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Our ref: PP_2013_WYONG_013_00 (13/18094)
Your ref: RZ/2/2013

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

Dear Mr Whittaker,

Planning proposal to amend Draft Wyong Local Environmental Plan 2013

I am writing in response to your Council's letter dated 24 October 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 land identified as East Wadalba Land Release Area, including Precincts 2A, 2B and 3B of the North Wyong Shire Structure Plan, for residential and conservation purposes.

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.

State infrastructure should be provided under the principle of 'no additional cost to Government'. It is strongly recommended that Council and proponents liaise with the Department of Planning and Infrastructure to ensure appropriate infrastructure scoping, costing and funding.

It is noted that a separate planning proposal for land at 145 Johns Road has been prepared by the land owner and that the subject planning proposal includes that land as part of the broader release area. Council should monitor progress of the subject planning proposal and consider the potential for a revised Gateway determination to split the area into two planning proposals should the planning proposal for the entire precinct encounter delays.

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has now accepted this delegation. 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.

Council may still need to obtain the Director General's agreement to satisfy the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

The amending Local Environmental Plan (LEP) is to be finalised within 18 months of the week following the date of the Gateway determination. 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, I have arranged for Mr Glenn Horal of the regional office of the Department, to assist you. Mr Horal can be contacted on 02 4348 5000.

Yours sincerely,

A handwritten signature in blue ink, followed by the date '20/12/13' also written in blue ink.

Richard Pearson
Deputy Director General
Growth Planning & Delivery

Encl:

Gateway Determination

Written Authorisation to Exercise Delegation

Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

Planning proposal (Department Ref: PP_2013_WYONG_013_00): to rezone land identified as East Wadalba Land Release Area.

I, the Deputy Director General, Growth Planning and Delivery 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 Draft Wyong Local Environmental Plan 2013 to rezone land identified as East Wadalba Land Release Area, including Precincts 2A, 2B and 3B of the North Wyong Shire Structure Plan, for residential and conservation purposes should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update:
 - the 'statement of objectives' within the planning proposal to include the consideration/investigation of a potential new centre and business zone at East Wadalba;
 - the 'explanation of provisions' within the planning proposal to clarify the proposed residential zone is R1 General Residential rather than R2 Low Density Residential and the proposal will rezone the land "to" and not "from" the proposed zones; and
 - the 'explanation of provisions' to include reference to satisfactory arrangements and the provision of designated State public infrastructure.
2. Additional information regarding the below matters is to be placed on public exhibition with the planning proposal:
 - water and sewer servicing plan
 - ecological investigations
 - flood and drainage studies and integrated water cycle management strategy
 - open space and recreation analysis
 - visual and social impacts assessment
 - noise impact assessment for main road frontage (e.g. Pacific Highway)
 - acid sulfate soils risk analysis on low lying parts of the site
 - Aboriginal archaeological assessment
 - traffic report including public transport, pedestrian and cycleway planning issues
 - structure plan, urban design principles and draft development control plan
 - whether further information is required for potential land use conflicts (eg. odour) between existing agricultural uses and the future development
3. Council is to update its consideration of the consistency with the following S117 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
 - 2.1 Environment Protection Zones
 - 2.2 Coastal Protection
 - 2.3 Heritage Conservation
 - 3.1 Residential Zones
 - 3.4 Integrating Land Use and Transport
 - 4.1 Acid Sulfate Soils
 - 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. Council is to update the proposed zoning map at Attachment 1(d) of the planning proposal to zone land within the site boundary adjacent to the E2 Environmental Conservation corridor in the northern part of the site.
 5. Following further investigation of boundaries, Council is to update the planning proposal to include existing and proposed land zoning, land application, land acquisition, urban release area, lot amalgamation and minimum lot size maps, which are at an appropriate scale and clearly identify the subject lands. This is to be done prior to undertaking public exhibition.
 6. Prior to undertaking public exhibition, Council is to update the planning proposal to consider consistency of the State Environmental Planning Policy (SEPP) No. 44 Koala Habitat Protection, SEPP No. 14 Coastal Wetlands and SEPP 71 Coastal Protection. Council is to clarify and update Figure 3 - SEPP 14 Coastal Wetlands Map of the planning proposal to show the study area boundary to be consistent with the other maps which identify the study area.
 7. Council is to ensure 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 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.
 8. 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 & Infrastructure 2013).
 9. 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:
 - Transport for NSW
 - NSW Health
 - Mine Subsidence Board
 - NSW Rural Fire Service
 - Roads and Maritime Services
 - Guringai Aboriginal Tribal Link
 - Darkinjung Local Aboriginal Land Council
 - Department of Education and Communities
 - Hunter - Central Rivers Catchment Management Authority
 - Office of Environment and Heritage (S117 Direction 2.1 Environment Protection Zones)
 - Department of Primary Industries – Agriculture (S117 Direction 1.2 Rural Zones)
 - NSW Trade and Investment – Resources and Energy – Minerals and Petroleum (S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries)



Planning & Infrastructure

- Department of Planning and Infrastructure – Infrastructure Planning and Coordination Branch
- Emergency Services (NSW Police Force, Fire and Rescue NSW, Ambulance Service of 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 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).
11. The timeframe for completing the LEP is to be **18 months** from the week following the date of the Gateway determination.

Dated 20 day of December 2013.

Richard Pearson
Deputy Director General
Growth Planning & Delivery
Department of Planning & Infrastructure

Delegate of the Minister for Planning & 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_013_00	Planning proposal to rezone land identified as East Wadalba Land Release Area, including Precincts 2A, 2B and 3B of the North Wyong Shire Structure Plan, for residential and conservation purposes.

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

Dated 20 December 2013

Richard Pearson
Deputy Director General
Growth Planning & Delivery
Department of Planning & 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_013_00
Date Sent to Department under s56	24/10/2013
Date considered at LEP Review Panel	5/12/2013
Gateway determination date	20/12/2013

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: