



Mr Robert Ball
General Manager
Hornsby Shire Council
PO Box 37
HORNSBY NSW 1630

Dear Mr Ball,

Re: Planning Proposal to permit the filling of Hornsby Quarry, to declare 'filling the quarry' as designated development, and to reclassify the land from community land to operational land.

I am writing in response to your Council's letter dated 10 August 2011 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 Hornsby Shire Local Environmental Plan 1994 to permit the filling of Hornsby Quarry, to declare 'filling the quarry' as designated development, and to reclassify the land from community land to operational land.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

The Department supports the general intent of this planning proposal. In this circumstance, it is understood that Council's preference is to have 'filling of the quarry' listed as 'designated development'. Council is to draft a clause for insertion into Part 4 – Special controls, clause 21 – designated development of the Hornsby Shire LEP 1994 which addresses the need for a Development Application to be accompanied by an Environmental Impact Statement in accordance with section 78A of the Environmental Planning and Assessment Act 1979. The updated planning proposal with the drafted clause is required to be submitted to Sydney Region West prior to exhibition.

It is noted that the Old Man's Valley Cemetery, also referred to as the Higgins Family Cemetery is listed as a State significant item for its rarity as one of the few fully conserved family cemeteries in NSW and due to its social value and relationship with the Higgins family descendants and wider community. The Hornsby Shire LEP 1994 also lists in the heritage schedule the Diatreme, Hornsby Quarry and surrounding vegetation. The Planning Proposal also notes that the far western portion of the site has Aboriginal archaeological potential.

Consequently, prior to exhibition, a Statement of Heritage Impacts is to be completed in consultation with the Office of Environment and Heritage. This study should examine the significance of the items, describe the work methods proposed on site, and assess the likely impacts on the heritage items, potential Aboriginal archaeological artefacts and the Diatreme, and explain any mitigating measures that will be undertaken to reduce the impacts. These documents are to form part of the planning proposal for public exhibition.

Council are reminded of their obligations for exhibiting and conducting a public hearing when reclassifying land from community to operational as per the Department's LEP Practice Note 09-003.

To ensure clarity for the public, Council is to determine and note what interests are being affected as a result of this proposal. Council is to determine in accordance with Part 5, Schedule C of Hornsby Shire LEP 1994, whether the reclassification of land will be completed under Part 2 – Public reserve status and other interests discharged; or Part 3 - Public reserve status and other interests retained. The Planning Proposal should be exhibited with the updated reclassification details.

After consideration of the planning proposal, the Director General's delegate is satisfied that the planning proposal is of a class of development that is likely to have a significant impact on the environment in accordance with S117 Direction 6.1 Approval and Referral requirements.

The Director General has agreed that the planning proposal is consistent with S117 Directions 4.1 Acid Sulfate Soils and 5.1 Implementation of Regional Strategies. No further approval is required in relation to these Directions.

Prior to proceeding to public exhibition, in accordance with S117 Directions 4.4 Planning for Bushfire Protection, 1.3 Mining, Petroleum Production and Extractive Industries, and 4.2 Mine Subsidence and Unstable Land the Council is to consult with the Commissioner of the NSW Rural Fire Service, the Director-General of the Department of Primary Industries (Minerals and Petroleum) and the Mine Subsidence Board respectively to ensure consistency with the applicable S117 Directions.

Further consideration is required to ensure or justify consistency with S117 Direction 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 3.4 Integrating Land Use and Transport, and 6.2 Reserving Land for Public Purposes. These details are to be included in the updated planning proposal for exhibition.

The amending Local Environmental Plan (LEP) is to be finalised within 12 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, please contact Shane Nugent of the Sydney West Regional Office of the Department on (02) 9873 8527.

Yours sincerely,



14/9/11

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_HORNS_002_00): to permit the filling of Hornsby Quarry, to declare 'filling the quarry' as designated development, and to reclassify the land from community land to operational land.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Hornsby Shire Local Environmental Plan 1994 apply to land known as Hornsby Quarry (Lots A, B, C, D, and E, DP 318676 and Lot 1, DP 926103) and land owned by Hornsby Shire Council (Lot 1, DP 114323, Lots 1, and 2, DP 169188, and Lot 1, DP 859646) to permit the filling of Hornsby Quarry, to declare 'filling the quarry' as designated development, and to reclassify the land from community land to operational land should proceed subject to the following conditions:

1. Prior to exhibition, a Statement of Heritage Impacts is to be completed in consultation with the Office of Environment and Heritage. This study should examine the significance of the items, describe the work methods proposed on site, and assess the likely impacts on the heritage items, potential Aboriginal archaeological artefacts and the Diatrema, and explain any mitigating measures that will be undertaken to reduce the impacts.
2. Council is to determine in accordance with Part 5, Schedule C of Hornsby Shire LEP 1994, whether the reclassification of land will be completed under Part 2 – Public reserve status and other interests discharged; or Part 3 - Public reserve status and other interests retained. The Planning Proposal should be exhibited with the updated reclassification details.
3. The Director General's delegate is satisfied that the 'filling of the quarry' be considered as designated development.
4. Council is to draft a clause in relation to 'filling of the quarry' for insertion into Part 4, clause 21 – designated development of the Hornsby Shire LEP 1994 which addresses the need for a Development Application to be accompanied by an Environmental Impact Statement in accordance with section 78A(8)(a) of the Environmental Planning and Assessment Act 1979. The updated planning proposal with the drafted clause is required to be submitted to Sydney Region West prior to exhibition.
5. 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)*.
6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage
 - NSW Rural Fire Service
 - Roads and Traffic Authority

- Rural Fire Service
- Department of Primary Industries (Minerals and Petroleum)
- Mine Subsidence Board

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.

7. 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).
8. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 14th day of September 2011.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure