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Our ref: PP\_2016\_WYONG\_005\_00 (16/04122)  
Your ref: RZ/4/2014

Mr Rob Noble  
Acting Chief Executive Officer  
Wyong Shire Council  
PO Box 20  
Wyong NSW 2259

Attn: Scott Duncan

Dear Mr Noble

### **Planning proposal to amend Wyong Local Environmental Plan 2013**

I am writing in response to your Council's letter dated 24 February 2016 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 the purposes of residential and commercial development and protection of environmentally significant lands at Bushells Ridge Road, Bushells Ridge and Wyee Road, Doyalson.

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 Gateway allows the proposal to proceed to the next stage but given the need for further investigation and consultation, it is not possible to commit to a particular development footprint or planning provisions at present. Further investigations and consultation should be used as the basis for determining the appropriateness of proposed planning provisions and the location of zone boundaries.

Following further investigations and agency consultation, Council should submit the revised planning proposal to the Department of Planning and Environment for comment prior to proceeding with community consultation.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

Plan making powers were delegated to councils by the Minister 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 not to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 18 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 Ms Claire Swan, of the Department's Central Coast regional office to assist you. Ms Swan can be contacted on (02) 43485003.

Yours sincerely

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

**2/5/2016**  
**Monica Gibson**  
**Director Regions, Hunter and Central Coast**  
**Planning Services**

Encl:  
Gateway Determination

## Gateway Determination

***Planning proposal (Department Ref: PP\_2016\_WYONG\_005\_00): to rezone certain land at Bushells Ridge Road, Bushells Ridge and Wyee Road, Doyalson to enable low density and large lot residential development, environmental conservation and potential development for the purposes of a neighbourhood centre.***

I, the Director Regions, Hunter and Central Coast 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 Wyong Local Environmental Plan (LEP) 2013 to rezone land to enable residential and employment development and environmental conservation should proceed subject to the following conditions:

1. Council is to be satisfied that sufficient information has been provided for the planning proposal to address the following issues:
  - water and sewer servicing plan and funding mechanisms
  - services provision (gas, telecommunications, electricity)
  - ecological investigations (in consultation with OEH)
  - flooding, drainage and stormwater management
  - bushfire planning requirements
  - retail strategy justification
  - land use capability assessment including compatibility with mining and extractive industries
  - social impact assessment
  - economic impact assessment
  - preliminary contaminated lands assessment
  - noise and vibration assessment
  - air quality assessment
  - Aboriginal cultural heritage
  - traffic report including examination of public transport, pedestrian and cycleway planning issues
  - open space and recreation analysis
  - opportunities to integrate rezoning with expansion of Wyee village including shared community, open space and pedestrian networks between Wyong Shire Council and Lake Macquarie Council
  - land use conflicts and impacts of residential development on existing and proposed non-residential land uses in proximity including the rail line, proposed CASAR Motor Sports Park, proposed Wallarah 2 coal mine and rail spur and existing clay mine and tile facility.
2. Prior to undertaking community consultation Council is to update the planning proposal to:
  - Correct the land description that identifies the applicable lands of the planning proposal.
  - Clarify the encroachment of proposed residential development on the proposed Wallarah 2 underground coal mine and rail spur.

- Confirm the suitability of the site for residential development and the locations of proposed zones, land uses and planning provisions based on studies and agency consultation.
3. Council is to update its consideration of the consistency with the following s.117 Directions after supporting information has been obtained or/ or following agency consultation:
    - 1.1 Business and Industrial Zones
    - 1.2 Rural Zones
    - 1.3 Mining, Petroleum Production and Extractive Industries
    - 2.1 Environment Protection Zones
    - 2.3 Heritage Conservation
    - 3.1 Residential Zones
    - 3.4 Integrating Land Use and Transport
    - 4.2 Mine Subsidence and Unstable Land
    - 4.3 Flood Prone Land
    - 4.4 Planning for Bushfire Protection
    - 5.1 Implementation of Regional Strategies
    - 6.2 Reserving Land for Public Purposes.
  4. Prior to undertaking community consultation, Council is to update the planning proposal to consider consistency of the State Environmental Planning Policy (SEPP) No. 44 Koala Habitat Protection.
  5. Council is to demonstrate the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. 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.
  6. Council is to provide the updated planning proposal to the Department of Planning and Environment for comment prior to undertaking community consultation.
  7. 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 Infrastructure 2013).
  8. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/ or to comply with the requirements of relevant S117 Directions:
    - Lake Macquarie City Council
    - Ausgrid
    - Transgrid
    - NSW Department of Primary Industries - Agriculture

- NSW Department of Primary Industries - Water
- Office of Environment and Heritage
- NSW Trade & Investment - Resources and Energy
- NSW Department of Primary Industries – Lands
- Mine Subsidence Board
- Transport for NSW - Roads and Maritime Services
- Transport for NSW
- Guringai Tribal Link
- Yulawirri Nurai Indigenous Inc.
- Jemena
- NSW Rural Fire Service
- Fire and Rescue NSW
- State Emergency Service
- NSW Ambulance Service
- NSW Police Force
- NSW Health
- NSW Department of Education and Communities

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.

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 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 **18 months** from the week following the date of the Gateway determination.

Dated 2 day of May 2016



**Monica Gibson**  
**Director Regions, Hunter and Central Coast**  
**Planning Services**  
**Department of Planning and Environment**

**Delegate of the Minister for Planning**