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Our ref: PP_2013_LAKEM_014_00 (13/14875)
Your ref: RZ/3/2007

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 and draft Lake Macquarie LEP 2013

I am writing in response to your Council's letter dated 3 September 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. 84) to rezone land at Killingworth to 2(1) Residential and 7(2) Conservation (Secondary) and identify part of the land as environmentally sensitive land under Lake Macquarie Local Environmental Plan (LEP) 2004 or rezone the land to R2 Low Density Residential and E2 Environmental Conservation and amend minimum lot size and maximum building height controls for the land and identify part of the land as environmentally sensitive land under draft Lake Macquarie LEP 2013 and reclassify part of the land from 'community' to 'operational' land.

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.

I have also agreed the planning proposal's inconsistency with S117 Direction 3.4 Integrating Land Use and Transport is of minor significance. No further approval is required in relation to this Direction.

Council is reminded of its obligations for undertaking a public hearing in relation to the proposed reclassification of land in accordance with the department's practice note *PN09-003, Classification and reclassification of public land through a local environmental plan*.

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 because the Governor's approval is not required in this instance.

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 Paul Maher of the regional office of the department on 02 4904 2700.

Yours sincerely,



22/10/2013

Neil Selmon
Acting 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_LAKEM_014_00): to rezone land at Killingworth for residential and environmental purposes.

I, the Acting 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 Killingworth to 2(1) Residential and 7(2) Conservation (Secondary) and identify part of the land as environmentally sensitive land or rezone the land to R2 Low Density Residential and E2 Environmental Conservation and amend minimum lot size and maximum building height controls for the land and identify part of the land as environmentally sensitive land under draft Lake Macquarie LEP 2013 and reclassify part of the land from 'community' to 'operational' land should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update the planning proposal to:
 - a) identify the subject land as an Urban Release Area, to ensure satisfactory arrangements are in place for State infrastructure provision;
 - b) clarify the provisions to be included in draft Lake Macquarie LEP 2013 to allow for the protection of the subject land as environmentally sensitive land;
 - c) remove reference to amending State Environmental Planning Policy (SEPP) Exempt and Complying Development Codes 2008. Identifying the land as environmentally sensitive land will exclude the application of complying development under the General Housing Code of the SEPP; and
 - d) ensure the planning proposal addresses the Director-General's requirements relating to the reclassification of public land consistent with section 5.5.4 of *A Guide to Preparing LEPs*.
2. 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).
3. 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:
 - Hunter Water Corporation
 - Awabakal Local Aboriginal Land Council (S117 Direction 2.3 Heritage Conservation)
 - Mine Subsidence Board (S117 Direction 4.2 Mine Subsidence and Unstable Land)
 - NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)
 - Office of Environment and Heritage (S117 Directions 2.1 Environment Protection Zones and 2.3 Heritage Conservation)
 - NSW Trade and Investment – Mineral Resources and Energy - Regional Infrastructure and Services Division (S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries)



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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.

4. A public hearing is not required to be held into the matter under section 56(2)(e) of the EP&A Act. However, a public hearing is required to be held into the matter in accordance with the department's practice note PN09-003, as the planning proposal involves a reclassification of land from community to operational.
5. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 22nd day of October 2013.

Neil Selmon
Acting 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

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_014_00	Planning proposal (Amendment No. 84) to rezone land at Killingworth to 2(1) Residential and 7(2) Conservation (Secondary) and identify part of the land as environmentally sensitive land under Lake Macquarie Local Environmental Plan (LEP) 2004 or rezone the land to R2 Low Density Residential and E2 Environmental Conservation and amend minimum lot size and maximum building height controls for the land, identify part of the land as environmentally sensitive land and identify the land as an urban release area under draft Lake Macquarie LEP 2013 and reclassify part of the land from 'community' to 'operational' land.

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 22 October 2013

Neil Selmon
Acting 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_LAKEM_014_00
Date Sent to Department under s56	03/09/2013
Date considered at LEP Review Panel	10/10/2013
Gateway determination date	22/10/2013

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: