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Our Ref: SP-LEP-50
Gateway Ref: PP_2010_GLAKE_001_00
Contact: Mr Roger Busby
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17 February 2016

Dear Sir/Madam,

REQUEST FOR EXTENSION OF TIME TO FINALISE PLANNING PROPOSAL, NORTH HAWKS NEST

I refer to the above planning proposal and the extension of time that was granted by the department for the completion of the rezoning by 5 January 2016.

Council, in considering the options and steps to finalise the rezoning, resolved the following at its Strategic Committee meeting of 9 February 2016:

That Council seek an extension of time of 12 months to finalise the planning proposal from the Department of Planning and Environment on the basis that considerable progress has been made with resolving the development/conservation offset arrangements.

In the most recent determination to grant an extension of time, the Department acknowledged that it may take over 12 months to finalise the proposal but at that stage an extension of only 12 months would be granted. Within the 12 months the Department wanted to see progress on the proposal, including landowner agreement on profit sharing and the commencement of preparation of a Planning Agreement with the Office of Environment and Heritage.

Over the last 12 months that there has been considerable progress with the means of delivering the development/conservation offset arrangement, including numerous meetings between Council the landowners and the Department, meetings amongst the landowners and the consideration of options to deliver the conservation offset. Importantly, Council has sought legal advice on matters relating to a Planning Agreement, including two matters that the Department raised at a meeting with Council staff in August 2015. These two matters were, (1) if the land is rezoned whether a Planning Agreement could operate to prevent development until the offset land had been protected and (2) whether there was the option of two separate agreements.

In considering all input, Council has now decided on the following course of action to progress the planning proposal:

1. Council will progress the re-zoning with the Department of Planning and Environment if the Eastern Landowners only, who benefit from an urban zone, offer to enter into a planning agreement with Council.

2. The planning agreement is to include a requirement that the Eastern Landowners are not to lodge a development application for consent to development on the part of their land zoned for urban purposes until arrangements, satisfactory to Council, have been made for the conservation and management of the offset land (see attached figure). Council has resolved that as a satisfactory conservation measure it will, as an option, accept the offset land instead of it being dedicated to national park.
3. In the event the Eastern Landowners offer to enter into a planning agreement, that Council will prepare the agreement at the cost of the Eastern Landowners.
4. In the event the Eastern Landowners offer to enter into a planning agreement, that Council revise the planning proposal for North Hawks Nest to:
 - a. Identify that the offset land will no longer be dedicated to National Park and that other conservation mechanisms, to the satisfaction of Council (including the option of dedication of the land to Council) to protect the land into perpetuity will be required.
 - b. There will be a planning agreement with the Eastern Landowners only that will ensure the offset land is protected before any development occurs.
 - c. Remove reference to a "satisfactory arrangements" clause.
 - d. Reflect any changed LEP provisions for Lot 24 DP 753166.
 - e. Remove the small strip of land on Lot 22 DP 1155763 that was proposed to be rezoned for golf course purposes and replace it with an environmental conservation zone.
 - f. Update the zoning map to reflect current zones from LEP 2014 rather than zones from LEP 1996, (as shown in Attachment D).
 - g. Include any other consequential amendments that should be made since the original planning proposal was prepared in 2010.
5. That Council submit the revised planning proposal to the Department of Planning and Environment and, if directed by the Minister, community engagement be undertaken on the revised proposal concurrently with the exhibition of the planning agreement.
6. In the event the Eastern Landowners offer to enter into a planning agreement with Council, a report be submitted to Council on appropriate LEP provisions for Lot 24 DP 753166. Lot 24 is in the western part of the study area and about 20ha of the land is already covered by a Conservation Agreement under the Native vegetation Conservation Act. A caravan park has also been approved on part of the land outside of area covered by the Conservation Agreement. For these reasons Lot 24 may warrant a review of the LEP provisions that could be applied.
7. That Council liaise with the Department of Planning and Environment to work through any issues that may arise out of the planning proposal.

Given the progress that has been made towards resolving the matter Council requests an extension of time of 12 months to enable the planning proposal to be completed. This timeframe will enable:

- Council to seek advice from the Eastern Landowners on whether they want offer to enter into a planning agreement with Council.
- Sufficient time for the landowners to seek their own legal advice on the planning agreement option and to respond to Council.

- Provision of funding by the landowners to Council for the preparation of the planning agreement
- Preparation of planning agreement and liaison with the Eastern Landowners.
- Exhibition of the planning agreement.
- Revision of the planning proposal
- Execution of the planning agreement
- Submission of the revised planning proposal to the Minister

The attached figure shows the potential urban areas, environmental conservation zone and offset land to be covered by a protection mechanism.

Should you have any enquiries regarding this matter please contact Roger Busby on (02) 6591 7254.

Yours faithfully



Roger Busby
Manager Strategic Planning
Planning & Environmental Services

