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Our ref: PP_2011_LAKEM_011_00 (11/18905)
Your ref: F2010/02788/02/03

Mr Brian Bell
General Manager
Lake Macquarie City Council
Box 1906
HRMC 2310

Att: Trevor Prior

Dear Mr Bell

Re: Planning Proposal to remove Lake Macquarie City Council's public land acquisition obligation from Ausgrid Land, Swansea.

I am writing in response to your Council's letter dated 21 November 2011 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 the *Lake Macquarie Local Environmental Plan 2004* to remove Council's acquisition obligation under clause 55 (Acquisition of land required for community purposes) from Lot 11 DP 855023; and rezone part of the land from 6(1) Open Space Zone to Zone 6(2) Tourism and Recreation Zone.

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.

Please ensure that the supplementary material provided by Council to the Department in regards to clarification of the proposal, s117 Directions and land use information is inserted into the planning proposal prior to exhibition.

A copy of the Memorandum of Understanding between Lake Macquarie Council and Ausgrid regarding the establishment of a permanent public access over the land to the lake foreshore should be publicly exhibited with the planning proposal.

The Director General's delegate has also agreed that the planning proposal's inconsistencies with S117 Direction 2.2 Coastal protection, is justified by a study prepared in support of the Planning Proposal. The Director General's delegate has also agreed that the planning proposal's inconsistencies with S117 Directions 3.4 Integrating Land Use and Transport; 4.1 Acid Sulfate Soils; and 6.2 Reserving Land for Public purposes, are of a minor nature and no further approval is required.

Consultation is required with the NSW Department of Primary Industries – Minerals and Petroleum, Mine Subsidence Board and NSW Rural Fire Service to determine consistency with S117 Directions – 1.3 Mining, Petroleum Production & Extractive Industries; 4.2 Mine Subsidence and Unstable Land; and 4.4 Planning for Bushfire Protection respectively. This consultation should occur prior to the public exhibition and the planning proposal should be amended (if necessary) prior to exhibition to reflect the outcomes of this consultation.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway Determination. 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 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 Susan Blake of the Regional Office of the Department on 02 4904 2709.

Yours sincerely,

 22.12.11
Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_LAKEM_011_00): to remove Lake Macquarie City Council's public land acquisition obligation from Ausgrid owned land, Swansea.

I, the Deputy Director General, Plan Making & Urban Renewal 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 2004* to remove Lake Macquarie City Council's acquisition obligation under clause 55 (Acquisition of land required for community purposes) from Lot 11 DP 855023; and rezone part of the land from 6(1) Open Space Zone to Zone 6(2) Tourism and Recreation Zone should proceed subject to the following conditions:

1. The supplementary material provided by Council to the Department in regards to clarification of the proposal, s117 Directions and land use information is to be included in the planning proposal prior to exhibition.
2. A copy of the Memorandum of Understanding between Lake Macquarie Council and Ausgrid regarding the establishment of a permanent public access over the land to the lake foreshore should be publicly exhibited with the planning proposal.
3. 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 **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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Department of Primary Industries – Minerals and Petroleum
 - Mine Subsidence Board
 - 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.

5. Further to Condition 4 above, Council is to consult with the Commissioner of the NSW Rural Fire Service, the NSW Department of Primary Industries – Minerals and Petroleum and the Mine Subsidence Board prior to undertaking community consultation and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection, S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries and S117 Direction 4.2 Mine Subsidence and Unstable Land.
6. 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).



Planning & Infrastructure

7. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated

22 day of Dec

for Gellibrand
2011.

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure