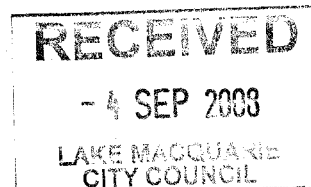




NSW GOVERNMENT
Department of Planning

Office of the Director-General



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Mr Brian Bell
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Hunter Region Mail Centre NSW 2310

Our ref: N08/00102-1
N08/00103-1
N08/00104-1
Your ref: RZ/9/2007, RZ/19/2007, RZ/3/2008

Dear Mr Bell

Re: Section 54(4) Notification – Draft Amendment to Lake Macquarie LEP 2004 – Various Lands at Belmont, Wyee and Eleebana

I am writing in response to your Council's letter dated 28 July 2008 advising, under section 54(4) of the Environmental Planning and Assessment Act 1979 ('EP&A Act'), of the Council's decision to prepare a draft local environmental plan ('LEP') that:

1. Rezones land at Belmont from 6(2) Tourism and Recreation to 2(1) Residential;
2. Rezones land at Wyee known as Bethshan Mission from 1(2) Rural (Living) and 7(2) Conservation (Secondary) zone to appropriate zones that will facilitate development for uses associated with religious purposes and conservation; and
3. Rezones land at Eleebana from 10 Investigation, 2(1) Residential and 6(1) Open Space to appropriate zones to support urban development and conservation.

The Council may now continue with the preparation of the draft LEP. However, the draft plan in respect to the land at Wyee is not supported as submitted. Please refer to further advice below.

Under section 74(2)(b) of the EP&A Act, Council is directed to comply with sections 57 and 61 of the EP&A Act with this draft LEP. The environmental study should be prepared for the Wyee and Eleebana sites taking account of the specifications listed in Schedule 1.

Consultation with the Department under section 62 of the Act is required for this plan. Council is to consult with the Department's Regional Team as to the form and content of the draft LEP. Council is to consider the following matters.

Belmont: Council may wish to review the appropriate zone for the squash courts and any other relevant sites noting the surrounding 2(1) zone. The draft LEP presents the opportunity to consider the appropriate zone/land use in this locality.

Wyee: As previously mentioned, the current proposal to investigate the whole of the site is not supported. The Department notes that the Draft Wyee Development Conservation and Servicing Strategy identifies the subject property as a longer term investigation area. To investigate zoning for the whole of the subject property would be contrary to, and pre-empt, the strategy. The preparation of the draft LEP should focus on the existing development footprint

and opportunities to implement appropriate planning controls. Therefore the land to which the draft plan is to apply is to be determined in consultation with the Regional Team.

The Department does not support the alteration of the rural and conservation zone pattern at the western part of the site. The rezoning is to focus on the provision of senior living opportunities and not general residential development. The Development Conservation and Servicing Strategy will determine the appropriate land use for the remainder of the site along with its timing for release.

Subject to discussions with the Regional Team and the LEP covering a smaller area and limited range of matters, my decision to require an environmental study for this site may be waived. This also is a matter to be discussed with the Regional Team.

I further advise that Council could consider the use of an enabling clause in this instance if an appropriate zone cannot be determined.

Eleebana: The possibility of the site being used for a retail centre is acknowledged. Council is to provide advice as to how such a site would fit within the hierarchy of centres and identify this site in that hierarchy. Depending on the outcomes of the Environmental Study the balance of the land should be zoned for conservation purposes noting the use of the 7(2) zone in the locality. Application of the LEP infrastructure clause is to be discussed with the Regional Team.

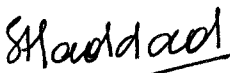
You will be aware that an instrument of delegation of my LEP making functions was executed on 16 February 2006. Use of the delegation in respect of a draft LEP is conditional on receipt by Council of a Written Authorisation to Exercise Delegation. As an Authorisation is not being issued on this occasion, Council should submit the draft LEP to the Department seeking a section 65 certificate.

Where any applicable section 117 direction requires me to form an opinion or be satisfied as to certain matters, you need to ensure that this issue is addressed in submitting the draft LEP under section 64. In this instance I note that section 117 direction 6.2 Reserving Lands for Public Purposes applies to lands at Belmont and Eleebana. I have formed the opinion that the draft LEP is of minor significance in terms of this direction. My further approval is not required.

Please forward a copy of the section 65 certificate, the draft plan and any other information to be publicly exhibited with the draft LEP, to the Regional Office with advice to the Department as required under section 64 of the Act prior to the exhibition of the draft LEP.

Should you have any queries in regard to this matter please contact the Regional Office of the Department.

Yours sincerely


Sam Haddad
Director-General

28. 8. 2008