



qB162869

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Department Generated Correspondence (Y)

DEPARTMENT OF PLANNING*Plan Making and Urban Renewal***SECTION 59 REPORT - AMENDMENT 14 TO DUNGOG LEP 2006 - BINGLEBURRA****PURPOSE**

To request that the subject local environmental plan be made under section 59(2)(a) of the Act.

RECOMMENDATION

It is RECOMMENDED that the Deputy Director General:

- note the planning proposal report (Tag A); and
- note the gateway determination (Tag D); and
- note the Opinion provided by Parliamentary Counsel (Tag PC) that the LEP can be lawfully made and that no changes have been made to the Plan since obtaining this Opinion; and
- **make** the LEP under section 59(2)(a) of the Act without variation of the proposal submitted by the council as the relevant planning authority, by signing the instrument (**Tag F**); and
- sign the letter to council advising of this decision (Tag E).

CURRENT POSITION

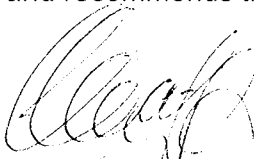
- The attached s59 report (Tag C) concludes that the planning proposal is consistent with the intent and purpose of the Gateway Determination and recommends that it proceed to be made by the Minister's delegate.
- The Regional Office is satisfied that Council has fulfilled the relevant requirements of the Environmental Planning & Assessment Act 1979 in progressing this Planning Proposal.
- It is appropriate the Minister's delegate make the subject plan.

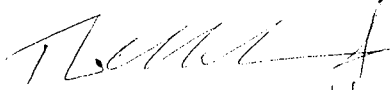
BACKGROUND

- Dungog Shire Council has prepared a planning proposal (Tag A) to amend the Dungog LEP 2006. The planning proposal (Draft Amendment No.14) seeks to amend Dungog LEP 2006 by including the subject sites in Schedule 1 Vacant Holdings. This will enable the receipt of a DA for a dwelling house on each the subject sites.
- Dungog Shire Council has reviewed the draft instrument and is of the opinion it achieves the objectives of the planning proposal (Tag B).
- On 6 September 2010 a Gateway Determination was made for the above mentioned planning proposal to proceed (subject to conditions). A copy of the Gateway Determination is tagged D.
- No public submissions were received during public exhibition. Two responses were received from state agencies, who had no objection to the planning proposal proceeding.
- The s59 report concludes that the Planning Proposal is consistent with the intent and purpose of the Gateway Determination and recommends that the draft LEP be made by the Minister's delegate.

Contact Officer: Dylan Meade
Phone (02) 49042718

 16/2/11
Regional Director
Hunter & Central

 17/3/11
Executive Director
Planning Operations

 7/3/11
Deputy Director General
Plan Making & Urban Renewal
(As delegate of the Minister)

Gloria Dimopoulos
Legal Services Branch
for Notification purposes



Planning

Contact: Dylan Meade
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Fax: (02) 4904 2701
Email dylan.meade@planning.nsw.gov.au

Mr Craig Deasey
General Manager
Dungog Shire Council
PO Box 95
DUNGOG NSW 2420

Our ref: PP_2010_DUNGO_006_00 (10/14303-1)

Your Ref: 171/82/29; 171/82/30; EF08/68-cm/lgf

Att: Carolyn Maginnity

Dear Mr Deasey

RE: DUNGOG LEP 2006 (AMENDMENT NO 14) – BINGLEBURRA

I refer to Council's submission under the Environmental Planning and Assessment Act 1979, requesting that the Minister make draft Amendment 14 to Dungog Local Environmental Plan 2006 (LEP).

I am writing to notify you that as delegate of the Minister I have made the plan under section 59(2)(a) and that it will take effect when it is published on the NSW legislation website.

Should you have any questions in relation to this advice I have arranged for Mr Dylan Meade, Planning Officer at the Newcastle office of the Department of Planning to assist you. Dylan can be contacted on telephone number (02) 4904 2718.

Yours sincerely

Tom Gellibrand 7/3/11
Deputy Director General
Plan Making & Urban Renewal



Planning

SECTION 59 PLANNING REPORT

Planning Proposal PP_2010_DUNGO_006_00 (Bingleburra)

SUMMARY

Dungog Shire Council has prepared a planning proposal (tag A) to amend the Dungog LEP 2006. The Dungog LEP 2006 removed all prior existing 'dwelling entitlements' and introduced instead a statutory scheme which requires an amendment to the LEP to make a 'dwelling house' a permissible use on all existing undersized vacant rural lots. The 'scheme' in the current LEP is unworkable for the Council and is contrary to current practices.

Until this issue is resolved through the Comprehensive LEP, Planning Proposals for separate LEP amendments to enable a dwelling to be constructed on vacant rural lots of less than 60ha will continue to be processed by the Council. As far as possible the Council seeks to bundle vacant holding proposals together as in the current Proposal.

The planning proposal (Draft Amendment No.14) seeks to amend Dungog LEP 2006 by including in Schedule 1 Vacant Holdings:

1. Lot 1 DP 343072, No 8 Parkes Creek Road, Bingleburra
2. Lot 72 DP 736606, No 1287 Bingleburra Road, Bingleburra

This will enable the receipt of a DA for a dwelling house on each the subject sites.

No public submissions were received. Two responses from state agencies were received during public exhibition. The *Rural Fire Service* and the *NSW Roads and Traffic Authority* have no objection to the planning proposal proceeding.

This report concludes that the Planning Proposal is consistent with the intent and purpose of the Gateway Determination and recommends that the draft LEP be made by the Minister's delegate.

GATEWAY DETERMINATION

On 6 September 2010 a Gateway Determination was made for the above mentioned planning proposal to proceed (subject to conditions). A copy of the Gateway Determination is tagged D.

TIMEFRAME

The planning proposal is due to be completed by 6 March 2011.

PARLIAMENTARY COUNSEL OPINION

Council was consulted on the draft LEP pursuant to s.59(1) of the EP&A Act.

On 2 February 2011, Council advised that the instrument as drafted would deliver the planning outcomes as proposed. Copy of letter tagged B.

A PC Opinion was issued on 20 January 2010, which is tagged PC. There has been no change to the draft instrument since the PC opinion has been issued.

PUBLIC PARTICIPATION

The planning proposal was exhibited for a total of 14 days from 13 to 27 October 2010. No submissions were received in response to the public exhibition.

VIEWS OF PUBLIC AUTHORITIES

In accordance with the provisions of Section 56(2) (d) of the Act, the Gateway determined that Council is to consult with NSW Rural Fire Service, Roads and Traffic Authority and Department of Environment, Climate Change and Water.

Responses were received from the NSW Rural Fire Service (RFS) and the NSW Roads and Traffic Authority (RTA).

The RFS raised no objection to the Planning Proposal. The RFS noted that Lot 1 DP 343072, 8 Parkes Creek Road is identified as bushfire prone land on Council's Bushfire Prone Land map and that any future development will be required to comply with section 79BA of the Environmental Planning and Assessment Act 1979.

The RTA advised that as the subject proposal is unlikely to have any significant impacts on the classified road network, the RTA has no objections to or requirements for the proposed amendment to the Dungog LEP 2006.

CHANGES MADE TO THE PLAN AFTER EXHIBITION

No changes to the plan were made after exhibition.

CONSISTENCY WITH STATE POLICIES AND S.117 DIRECTIONS

The planning proposal is consistent with applicable State Environmental Planning Policies (SEPP's).

The planning proposal is consistent with relevant s117 Directions - 1.2 Rural Zones, 1.5 Rural Lands, 4.4 Planning for Bushfire Protection, and 6.3 Site Specific Provisions.

CONCLUSION

It is recommended that the planning proposal proceed.

Council has complied with the conditions of the Gateway Determination. The Regional Office supports the Planning Proposal PP_2010_DUNGO_006_00. All necessary changes requested by Council/Department/Agency have been made. The PC opinion has been issued and there has been no change to the LEP since the PC opinion has been issued.

NSW Government Lobbyist Code of Code: At this point of time, to the best of the Regional Team's knowledge, the Code has been complied with and there have been no meetings or communications with registered lobbyists with respect to this draft LEP.

Crown Land: The Department is not aware of any Crown land or land owned by the Department of Lands that will receive a significant uplift in value that is out of context with adopted strategic planning documents beyond that provided to adjoining or adjacent sites in private ownership.

RECOMMENDATION

It is RECOMMENDED that the Minister's delegate:

- **note** the Opinion provided by Parliamentary Counsel that the Plan can be lawfully made and that no changes have been made to the draft LEP since obtaining this Opinion; and
- **make** the LEP under former section 70(1)(a)(i) of the Act by signing the instrument (Tag F); and
- **sign** the letters to council advising of this decision (Tag E).

Dylan Meade Hunter Region 49042718

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Regional Director

Hunter Region

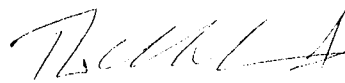
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Deputy Director General 7/3/11

Plan Making and Urban Renewal



New South Wales

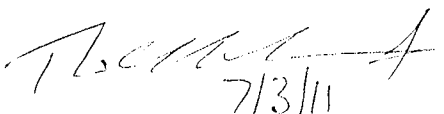
Dungog Local Environmental Plan 2006 (Amendment No 14)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the
Environmental Planning and Assessment Act 1979. (11/01181-1)

Minister for Planning


7/3/11
Delegate of the Minister for Planning