



Mr Steve McDonald
General Manager
Muswellbrook Shire Council
PO Box 122
MUSWELLBROOK NSW 2333

Our ref: PP_2014_MUSWE_002_00 (14/12190)
Your ref: LEP Amendment No. 08

Att: Pathum Gunasekara

Dear Mr McDonald

Planning proposal to amend Muswellbrook Local Environmental Plan 2009

I am writing in response to your Council's letter dated 16 July 2014 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 rezone approximately 42 ha of land at Denman from RU1 Primary Production to R5 Large Lot Residential.

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

The proposal is inconsistent with the Upper Hunter Strategic Regional Land Use Plan, and Section 117 Directions 1.2 Rural Zones and 1.5 Rural Lands. Consultation is required with the Department of Primary Industries (Agriculture NSW), prior to exhibition, to determine if these inconsistencies are justified. Council should demonstrate to the Department of Primary Industries (Agriculture NSW), how the subject site is preferred over other candidate areas identified in the Muswellbrook Rural and Rural Residential Strategy, considering the objectives of Section 117 Directions 1.2 Rural Zones and 1.5 Rural Lands and the potential impact from urban expansion on strategic agricultural lands identified in the Upper Hunter Strategic Regional Land Use Plan. The outcome of this consultation and any mechanisms to address potential land use conflicts should be incorporated into the Planning Proposal prior to exhibition.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of S117 Directions 1.3 Mining, Petroleum Production and Extractive Industries, 2.3 Heritage Conservation, 3.1 Residential Zones and 4.2 Mine Subsidence and Unstable Land. Council should ensure this occurs prior to the plan being made.

Council should also ensure it has adequately considered whether the land is contaminated consistent with clause 6 of the State Environmental Planning Policy No 55—Remediation of Land. It is recommended that Council undertake appropriate preliminary investigations, in accordance with the SEPP and Guidelines, if there is any uncertainty regarding the sites suitability for residential use.

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.

Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made 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 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, I have arranged for Dylan Meade from the Hunter office to assist you. Mr Meade can be contacted on (02) 4904 2718.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'D Rowland', with a stylized flourish at the end.

21 October 2014

David Rowland
General Manager
Hunter and Central Coast Region
Planning Services

Gateway Determination

Planning proposal (Department Ref: PP_2014_MUSWE_002_00): to rezone approximately 42 ha of land at Denman from RU1 Primary Production to R5 Large Lot Residential.

I, the General Manager, Hunter and Central Coast Region at Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Muswellbrook Local Environmental Plan (LEP) 2009 to rezone approximately 42 ha of land at Denman from RU1 Primary Production to R5 Large Lot Residential should proceed subject to the following conditions:

1. Consultation is required with the Department of Primary Industries (Agriculture NSW) to determine if inconsistencies with the Upper Hunter Strategic Regional Land Use Plan, and Section 117 Directions 1.2 Rural Zones and 1.5 Rural Lands are justified.
2. A heritage assessment is required to ensure conservation of items of environmental heritage significance. The study should be referred to the Wanaruah Aboriginal Land Council and the Office of Environment and Heritage – Heritage Branch. The heritage assessment should be placed on exhibition 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 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 & Environment 2013)*.
4. 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 relevant S117 Directions:
 - Department of Primary Industries - Agriculture NSW
 - Wanaruah Aboriginal Land Council
 - Office of Environment and Heritage – Heritage Branch
 - NSW Resources and Energy (Section 117 Direction 1.3 Mining, Petroleum Production and Extractive Industries)
 - Mine Subsidence Board (Section 117 Direction 4.2 Mine Subsidence and Unstable Land)

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.

5. 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).
6. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 21st day of October 2014.



David Rowland
General Manager
Hunter and Central Coast Region
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning