

2 December 2009

General Manager
Wyong Shire Council
PO Box 20
Wyong NSW 2259

Attention: Ms Sharron Colquhoun

Dear Sharron,

RE: Wyong Shire Council Draft Planning Agreements Policy

The Urban Development Institute of Australia NSW (UDIA NSW) welcomes the opportunity to provide comment on the *Draft Planning Agreements Policy* (the Policy) currently on exhibition. UDIA NSW is the peak body representing the interests of the development industry in NSW and the Central Coast.

The urban development industry holds particular concerns surrounding the additional and inefficient costs that will be imposed on developers in the Policy's current form. Section 3.10 of the Policy details a process where Council will be required to employ a series of independent consultants, at the developer's cost, to facilitate or otherwise participate in the negotiation of a planning agreement. UDIA NSW contends that this is generally not necessary as the developer and Council can often reach agreement without the need to engage independent third parties.

In instances where works have already been costed as part of a Contributions Plan, or where cost estimates are provided by a professional consultant, the appointment of a third party to validate or verify that information is a needless duplication of costs. The ongoing costs of monitoring and enforcement can also be substantial. UDIA NSW suggests the Policy be amended to make provision for the appointment of external consultants only when there is significant disagreement in the value of works.

The requirement for a cash security or bank guarantee for the value of works, as well as a binding agreement that runs with the land, will have substantial negative outcomes for the viability of developing in Wyong Shire. UDIA NSW contends that the requirement for a bank guarantee is onerous as a developer must demonstrate the necessary equity to secure a bank guarantee and pay interest on that guarantee, similarly the requirement for cash security would diminish a developers capacity to obtain finance for a proposal. Consequently the financial risk plus cost to developers from increased holding costs may severely limit a proposal's viability.

UDIA NSW contends that the need for cash security or bank guarantee should be removed from the final Policy. UDIA NSW argues that this requirement will severely impact on

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development and economic growth in Wyong Shire. Further, this requirement is socially inequitable, with increased costs being passed on to new homebuyers.

The Policy also provides Council with the option to require money paid or works undertaken at the discretion of Council's timing. This is inconsistent with development proposals that are not subject to planning agreements but are subject to existing safeguards to protect against Council's risk.

In the context of existing safeguards, such as conditions of consent, it is superfluous to have this provision included in the Policy. UDIA NSW contends that this particular provision creates additional risk to the developer with little material benefit to Council and should be removed from the Policy.

As a key stakeholder and representative of developers party to planning agreements, UDIA NSW has reviewed the draft Policy and outlined matters of concern to the local development industry. In this respect, UDIA NSW offers the following recommendations for Council's consideration. UDIA NSW would be pleased to meet with Council to elaborate on any aspects raised in this submission in the interests of securing a more equitable planning agreement policy framework in Wyong Shire.

Recommendations:

1. *UDIA NSW recommends the Policy be amended to allow the appointment of external consultants only when there is significant disagreement in the value of works.*
2. *UDIA NSW recommends the Policy be amended to remove the requirement for a developer to provide a cash payment or bank guarantee as security for works to be undertaken.*
3. *UDIA NSW recommends the Policy be amended to remove the requirement for money to be paid or works undertaken, at the discretion of Council's timing, consistent with other development proposals that are not subject to planning agreements.*

Yours sincerely,



David Kettle
UDIA NSW Central Coast Chapter Chair

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