



Planning & Environment

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Our ref: PP_2015_WYONG_004_00 (15/03046)
Your ref: RZ/10/2014

Mr Michael Whittaker
General Manager
Wyong Shire Council
PO Box 20
Wyong NSW 2259

Attn: Jonathan Luke

Dear Mr Whittaker

Planning proposal to amend Wyong Local Environmental Plan 2013

I am writing in response to Council's letter dated 5 February 2015 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to rezone land for tourist purposes on part Lot 3 DP 1007500 Sparks Road, Warnervale.

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.

Council's request to rezone the site from IN1 General Industrial and E2 Environmental Conservation to SP3 Tourist is not supported. I consider it appropriate to retain the IN1 General Industrial zone and to allow the proposed uses for tourist and entertainment purposes as additional permitted uses in Schedule 1 of *Wyong Local Environmental Plan 2013* (LEP) with these additional uses permitted only if the site is developed for a cultural theme park. The proposed rezoning of E2 Environmental Conservation adjoining the IN1 General Industrial land is also not supported as it has not been justified. This should be removed from the planning proposal.

I have also determined the maximum building height of 50m should be limited to a maximum of 15% of the cultural theme park site.

These amendments will allow sufficient flexibility for the proposed theme park to be developed while ensuring the underlying IN1 and E2 zones remain should the theme park not proceed as proposed.

I note this planning proposal is one of a number of development proposals in the vicinity of the Sparks Road Corridor and Warnervale and the impacts on transport planning to facilitate the development will have broader impacts for the region. As referred to in the recent Gateway for the nearby Education and Business Precinct, consultation with State agencies such as Transport for NSW and Roads and Maritime Services will need to occur to confirm the outcomes for Warnervale and to consider any cumulative impacts from proposals not foreseen within the *North Wyong Shire Structure Plan*.

It will be necessary to amend the planning proposal to ensure consistency with the conditions of the Gateway determination. The Department can assist Council by reviewing the revised planning proposal, if requested.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant Section 117 Directions. Council should ensure this occurs prior to the plan being made.

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 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 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 Mr Glenn Horal of the Department's Gosford office to assist you. Mr Horal can be contacted on (02) 4348 5000.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services

25/05/2015
Encl: Gateway Determination

Gateway Determination

Planning proposal (Department Ref: PP_2015_WYONG_004_00): to add additional permitted uses to enable the development of a cultural theme park comprising of tourist and entertainment purposes on part Lot 3 DP 1007500 Sparks Road, Warnervale.

I, the Deputy Secretary, Planning Services at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the *Wyang Local Environmental Plan 2013* (LEP) to add additional permitted uses in Schedule 1 to enable development for a cultural theme park comprising of tourist and entertainment purposes on part Lot 3 DP 1007500 Sparks Road, Warnervale should proceed subject to the following conditions:

1. Prior to undertaking public exhibition Council is to update the Planning Proposal to:
 - simplify 'objectives' to say 'what' is proposed leaving the 'how' to the explanation of provisions (e.g. remove 5 dot points at the top of page 2 and other text describing 'how' the LEP will be amended).
 - update 'explanation of provisions' to:
 - remove references to SP3 and note the IN1 zone will be retained;
 - note the proposed uses to facilitate development of the cultural theme park will be included in Schedule 1 Additional Permitted Uses and linked to the development of a cultural theme park;
 - remove references to the proposed rezoning of the E2 Environmental Conservation land;
 - identify the 50m building height limit will be restricted to 15% of the cultural theme park site;
 - remove 'place of public worship' as an additional permitted use;
 - identify that all proposed changes will apply to part of Lot 3 DP1007500; and
 - include discussion on the appropriateness and permissibility of all additional permitted uses for the cultural theme park and link their permissibility to the development of a cultural theme park;
 - remove consideration of SEPP (Major Projects) 2005 in the planning proposal;
 - include discussion of Council's Settlement Strategy and its Employment Lands Study and Industrial Land Audit as it relates to the existing and future supply and take up rates of employment lands;
 - provide evidence and/or analysis of proposed employment numbers (including during the construction phase) and visitor numbers expected to be generated at the theme park;
 - provide clarification of any future operational requirements of Warnervale Airport;
 - identify and include discussion on the current State Infrastructure Contribution Plan that applies to the Wyong Employment Zone and satisfactory arrangements and the provision of designated State public infrastructure;
 - include existing and proposed zone and development standards maps once additional information, investigations and agency consultation has been undertaken;
 - consider the need for amendments to the relevant section of chapter 6.1 Key Sites in Wyong Development Control Plan 2013; and
 - update the project timeline for the completion of technical studies to ensure the timeframe to make the plan can be achieved.

2. Council is to be satisfied that sufficient information has been provided to demonstrate that the planning proposal adequately addresses the following issues and is to be placed on public exhibition with the planning proposal:
 - funding agreement for infrastructure (Council and State)
 - water and sewer servicing investigations
 - services review
 - ecological investigations
 - flooding, drainage and stormwater management studies
 - visual impact analysis
 - economic impact assessment
 - bushfire assessment
 - preliminary contaminated lands study, if required
 - Aboriginal archaeological assessment
 - traffic report including examination of regional traffic, transport and infrastructure requirements, public transport, pedestrian and cycleway planning issues
 - draft Development Control Plan and Section 94 Contributions Plan, if required
 - Voluntary Planning Agreement.
3. Cumulative transport impacts in the locality are to be considered by Council in consultation with Transport for NSW and Roads and Maritime Services including existing transport infrastructure, planned upgrades to support known development plans (Wyang Employment Zone, Warnervale Town Centre and Precinct 7A), proposed new infrastructure (e.g. proposed Link Road, new rail stations) and other new development proposed for this area. Staging and priorities for development in the Warnervale district should be identified so that transport planning remains current and transport provision aligns with development as it occurs.
4. Council is to ensure that Wyong Employment Zone Landholders are consulted with directly as part of the public exhibition of this planning proposal.
5. Council is to update its consideration of the consistency with the following Section 117 Directions after the additional information has been prepared and public authority consultation has been undertaken:
 - 1.1 Business and Industrial Zones
 - 1.3 Mining, Petroleum Production and Extractive Industries - Trade & Investment - Resources and Energy
 - 2.1 Environment Protection Zones - Office of Environment and Heritage
 - 2.3 Heritage Conservation - Office of Environment and Heritage - Heritage Branch
 - 3.4 Integrating Land Use and Transport – Transport for NSW and Roads and Maritime Services
 - 3.5 Development Near Licensed Aerodromes - Lessee of Warnervale Aerodrome
 - 4.3 Flood Prone Land
 - 4.4 Planning for Bushfire Protection - NSW Rural Fire Service
 - 5.1 Implementation of Regional Strategies
 - 6.3 Site Specific Provisions
6. Prior to undertaking public exhibition, Council is to update the planning proposal to consider consistency of the *State Environmental Planning Policy No. 44 Koala Habitat Protection*.

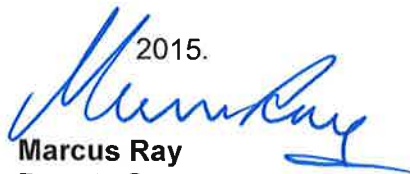
7. Council is to demonstrate that the planning proposal satisfies the requirements of *State Environmental Planning Policy (SEPP) 55 – Remediation of Land*. If required, Council is to prepare an initial site contamination report to demonstrate the site is suitable for rezoning to the proposed zone. The report is to be included as part of the public exhibition.
8. Community consultation is required under sections 56(2)(c) and 57 of the 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 and Environment 2013).
9. Consultation is required with the following public authorities under section 56(2)(d) of the Act and other relevant organisations and/or to comply with the requirements of relevant Section 117 Directions:
 - Transport for NSW
 - Transport for NSW - Roads and Maritime Services
 - Office of Environment and Heritage
 - Office of Environment and Heritage – Heritage Branch
 - NSW Trade & Investment - Resources and Energy
 - NSW Rural Fire Service
 - Darkinjung Local Aboriginal Land Council
 - Guringai Tribal Link
 - State Emergency Service
 - NSW Ambulance Service
 - NSW Police Force
 - Fire and Rescue NSW

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.
10. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the 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).
11. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 25th day of

May

2015.



Marcus Ray
Deputy Secretary
Planning Services

Delegate of the Minister for Planning