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Our ref: PP_2011_EUROB_001_00 (11/06588)
Your ref: 05.9314

Mr Paul Anderson
General Manager
Eurobodalla Shire Council
PO Box 99
MORUYA NSW 2537

Dear Mr Anderson,

Re: Planning Proposal to reclassify and rezone certain Council owned 'community' land and to insert an enabling clause to legitimise the use at Lot 33 DP 207386, 2-10 Ainslie Parade, Tomakin

I am writing in response to your Council's letter dated 14 April 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 Eurobodalla Urban Local Environmental Plan 1999 and the Eurobodalla Rural Local Environmental Plan 1987 to:

- reclassify and rezone the land identified in table 1 of Council's Planning Proposal from 'community' land to 'operational' land;
- reclassify the land identified in table 2 of Council's Planning Proposal from 'community' land to 'operational' land; and
- insert an enabling clause under Clause 76 of Eurobodalla Urban Local Environmental Plan 1999 to legitimise the current use of Lot 33 DP207386.

As delegate of the Minister for Planning and Infrastructure, I have now determined under s56(2) of the EP&A Act that the planning proposal should proceed subject to the variations required by the conditions in the attached Gateway Determination.

Insufficient justification has been provided for to assess the planning proposals consistency against a number of relevant S117 Directions for each site included in the planning proposal. Council is to demonstrate consistency and/or justify any inconsistency, or satisfy the Director General that any inconsistency is of minor significance, for the following S117 Directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.2 Coastal Protection
- 3.1 Residential Zones
- 5.1 Implementation of Regional Strategies

In regards to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with 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 the Local Planning Direction.

As the amendment proposes to create, alter or reduce reservations of land for public purposes the planning proposal is inconsistent with S117 Direction 6.2 Reserving Land for Public Purposes. The approval of the Director General of the Department of Planning and Infrastructure is required prior to the planning proposal proceeding. Council is therefore required

to justify the changes in open space land and seek the Director General's agreement prior to finalisation of this planning proposal.

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

Council is to confirm whether the planning proposal includes a provision to discharge the land of any trusts or interests that may affect the subject site. Council is reminded of its obligations under section 30 of the Local Government Act 1993 to seek approval of the Governor when discharging land from any trusts, estates, interests, dedication, conditions, restrictions and covenants. Additionally, Council is to provide the Department with sufficient information in accordance with the Department's LEP Practice Note 09-003 of any public reserve and/or other third party property interests prior to the making of the LEP.

Council is to include the Eurobodalla Recreation and Open Space Strategy 2010-2030 with the planning proposal for exhibition purposes, to provide the community with additional information that supports and informs the proposal.

It is acknowledged that mapping has been provided and that there are a significant number of properties subject to the planning proposal. It is considered, however, that the mapping provided is insufficient and further mapping is required in order to accurately display each lot and parcel of land that is subject to the proposal, including the proposed zoning where a rezoning applies. This is to ensure the community is provided with sufficient information to clearly identify the subject land and the intent of the planning proposal.

Due to the significant number of properties included in the proposal, Council is to review the content of the tables prior to exhibition and ensure that the information is accurate and that the tables are consistent with the information provided in the maps.

In relation to the proposed enabling clause to legitimise the use at Lot 33 DP 207386, it is suggested that Council consider whether warehousing and selling of goods by a non profit charity on an infrequent basis could be regarded as ancillary to the community use and therefore if the clause is required. Council should discuss further with the regional team prior to the commencement of public 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 should aim to commence the exhibition of the Planning Proposal within four (4) weeks from the week following this 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 Nathan Foster of the Regional Office of the Department on 02 4224 9450.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Tom Gellibrand', with a date '23/6/11' written next to it.

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_EUROB_001_00): to reclassify and rezone certain Council owned 'community' land and to insert an enabling clause to legitimise the use at Lot 33 DP 207386, 2-10 Ainslie Parade, Tomakin

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Eurobodalla current Local Environmental Plan 1999 and Rural Local Environmental Plan 1987 to:

- to reclassify and rezone the land identified in table 1 of Council's Planning Proposal from 'community' land to 'operational' land;
- to reclassify the land identified in table 2 of Council's Planning Proposal from 'community' land to 'operational' land; and
- to insert an enabling clause under Clause 76 of Eurobodalla Urban Local Environmental Plan 1999 to legitimise the current use of Lot 33 DP207386

should proceed subject to the following conditions:

1. Council is to demonstrate consistency and justify any inconsistency, or satisfy the Director General that any inconsistency is of minor significance, for the following S117 Directions:
 - 1.1 Business and Industrial Zones
 - 1.2 Rural Zones
 - 1.5 Rural Lands
 - 2.2 Coastal Protection
 - 3.1 Residential Zones
 - 5.1 Implementation of Regional Strategies
2. Council is to consult with 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 4.4 Planning for Bushfire Protection.
3. Council is to address the inconsistencies of each site with the requirements of S117 Direction 6.2 Reserving Land for Public Purposes prior to exhibition. Subject to Council addressing the inconsistencies with this Direction, the Director General's delegate has agreed to the reservation of land for the purposes of this planning proposal.
4. Council is to provide the Department with sufficient information in accordance with the Department's LEP Practice Note 09-003 of any public reserve and/or other third party property interests prior to the making of the LEP.
5. Council is to include the Eurobodalla Recreation and Open Space Strategy 2010-2030 with the planning proposal for exhibition purposes, to provide the community with additional information that supports and informs the proposal.
6. Further mapping is required that displays each parcel of land at an appropriate scale that includes the proposed zoning where a rezoning applies. This is to ensure the community is provided with sufficient information to clearly identify the subject land and the intent of the planning proposal.

7. Due to the significant number of properties included in the proposal, Council is to review the content of the tables prior to exhibition and confirm that the information provided is accurate and that the tables are consistent with the information provided in the maps.
8. 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).
9. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Roads and Traffic Authority

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.
10. 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).
11. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 23rd day of June 2011.



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