



Planning & Infrastructure

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Our ref: PP_2013_WYONG_006_00 (13/08690)
Your ref: RZ/12/2012

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

Dear Mr Whittaker,

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

I am writing in response to your Council's letter dated 20 May 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 to rezone part Lot 2 DP 1005467 at 165 Yeramba Road and part Lot 1 DP 1074218 at 159 Yeramba Road, Summerland Point to 2(a) Residential and remove development restrictions that apply to the land proposed to be rezoned via clause 53 and Schedule 4 under Wyong Local Environmental Plan (LEP) 1991 or rezone the subject land to R2 Low Density Residential and amend the minimum lot size to 450sqm under the draft Wyong LEP 2012.

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.

Council's intention to remove development restrictions that apply to land proposed to be rezoned in Summerland Point is supported. However, it is noted that the planning proposal as drafted proposes to remove the entire Summerland Point Precinct from the application of clause 53 and Schedule 4 of Wyong LEP 1991, which will have broader implications on the Precinct as a whole. I understand that this is not Council's intention. Consequently, Council is to amend the planning proposal to remove the proposed amendment to clause 53 and Schedule 4 as it relates to the Precinct and instead provide a plain English explanation of the intention of the proposal to remove development restrictions that apply to land proposed to be rezoned for residential purposes as part of this planning proposal.

I have also agreed the planning proposal's inconsistency with S117 Directions 4.1 Acid Sulfate Soils is of minor significance. No further approval is required in relation to this Direction.

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.

The amending LEP is to be finalised within 9 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 Glenn Horal of the regional office of the department on 02 4348 5000.

Yours sincerely,



Neil McGaffin
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery

12.6.13.

Gateway Determination

Planning proposal (Department Ref: PP_2013_WYONG_006_00): to make amendments to Wyong LEP 1991 or draft Wyong LEP 2012.

I, the 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 Wyong Local Environmental Plan (LEP) 1991 to rezone part Lot 2 DP 1005467 at 165 Yeramba Road and part Lot 1 DP 1074218 at 159 Yeramba Road, Summerland Point to 2(a) Residential and remove development restrictions that apply to the land proposed to be rezoned via clause 53 and Schedule 4 or rezone the subject land to R2 Low Density Residential and amend the minimum lot size to 450sqm under the draft Wyong LEP 2012 should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to amend the planning proposal to advise that clause 53 and schedule 4 provisions will be retained until draft Wyong LEP 2012 is made. Council is to amend the planning proposal to remove the proposed amendment to clause 53 and Schedule 4 as it relates to the Summerland Point Precinct and instead provide a plain English explanation of the intention of the proposal to remove development restrictions that apply to land proposed to be rezoned for residential purposes as part of this planning proposal.
2. Prior to undertaking public exhibition, Council is to update the 'explanation of provisions' within the planning proposal to clearly advise how the intended outcomes are to be achieved by means of amending the LEP and identify the land subject to this proposal.
3. Prior to undertaking public exhibition, Council is to update the planning proposal to include a locality map and existing and proposed land zoning and lot size maps, which are at an appropriate scale and clearly identify the subject site.
4. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 - Remediation of Land. Council is to prepare an initial site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.
5. Council is to update the planning proposal to include sufficient additional information to adequately demonstrate consistency or justify any inconsistency with the below S117 Directions and other policies, once it has undertake consultation with public authorities and information on flora and fauna has been obtained:
 - 1.3 Mining, Petroleum Production and Extractive Industries
 - 2.1 Environment Protection Zones
 - 4.2 Mine Subsidence and Unstable Land
 - 4.4 Planning for Bushfire Protection
 - If relevant, SEPP 44 – Koala Habitat Protection
6. 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 & Infrastructure 2013)* and must be made publicly available for a minimum of **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 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning & Infrastructure 2013).
7. 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:
- Mine Subsidence Board (S117 Direction 4.2 Mine Subsidence and Unstable Land)
 - NSW Rural Fire Services (S117 Direction 4.4 Planning for Bushfire Protection)
 - NSW Department of Primary Industries – Minerals and Petroleum (S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries)
- 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.
8. 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).
9. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated

12th

day of

June

2013.



Neil McGaffin
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

Delegate of the Minister for Planning and Infrastructure

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Wyong Shire 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_WYONG_006_00	Planning proposal to rezone part Lot 2 DP 1005467 at 165 Yeramba Road and part Lot 1 DP 1074218 at 159 Yeramba Road, Summerland Point to 2(a) Residential and remove development restrictions that apply to the land proposed to be rezoned via clause 53 and Schedule 4 under Wyong Local Environmental Plan (LEP) 1991 or rezone the subject land to R2 Low Density Residential and amend the minimum lot size to 450sqm under the draft Wyong LEP 2012.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guideline for the preparation of local environmental plans" and "A guide to preparing planning proposals".

Dated 12 June 2013



Neil McGaffin
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery
Department of Planning and 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_WYONG_006_00
Date Sent to Department under s56	20/05/2013
Date considered at LEP Review Panel	06/06/2013
Gateway determination date	12/06/2013

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: