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Our ref: PP_2013_WYONG_010_00 (13/12803)
Your ref: RZ/7/2009

Mr Michael Whittaker
General Manager
Wyong Shire Council
PO Box 20
WYONG NSW 2259

Dear Mr Whittaker,

Planning proposal to amend Wyong Local Environmental Plan (LEP) 1991 or draft Wyong LEP 2012

I am writing in response to your Council's letter dated 30 July 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 to rezone land at 19-23 Geoffrey Road, Chittaway Point to 2(a) Residential and 7(a) Conservation, and remove lot amalgamation provisions for part of the land under Wyong Local Environmental Plan (LEP) 1991, or rezone the subject land to R2 Low Density Residential, E2 Environmental Conservation and E3 Environmental Management, apply a minimum lot size of 450sqm for land proposed to be zoned R2 and a minimum lot size of 40ha for land proposed to be zoned for environmental purposes and remove lot amalgamation provisions for part of the land under draft Wyong LEP 2012.

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.

Council 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 Minister delegated his plan making powers to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. 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.

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 Glenn Horal of the regional office of the department on 02 4348 5000.

Yours sincerely,


Neil McGaffin 29.8.13
Executive Director
Rural & Regional Planning
Planning Operations & Regional Delivery

Encl:

Gateway determination

Written Authorisation to Exercise Delegation

Attachment 5 – Delegated plan making reporting template

Gateway Determination

Planning proposal (Department Ref: PP_2013_WYONG_010_00): to rezone land at Chittaway Point for residential and environmental 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 Wyong Local Environmental Plan (LEP) 1991 to rezone land at 19-23 Geoffrey Road, Chittaway Point to 2(a) Residential and 7(a) Conservation and remove lot amalgamation provisions for part of the land or rezone the subject land to R2 Low Density Residential, E2 Environmental Conservation and E3 Environmental Management, apply a minimum lot size of 450sqm for land proposed to be zoned R2 and a minimum lot size of 40ha for land proposed to be zoned for environmental purposes and remove lot amalgamation provisions for part of the land under draft Wyong LEP 2012 should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update the planning proposal to:
 - remove 'Figure 1 - indicative concept plan' from the 'explanation of provisions' section of the planning proposal and instead include the figure within the 'justification' section of the planning proposal;
 - remove the discussion regarding the existing approved subdivision on the southern boundary of the subject land from the planning proposal, given that this land is not subject to a zoning amendment or any change to development standards under this planning proposal;
 - addresses matters regarding satisfactory arrangements;
 - remove the land on the southern portion of the subject site from the Lot Amalgamation Map, as it is noted that the inclusion of this land on the Map is an error; and
 - include existing and proposed land zoning and lot size maps, which are at an appropriate scale and clearly identify the subject lands.
2. Additional information regarding the below matters is to be placed on public exhibition with the planning proposal:
 - biodiversity, flora and fauna
 - Aboriginal heritage
 - servicing arrangements for water, sewerage, other utilities
 - traffic, public transport, pedestrian and bicycle infrastructure
 - noise, acoustic and odour
 - whether the proposal will generate requirements for open space
 - bushfire hazard and acid sulfate soils
 - flooding and drainage (including impacts of filling and impacts on adjoining land - flood management plan)
3. Once the above mentioned additional information has been obtained and consultation with public authorities has been undertaken, and prior to undertaking public exhibition, 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 policies:
 - 1.3 Mining, Petroleum Production and Extractive Industries

- 2.1 Environment Protection Zones
 - 2.3 Heritage Conservation
 - 4.1 Acid Sulfate Soils
 - 4.3 Flood Prone Land
 - 4.4 Planning for Bushfire Protection
 - 5.1 Implementation of Regional Strategies
 - 6.2 Reserving Land for Public Purposes
 - State Environmental Planning Policy (SEPP) 71 – Coastal Protection (Clause 8)
 - Council's Settlement Strategy
4. Council is to ensure that the planning proposal satisfies the requirements of SEPP 55 – Remediation of Land. If required, 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.
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 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).
6. 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 or demonstrate consistency with relevant S117 Directions:
- Environment Protection Authority
 - Hunter - Central Rivers Catchment Management Authority
 - Transport for NSW – Roads and Maritime Services
 - NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)
 - NSW Trade and Investment - Mineral Resources and Energy (S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries)
 - Office of Environment and Heritage (S117 Directions 2.1 Environment Protection Zones and 4.3 Flood Prone Land)
 - Department of Planning and Infrastructure - Infrastructure Planning and Coordination Branch
- 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.
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 *29th* day of *August* 2013.

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

**Delegate of the Minister for Planning &
Infrastructure**



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Wyong Shire 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_WYONG_010_00	Planning proposal to rezone land at 19-23 Geoffrey Road, Chittaway Point to 2(a) Residential and 7(a) Conservation and remove lot amalgamation provisions for part of the land under Wyong Local Environmental Plan (LEP) 1991 or rezone the subject land to R2 Low Density Residential, E2 Environmental Conservation and E3 Environmental Management, apply a minimum lot size of 450sqm for land proposed to be zoned R2 and a minimum lot size of 40ha for land proposed to be zoned for environmental purposes and remove lot amalgamation provisions for part of the land under draft Wyong LEP 2012.

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

Dated *29th August* 2013

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

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_WYONG_010_00
Date Sent to Department under s56	30/07/2013
Date considered at LEP Review Panel	22/08/2013
Gateway determination date	29/08/2013

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: