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Our ref: PP_2013_LAKEM_007_00 (13/09386-1)
Your ref: rz/2/2013

Mr Brian Bell
General Manager
Lake Macquarie City Council
Box 1906
HUNTER REG MAIL CTR NSW 2310

Dear Mr Bell,

Planning proposal to amend Lake Macquarie Local Environmental Plan (LEP) 2004 or draft Lake Macquarie LEP 2013

I am writing in response to your Council's letter dated 11 June 2013 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal (Amendment No. 80) to rezone land at 5 Birkwood Close, Charlestown from 6(1) Open Space to 2(1) Residential under Lake Macquarie Local Environmental Plan (LEP) 2004 or rezone the land to R2 Low Density Residential and apply a minimum lot size of 450sqm and a maximum building height of 8.5m on the subject land under draft Lake Macquarie LEP 2013.

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

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

Council is reminded that it may still need to obtain the Director General's agreement to satisfy the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

The amending 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 as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

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 section 54(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 Ken Phelan of the regional office of the department on 02 4904 2700.

Yours sincerely,



Neil McGaffin
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery

18.6.13.

Gateway Determination

Planning proposal (Department Ref: PP_2013_LAKEM_007_00): to rezone land at 5 Birkwood Close, Charlestown for residential purposes.

I, the Executive Director, Rural and Regional Planning at the Department of Planning and Infrastructure 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 Lake Macquarie Local Environmental Plan (LEP) 2004 to rezone land at 5 Birkwood Close, Charlestown from 6(1) Open Space to 2(1) Residential or rezone the land to R2 Low Density Residential and apply a minimum lot size of 450sqm and a maximum building height of 8.5m on the subject land under draft Lake Macquarie LEP 2013 should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update the planning proposal to include a project timeline, consistent with Section 2.6 Part 6 of the *A Guide to Preparing Planning Proposals*. The project timeline is to provide a mechanism to monitor the progress of the planning proposal.
2. To demonstrate consistency or justify any inconsistency with S117 Direction 2.1 Environment Protection Zones, additional information regarding the biodiversity values of the vegetation on the subject land is to be placed on public exhibition with the planning proposal. If necessary, Council is to amend the proposed zone boundary on the subject land, prior to undertaking public exhibition.
3. To demonstrate consistency or justify any inconsistency with S117 Direction 6.2 Reserving Land for Public Purposes, Council is to place on public exhibition additional information regarding the availability of open space in the area and the adequacy of existing open space to meet the needs of the current and future population, given the reduction of open space proposed as part of this planning proposal.
4. Council is to update the planning proposal to include sufficient additional information to adequately demonstrate consistency or justify any inconsistency with the below S117 Directions and other relevant documents:
 - 4.3 Flood Prone Land
 - 4.1 Acid Sulfate Soils
 - 3.2 Caravan Parks and Manufactured Home Estates
 - State Environmental Planning Policy (SEPP) 36 - Manufactured Home Estates
5. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. Council is to prepare an initial site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.
6. 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 a minimum of **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 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.

7. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

- Mine Subsidence Board (S117 Direction 4.2 Mine Subsidence and Unstable Land)
- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

8. 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).

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

Dated 18th day of June 2013.



Neil McGaffin
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

Delegate of the Minister for Planning and Infrastructure



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Lake Macquarie City Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_LAKEM_007_00	Planning proposal (Amendment No. 80) to rezone land at 5 Birkwood Close, Charlestown from 6(1) Open Space to 2(1) Residential under Lake Macquarie Local Environmental Plan (LEP) 2004 or rezone the land to R2 Low Density Residential and apply a minimum lot size of 450sqm and a maximum building height of 8.5m on the subject land under draft Lake Macquarie LEP 2013.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guideline for the preparation of local environmental plans" and "A guide to preparing planning proposals".

Dated 18 June 2013


Neil McGaffin
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery
Department of Planning and Infrastructure
18.6.13

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2013_LAKEM_007_00
Date Sent to Department under s56	11/06/2013
Date considered at LEP Review Panel	13/06/2013
Gateway determination date	18/06/2013

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information: