

JLM/Jenny Mewing
RZ/6/2005

19 May 2010

Department of Planning
Central Coast Regional Office
PO Box 1148
GOSFORD NSW 2250

Attention: Mr Michael Leavey

Dear Mr Leavey

Planning Proposal Submission for transfer of Draft Local Environmental Plan (LEP) Amendment No. 172 into the Gateway System

In accordance with the Department of Planning's (DoP) correspondence of 16 March 2010, and Council's email response dated 29 April 2010, please find attached a Planning Proposal for Draft LEP Amendment No. 172 to Wyong LEP 1991.

This Draft LEP was lodged with Council in 2005. The purpose of the Draft LEP is to rezone of Part of Lot 514 DP 729979 from 5(a) (Special Uses – Clubs and Community Purposes) to 3(b) (Centre Support) to enable development permissible within this zone, including bulky goods retail development. In addition, an agreement between Council and the applicant, the Lands and Property Management Authority (LPMA), enables the transfer of 1,800m² of the rezoned site into Council ownership for the purposes of upgrading and adding to the existing library and information centre located on the adjoining site (within the Stockland Bay Village Shopping Complex).

The Draft LEP and supporting Chapter of Council's DCP 2005 (Draft Chapter 110 – Centre Support Development, Bateau Bay) has undergone referral and consultation with government agencies (Section 62) and was publicly exhibited (Section 65) in November/December 2008 in accordance with the plan making provisions to be repealed on 1 July 2010.

A report under Section 69 recommending the adoption of the draft Chapter of DCP 2005 and request the Minister to make the plan was scheduled to be considered by Council during its meeting of 13 May 2009. Days prior to this meeting however, advice was received from the LPMA, that a Land Claim had been lodged on the subject site, using the provisions of the Aboriginal Land Rights Act, 1983. Whilst there are no known items or relics of Aboriginal heritage on the site, the provisions of the Aboriginal Land Rights Act, 1983 enable registered Local Aboriginal Land Council's to lodge claims on vacant Crown Land.

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Given Council's interest in the land, existing agreements with the LPMA, and legal advice received on the subject, progression of the matter has been unable to proceed until such time as the claim had been determined and the appeal period completed. The claim was formally refused on 9 March 2010; however the appeal period does not lapse until 9 July 2010. The introduction of the Gateway Process and repeal of the former plan making provisions of the Environmental Planning and Assessment (EP & A), 1979 Act on 1 July 2010 have necessitated that the Draft LEP be transferred into the Gateway System in order to be completed.

Having regard for the above delays, resulting from causes beyond the control of the applicant and Council, it is requested that the Planning Proposal for Draft LEP Amendment No. 172 for part of Lot 514 DP 729979 be accepted under the Gateway System. It is further requested that the actions already undertaken as part of processing the proposal under previous plan making provisions (including government agency and community consultation and exhibition) be considered as already being undertaken under the provisions of the new plan making requirements of the EP & A Act, 1979. It is recommended therefore that the proposal enter the Gateway System at Section 57(8) of the new plan making process.

Subject to the support of this proposal by the DoP as to its inclusion into the Gateway System, and subject to any appeals against the determination of the Land Claim being unsuccessful, a report will be prepared to recommend the adoption of Draft Chapter 110 – Centre Support Development, Bateau Bay. Following this, a request to the DoP to commence the drafting of the plan and seek the Minister to make the plan will also be made.

Should you require further information in relation to this submission, please contact me on 02 4350 5742 or email Jenny.Mewing@wyong.nsw.gov.au.

Yours faithfully



Jenny Mewing
Strategic Planner
LAND USE PLANNING