



The Hon Brad Hazzard MP
Minister for Planning and Infrastructure
Minister Assisting the Premier on Infrastructure NSW

Mr J L (Les) McMahon
General Manager
Wollondilly Shire Council
PO Box 21
PICKTON NSW 2571

12/05398


Dear Mr McMahon,

I am writing in response to your Council's letter dated 6 March 2012 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Wollondilly Local Environmental Plan 2011 to rezone part of 136-154 Menangle Street, Picton, from RU2 Rural Landscape to R2 Low Density Residential and to amend the minimum lot size and building height controls.

I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

The planning proposal seeks to rezone 2.32ha of a 34.81ha lot, whereby the residue land will remain RU2 Rural Landscape. Council is therefore to review the planning proposal and ensure that descriptions of the site and the explanation of provisions correctly reference that 'part of Lot 12, DP 1126525' is subject to the rezoning and not the entire lot. Council should amend the planning proposal accordingly to ensure accuracy and clarity for the community. In addition, it is noted that Council intends to apply a minimum lot size to the residual land but the planning proposal does not specify a size. Council is to amend the planning proposal prior to the commencement of public exhibition to include a minimum lot size of 30ha for the residual land.

It is noted that part of Lot 21 is affected by environmental constraints in that the allotment contains steeply sloping land, which may be unsuitable for the proposed residential zoning. Council is therefore to amend the planning proposal to provide further justification that the land is suitable for residential development and consider an appropriate alternate zoning that may be more suitable for the constrained portion of the site. Council should also consider undertaking a geotechnical and engineering study in relation to landform constraints and risks.

As identified on page 9 of the planning proposal, the land was previously used for the purposes of agriculture, which is a potentially contaminating activity. Therefore, Council is to undertake a preliminary contaminated land investigation prior to the commencement of community consultation to determine whether the land is contaminated and requires remediation, and to demonstrate compliance with State Environmental Planning Policy 55 – Remediation of Land.

Consultation is required with the Mine Subsidence Board and NSW Rural Fire Service to determine consistency with S117 Directions – 4.2 Mine Subsidence and Unstable Land and 4.4 Planning for Bushfire Protection. This consultation should occur prior to the public exhibition and the planning proposal should be amended (if necessary) prior to exhibition to reflect the outcomes of the consultation.

In regards to the inconsistencies of the planning proposal with S117 Direction 2.3 Heritage Conservation, it is noted that the part of the site that is already zoned for residential purposes is located within the Picton Heritage Conservation Area. Therefore, Council is to prepare a heritage assessment of both the subject land and the potential impacts on the Picton Heritage Conservation Area. Council is also required to consult the Chief Executive Officer of the Office of Environment and Heritage on the matter prior to the commencement of community consultation.

It is noted that a small part of the site may be prone to flooding, in addition to the adjoining flood prone land. Therefore Council is to clarify the extent of flood prone land, particularly in relation to the proposed residential component. Council is also to consult the Office of Environment and Heritage in relation to this matter prior to the commencement of community consultation. The planning proposal should be amended (if necessary) prior to exhibition to reflect the outcomes of the consultation, and to demonstrate consistency with the requirements of S117 Direction 4.3 Flood Prone Land.

It is also noted that the site contains small areas of Cumberland Plain Woodland. Council is to consult the Chief Executive Officer of the Office of Environment and Heritage on the matter as per the requirements of S34A of the Environmental Planning and Assessment Act 1979, and should determine the extent of environmentally sensitive land prior to the commencement of community consultation and demonstrate consistency with the requirements of S117 Direction 2.1 Environmentally Sensitive Land.

Consultation is required with relevant key infrastructure and service providers in relation to the availability and cost of infrastructure and service provision. In particular, consultation with Sydney Water should explore means to service the site and Roads and Maritime Services should be consulted regarding potential traffic impacts.

In regards to the planning proposal's inconsistencies with S117 Direction 1.2 Rural Zones, the Director General of the Department of Planning and Infrastructure has agreed that the inconsistencies are of minor significance and no further approval is required.

The amending Local Environmental Plan (LEP) is to be finalised within 18 months of the week following the date of the Gateway Determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Mr Peter Goth of the Department of Planning and Infrastructure, to assist. Mr Goth can be contacted on 02 9873 8593.

Yours sincerely,



HON BRAD HAZZARD MP
Minister

24.5.12

Gateway Determination

Planning Proposal (Department Ref: PP_2012_WOLLY_001_00): to rezone part of 136-154 Menangle Street, Picton, from RU2 Rural Landscape to R2 Low Density Residential and to amend the minimum lot size and building height controls.

I, the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Wollondilly Local Environmental Plan 2011 to rezone part of 136-154 Menangle Street, Picton, from RU2 Rural Landscape to R2 Low Density Residential and to amend the minimum lot size and building height controls should proceed subject to the following conditions:

1. Council is to review and amend the planning proposal where necessary to ensure that descriptions of the site and the explanation of provisions correctly reference that 'part of Lot 12, DP 1126525' is subject to the rezoning and not the entire lot.
2. Council is to amend the planning proposal to provide further justification that the land is suitable for residential development given the environmental constraints associated with steeply sloping land, and consider an appropriate alternate zoning that may be more suitable for the constrained portion of Lot 21. The planning proposal is to be amended prior to exhibition if Council decides to proceed with an alternative zoning approach.
3. Council is to undertake a preliminary contaminated land investigation prior to the commencement of community consultation to determine whether the land is contaminated and requires remediation, to demonstrate compliance with State Environmental Planning Policy 55 – Remediation of Land.
4. Council is to prepare a heritage assessment of both the subject land and the potential impacts on the Picton Heritage Conservation Area prior to the commencement of community consultation. The planning proposal is to be amended if necessary to reflect the outcomes of this consultation prior to exhibition.
5. Council is to amend the planning proposal prior to the commencement of community consultation to clarify the extent of flood prone land affecting the site, particularly in relation to the proposed residential component in order to demonstrate consistency with the requirements of S117 Direction 4.3 Flood Prone Land.
6. Council is to determine the extent of environmentally sensitive land prior to the commencement of community consultation and demonstrate consistency with the requirements of S117 Direction 2.1 Environmentally Sensitive Land.
7. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.

8. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- Office of Environment and Heritage
- Mine Subsidence Board
- NSW Rural Fire Service
- Transport for NSW - Roads and Maritime Services
- Sydney Water
- Telstra
- Transgrid

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

9. Further to Condition 8 above, Council is to consult with the Mine Subsidence Board and the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made as per the requirements of S117 Direction 4.2 Mine Subsidence and Unstable Land and S117 Direction 4.4 Planning for Bushfire Protection.

10. Further to Condition 8 above, Council is to consult with the Chief Executive Officer of the Office of Environment and Heritage in relation to:

- the extent of environmentally sensitive land;
- inconsistencies of the planning proposal with S117 Direction 2.1 Environmentally Sensitive Land;
- potential impacts on the Picton Heritage Conservation Area;
- inconsistencies of the planning proposal with S117 Direction 2.3 Heritage Conservation;
- the extent of flood prone land affecting the site; and
- inconsistencies of the planning proposal with S117 Direction 4.3 Flood Prone Land.

11. Council is to amend the planning proposal prior to the commencement of public exhibition to include a minimum lot size of 30ha for the residual land.

12. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

13. The timeframe for completing the LEP is to be **18 months** from the week following the date of the Gateway determination.

Dated 24 day of May 2012.



HON BRAD HAZZARD MP
Minister for Planning and Infrastructure