

PCU54385

Reference:

Contact: Rebecca Connor

7 July 2014

Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Department of Planning
Received
15 JUL 2014
Scanning Room

Dear Sir/Madam

Stratford Extension Project (SSD 4966)

Council, at its meeting of 21 May 2014 resolved to:

1. Note the Stratford Extension Project Review Report, April 2014, prepared by Dr Neil Shepherd AM, Mr Joe Woodward PSM and Ms Donna Campbell (the PAC);
2. generally endorse the recommendations made by the PAC report; and
3. make a further submission to the Department of Planning and Environment regarding those issues identified in the report as remaining "unsatisfactory" and include any such issues that may be identified through a final comprehensive review of the Stratford Extension Project Review Report.

A copy of the report is attached. With regard to Item 3, Council make the following submission:

Section 5.5.2 Reasonableness of the contribution formula in the draft recommended condition

.....
The Department has supported the use of this formula and recommended it in its draft recommended conditions. GSC contends that the apportionment of cost should be based upon the consumption of the asset; with the input cost being the whole life cost of the pavement which includes the cost of resealing the asset during its lifetime. Council states that the cost to rehabilitate the road at the end of its design life (assuming 30 years) for The Bucketts Way south of the mine access road is \$1,063,830/km and for The Bucketts Way north of the mine access road is \$922,426/km. Contract costs to reseal the pavement is \$48,370/km and is required three times within the economic life of the pavement. GSC considers that contributions should be calculated as follows:

$$(15.13\text{km} * (((\$922,426/\text{km}) + (\$48,000/\text{km} * 3)) / 30 * \text{HV\%} \\ \text{outhbound})) + (4.12\text{km} * (((\$1,063,830/\text{km}) + (\$48,000/\text{km} * 3)) / 30 * \text{HV\%} \text{ northbound}))$$

Recommendation

That the Gloucester Shire Council's contribution formula be adopted for the calculation of contribution payments for the maintenance of The Bucketts Way.

It is important the intent of the highlighted section is not lost when referring to the formula.

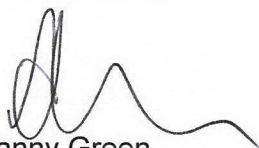
Section 5.5.3 Road Upgrades

The Planning Assessment Commission (PAC) notes that both Council and RMS requested a number of upgrades to the mine access road, The Bucketts Way, Wenham Cox Road and Bowens Road. RMS stated that minimum design standards have changed and that road should be upgraded in accordance with the current Austroads Guide to Road Design. The PAC agrees with the Department that the mine access road/The Bucketts Way and the Wenham Cox Road/Wheatleys Lane intersection should be upgraded by the Proponent. As the heavy vehicle usage along the Wenham Cox Road is predicted to be 10% in year 1 and 25% in year 11 (Response to Submissions) the PAC does not believe an upgrade of Wenham Cox Road to provide turning lanes into The Bucketts Way is warranted.

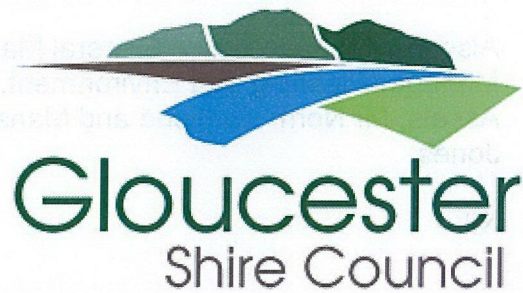
However, the PAC does support a road maintenance contribution be paid to Council to assist in the maintenance of Wenham Cox Road. The PAC notes that the Department did not comment on the proposed upgrade of the Bowen's Road. However, RMS stated in their response to the RTS that, as the Bowens Road and The Bucketts Way intersection is located in a 60km/hr speed zone, no formal upgrade is required.

I trust the Department will give further consideration to the issues raised above. Council looks forward to the Department's response on these and the PAC's comments.

Yours faithfully



Danny Green
General Manager



MINUTES

Ordinary Council Meeting 21 May 2014

**MINUTES OF THE ORDINARY MEETING OF THE GLOUCESTER SHIRE COUNCIL
HELD ON 21 MAY 2014**

The meeting commenced at 9.30am.

PRESENT: Councillors J Rosenbaum (Chair), J Henderson, F Hooke, J Hooke, A Hoggett, K Smith and T Tersteeg.

Also in attendance were General Manager, Mr D Green, Manager Planning and Environment, Mr G Gardner, Manager Assets, Mr Norm Harwood and Manager Finance, Ms Susie Jones.

APOLOGIES: Nil.

Welcome to Gallery Members

The Mayor welcomed members of the Public Gallery to the meeting.

The General Manager introduced Council's Trainee Accountant, Ben Greenwood, to Councillors.

DECLARATION OF PECUNIARY OR NON-PECUNIARY CONFLICT OF INTEREST

- Cr Hoggett declared a non-pecuniary interest in Item 2.4 of the General Manager's Report - Waste Strategy

Acknowledgment of Country

The Mayor delivered the Acknowledgment of Country.

Public Gallery Address

Mr Geoff Marshall addressed Council in relation to the Waste Strategy document recently on public exhibition and commented generally in relation to waste costs at the Gloucester landfill.

ADOPTION OF MINUTES

Minutes of the Ordinary Meeting held 16 April 2014

71/14 **RESOLVED** that the Minutes of the Ordinary Meeting held 16 April 2014 as circulated to members be confirmed.

(Cr Tersteeg/Cr Henderson)

Matters Arising from the Minutes

1. Middlebrook's Dairy

This item will be listed on the Agenda for the June Ordinary Council meeting.

2. Council Logo

The General Manager advised that details of the intellectual property of the logo are being pursued.

3. Bowman Farm Road

It was confirmed that the relevant signs have been ordered.

A report will be brought to the June Ordinary Meeting of Council.

4. Items for Actions Sheet

Reference to CR5 of the Infrastructure and Works Committee regarding the need to review Council's Policy on Fencing Adjacent to Sealed Roads to be included in the list of outstanding actions.

Old Boiler

The Historical Society still considering the future of this artefact.

5. Minute No 65/14 – National General Assembly of Local Government

The Mayor advised that he had recently directed that attendance at this Conference by Council's nominated delegates be cancelled due to current financial constraints

6. Bowling Club – Installation of New Seats

Cr Tersteeg confirmed that the new seats have now been installed and the official opening, to be conducted by Dr David Gillespie MP, is scheduled for 3pm on 7 June. An invitation was extended to all Councillors to attend the opening.

Delegates Reports

1. MidCoast Water Meeting – 20 May 2014

Cr Hooke referred to the attendance at this meeting by Mr John Connelly who gave a presentation regarding the local government review currently being undertaken. He

**MINUTES OF THE ORDINARY MEETING OF THE GLOUCESTER SHIRE COUNCIL
HELD ON 21 MAY 2014**

suggested Council should arrange with Mr Connelly for him to present to a future meeting.

2. Meetings with Ministers

Cr Rosenbaum reported on recent meetings he and the General Manager attended with:-

- Minister for Education, Adrian Piccoli MP – In relation to proposed changes to small schools, the Minister advised Barrington School will not be affected. Smaller schools such as Stroud Road may be affected.
- Minister for Local Government, Paul Toole MP – The Minister indicated there would be no forced amalgamations and that his Government is in favour of joint regional panels.

3. Mary O’Kane, Chief Scientist

The Mayor and General Manager recently met with Chief Scientist Mary O’Kane who indicated that the report on the Metropolitan Catchment Basin should be out shortly, with a similar report regarding the Gloucester basin to follow towards the end of June. The Chief Scientist indicated she will most likely visit Gloucester during August to discuss outcomes of the final report.

2. Planning and Environment Report

2.1 Development Applications Approved for April 2014

72/14 **RESOLVED** that the report be received and noted.

(Cr Smith/Cr James Hooke)

The Manager of Planning and Environment will provide Councillors with information regarding the Mograni Creek Road tourist accommodation application.

Councillors requested that details of the owners of the property, the subject of the development application, be included in the report to Council.

2.2 Gloucester Water Study Project Update

73/14 **RESOLVED** that the report be received and noted.

(Cr Hoggett /Cr Henderson)

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The Manager of Planning and Environment advised that the two initial reports (the Produced Water Study and the Peer Review Reports of the AGL documents) will be completed shortly. The authors will address the Ordinary Meeting of Council to be held in June. A public forum will then follow.

The final documents will be available before the next Council meeting and will be put on Council's website. A Public Forum will be held on 18 June.

Council's website will have links to both of these reports.

It was noted that Rocky Hill mine declined to participate in the first stage of the Base Water Survey.

Cr Tersteeg undertook to refer the matter of non-participation by Rocky Hill to the next meeting of the Community Consultative Committee to determine whether a letter should be forwarded to the relevant Minister, expressing Council's disappointment at the Company's non participation in the sampling process.

Council's Water Scientist will provide a report to the June Ordinary meeting of Council regarding water monitoring in the affected area.

Presentation to Council

Dr Brent Jenkins, CEO, Hunter Valley Research Foundation

Dr Jenkins presented to Council on the current economic climate of the Hunter region and provided various statistics for the Gloucester area regarding population and growth. He stressed that innovation is required to carry the Hunter forward. He concluded his presentation with an overview of the Foundation's future directions.

The Mayor thanked Dr Jenkins for his presentation.

2.3 Gloucester Dialogue

74/14 **RESOLVED:-**

1. That the information in regard to the establishment and progress to date on the Gloucester Dialogue be received and noted; and
2. That Council endorse the Terms of Reference.

(Cr Henderson/Cr Hoggett)

**MINUTES OF THE ORDINARY MEETING OF THE GLOUCESTER SHIRE COUNCIL
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- 75/14 **RESOLVED** that Council is dissatisfied with the response to Question 5 in the Communique for the reason that selective release of information is not encouraging frankness and clarity in the Dialogue; this is encouraged from Council and should be expected from the resource companies and Government agencies.

(Cr James Hooke/Cr Tersteeg)

Council representatives on the Gloucester Dialogue undertook to raise this at the next meeting.

2.4 Gloucester Shire Waste Strategy

Cr Hoggett declared a non-pecuniary interest in this item and left the meeting.

- 76/14 **RESOLVED** that the draft Gloucester Waste Strategy 2014-2018 be adopted by Council.

(Cr Smith/Cr James Hooke)

Cr Hoggett returned to the meeting.

2.5 New Noxious Weeds Declarations 2014

- 77/14 **RESOLVED:**

1. That information regarding newly Declared Noxious Weeds be received and noted.
2. That Council address the implications of these declarations in a Local Weeds Strategy to be prepared as soon as possible.

(Cr Henderson/Cr Tersteeg)

The Manager of Planning and Environment highlighted the proposed public workshop to be held on Wednesday 4 June at the Gloucester Senior Citizens Centre.

2.6 Stratford Extension Project Review Report – Planning Assessment Commission

- 78/14 **RESOLVED:**

1. Council note the Stratford Extension Project Review Report, April 2014, prepared by Dr Neil Shepherd AM, Mr Joe Woodward PSM and Ms Donna Campbell (the PAC).
- 2.. Council generally endorses the recommendations made by the PAC report.

**MINUTES OF THE ORDINARY MEETING OF THE GLOUCESTER SHIRE COUNCIL
HELD ON 21 MAY 2014**

3. Council make a further submission to the Department of Planning and Environment regarding those issues identified in the report as remaining “unsatisfactory” and include any such issues that may be identified through a final comprehensive review of the Stratford Extension Project Review Report.

(Cr Tersteeg/Cr Henderson)

It was agreed that Council release a public statement acknowledging the Planning Assessment Commission’s consideration of the application and acknowledging the public contribution in our submission.

2.7 Council Representation on Gloucester Coal Community Consultative Committee

- 79/14 **RESOLVED** that the information regarding the Gloucester Coal Community Consultative Committee be received and noted.

(Cr Hoggett/Cr Frank Hooke)

It was confirmed that Council is restricted to one membership only on this Committee. Cr Tersteeg withdrew his nomination for membership.

- 80/14 **RESOLVED** that Council write to the Department of Planning and Infrastructure requesting a review of the Guidelines for membership of the Gloucester Coal Community Consultative Committee and give consideration to the Guidelines being amended to permit two representatives of Council standing on the Committee.

(Cr Hoggett/Cr Frank Hooke)

- 81/14 **RESOLVED** that arrangements be made for Councillors to tour the Stratford and Duralie mine sites.

(Cr Henderson/Cr Hoggett)

3. Finance Service’s Report

3.1 Investment Report as at 30 April 2014

- 82/14 **RESOLVED** that Council notes the investments summary Report to 30 April 2014 and endorses actions taken by the Responsible Accounting Officer in respect of Investments since the March 2014 Council meeting.

MINUTES OF THE ORDINARY MEETING OF THE GLOUCESTER SHIRE COUNCIL
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(Cr Hoggett/Cr James Hooke)

4. Technical Service's Report

4.1 Suspension of Alcohol Free Zone – Gloucester Chill Out 26 July 2014

83/14 **RESOLVED** that Council grant approval for the suspension of an alcohol free zone at the location in Church Street Gloucester, as outlined in red on the attached plan for the period of 8.00am to 4.00pm on Saturday 26 July 2014.

(Cr Hoggett/Cr Tersteeg)

5. Works Operation Report

84/14 **RESOLVED** that the report be noted.

(Cr Tersteeg/Cr Smith)

Cr Hoggett commented that he has received positive comments regarding the linemarking works at the Gloucester landfill entrance.

6. General Manager's Report

6.1 Council Committees

85/14 **RESOLVED** that Council endorses applications for membership on Council Committees.

(Cr Tersteeg /Cr Hoggett)

6.2 Report on General Matters

86/14 **RESOLVED** that Council notes this report.

(Cr Smith /Cr Henderson)

87/14 **RESOLVED** that the taxi zone be removed by extending the existing disabled parking space.

(Cr Tersteeg/Cr Hoggett)

LUNCH ADJOURNMENT

At 12.45pm the Mayor adjourned the meeting for lunch.

The meeting resumed at 1.25pm.

**MINUTES OF THE ORDINARY MEETING OF THE GLOUCESTER SHIRE COUNCIL
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6.3 Amended Delivery Program

88/14 **RESOLVED** that Council endorses the amended Delivery Program, with minor agreed adjustments, for 28 days public exhibition.

(Cr Hoggett/Cr Hooke)

Special Rate Variation

89/14 **RESOLVED** that Council seek an 18% rate increase, cumulative over 5 years.

(Cr Tersteeg/Cr Smith)

Crs Henderson and Hoggett requested that their vote against this motion be recorded.

6.4 Operational Plan

90/14 **RESOLVED** that the Operational Plan, including 2014-15 Budget and Fees & Charges as attached are placed on public exhibition for a period of 28 days.

(Cr Smith/Cr Hoggett)

6.4 IMPACT OF CHANGES TO FEDERAL ASSISTANCE GRANT PAYMENTS

91/14 **RESOLVED** that Council notes this report.

(Cr Frank Hooke/Cr James Hooke)

6.5 Actions from Resolutions or Requests from Council Meetings

92/14 **RESOLVED** that the status of the actions be noted.

(Cr Hoggett/Cr Tersteeg)

7.1 Council Committee Reports

(I) Draft Minutes of the Governance and Risk Committee Meeting held 15 April 2014

93/14 **RESOLVED** that the draft Minutes of the Governance and Risk Committee meeting held 15 April 2014 be received.

(Cr Rosenbaum /Cr Smith)

7.2 External Committees

(i) Minutes of the MidCoast Water Ordinary Meeting held 18 March 2014

Noted.

GENERAL BUSINESS

1. Broad Gully

Cr Smith has asked why the 60kmh speed zone has been applied to one side of the road only.

The Manager Assets explained someone struck the safety barrier and as a temporary measure, the sign replaces the barrier.

2. Motor Vehicle Accident – Craven

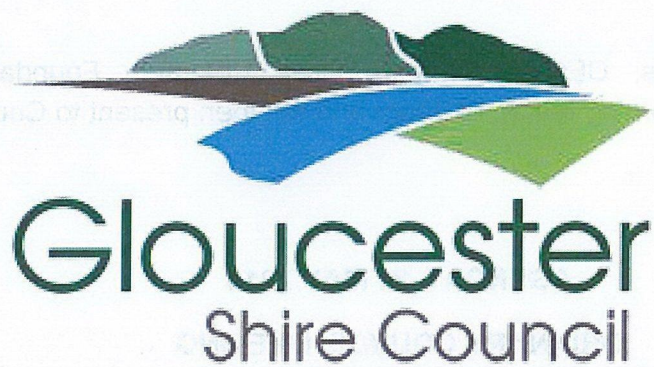
A query was raised regarding why the motor vehicle was still located at the accident site.

The Manager Assets advised the owner had failed to respond to requests to remove the vehicle. The Police have now requested Council to attend to its removal.

3. Chambers of Commerce – Invitation to Attend Meeting

The Mayor indicated he will be attending the next meeting of the Chamber of Commerce scheduled to be held on Wednesday 28 May.

There being no further business, the meeting closed at 3.00pm.

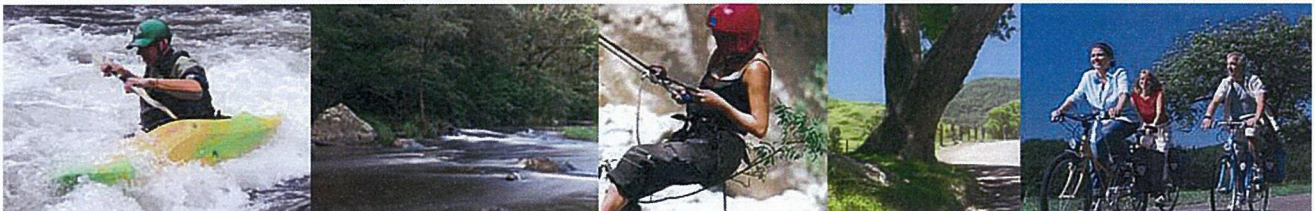


Business Paper

21 May 2014

Council Meeting

Commencing at 9.30am



Dear Councillor

I advise that the next Ordinary meeting of Council will be held on 21 May 2014.



Danny Green
General Manager

Meeting Day Notes:

- Dr Brent Jenkins, CEO of Hunter Valley Research Foundation will join Councillors for morning tea at 10.00am and will then present to Council on behalf of the Foundation.

AGENDA – 21 MAY 2014

ORDINARY COUNCIL MEETING

- **DECLARATION OF PECUNIARY OR NON-PECUNIARY CONFLICT OF INTEREST (NATURE OF INTEREST TO BE DISCLOSED)**
- **WELCOME TO COUNTRY**

"We hereby acknowledge the original custodians of this land, the Worimi and Biripi peoples, and pay our respects to Elders, past and present."

- **ADDRESS FROM PUBLIC GALLERY**

Members of the public who wish to raise matters from the Public Gallery relating to any Agenda items, including Planning matters and Development Applications, and who have made arrangements with the General Manager to do so, are advised that this section of the Agenda will be considered at approximately 9.40am, following adoption of last month's Council meeting minutes.

- **APOLOGIES**

- **CONFIRMATION OF MINUTES** – Ordinary Meeting held 16 April 2014
- **MATTERS ARISING FROM MINUTE**

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REPORTS OF STAFF

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6. General Manager's Report

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7. Committee Reports

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8. General Business

2.6 Stratford Extension Project Review Report – Planning Assessment Commission

Report Author: Planning & Regulatory Services Unit Manager

Responsible Officer: Manager Planning and Environment

Executive Summary

On 6 December 2013 the Minister for Planning and Infrastructure requested the Chair of the Planning Assessment Commission (PAC) conduct a review of the development application for the Stratford Extension Project.

A public hearing was held in Gloucester on 19 February 2014. The PAC subsequently requested an extension of time for completion of the report due to the complexity of the issues to be considered.

The PAC released its Stratford Extension Project Review Report in April 2014. A review of that report revealed that several of the issues raised in Council's submission to the PAC Public Hearing have been positively responded to. For instance, the PAC found that the economic benefits of the proposal as claimed had not been substantiated. The PAC concluded that the net production benefit to Australia is likely to be around \$34m, royalty payments no more than \$47m and that jobs generated outside the site were likely to be few.

Overall the PAC considered that the merits of the project are too finely balanced for evaluation against the criteria in s.79C of the Environmental Planning and Assessment Act 1979 (EP&A Act). However, the PAC further considers that the residual impacts of the project can be reduced to a low level if the recommendations in the review report are adopted. If those recommendations were adopted and the relevant actions and/or commitments are put in place prior to determination of the project, it may be possible to consider approval of the project subject to conditions.

Whilst agreeing with several recommendations of the Report, Council staff have identified areas of concern that remain and recommend the making of a further submission to the Department of Planning and Environment on that basis.

Recommendation

1. Council note the Stratford Extension Project Review Report, April 2014 prepared by Dr Neil Shepherd AM, Mr Joe Woodward PSM and Ms Donna Campbell (the PAC).
2. Council make a further submission to the Department of Planning and Environment regarding those issues identified in the report as remaining 'unsatisfactory' and include

any such issues that may be identified through a final comprehensive review of the Stratford Extension Project Review Report.

Detailed Report

Council's submission to the Department of Planning & Infrastructure regarding the proposed Stratford Mine Extension (SSD 4966) raised several concerns relating to potential impacts of the mine on noise and blasting, health, air quality and dust, surface & ground water, traffic, agriculture, socio-economic impacts, tourism, flora and fauna, heritage and lighting. Council also raised concerns about the post-mining landscape/rehabilitation and monitoring and consultation process.

Council did not oppose the mine, however provided qualified support of the proposal based on:

- a. the mine plan being amended as follows:
 - i. deletion of the proposed Roseville West Pit.
 - ii. deletion of the proposed embankments and voids to enable the finished landscape to replicate the pre-mining landscape
 - iii. mining hours being contained to between 7.00am and 10.00pm daily,
- and
- b. the conditions included in section 9 of the Submission.

The Department of Planning completed its preliminary assessment of the proposal and invited comment of this assessment and the draft Development Consent. Council's initial review of both these documents revealed a general lack of consideration of Council's submission. In particular, the recommendation of the deletion of the proposed Roseville West Pit and the embankments and voids was not adopted. Issues relating to noise, health and traffic remained, in Council's opinion, unresolved.

Subsequently, Council at its meeting of December 2013 resolved to:

1. make a submission to the Department of Planning & Infrastructure based on the comment in Attachment 1 of the report and withdraw its qualified support for the proposal, and stating its opposition to the proposal
2. prepare a further detailed response for its submission to the PAC
3. Council seek legal advice regarding possible appeal mechanisms

A public hearing was held in Gloucester on 19 February 2014. Council met with the PAC following the public hearing on 19 February 2014 and raised the issues in accordance with the resolutions of the December 2013 Council Meeting. The PAC subsequently requested an extension of time for completion of the report due to the complexity of the issues to be considered.

The PAC released its Stratford Extension Project Review Report in April 2014. A review of that report revealed that several of the issues raised in Council's submission to the PAC Public Hearing have been positively responded to. For instance, the PAC found that the economic benefits of the proposal as claimed had not been substantiated. The PAC concluded that the net production benefit to Australia is likely to be around \$34m, royalty payments no more than \$47m and that jobs generated outside the site were likely to be few.

The PAC also concluded that noise and impacts on biodiversity were the two most significant issues associated with the proposal and that aspects of impacts on water, air and transport need to be addressed before the project is determined.

The PAC provided recommendations for mitigation or management of other issues considered important such as the proposed 600m creek diversion, risks posed by the final voids, the impacts on some receivers from rail noise, impacts on road infrastructure, dust contamination of rainwater tanks and the potential impact of the project on real estate values.

Overall the PAC considered that the merits of the project are too finely balanced for evaluation against the criteria in s.79C of the Environmental Planning and Assessment Act 1979 (EP&A Act). However, the PAC further considers that the residual impacts of the project can be reduced to a low level if the recommendations in the review report are adopted. If those recommendations were adopted and the relevant actions and/or commitments are put in place prior to determination of the project, it may be possible to consider approval of the project subject to conditions.

Council has had an opportunity to review the Stratford Extension Project Review Report, April 2014 and makes the following observations where the recommendations of the PAC are **not** supported:

Noise Assessment

Background Noise Level

The PAC notes that the use of 30dB(A) for Rated Background Level (RBL) is unsatisfactory in the rural context however, it is consistent with the application of the Industrial Noise Policy. The Industrial Noise Policy is currently being reviewed by the Environment Protection Policy and this particular issue will be explored in that review. The PAC's recommendation is:

If available, any outcome of the review of the INP that relates to background noise levels in rural areas should be taken into account prior to determination of this project.

It is Council's contention that given the significance of this issue, determination of this project should be delayed pending the outcome of the review of the Industrial Noise Policy.

Noise Criteria

The Department's draft conditions of consent provide for noise levels significantly higher than the project specific noise levels (PSNLs) identified. The PAC recommended that clarification

regarding this issue be provided, such as if the properties identified in Table 4 had negotiated agreements to allow higher levels to be applied.

It is Council's contention that higher PSNL's should not be applied in any case.

Final Voids

The PAC notes there is a groundswell of opinion to the effect that final voids are no longer considered to be 'best practice'. Further, it is the PAC's view that the issue of whether final voids are an acceptable component of open-cut mine design in NSW should be examined by Government and a policy position should be established. Notwithstanding this opinion, the PAC has recommended:

That approval not be given to inclusion of final voids in the final landform unless there are clear and unambiguous conditions that require the voids:

- *to be designed with adequate freeboard to ensure no spillage under any foreseeable conditions;*
- *to not be a source of saline groundwater for aquifers and streams;*
- *to be constructed to meet the design specifications; and*
- *to be constructed and maintained in a manner that ensures public safety.*

It is Council's contention that no such approval should be given for final voids in the absence of Public Policy, given the gravity of long term impacts on the community that may result from mine voids.

Alignment with Strategic Plan/Program

The recommendations included in this report are consistent with Council's commitments under the Community Strategic Plan for "protecting the environment", and "managing environmental risks". Direction Two - Strategy 2.1 - calls on Council to *research, monitor and respond, as appropriate, to long-term and cumulative impacts of resource extraction.*

Statutory/Regulatory Considerations

The proposed Stratford Extension Project is classified as State Significant Development, with the Minister being the responsible consent authority. The Minister requested the PAC conduct a review of the proposal and to hold a public hearing into the matter. A significant consequence of a public hearing by the PAC is the loss of merit appeal rights by objectors and the proponent that would otherwise exist.

Under a current instrument of delegation, the Minister has delegated the future consent authority role to the PAC. Whilst the Department's Preliminary Assessment Report recommends approval of the proposal subject to conditions, the PAC will not consider the project application in the role of a consent authority until it is requested to do so following the release of the PAC's review findings and recommendations.

Attachments

1. Stratford Extension Project Review Report, April 2014 Executive Summary.



Planning
Assessment
Commission

Stratford Extension Project Review Report

Dr Neil Shepherd AM (Chair)
Mr Joe Woodward PSM
Ms Donna Campbell

April 2014

COMMISSION SECRETARIAT
Level 13, 301 George Street SYDNEY, NSW 2000
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The Stratford Extension PAC Report©

State of New South Wales through the NSW Planning Assessment Commission, 22 April 2014.

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The NSW Planning Assessment Commission advises that the maps included in the report are to give visual support to the discussion presented within the report. Hence information presented on the maps should be seen as indicative, rather than definite or accurate. The State of New South Wales will not accept responsibility for anything, or the consequences of anything, done or omitted to be done in reliance upon the mapped information.

Executive Summary

The Stratford Extension Project is a proposed extension of the existing Stratford open-cut coalmine located 10km south of Gloucester in the Gloucester Local Government Area. Three mining areas are proposed, with approval sought to extract 21.5Mt of ROM coal over 11 years to 2025 at a rate of up to 2.6Mt pa. The coal would be processed on-site using existing facilities and be transported by rail to the Port of Newcastle for shipment overseas. The coal from this project is high quality and is used extensively for blending with coal from the Duralie mine located 20km further to the south. Coal from Duralie is also processed at Stratford.

The Minister for Planning and Infrastructure requested the Planning Assessment Commission to review the Stratford Extension Project and to conduct public hearings as part of this process. The Minister requested the Commission to review the merits of the project paying particular attention to the potential night-time noise impacts. The Chair of the Planning Assessment Commission appointed Dr Neil Shepherd AM (Chair), Mr Joe Woodward PSM and Ms Donna Campbell to constitute the Commission.

The Commission examined the documents referred to in the Terms of Reference, including the Department of Planning and Infrastructure's Preliminary Assessment Report. The Commission also received written submissions, held a public hearing, visited the site and surrounds and met with the Proponent, Gloucester Shire Council, Great Lakes Council and the EPA. The public hearing was held on 19 February 2014 at Gloucester and 36 verbal representations were made. Following the public hearing the Commission put a series of formal requests for further information to the Proponent to which the Proponent responded. The Proponent's final response was received on 1 April 2014.

Reviewing the merits of a project proposal at this stage of the assessment process involves comprehensive assessment, within the statutory framework, of the predicted benefits and predicted environmental impacts of the project. The review should also identify issues that the consent authority will need to consider carefully before making a determination, and whether they should be resolved prior to determination.

It may be possible, on the information available, for the review to draw firm conclusions as to the merits of the project based on the likely outcome of the balancing required under s.79C of the Act. But this balancing is the statutory responsibility of the consent authority and there is opportunity in the period between review and determination to address issues and make changes to the project to increase benefits to the region or NSW and/or reduce environmental impacts. Consequently the consent authority may come to a different view of the overall merits of the project to the Commission conducting the review.

The benefits claimed for this project by the Proponent are extensive. They include: a net production benefit to Australia of \$145-174m, State Royalties of \$130m, Commonwealth taxes of \$39m, capital investment value of \$75M, direct and indirect output of \$340m per annum in the NSW economy, an increase in workforce at the site to 250 plus 464 indirect jobs, and \$29m in non-market benefits of employment. The initial task is to examine just what is included in these claims. For example, some of these figures are discounted to Net Present Value (NPV) and others are not (e.g. a claim of State Royalties of \$130m becomes \$84m when discounted to NPV in the Department's Preliminary Assessment Report) and the net production benefit to Australia of \$174m includes the \$29m in non-market benefits of employment whereas the \$145m figure does not include this \$29m.

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The Commission examined the basis for the claims in detail and concludes that, with the possible exceptions of capital investment and direct employment at the mine, the claims have not been substantiated. In fact, the Commission's conclusion is that further assessment should proceed on the basis that the net production benefit to Australia is likely to be around \$23m, royalty payments no more than \$47m and that, without robust evidence to the contrary, jobs generated outside the mine site are likely to be few.

There is a range of reasons for the Commission's conclusions. The principal ones are:

- that the estimation of benefits and costs is based on modelling techniques that have been severely criticised by the courts, academics, public authorities and a major economic consulting firm. The criticism is directed at the validity of using the modelling technique for the purpose (e.g. use of Input-Output Analysis for calculating indirect job creation) and also at the way one of the modelling techniques (Choice Modelling) has been conducted;
- the inclusion of estimates of doubtful validity (e.g. the \$29m for non-market benefits of employment);
- the failure to account properly for the distribution of benefits and impacts;
- the use of coal prices that are so substantially above the current market prices and forward pricing projections that they produce benefit estimates that are simply not credible. In this context the Commission notes that the net benefit estimates are very sensitive to movements in coal price (a 20% reduction in price altered the NPV from \$145m to \$23m) and that the State royalty payments and Commonwealth taxes are both linked to coal price; and
- the current operation is under economic pressure as evidenced by the decline in production to 1.2Mtpa of the approved 3.1Mtpa and a decline in direct employment at the mine from 125 to 71 jobs. This situation is not consistent with the benefits claimed for extending this project, especially given the even lower production limit of 2.6Mtpa proposed for the extension.

There are a number of other potential benefits for a project proposal that must be considered within the statutory framework. They include whether the project is in close proximity to existing infrastructure, whether the project is related to any existing mine, and whether other industries are dependent on the development of the resource. The project satisfies these requirements, although dependence of other industries may be limited to a small number of local contractors.

The residual impacts of the project cover a wide spectrum, but relatively few of them are of major concern. Those of major concern could be significant in determining whether development consent may be granted if left unresolved. The Commission considers that noise and impacts on biodiversity are the two most significant, but that aspects of impacts on water, air and transport will need to be addressed before the project is submitted to the consent authority for determination.

The Commission's finding is that the draft consent conditions relating to noise (attached to the Preliminary Assessment Report) are not consistent with either the INP or the judgment of Preston CJ in *Bulga Milbrodale Progress Association Inc. v Minister for Planning and Infrastructure and Warkworth Mining Limited* [2013] NSWLEC 48. The Commission has provided alternative conditions in its recommendations to remove these inconsistencies. These include conditions relating to the measurement of noise, low frequency noise, and treatment of temperature inversions and gradient winds. Changes are also recommended to improve the reporting of actions taken to minimise noise under conditions in which the noise limits do not apply. The net effect of these changes is to further restrict the meteorological conditions under which exemptions from noise criteria might apply, improve the monitoring of noise, and improve the transparency of the Proponent's actions to control noise.

The issue of night-time noise has been considered in detail (see Term of Reference 2). The Commission's conclusion is that night-time operations should be permitted in the Avon North and Stratford East Pits unless compliance monitoring indicates that predictions cannot be met. A formal independent review is recommended after two years of operations. In addition the Commission recommends that a suite of operating restrictions designed to minimise noise be specified in any consent.

Dependence of the project on a real-time noise monitoring and response system to manage noise impacts is of concern to the Commission. While these systems are commonly touted as the panacea for controlling noise emissions from open-cut coal mines, the fact is that no robust study on their effectiveness has been undertaken. Moreover, the data from these systems are currently unable to be used as evidence for regulatory action.

The lack of an effective compliance assessment mechanism for responding to complaints about exceedances of the noise criteria is a significant weakness in the overall noise management system for this project (although the same issue exists across the rest of the industry). Routine compliance monitoring is proposed to be conducted at monthly intervals throughout the year, but by its nature this is not designed to detect many of the incidents that result in exceedances, nor to detect compliance with respect to individual noise complaints. The regulators (Department and EPA) also do not have the resources to either monitor sensitive receivers continuously or to respond to many of the complaints. Until a solution is found to this problem the Commission considers that the scepticism in the community about noise controls and their enforcement will remain.

Biodiversity impacts were raised in submissions and in the public hearing. The Commission's findings on biodiversity are based in part on a detailed examination of the Proponent's claims concerning potentially significant impacts regarding just one of the 33 threatened species of fauna likely to be present in and around the Project Area. For this species (Squirrel Glider) the Commission finds that the impacts would be significant and that the proposed mitigation strategies would be ineffective. The Commission has recommended that significant improvements are required to the proposed mitigation strategies and that an offset strategy targeted at this threatened species will also be required. The Commission also recommends that a cautious approach be taken to claims of non-significant impacts on the other 32 threatened species.

As for the offset strategy proposed for biodiversity impacts that could not be avoided or mitigated, the Commission notes that it is based in part on a false premise concerning the conservation status of a large parcel of land with high conservation value that is situated between two of the proposed offset properties. There is in fact no instrument that would ensure conservation in perpetuity over this land.

The Commission also identified numerous other issues with the suitability of the four properties identified as offsets including the very substantial areas requiring revegetation, infrastructure intrusions (including AGL gas wells, houses and re-located transmission line) and the fact that the Office of Environment and Heritage (OEH) is not prepared to include these properties in their current condition in the conservation agreement program under their control.

The Commission recommends that the offset strategy be revisited in the absence of the voluntary conservation agreement (VCA) over the linking property, that the strategy be expanded to include enhanced protection for Squirrel Gliders, and that a legally robust mechanism for conserving the proposed offset areas in perpetuity be developed prior to determination of the project.

The Stratford Extension PAC Report©
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