road is to be retained and upgraded as the vehicular access for the school.

DCP No. 111- Car Parking sets out requirements in relation to the design and provision of vehicular access and car parking. In accordance with Clause 3 schedule of requirements of DCP 111, car parking for an educational establishment is required at the rate of 1 car space per 2 staff and 1 car space per 30 students.

The school will have a maximum of 14 staff and maximum student enrolment of 100. This equates to a parking requirement of 10.3 say 11 car spaces. A total of 14 car spaces are proposed, which includes two disabled spaces and a spaces dedicated as a bus parking bay for the parking of a mini bus (12 seater) which the SEE advises, will also double as a loading bay for delivery vehicles.

Although the school is a senior college (Y10 to Y12) and a large number of students will be borders (i.e. 80% of students) there appears to be little if any provision for student parking. Given the relatively isolated rural location of the school and infrequent public bus service, the proposed mini bus (12 seater) would be insufficient in size to transport students to other facilities on a regular basis. A larger private hire bus may be required and area should be set aside for a larger bus bay and set down area for such occasions. This may be addressed by conditions of consent.

The sealed car park is located to the south eastern side of the school buildings (classrooms) and will be screened by landscaping from the school buildings and street frontage will not be visible from Wisemans Ferry Road or neighbouring properties.

### **Engineering Requirements**

Council's Development Engineer has provided the following comments in relation to required works and site access, traffic impacts, flooding and drainage, water and sewerage:

*"This application **is supported on engineering grounds**, subject to the imposition of engineering consent conditions. In order to manage the traffic generation for the development, it is highly recommended that a maximum figure for students be imposed on any approval issued.*

### Works in the Public Road & Site Access

*The proposal seeks the consent for an Educational Establishment accessed via an existing driveway crossing fronting Wisemans Ferry Road.*

*A new driveway crossing and frontage civil works will be required for this development in the road reserve.*

*The proposed off-street parking dimensions, internal driveway grades and vehicle manoeuvrability comply with AS/NZS 2890.1 (2004) - "Off-street car parking".*

*The proposed off-street HRV parking/set down area, internal driveway grades and vehicle manoeuvrability comply with AS 2890.2 (2002) - "Off-street commercial vehicle facilities".*

*The proposed disabled off-street parking spaces comply with AS/NZS 2890.6 (2009) - "Off-street parking for people with disabilities".*

*This section of Wisemans Ferry Road has not been identified as a Crown Rd.*

### Traffic Impacts

*The Applicant has submitted a Traffic Report by Traffix (refer Reference No. 11 260, Report No. v1, dated 1/2/2012) and subsequent letter (refer Reference No. 11.260102, dated 19/7/2012) demonstrating that the proposal will not have adverse impacts upon the traffic movements within the surrounding road network. The proposed school will accommodate 90-100 senior secondary students, with approximately 70-80 students anticipated to be boarding on-site during the school term. A total of 12 full and part time staff will be employed, including up to 8 teachers, a principal and support staff. A 14 seater mini-bus will be provided for this development, which will connect students between Gosford Railway Station and the subject property.*

*This site will function quite differently than a comparable NSW state high school. In particular, the site will not generate significant traffic peaks at the commencement and completion of core school hours, as the majority of students will be boarding on-site. A discussion with the Applicant has also noted that no large sporting events/carnivals will be accommodated on-site as part of this development.*

*Also, an investigation of Busways Route 32 & 33 timetable has noted that very limited services are available to and from Spencer/Gosford, via the frontage Wisemans Ferry Road. The provision of a 12-seat mini-bus to service this development will thus resolve this issue.*

### Flooding & Drainage

*Council's records do not indicate that the site is affected by flooding, ponding and/or minimum floor level requirements.*

*The Applicant has proposed an OSR/OSD/nutrient control system as part of their submitted concept Water Cycle Management plans.*

*In accordance with Section 13 from Council's Water Cycle Management Guidelines, suitable on-site treatment and controls will be required prior to discharge to the formal disposal system.*

*Water quality modelling via MUSIC (Model for Urban Stormwater Improvement Conceptualisation) has been submitted detailing a proposed 'treatment train' involving vegetated grassed swales, permeable paving, rock lined open drains, buffer zones and a 1 megalitre (1,000,000 L) OSD/static water supply/OSR*

*'water pond'. This system will achieve the required stormwater treatment targets in accordance with Council's Water Cycle Management Guidelines.*

#### Water & Sewer

*The site is currently not serviced by Council's water and sewer mains. The site has been identified within the Mangrove Weir Catchment – Water Catchment. The development will require a Section 307 Certificate under the Water Management Act 2000."*

#### **Roads & Maritime Services**

The application was referred to the Roads & Maritime Services – Central Coast Office who by letter dated 23/5/2012, advised the following:

*RMS has no proposal that requires any part of the property.*

*RMS has reviewed the information provided and has **no objections** to the proposed development, provided the following matters are addressed and included in Council's conditions of development consent:*

#### Access and Parking Requirements

- On site vehicular turning facilities are to be provided to enable all vehicles to exit the site in a forward direction.*
- Internal accesses and all parking facilities on site are to be designed and constructed in accordance with Gosford City Council's DCP No. 111: Carparking and AS/NZS 2890.1:2004 Part 1: "Off-Street Car Parking". "Off-street car parking" AS 2890.2 Part 2: "Off-street commercial vehicle facilities".*
- A Construction Traffic Management Plan (CTMP) shall be prepared and include a Vehicle Movement Plan and Traffic Control Plan. It shall be prepared with the intention of causing minimal impact to the operation of the road network during construction. The CTMP shall be submitted to Council for review and approval prior to any construction activities occurring onsite.*
- The works referred to above shall be undertaken at full cost to the developer and to the satisfaction of RMS.*

#### Issues for Council Consideration

- Provision of 40km/h School Zone signposting on Wisemans Ferry Road may be required to cover the proposed access location. RMS can provide details of sign locations at the relevant stage of the proposal.*
- The access onto Wisemans Ferry Road is to be designed in accordance with AS 2890.2 Part 2:"Off-street commercial vehicle facilities. The proponent should provide as a minimum a Basic Right Turn Treatment (BAR) in Wisemans Ferry Road at this access point location to improve traffic safety. The "BAR" right turn treatment should be provided in accordance with "Austroads Guide to Road Design Pt.4".*
- Alternatively, Council could consider access via Ikara Road with appropriate improvements to the intersection of Wisemans Ferry Road and Ikara Road.*

#### Development Engineers response

As the BAR in Wisemans Ferry Road will be required for this development, access via Ikara Road is not required.

- *Council and the proponent should negotiate with the bus company to ensure that pick up/set down occurs within the school property for students that utilise public transport to access the school. Should that outcome not be obtained then appropriate pedestrian facilities and footpath connections may be required on Wisemans Ferry Road.*

#### Development Engineers response

An investigation of the Busways Route 32 & 33, has noted that limited public buses service this area during 'peak' school traffic times. The Applicant has also stated in the submitted SEE that a school mini-bus will be provided for this development application.

#### Conclusion

The engineering aspects to the proposal are satisfactory, subject to the placement of engineering conditions of consent found below and in Authority, on any approval issued.

### **Stormwater Disposal**

There are no watercourses through the site. Stormwater from the site currently drains west through the adjoining recreation reserve into Crafts Creek. The proposal includes on-site collection, treatment, storage/detention and re-use of stormwater from buildings and hardstand areas in accordance with the requirements of DCP 165. A substantial stormwater storage facility is proposed to the west of the school sports court/play area. Grass swales will direct stormwater flows to this storage facility and assist in managing water quality. This stormwater storage facility is located above the effluent treatment dispersal area so as to avoid potential for contamination from treated effluent. During the construction phase suitable sediment control and erosion protection measures will be installed, including holding ponds for runoff from construction areas. An erosion and sediment control plan will be submitted to Council prior to release of the Construction Certificate.

A comprehensive Stormwater Management Report prepared by Cardno ITC (dated January 2012). This report addresses stormwater management issues and with the proposed measures in place, *concludes that the "stormwater drainage from the proposed development can achieve a zero impact on the receiving environment.*

A detailed run-off water management plan including an onsite pond in the middle of the property and a series of open drains or "grassed swales" to run the water into the pond, has been prepared for the client, by Cardno ITC

### **Solid Waste Management**

Council's Waste Services Officer has requested additional information including details of the waste storage enclosure, vehicle swept paths and a revised waste management plan in accordance with DCP106 - Controls for Site Waste Management. The revised Waste Management Plan is to provide details of disposal of all demolition materials of the existing farm dwelling and outbuildings. The applicant was advised of these requirements by Council letter dated May 2012 however the details remain outstanding. Notwithstanding, these issues may be addressed by conditions of consent.

## Bushfire Protection

The site adjoins bushland to the west and south and is located in an area that is bushfire prone. Accordingly the provisions of Planning for Bushfire (2006) apply to the site. A school is classified as a special fire protection purpose on bushfire prone land under Section 100B of the Rural Fires Act 1997 and requires separate approval (i.e. Bush Fire Safety Authority) from the NSW Rural Fire Service - **Refer integrated approval comments from NSW Rural Fire Service**

The application is accompanied by a Bush Fire Hazard Assessment Report, prepared by Building Code & Bushfire Hazard Solutions. The Bush Fire Hazard Assessment Report confirms that the proposed building footprint achieves at least 100 metre Asset Protection Zones (APZ's) to bush fire hazards and includes recommendations that building construction comply with Australian Standard 3959 "Construction of Buildings in Bushfire-Prone Areas.

## Cut and Fill

A total of 4,533m<sup>3</sup> of cut and 8,000m<sup>3</sup> of fill is proposed for the school buildings and ancillary facilities. The depth of cut is minor, with no areas of cut exceeding 1 metre in depth. The great majority of filled areas are to a depth of less than 1 metre, apart from the western ends of the north and south wings, where a fill depth of up to 3 metres is required, due to the slope of the land. Areas of cut and fill are confined to the central portion of the site and are not visible from Wiseman's Ferry Road or from neighbouring properties. Some 25% of total proposed fill is to be placed over the sloping roof of the eastern portion of the school building to support landscaping and moderate temperature extremes within the building and reduce reliance on mechanical heating and cooling.

## Amenity Impacts

### Acoustic Impact

The proposal has potential to create noise disturbance to adjoining developments. The SEE advises the following in relation to noise impact:

*"The locality is a relatively quiet rural area, with limited noise generated by traffic in Wisemans Ferry Road and rural activities carried out in the locality. Agricultural activities associated with the school will generate minimal noise, with such noise consistent with the typical agricultural noise levels in the locality.*

*Classroom noise and other noise associated with teaching and learning activity will not extend beyond the school buildings. Outdoor teaching activity associated with agricultural activities will be very minor and consistent with an agricultural use of the land. Noise associated with outdoor student-teacher interaction forming part of the school's agricultural activities would not be audible from surrounding properties.*

*There will be some noise generated from outdoor play activity and school physical education activity. Such activities will occur to the rear of the school buildings in the western portion of the site setback more than 100 metres from side boundaries. "*

Outdoor play and sporting activity will be utilised for limited periods of the day and is unlikely to result in any adverse noise impacts on surrounding properties having

regard to separation distances. The play/sports area is located more than 250 metres to the nearest dwelling. If the proposal is supported a condition of consent should be imposed to ensure that school activities do not exceed 5dBA above background noise as measured at the property boundaries of adjoining allotments.

#### Lighting

Outdoor lighting to outdoor play areas car parking and facilities at night has potential to impact on neighbouring properties and conditions of consent could be imposed to control location and illumination of outdoor lighting.

#### Privacy Impact

The proposal will not adversely impact on neighbour privacy. The site is not elevated above neighbouring properties and landscaping screens at least 5 metres deep are proposed along all boundaries of the site. School buildings, car parking and play areas are located more than 200 metres from the nearest dwellings and provide a substantial setback to property boundaries. Sensitive siting of buildings, proposed landscaping and separation distances to neighbours ensures that neighbour privacy is maintained.

#### Solar Access

There is no increase in overshadowing of neighbouring properties or the public domain and existing levels of solar access enjoyed by neighbouring properties will be maintained.

### **External Referrals**

#### ***Integrated Approval – NSW Rural Fire Service***

The proposal is integrated development in accordance with Section 91 of the Environmental Planning and Assessment Act 1979 as separate approval (i.e. Bushfire Safety Authority) is required to be issued by the NSW Rural Fire Service under Section 100B of the Rural Fires Act 1997.

By letter dated 8 May 2012, the NSW Rural Fire Service have provided general terms of approval for the issue of a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997', subject to conditions related to required asset protection zones, water and utilities, access, evacuation and emergency management, design and construction.

#### ***Department of Primary Industries***

The proposal is located on prime agricultural land and is subject to the provisions under SREP 8 and SREP 9. By letter dated the Department of Primary Industries has raised the following issues:

*“The Department of Primary Industries (DPI) is concerned about the placement of an educational establishment, mainly for boarders, within an active agricultural locality.*

*The school is the primary focus of the proposal. The proposal also appears contrary to the Infrastructure SEPP and draft Gosford LEP 2009.*

*DPI concerns relate to the following:*

- *Strategically Gosford/Wyong are focussing growth east of the Pacific Highway and the location of new schools in this area would be more appropriate.*
- *Under the draft Gosford Development Control Plan for Mangrove Mountain the primary focus for development in this location is agricultural development —an educational establishment may be contrary to that vision/goal.*
- *The only proposal to use the land commercially for agriculture is for educational purposes. The history of the applicants' ability to provide agriculture training and the relationship to the objective in the SREP 8 regarding using prime agriculture land for agriculture and that of SREP 20 to give priority for agricultural production is tenuous. Additionally once the proposed school is operational there is no certainty that the curriculum would remain agriculturally focussed.*
- *Residing high school students within an agricultural locality would increase the risk of land use conflict and constrain commercial agriculture on nearby land e.g. the ability for farmers to use bird scaring devices. It may also complicate animal biosecurity management if a poultry disease occurs that requires the area to be quarantined.*
- *The Rural 1(a) Zone is not an equivalent prescribed zone for educational establishments as noted in the Infrastructure SEPP.*

*In conclusion the proposal to provide an agriculture educational establishment with residing students situated within an agricultural locality that supports intensive horticulture is **not supported.**" (Refer Reason for Refusal No 7)*

The Department has made the following comments in relation to the Statement of Environmental Effects:

*"p. 2 - The site by road is about 36km or 36 minutes from Gosford a location of existing high schools.*

*p. 14-15 - The State Environmental Planning Policy (Infrastructure SEPP) 2007 aims to provide consistent planning regime for infrastructure - the prescribed rural zones for educational establishments are (a) RU2 Rural Landscape, (b) RU4 Primary Production Small Lots, (c) RU5 Village, (d) RU6 Transition or a land use zone equivalent to these zones - the 1(a) Rural Zone of this site being equivalent to a RU1 Primary Production also proposed as such in the draft Gosford LEP 2009 - therefore the proposal appears not to be consistent with the Infrastructure SEPP.*

*p.16 —Although the proposal allows for some setback to intensive plan agriculture locating 100 people within an active agricultural locality is likely to cause land use conflicts not only with adjoining operations it may also constrain the types of commercial agricultural uses with the proposed school and increase occupational and health hazards.*

*p.17 - The intent of Sydney Regional Environmental Plan (SREP) No. 8— Central Coast Plateau Areas is to provide opportunities for agricultural investment - there is no information about the agriculture being proposed therefore - assessing the proposal as a school with boarders, shows no perceived agricultural investment benefit unless there is a demand for agricultural training. The built capitalisation of the site may economically restrain any future opportunities for commercial agriculture and there is no guarantee that agriculture will continue on the site. Proposing alternative sites within the proposed Gosford LEP that fit with the Infrastructure SEPP guidance for prescribed zones for educational establishments are preferred.*

*p. 18 - The SREP 20— Hawkesbury Nepean River objective is to give priority to agricultural production in rural zones'. The proposal being primarily a school is not fully consistent with SREP 20.*

*p. 18—The Central Coast Regional Strategy 2006-2031 supports population growth to the east of the Pacific Highway - school development in these areas would be appropriate.*

*p. 19— By prohibiting educational establishments in RU 1 Zones the draft Gosford LEP is following the consistency for development that the Infrastructure SEPP promotes - an educational establishment is better suited close to settlement.*

*p. 21 - The productive rural landscape referred to in the Draft Development Control Plan for the Draft Gosford LEP 2009 is considered to be agricultural development rather than focus on educational development. PAGE 4"*

An Agricultural report was submitted by the applicant in response to issues raised by the DPI and public submissions. The Department has not responded further following referral of the Agricultural report and additional information.

### **Department of Primary Industries – Catchment & Lands Crown Land Division**

The Department of Primary Industries has provided the following advice in relation to the impacts on adjoining Crown Land:

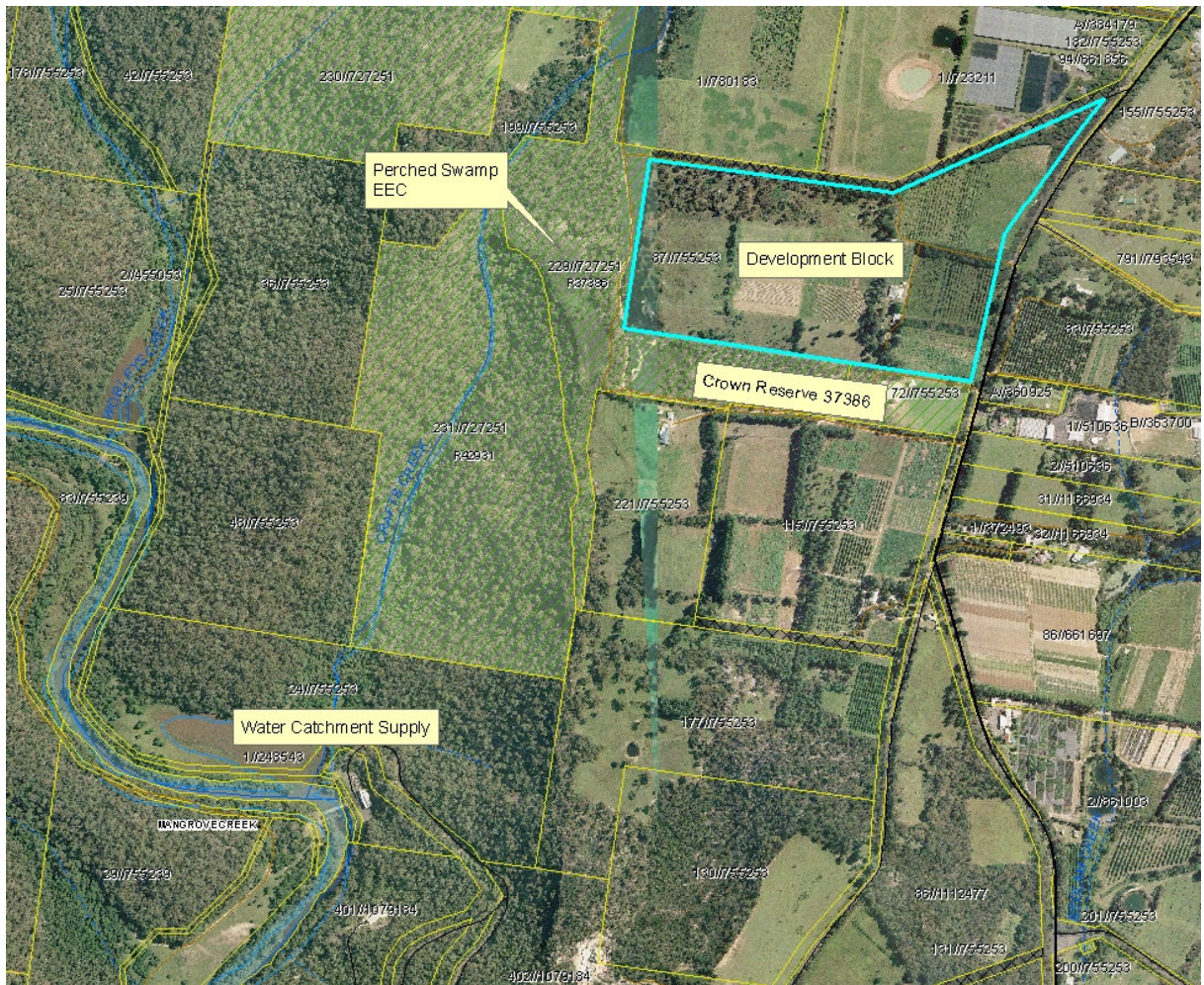
*"I refer to the subject development proposal located adjacent to Crown reserve 37386 for Public Recreation at Mangrove Creek as shown on the attached plan. As an adjoining land owner the Crown Lands Division wishes to make the following comments on the proposal for Councils consideration in determining the application.*

*The zoning for a development of this nature appears questionable at best given that the new LEP pending adoption is overdue and would prohibit such a development from occurring under a new definition for a rural zoning.*

*A facility of this nature will also require an extensive Asset Protection Zone in such a volatile rural environment. The adjoining Crown land to the North, West and South of the proposal should also not be relied upon for the purposes of bush fire protection.*

*The Crown land site along the Western boundary and Southern boundaries are generally managed for their environmental values. The development of a residential boarding facility and agricultural school in this environment will generate significant quantities of waste material for an onsite septic system to cope with. The development block and the Crown reserve site are perched above the Gosford Region water supply catchment that is essential to protect from contamination. The rock strata in the locality is generally porous sandstone and large volumes of liquid waste material being disposed of through a transpiration system on a daily basis could pose a significant long term ground water contamination risk for the locality.*

*Located down slope of this site on the Crown reserve there is also a perched swamp community. This is considered an endangered ecological community which would be susceptible to any significant increases in nutrient load. The topography of the land could also see material end up in Crafts creek which would also flow into the water supply catchment."*



Map showing locality of development block in blue edge and proximity of the Crown reserve, perched swamp, Crafts Creek and the Gosford water supply.

### Assessment Comment

Council's Environment Officer has also raised concern in relation to the impact of the proposal on the perched swamp community. Required asset protection zones will not extend onto Crown land.

### Public Submissions

A number of public submissions were received in relation to the application. Those issues associated with the key issues have been addressed in the above report. The remaining issues pertaining to various concerns were addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979.

A summary of the submission is detailed hereunder.

#### 1. Zoning

- **The development does not meet the requirements of the rural zoning of the site and surrounding lands.**

- **Rural zonings in the Mangrove Mountain district have been upheld by Council consistently, the residents have invested into and expanded their farms due to the consistency of zoning.**
- **Allowing a school in rural zoned land, residents fear it will set a precedent for similar activities on rural land across the plateau.**

#### **Comment**

An educational establishment is permissible with consent in the 1(a) Rural (Agricultural) zone under IDO 122. Notwithstanding, the proposal is considered to be inconsistent with objectives (f) of the 1(a) zone and Clause 5(3) of IDO 122 for reasons provided in the report.

The proposal has been assessed on its individual merits and does not necessarily create a precedent for approval of similar proposals in the future as educational establishments will be prohibited in the RU1 zone under the Draft LEP.

#### **2. Draft LEP 2009**

- **The proposal is a prohibited use under the DLEP 2009.**
- **DLEP and Infrastructure SEPP are consistent in directing new educational establishments to places close to urban resources and infrastructure.**
- **The proposal does not encourage sustainable primary production by maintain and enhancing the natural resource base. The proposal has the potential to fragment, remove from potential production and alienate agricultural resource land, and create land use conflicts.**

#### **Comment**

The Draft LEP proposes to zone the subject land RU1 Primary Production. “*Educational establishments*” are identified as prohibited development in the RU1 Zone. The Draft LEP contains transitional provisions at clause 1.8A that enable Development Applications to be assessed and approved under the existing planning controls, where such applications have been submitted prior to gazettal of the proposed Draft LEP.

While the proposal may be permitted under the transitional provisions, the proposal is not considered an appropriate form of development in a site identified as prime agricultural land located within the drinking water catchment for reasons provided in the report. Refer Water and Sewer Assessment Comments. As such, the proposal is considered to be inconsistent with the objectives of the RU1 zone to protect the drinking water catchment, water quality and sedgeland from inappropriate development.

#### **3. Character**

- **The proposal is considered incompatible with the desired character of the area, representing an intrusive land use and form, more commensurate with urban parts of a city.**

- **The intrusion of an urban land use into a rural environment which currently supports intensive horticulture is contrary to the accepted rural landscape quality.**

#### **Comment**

The proposed school buildings are of single storey scale and partially located below ground level. The design integrates the buildings into the landscape and incorporates grass planting over the roof of the buildings. This design approach, coupled with separation distance and proposed landscaping, ensures that the buildings will not be visible from Wisemans Ferry Road or neighbouring properties. There will be minimal impact on existing views across the site from public roads or other properties in the locality.

#### **4. Central Coast Regional Strategy**

- **The proposed school is not considered appropriate to the location. Existing schools and places of public worship serving the rural community already exist.**
- **The proposed school will only accommodate 4-5 children from Gosford and Wyong LGAs, therefore not benefiting the local community.**
- **The RU1 land west of the city has been recognised for its importance as rural and resource lands under the Central Coast Regional Strategy.**

#### **Comment**

Refer previous comments in report - Central Coast Regional Strategy.

#### **5. Potential Expansion of School Operations /Further intensification applications**

- **Residents fear that in the event of an approval, further intensification applications will follow to expand the schools operations, further impacting on local farming activities.**
- **Capital infrastructure of over \$5.1 million would destroy the economic viability as a farm. Approval as a school would provide scope for later variations to DA conditions such as an increase in student numbers, education provided, and accommodation utilised.**
- **If the school closes down due to diminishing interest in studying agriculture in high schools, the land will become sterilised and the owners may choose to change use away from agricultural education and thereby even further from the character of the surrounding area.**

#### **Comment**

The proposed school is a senior college catering for Y10 to Y12 students. Approximately 100 students will attend the school. It is agreed that future expansion of the school operations has potential to further impact on prime agricultural land, surrounding farming activities and the water catchment. Conditions of consent to limit future expansion and incremental changes to the size and type of school to preserve agricultural production may be impractical to enforce.

6. **Land Use Conflict**

- Farmers are concerned that the noises, sounds and sights associated with commercial farming including delivery truck noise, farm implement noise, spraying of herbicides and pesticides and regular distribution of fertilizers will be complained about by the school as being unsafe for being around children. However to operate a farm successfully there are no alternatives to using pesticides and heavy machinery etc.
- Spraying of insecticides can interfere with residential and educational activities. There are proven health risks associated with the use of agricultural chemicals, especially in children.
- The proposal would have the effect of sterilising the operation and economic expansion of existing viable and currently operating intensive horticulture concern of the Marian Grove Nursery.

**Comment**

An agricultural report dated 9 July 2012, prepared by AgriBiz Consulting has been submitted to support the application. The report examines the compatibility of the agricultural school's activities with the current land use on neighbouring properties and the impact the current land use on neighbouring properties may have on the proposed agricultural school. **(Refer previous section of report in relation to potential land use conflict impacts)**. While potential exists for land use conflict in relation to noise, dust, chemical spray drift etc, such impacts are mitigated by the provision of 30m vegetated buffers and setback distances in excess of 80 metres for all school buildings to adjoining boundaries. Other impacts which could create disturbance to students would generally be expected in a rural agricultural zone. It is considered that potential agricultural impacts do not warrant refusal of the application.

7. **Rural Farming Economy – Use of prime agricultural land for non agricultural use**

- The turnover from farms in the region as reported by the local Chamber of Commerce from the 2006 Census was \$92 million per year, up from \$80 million in 2001 Census, and \$58 million in the 1990s measured by the NSW Department of Agriculture. The increasing trend is not only from inflation, but the diversification of the farming activities in the region.
- The intensification of rural farming enterprises could be limited due to potential fragmentation and alienation of agricultural resource land.
- Proposal removes viable agricultural land for agricultural pursuits. Agricultural land is already diminishing in Sydney basin, it is important to keep the agricultural land in Mangrove Mountain.
- The district historically is a rural farming community which makes a significant economic contribution to the Central Coast region through primary industry.
- The area has been identified as being a significant agricultural district, having a temperate climate, good water supply and deep sandy loam soils. This region can supply a large and diverse quantity of fresh food for an increasing population in the Sydney basin. Within increasing

**urbanisation other regions with these attributes have disappeared to housing.**

**Comment**

The value of the Central Coast Plateau area as agricultural resource land is identified under SREP 20, the Rural Land Study SREP 8 and the Central Coast Regional strategy which recognises that agricultural land use within the Sydney basin has greatly diminished by expanding urban development. The Central Coast plateau contains prime agricultural land areas located within reasonable distance to transport and supply agricultural produce to the Sydney market. Surrounding lands supports intensive horticulture , grazing and crops.

It is considered that the proposal to erect an agricultural school on the subject land will not significantly diminish commercial agricultural production in the region, having regard to the size, siting of buildings on land of less agricultural quality (Class 3) and agricultural emphasis of the school.

**8. Refusal of similar application**

- **A similar application was submitted at Camden Council in 2007 for an educational establishment on 1(A) Rural (Agricultural) zoned land. The application was refused on eight grounds in 2008.**

**Comment**

The application referred to above was for a much larger school comprising primary and secondary schools, ten, two-storey buildings containing 46 classrooms to cater for 900 students and 90 staff on land zoned 1(a) Rural under Camden LEP No. 48. The application was refused by the Land and Environment Court on 2 June 2009 as the proposed development was not considered to be consistent with objectives (c) and (e) of the 1(a) zone. These objectives required the proposed development to be assessed against the rural character of the locality.

In this instance, it is considered that the proposal for an agricultural school will not have an adverse visual impact when viewed from Wisemans Ferry Road and surrounding properties and therefore does not detract from the rural character of the locality given the scale of buildings and vegetated boundary setback of the development.

**9. Proposal will Set a Precedence**

- **Approving a boarding school on prime agricultural land in Gosford LGA will set a precedent for other people to submit applications for other intentions that are not agriculture on 1(a) zoned land, potentially having a devastating effect on the Central Coast food bowl.**

**Comment**

The proposal has been assessed on its individual merits and does not set a precedent for approval of other non agricultural uses. Other applications would be considered in accordance with relevant planning provisions including objectives of the 1(a) zone and SREP No 8 to protect the agricultural potential of prime agricultural land.

**10. Use as a temple and religious concerns**

- **Some local residents have been told by the owner that the intention is to develop a boy's school and a temple on site. This was subsequently reinforced in an earlier attempt by the owners to convert an existing double garage into a religious enlightenment centre (DA6066/99 refused 15/02/2000).**
- **The objectors are concerned the school will be religious based and not open to all.**

**Comment**

The SEE advises that the proposal is for a non-denominational, coeducational, private agricultural high school. The Agribiz agricultural report dated 9.7.2012 has advised that there *"appears to be a misunderstanding with some in the community about the nature of the proposal school based on previous development history on the site"*. **(Refer background section of report).**

**11. Residential accommodation**

- **The applicant proposed that the secondary college will assist in meeting existing and future demand for educational facilities in the Central Coast. However students from the Central Coast do not require residential accommodation in order to attend local educational establishments.**
- **The functionality of the building as presented is questionable, how does one bathroom accommodate 100 co-ed students?**

**Comment**

The school will cater for students outside the region as well as local students.

The plans submitted for the proposed coeducational school makes provision for a common bathroom comprising 5 toilets and 5 showers located within the accommodation wing. No separate bathroom facilities have been indicated for male and female students. The accommodation wing provides 18 rooms which will accommodate a maximum of 80 students (based on 80% borders) with 4 to 5 students per room. A further 5 toilets are provided within the classroom wing. No outdoor amenities are provided for students utilising outdoor playground areas or to the indoor games room. It would appear that facilities are inadequate for the number of students (i.e. Class 3 boarding accommodation requires 1 bath or shower per 10 residents and 1 washbasin and closet room per 10 residents). This would involve redesign of bathroom facilities and conditions would be imposed requiring compliance with the BCA and submission of further details with the construction certificate. **(Refer Building Assessment).**

**12. The need for an Agricultural School**

- Since 1990, the number of specialty agricultural courses has dropped in Australian tertiary institutions from 40 to 9.
- The study of agriculture so close to working farms could be potentially devastating to existing farms with the study of disease and introduced species of plant and animal causing cross contamination.
- Demand isn't shown for an agricultural school as most youth in the area have interests outside agriculture, and knowledge for farming is passed through the family.
- There are already many high schools on the Central Coast with agriculture in the curriculum.
- The owner has not at this time made application to the NSW Board of Studies, seeking their approval for such an educational facility in this area.
- Objectors do not believe that the applicants have undertaken sufficient research regarding the demand for a secondary high school in the area, as well as a school that offers a boarding facility. Kariong Mountains High School still is not at capacity.

## Comment

The agricultural report prepared by Agribiz Consulting has advised the following in relation to the need for agricultural education and an agricultural school on rural land as summarised:

*"Agricultural education in Australia is in trouble. The current estimated demand for tertiary agriculture graduates in Australia is around 2000 per year, the current supply is only around 800. Only 7% of the agricultural workforce has a degree, compared with 22% of the overall workforce (Pratley, 2008). Declining university enrolments are a major issue for the agricultural sector with the potential for significant impacts on productivity if the issue is not addressed.*

*The situation of agriculture in the secondary school sector is also in crises. Specialist agricultural high schools like James Ruse and Hurlstone are no longer channeling students into tertiary agricultural course as they once did. Instead, because they are selective schools, most the students completing the higher school certificate attain high TER's and choose to go into other tertiary courses, such as Medicine, Law etc. High Schools that were once on the fringe of Sydney and had land for agricultural plots are now land locked in suburbia, and many have sold off their agricultural land (e.g. the Catholic Oakhill College at Castle Hill). As a result the opportunity for suburban Sydney secondary students to study agriculture, is greatly diminished.*

*The agricultural curricula will be based on the NSW Department of Education curricula for years 10, 11 and 12.*

*The underlying philosophy of the agricultural education program will be a learning model based around practical experience. Educational research has shown that the experiential learning model is far superior to the classical didactic class room teaching of theory alone, and this is especially so in an applied technology subjects like agriculture.*

*An experientially based agricultural education program where student learning was based around group and individual projects will be adopted to fit the secondary school curriculum and applied at the proposed school.*

*Another educational innovation that will be attempted at the school is for the students to run the farm enterprises. While the enterprises will be small scale, they will be designed to emulate commercial farming businesses as far as practically possible*

*At this stage it is anticipated they will include an orchard, field cropping, a native food crops section, and one or two small specialist livestock venture such as a cattle stud or goat breeding enterprise etc. It is anticipated that four or five enterprises will be run on the property and the areas designated for these are shown in the Master Plan*

*This proposal therefore to build a secondary school focused on training students in agriculture is an important addition to the agricultural education field and should be given support."*

**13. Educational Establishments are suited closer to a settlement**

- **Department of Primary Industries letter dated 19 April 2012 makes reference to educational establishments being better suited close to a settlement. The site is 36km from Gosford, other agricultural schools in NSW are much closer to townships and amenities including:**
  - **Tocal College is 14km from Maitland CBD**
  - **Yanco Agriculture High School is 10km from the nearest town of Leeton**
  - **Hurlstone Agricultural High School is only 3km from the nearest railway line and walking distance to town**

**Comment**

The agribiz agricultural report contends that: *The logical place to locate an agricultural high school is in a rural zone. Many of the State High Schools that offer agriculture in the Sydney metropolitan area have limited land and other resources to enable them to offer students a satisfactory agricultural experience on campus.*

The Department of Primary Industries does not support the proposal on prime agricultural land and maintains that other more suitable rural zoned land is available. While the report provides sufficient justification for locating an agricultural school within a rural zone, the application has not adequately demonstrated that the proposal could not be sited on alternative rural land which is not identified as "*prime agricultural land*" in accordance with Clause 6(5) of SREP 8. The chosen location for the school is also considered to be unsuitable due to potential impacts on the drinking water catchment and indirect environmental impact on the coastal upland swamp and Red Crowned Toadlet.

**14. Lack of facilities for youths**

- **The lack of facilities in the local area for youths raises concern with local residents that boredom will lead to vandalism and theft on properties. Residents fear that any injury sustained to students wandering onto**

adjacent farm land will lead to liability of the accident falling on the farmer.

- **The locality is inappropriate for high density accommodation and the isolation would make it impossible for the applicant to meet the emotional and physical needs of boarding students between the ages of 14 and 18.**

#### **Comment**

The site is relatively isolated from urban facilities for senior students who will be borders at the school as public transport is limited to an infrequent bus service. The school will provide a mini bus service to Gosford where required.

The conduct and behaviour of students is a matter for relevant school personnel while vandalism and trespass are policing matters.

The single storey student accommodation for approximately 80 students is not considered to be high density although the room size may be considered to be small for 4 to 5 students per room. Adequate facilities are provided within the school grounds for recreational use including indoor games area playground area. Other external activities may be arranged by the school to provide additional recreational opportunities as is the case where schools are located in more remote rural areas.

#### **15. Infrastructure and Services**

- **Mangrove Mountain is located on a poorly maintained road, far away from services such as doctors, hospitals, sporting facilities.**
- **Medical help is 30 minutes from Mangrove Mountain.**
- **Everyday 10 people make a Workers Compensation claim for injury sustained whilst working in the agricultural industry. A person is fatally injured on an Australian farm every 3 days. It is sufficiently hazardous to operate an agricultural boarding school at such a distance from a large hospital.**
- **There are already an adequate number of public facilities for social and spiritual outlets catered for in the Mangrove Mountain district.**

#### **Comment**

Medical facilities are limited within the Mangrove Mountain district. Gosford hospital is located approximately 40 minutes by road.

#### **16. Public Transport**

- **Public transport does not run on a weekend and only runs on week days to take children to school out of Mangrove Mountain and bring them home in the afternoon.**

#### **Comment**

Public transport is limited to an infrequent bus service. The SEE advises that a 12 seater mini bus will be utilised to collect/drop off students from Gosford who will attend the school and are not borders. A larger private bus would need to be contracted by the school to transport students in greater numbers (including borders) for off-site weekend activities and to attend other facilities when required.

**17. Environment & Water**

- The storage of effluent in a location of a Hanging Swamp and two types of Christmas Bells which are not normally found together. The 1.8ha effluent disposal area is a component not normally part of a rural pursuit and will add unnecessary impost on protection obligations associated with the water catchment, water quality and soil condition of the locality.
- Increased visitation, effluent seepage, disruption to natural soil water flow, increased noise and lighting are detrimental the flora and fauna of the perched swamp community of such scale, aspect and altitude of the region.
- Any puncturing of the underlying clay layer in the soil by construction of the school would impact significantly on horizontal water movements on which the native vegetation in the Mangrove Creek Recreation Reserve relies.
- The Department of Water Resources has said there will be no extra water allocated in the area of question, and a school would require more than the agricultural uses licence. The water required to sustain a large facility would exceed the ground water allocations of an agricultural residence.
- The quantity of water required for farm irrigation, watering gardens, landscaping and servicing a school population would cause a significant drawdown of ground water levels and consequently impact on the hanging swamp and vegetation downstream.
- Septic overflow will wash into Crafts Creek which flows into Gosford Council's main reservoir for clean water. In severe weather events huge amounts of storm water surge down from the ridge of east of Wisemans Ferry Road down to Crafts Creek impacting on any large effluent treatment system.

**Comment**

Refer Environmental Assessment Officer's Comments in relation to potential impact on hanging swamp and comments from Council's Water and Sewer section in relation to impacts on the drinking water catchment.

A licence for commercial groundwater extraction has not been issued at this stage. The NSW Office of Water is the responsible authority for the granting of a commercial ground water licence and monitoring impacts associated with groundwater extraction. Council's Waste (OSSM) Officer has not raised objections to the proposal in relation to on-site sewerage management.

**18. Bushfire**

- The proposed school is located in a high bushfire prone area. Application does not show if proposal complies with the BCA for fire protection or evacuation plan for patrons.
- In the case of bushfire, with the speed that a bushfire travels up the mountain from the gully to the north of the proposed school, the chance of evacuating the one hundred students plus staff would be unlikely.

## **Comment**

The NSW Rural Fire Service has provided general terms of approval for the issue of a bush fire safety authority as required under section 100B of the '*Rural Fires Act 1997*', subject to conditions related to required asset protection zones, water and utilities, access, evacuation and emergency management, design and construction.

### **19. Traffic and Road Quality**

- **The traffic will increase due to the school.**
- **Roads are not in a suitable condition to be able to cater for enhanced traffic creating dangerous conditions for drivers.**
- **Traffic generated by the development will not be supported by the current road.**
- **The entry to the property is on a blind corner.**
- **According to the NRMA: "Crash risk is higher amongst young drivers in rural areas. This is possibly due to factors such as lack of alternative transport, greater travelling distances and higher speed limits on rural roads."**
- **The property is on the western side of Wisemans Ferry Road, meaning all traffic carrying children to the school from the Gosford direction would have to make a right hand turn into the school. The road is insufficient in width to be able to handle this form of traffic.**

## **Comment**

The application is accompanied by a Traffic Impact Assessment Report, dated February 2012, prepared by Traffix, which advises that the extent of traffic generation on local roads will be minimal. Additional vehicular traffic generated by the development is well within the capacity of the local road system, including Wiseman's Ferry Road.

A maximum of 100 students will be enrolled at the school of which at least three quarters of students will be boarders. A school mini-bus (12 seater) service will be provided to collect day students from Gosford/Wyong areas.

The application was referred to the RMS who have raised no objections to the proposal subject to imposition of conditions of consent. **(Refer Engineering Assessment)**

### **20. Noise and Lighting Impacts**

- **Part of the Islamic religion requires a call to prayer five times per day, the first before sunrise, echoed out of a high tower being heard for a distance.**
- **Light pollution from the school from night time activities and security lighting will impinge over the Mangrove Creek Recreation Reserve users such as the astronomy club and children's overnight camping.**
- **Noise and light generated from the school would compromise the environment for native animals and birds by disrupting breeding habits, cycles of pollination and seed distribution.**

- **The Central Coast Showjumping Club operates twice a month in the adjoining Mangrove Creek Recreational Reserve. Dust, noise, flies and traffic are associated with these meets, which are inappropriate next to a school.**
- **The residents at the school will create additional noise in the locality.**

#### **Comment**

The proposal is not for an Islamic school and the applicant has advised that there will be no call to prayer. Amenity impacts arising from noise associated with school and outdoor classroom activity and external lighting are not considered to be significant having regards to setback distances and vegetated buffers provided to boundaries. Conditions of consent may be imposed to limit external lighting in accordance with *AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting* and sound level output during the night so as not to create a disturbance to adjoining land uses and surrounding residents.

The agricultural activities carried on the school land, such as occasional dust from cultivation, animal noises, tractor noise etc., will all be similar to the activities that are carried out on the surrounded land and are to be expected in a rural zone and do not warrant refusal of the application.

#### **21. Non-agricultural / unauthorised use**

- **In 2000, a gathering attracting several hundred people was held on the property without Council permission, where there was trespass onto adjoining properties. This was attempted again in 2001, without Council permission, but was called off due to inclement weather. The site has also been irregularly used for trail bike recreation.**
- **Since purchasing the farm in 1999, the owners of the property have not looked after the land leaving it in a state of disrepair and have shown no interest in community participation.**

#### **Comment**

An unauthorised religious event took place on the subject property on 21-23 April 2000. A large “place of assembly” structure including amenities building was erected on the property without development consent being obtained. Complaints were received from adjoining owners in relation to the unauthorised event in which it was alleged that over several hundred people attended the event. Concerns raised related to traffic, parking, noise from loudspeakers, sanitation arrangements, property trespass and litter on adjoining properties. The buildings and sanitary facilities were erected without consent and were structurally unsound. Following site inspection by staff, an Order was served on the property owner on 13 June 2000 by Council to demolish the unauthorised assembly building, amenities building and sanitary waste pipes. These structures were demolished and removed in October 2000.

The Agricultural Assessment Report, dated 9 July 2012 advises that the property is run down and in a state of disrepair and will require a considerable investment to “clean up” the land, rebuild the fences and repair or rebuild other infrastructure before any agricultural activities of any commercial significance can be carried out. The site

is currently not used for agricultural purposes other than the grazing of about half a dozen Suffolk ewes and one ram on a small plot on the southern side of the property.

## **22. Support**

- **It is a relief to see that a possible agricultural school has been thought of in this area. The numbers are quite small and let's hope it gets the support.**

## **Comment**

Noted.

## **Conclusion**

The proposal for a senior agricultural school has been assessed in accordance with the relevant provisions under Section 79C of the Environmental Planning and Assessment Act 1979 and relevant provisions under IDO 122, the Draft LEP, relevant State Environmental Planning Policies and SREPS 8, 9 and 20.

During the notification of the application over 100 submissions were received which raised objection to the proposal including submissions from The Department of Primary Industries.

The proposed development is considered to be an inappropriate development of the site as the proposal has potential to adversely impact on the drinking water catchment and indirectly on the surrounding environment. Accordingly the proposal is recommended for refusal for the reasons identified in the report.

## **RECOMMENDATION**

- A The Joint Regional Planning Panel as consent authority refuse consent to Development Application No 42013/2012 for a proposed Educational Establishment (Senior Secondary Agricultural School) on Lot 87 DP755253 No. 2964 Wisemans Ferry Road, Mangrove Mountain for the following reasons:
1. Pursuant to Section 79C (1)(a) of the Environmental Planning and Assessment Act 1979, the proposal is considered to be inconsistent with the stated objectives of the 1 (a) Rural Agriculture) zone (i.e. objective "f") and Clause 5(4) of IDO 122 and the objectives for the RU1 zone under the Draft Gosford LEP 2009.
  2. Pursuant to Section 79C (1)(a) of the Environmental Planning and Assessment Act 1979, the proposal is considered to be inconsistent with clause 6(5) of Sydney Regional Environmental Plan No. 8 – Central Coast Plateau Areas. It is considered that other rural zoned land, not being prime agricultural land, could provide a viable alternative site for the proposed agricultural school and allow for future expansion of the school.
  3. Pursuant to Section 79C (1)(a) of the Environmental Planning and Assessment Act 1979, the proposal is considered to be inconsistent with clause 6(5) of Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River. The proposal is considered to be inconsistent with the specific planning policies under Clause 6 of the SREP to limit

impacts on the water quality of the Mangrove Creek Weir water catchment.

4. Pursuant to Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979, the proposal has potential to indirectly impact on the surrounding environment including the endangered ecological community listed as Coastal Upland Swamp in the Sydney Basin Bioregion located on adjoining Crown Land to the rear of the property. Indirect impacts associated with this development that may adversely impact on this community are:
  - Bore water extraction leading to changes in the local soil moisture gradient;
  - Failure of the AWTS at this location has the potential to cause increased phosphorus levels that could substantially and adversely modify species composition;
  - Failure of the AWTS at this location has the potential to cause increased nutrients leading to increased potential for weed incursions;
  - Pond / dam overflows through OSSM disposal areas could lead to OSSM failure.

A Section 5A assessment (7-part test) has not been completed for potential indirect impacts on the Coastal Upland Swamp in the Sydney Basin Bioregion or the Red-crowned Toadlet. Failure of the AWTS at this location has the potential to cause serious harm to the natural environment.

5. Pursuant to Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979, the proposal has potential to impact on the surrounding environment including the Mangrove Creek Weir drinking water catchment. It is considered that the proposal is likely to impact water quality within the water supply catchment area and create a risk of contamination.
6. Pursuant to Section 79C (1)(c) of the Environmental Planning and Assessment Act 1979, the site is not considered suitable for the proposed development by virtue of its location within the drinking water catchment and potential indirect impacts to endangered ecological community listed as Coastal Upland Swamp in the Sydney Basin Bioregion located on adjoining Crown Land.
7. The proposal to provide an agricultural educational establishment with residing students situated within an agricultural locality that supports intensive agriculture is not supported by the NSW Department of Primary Industries.
8. The NSW Office of Water have not issued a Part 5 Groundwater licence under the Water Act 1912 for the purposes of commercial use to confirm that the existing bore licence is sufficient in terms of capacity to meet the needs of the school for potable water supply.

- B The applicant is advised of Joint Regional Planning Panel's decision and of their right to appeal to the Land and Environment Court within 12 months after the date of determination.

- C The objectors are notified of Joint Regional Planning Panel's decision.
- D The External Authorities be notified of the Joint Regional Planning Panel decision.