

1 February 2012

Mr Michael Whittaker
General Manager
Wyong Shire Council
PO Box 20
Wyong, NSW 2259

6 pages via Facsimile: (02) 4351 2098

Dear Mr Whittaker,

Re: Warnervale Town Centre – Draft S.94 Development Contributions Plan

Fabcot Pty Ltd are the landowner of Lot 521 DP 594725, the land is located within the Warnervale Town Centre (WTC) and is captured by the draft WTC Development Contributions Plan (s.94 Plan). We understand that the s.94 Plan is currently on exhibition for public submissions until 1 February 2012.

The purpose of the s.94 Plan is to fund community infrastructure generated by development within the area. The s.94 Plan however, seems to capture unnecessary infrastructure that is beyond that generated as a result of the whole Warnervale Town Centre.

If our interpretation of the Plan is correct, our current Development Application (MP 10-0195) would be liable for a S94 payment of circa \$20.0m; this represents almost 20% of the project value. We would expect the normal S.94 levy to be in the order of 1-3% of the development cost (ie \$1.2m - \$3.6m). An amount of \$20m in Section 94 contributions highlights a fundamental problem with the s.94 Plan.

We have identified a significant number of specific issues with the S.94 Plan which are outlined in detail below:

1. Retail & Commercial floor area (precinct 6a)

The Department of Planning (in conjunction with Council) recently exhibited a Draft DCP 2011 for the Warnervale Town Centre. This draft DCP 2011 contained retail and commercial floor areas that were unrealistic given the scale and catchment projections of Warnervale Town Centre.

The DCP states that the maximum allowable GFA for all buildings in the Town Centre Civic Precinct is not to exceed 25,000sqm for retail, 8,000 for bulky goods and 10,000-15,000 for commercial.

Given the size of the Town Centre Civic precinct 6a (circa 8ha net) and the potential catchment of the broader Warnervale region (*broader future catchment of 40,000 residents* – Ref. sec 2.1, page 6 of DCP 2011), this seems a significant underdevelopment and undersupply of these uses for the market demands of upwards of 40,000 residents.

The unrealistic retail & commercial floor areas have a significant impact on the levy calculated under our MP10-0195. Our application currently comprises of 21,000sqm of retail, 9,500sqm of commercial and 1,400sqm of bulky goods, almost all the allowable floor area in only stage 1 of the 6a precinct. The Stage 1 Development Application only occupies approximately 2.5ha of the larger 8ha of Precinct 6a.

Given that our Application for Stage 1 almost reaches the maximum floor areas under the DCP and this S.94 Plan, Stage 1 has to incur the full cost of all future community infrastructure demands. This has a major impact on the calculation of Roads infrastructure cost allocation, resulting in all road costs being burdened onto Stage 1, regardless of staging and infrastructure demand. This is a major flaw with the Contribution Plan.

We have requested that the DoP review their market demand calculation on the proposed retail / bulky goods and commercial GFA controls for Precinct 6A as the current floor areas proposed are not consistent with the vision of making this a Town Centre precinct. The s.94 Plan needs to be co-ordinated with the final DCP 2011.

2. Road Infrastructure

The S.94 Plan seeks a contribution of over \$78m towards road works (Table 27 & 28). We believe this amount is totally unjustifiable for any development. Of the \$78m, \$35m has been apportioned to Warnervale Town Centre (Table 26), including \$18m appointed to the Precinct 6A site, with almost all of this \$18m attributable to our current Stage 1 Application (MP10-0195).

This contribution is significantly as the s.94 Plan seeks to include for road works (including road works, land acquisition and intersection works) that have no nexus to the demand created by the WTC development, in particular the Civic Precinct 6a. This impact is exacerbated due to the retail floor yields and discussed in point 1 above.

External roads:

The s.94 Plan makes reference to the 2007 Town Centre Traffic Impact Report stating that the WTC would be fully developed by 2018. The s.94 Plan is now suggesting that this will not occur until 2036, yet the external roads have remained unchanged. The TC TIA identifies that the only element of the external road network that needed to be upgraded as a consequence of the Town Centre was at the interface and intersection with Sparks Roads, but the draft s.94 Plan includes for over \$23m (apportioned to WTC) worth of road infrastructure that has no nexus to WTC.

In particular, the Planning for the R1/R16 road appears to date back to the original studies that informed the Warnervale District Control Plan. The assumptions and projections upon which the need for this road has been based are unknown and potentially date back over 20 years as evidenced by the studies quoted in the CP. It is unclear what purpose this road is serving especially since it is effectively bypassing the WTC. How can a road designed to bypass a development have any connection to the demand created by the same development? R1/R16 appears to be serving a sub-regional function connecting localities to the east and west of Warnervale rather than being driven in response to commercial/ retail development demands generated by the WTC.

We question have can WTC pay for \$23m worth of irrelevant roads that has no nexus to the development demands of WTC and for roads that seemingly won't be completed for 25 years? Furthermore, of the \$23m, \$11m is directly contributable to stage 1 of the Woolworths retail development (MP 10-0195); this is totally unjustifiable and unsustainable (some 10% of the development cost).

In this context, the draft s.94 Plan lacks a degree of transparency that is essential for the public to be made fully aware of the basis for the contributions proposed.

Internal Roads:

Similarly, there is a lack of transparency associated with the extent of the 'internal' WTC road infrastructure works. We have identified a number of issues with the S.94 Plan, including:

1. R19 (TC2) – this road is included in the Access Road; agreed to be jointly funded by Woolworths, Landcom, Council and the State Government grant. Why is the cost of this road included in the draft s.94 Plan as well?
2. R19 (TC2) & R20 (TC3) Land – Why is Council seeking contribution for the acquisition of land, when these roads are positioned on an existing Council road corridor (Nikko Road)?
3. R20 (TC3), R29 (TC9) & R41 (TC23) – why are these Tier 2 roads included in the draft S.94 plan while other Tier 1 and Tier 2 are excluded? There is no supporting documentation stating why these roads are included, while other Tier 1 & 2 roads are not included?
4. I11 – there is a discrepancy between the description of this intersection between table 28 & Figure 6. Is this Intersection (I6) the intersection of Main Street (Figure 6) or Hakone Road / Allinga Road extension signals (Table 28)? Clarification is required to understand what the plan includes.
5. I21 (Link Road / Railway Station Signals) – the DCP details this intersection to be a roundabout, why has the draft s.94 Plan provided for traffic signals at a cost of \$2.4m.
6. I31 / I21 – the intersection layout depicted on Figure 7 doesn't align with the detail provided in Figure 6. Furthermore, the DCP provides a relatively simply road layout which would accommodate I21, but not I31. It seems I31 is a duplicate, clarification required.
7. Cycleway (Table 28) – where is the proposed 3.09km cycleway and bus stops to be located?
8. I49.2 – Sparks Road / Minnesota Road. I understand this intersection has already been completed. Why does the s.94 Plan seek \$4.5m (\$1.9m WTC) in funding for infrastructure that has already been completed? Section 4 of the s.94 Plan states that this intersection was built to provide safe access to the Mary Mackillop Catholic College, accordingly shouldn't the College be liable for the cost of this intersection? What did the College contribute in S.94 payments for this intersection? Who funded this intersection?

9. I49.7 – this intersection is not identified in the TC TIA 2007. What is the rational for this \$2.0m intersection?

Clearly, further clarity / rational is requested on the above items.

3. Inconsistency with DCP Yields

Although the s.94 Plan is consistent with the retail, commercial and bulky goods floor areas, it appears that the residential densities are inconsistent with those in the DCP. This has an impact on the levies payable for residential development in the WTC.

There is no supporting documentation as part of the s.94 Plan exhibition material to describe the rational for the change in the residential yields.

4. Civic Square

The design and construction of the Civic Square is included in the Woolworths Major Project (MP 10-0195). This is to be funded and the ownership retained by Woolworths.

Accordingly, the cost of the land acquisition and embellishment works can be omitted from the draft S.94 plan. This equates to a total of \$1,275m being deleted from the overall plan.

5. Open Space

With respect to the Open Space, we consider there to be no nexus between retail development and the demand for Open Space facilities. There is no supporting documentation as part of the s.94 Plan exhibition material that describes the likely demands on this Open Space by workers within the retail development.

Specifically, we have identified the following issues:

1. Open Space - Cost

The s.94 Plan provides that the cost of the Open Space is to be fully funded by the WTC, while the use will be the wider Warnervale / Wadalba / Wyong region (DCP Sec2.1, Page 6).

The DCP states that WTC will service a broader future catchment of approximately 40,000 residents, a much bigger population than that of the immediate WTC (3,967 people). Accordingly, the cost of the Open Space should be apportioned across a wider catchment and not fully attributable to just WTC.

This is reinforced in Section 4.2 of the s.94 Plan; it states that the Community Facilities will be used by a broader community and as such the library has been designed to accommodate a 20 year population of 32,219. If the broader community is going to use and contribute to the community facilities, it follows the broader community should contribute to the cost of Open Space.

2. Item 4: Hill Top Park

It is interesting to note that Council have valued their land significantly higher than the other Open Space land, refer Table 13.

Given that Council's land flagged for the Hill Top Park is contaminated (ex land fill site), it is questionable whether its value should be higher than other developable lands (not contaminated) within WTC.

3. Item 6: Sporting fields

The s.94 Plan provides for 8ha of sporting fields to be acquired and developed by the WTC at a cost of \$11m. This cost is fully attributable to WTC (20% retail & 80% residential).

8ha of sporting fields equates to approx. 16 full sized sporting fields. Given the estimated population of 3,967 (figure 10) when fully developed and an occupancy rate of 2.5, this equates to one football field for every ten dwellings. This clearly seems a gross over supply of sporting fields (open space) for the WTC population, especially at a cost of \$11.0m.

These statistics further highlight how fundamentally flawed the draft S.94 plan is.

Further justification as to the rational, timing and necessity for 8ha of sporting fields at the sole cost to the WTC should be provided to the public. Where will the 8ha of land be located to provide for the sole use of the WTC community; Figure 4 doesn't even show this being located within the bounds of WTC.

4. Community Facilities

Whilst we do not have an issue with the provision of a community centre within the WTC, it is unclear what is proposed by Council. We have several queries in relation to the detail proposed for the community centre:

1. Where does Council propose to construct the Community Centre? Table 19 states that the Community centre will be located on the Hill Top Park.
2. Section 4.1, Table 13 of the s.94 Plan provides for the acquisition of the Hill Top Park (48,000sqm @ \$75/m = \$3.6m) from Council, the current land owner. The acquisition of the Community Centre land (to be positioned on the Hill Top Park) has Council earning a further \$660,000 for seemingly the same land. Further details are required to explain the discrepancy in the rate per sqm and Council's sale of the land twice.
3. Section 4.2.3 states that the community centre will be 2,700sqm, but table 19 only shows 2,400sqm of land being acquired.

4. The s.94 Plan contains no documentation as to how the capital cost of the Community Centre has been determined. Section 4.2.3 states that the community centre will be 2,700sqm, at a total cost of \$20.25m, this equates to a build cost \$7,500 per sqm. In our experience, this seems a significant over estimation of the construction cost.
5. Table 19 & 20 provides for 30% of the land and capital cost to be apportioned to WTC. Given the community centre has been designed for a population of 32,219, the WTC population only represents 12.3% (3,967 people) of the design criteria. What is the justification for 30% apportionment on WTC?

5. Stormwater Management

The draft s.94 Plan states an Integrated Water Cycle Management (IWCM) will be implemented by council pursuant to the S.94 Plan.

What is included in the IWCM plan and what is left for individual developments within WTC to be completed? How does Council's proposed IWCM plan comply with the recent RMS objection to the design of the stormwater basin identified as SW1? What are the design load requirements from the RMS on this basin?

Further information on the stormwater plans should be provided so as developments can understand their design requirements for individual sites and the impact of the s.94 contributions plan.

As you can see from the above, the draft s.94 Plan has many fundamental flaws and should not be approved in its current form. The Plan contains tens of millions of dollars that have no nexus to the demand created by WTC; proper consideration of the true demand and reasonable cost is required in order to produce an acceptable S94 Plan.

We have copied the Department of Planning and Landcom into this correspondence so they are informed as to some of the issues contained within the draft S.94 planning document.

We welcome the opportunity to meet with the Council and/or the Department to further discuss our comments in relation to the draft S.94 Plan and our Major Project Application.

Yours Sincerely,

Patrick Hall

CC:

Department of Planning – Mr David McNamarra

Landcom – Mr Keiran Wallington