



Planning & Infrastructure

Office of the Director General

Mr Michael Whittaker
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Our ref: PP_2012_WYONG_005_00 (12/16630)
Your ref: RZ/15/2009

Dear Mr Whittaker,

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

I am writing in response to your Council's letter dated 3 October 2012 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 amend either Wyong Local Environmental Plan (LEP) 1991 or draft Wyong LEP 2012 to rezone land at Berkeley Road, Fountaindale for residential and conservation purposes.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed that the planning proposal's inconsistencies with S117 Direction 5.1 Implementation of Regional Strategies are of minor significance. No further approval is required in relation to this Direction.

The amending Local Environmental Plan (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 to meet the 12 month time frame. Council's request for the department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The NSW 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 s54(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 Ben Holmes of the regional office of the department on 02 4348 5000.

Yours sincerely,


Sam Haddad
Director General

1/12/2012

Gateway Determination

Planning proposal (Department Ref: PP_2012_WYONG_005_00): to amend either Wyong Local Environmental Plan (LEP) 1991 or draft Wyong LEP 2012 to rezone land for rural residential and conservation purposes.

I, the Director General, 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 rezone land at Lot 23 DP 1159704, Berkeley Road, Fountaindale from part 7(a) Conservation, 7(c) Scenic Protection: Small Holdings Zone and 7(f) Environmental Protection to part 7(a) Conservation and 7(c) Scenic Protection: Small Holdings under Wyong Local Environmental Plan (LEP) 1991 or to E2 Environmental Conservation and E4 Environmental Living under draft Wyong LEP 2012 should proceed subject to the following conditions:

1. Prior to commencing public exhibition, Council is to amend the planning proposal to include a map which clearly identifies the current zones that apply to the site under Wyong LEP 1991.
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 is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning 2009)* and must be made publicly available for **14 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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage
 - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
4. Prior to undertaking public exhibition, Council is to amend the planning proposal to provide further discussion regarding the planning proposals consistency with Section 117 Directions 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 4.3 Flood Prone Land and 4.4 Planning for Bushfire Protection.
5. In relation to the requirements of S117 Direction 2.1 Environmental Protection Zones, Council is to reconsider the proposals consistency as per the terms of the direction, and seek the Director-Generals agreement to any inconsistency. Council should consider the need to consult with the Director-General of the Office of Environment and Heritage as per s.34A of the EP&A Act and if necessary, update the planning proposal accordingly.



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6. In relation to the requirements of S117 Direction 2.3 Heritage Conservation, Council is to demonstrate consistency with the Local Planning Direction following consultation with the Heritage Branch of the Office of Environment and Heritage, prior to finalisation of the LEP.
7. Council is to consult with the Office of Environment and Heritage in regards to potential flood impacts, making reference to Council's flood study as relevant. Council is to detail how flooding impacts can be adequately managed and address inconsistencies with the requirements of S117 Direction 4.3 Flood Prone Land prior to exhibition.
8. Council is to consult with the Commissioner of the NSW Rural Fire Service as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.
9. 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).
10. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 1st day of December 2012.

Sam Haddad
Director General
Delegate of the Minister for Planning and Infrastructure