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

Our ref: PP_2012_WYONG_001_00 (12/03732)
 Your ref: GP:HC/Graham Pascoe RZ/17/2009

Dear Mr Whittaker,

Re: Planning proposal to rezone land in the Glenning Valley to permit low density residential development and for environmental protection purposes.

I am writing in response to your Council's letter dated 21 February 2012 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 amend the Wyong Local Environmental Plan 1991 to rezone land in the Glenning Valley to permit low density residential development and for environmental protection purposes.

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

While the Department supports in principle the rezoning of land in high growth areas to provide for residential development, the rezoning must not proceed in the absence of appropriate strategic justification and prior to consideration being given to addressing all relevant planning and environmental issues. It is acknowledged that the proponent has undertaken a number of background studies to support the proposed rezoning, however additional information is to be provided prior to the planning proposal proceeding to public exhibition. In particular, information should be provided which demonstrates that Council has adequately considered the following aspects of this proposal:

- How the development of the site will contribute to housing supply within the context of Council's draft Settlement Strategy. Council is strongly encouraged to progress with its strategy as soon as possible so that the strategy can be placed on exhibition with the planning proposal to provide further strategic planning justification for the proposed rezoning;
- Relationship between the site and adjoining land zoned for industrial purposes. It is noted that this site was initially identified to serve as a noise buffer between surrounding residential and industrial zoned land. While the uses that have developed in the industrial area may have been less intensive than initially thought, Council should consider the possibility that the current uses may change to another more intensive use permitted under the respective industrial zoning. Council should ensure therefore that adequate mitigation measures (including identifying appropriate buffer areas and zoning) to address noise and other amenity impacts have been included as part of the proposal. This may include the need to undertake additional acoustic assessment studies;

- It is noted that the proposed rezoning may result in the loss of a significant proportion of on-site vegetation. This vegetation is understood to provide habitat for koalas and to support local environmental management outcomes. Council is to ensure that sufficient consideration is provided to justify the potential loss of on-site vegetation and to ensure that any remnant vegetation proposed to be retained is sufficient to ensure continued viability as a habitat for koalas;
- At present, the subject site would appear to pose a major bushfire hazard risk due to the substantial on-site vegetation cover. Council is to ensure that adequate consideration has been given to the requirements of the Department's Planning for Bushfire Protection Guidelines;
- Council should also be satisfied that the proposal adequately demonstrates that traffic and transport planning matters have been addressed, including how the site will integrate with any existing public transport networks, and how pedestrian and cycle movements may be accommodated;
- Council is to be satisfied and demonstrate that the site can be provided with appropriate infrastructure to service the potential future population of the site. In doing so, Council should consider whether existing infrastructure can be augmented to meet the anticipated demand increases or whether additional infrastructure will be required. In resolving this matter, Council should consider whether its existing Section 94 Plan should be updated or amended or whether other mechanisms (such as a Voluntary Planning Agreement) are needed to provide the necessary infrastructure. Council should ensure that details relating to infrastructure provision are provided at the time of public exhibition of the planning proposal;
- Council is to consider the potential impacts of future development of the site on the cultural heritage values of the land, including both Aboriginal and European heritage;
- Council is to consider whether future development of the site will generate additional requirements for open space and community facilities and whether this matter should be addressed prior to exhibition of the planning proposal; and
- Given the site's proximity to an existing centre and employment land uses, Council should also consider whether there may be opportunities on certain parts of the site to allow for an increase in residential density by zoning land appropriately.

In addressing the above matters, Council should give consideration to whether the existing background studies need to be supplemented with additional work, or updated. Council should liaise with the Department's Regional Planning Team further in this regard.

In addition, Council is to liaise with relevant public authorities to ensure the above issues address any concerns the agency may have. Agencies are to be provided with copies of existing background studies (where they exist) to assist with the identification of the scope of any additional work which may be required.

Due to the timeframe for this planning proposal Council is to consider the need for additional maps to support the planning proposal. Depending on the timing of Council's Comprehensive Standard Instrument LEP, it may be necessary to exhibit this proposal as an amendment to both the existing Wyong LEP 1991 and the draft Wyong SI LEP. In the event that the proposal is exhibited as an amendment to the draft Wyong SI LEP, Council will need to prepare appropriate supporting maps which clearly identify the proposed development standards for the site (ie FSR, building height, minimum lot size), Council's Urban Release Area maps, and any other local planning matters. Council is also to ensure that all mapping in the planning proposal adequately identifies the subject site.

Council is also to consider the need to prepare a Development Control Plan (DCP) for the site. If a DCP is considered warranted, it should be prepared and placed on exhibition with the planning proposal.

It is noted that Council has not addressed the planning proposal's consistency with a number of relevant Section 117 Directions. Consultation is therefore required with the following agencies prior to the commencement of public exhibition as required in the relevant Direction:

- Office of Environment and Heritage in relation to Direction 1.3 – Mining, Petroleum and Extractive Industries, and Direction 2.1 – Environmental Protection Zones;
- Commissioner of the NSW Rural Fire Service in relation to Direction 4.4 – Planning for Bushfire Protection.

Council is to amend the planning proposal (if necessary) to reflect the outcomes of these discussions prior to proceeding to public exhibition.

Council is to provide an updated assessment of the planning proposal's consistency with all relevant Section 117 Directions for exhibition purposes. At this stage the planning proposal does not provide sufficient information for me to determine whether any inconsistency with relevant Section 117 Directions is of a minor nature.

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 following completion of all pre-exhibition consultation required as a condition of this Gateway. Council's request for the Department to draft and finalise the LEP should be made six (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 s54(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 Ben Holmes of the Regional Office of the Department on 02 4348 5000

Yours sincerely,


Sam Haddad
Director-General

23/3/2012.

Gateway Determination

Planning proposal (Department Ref: PP_2012_WYONG_001_00): to rezone land in the Glenning Valley to permit low density residential development and for environmental protection purposes.

I, the Director General, 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 1991 to rezone land in the Glenning Valley to permit low density residential development and for environmental protection purposes should proceed subject to the following conditions:

1. Council is to be satisfied that sufficient information has been provided to demonstrate that the planning proposal adequately addresses the following issues:
 - a. The site's relationship and role with respect to housing supply in the LGA in the context of Council's Draft Settlement Strategy;
 - b. The site's relationship with adjoining industrial zoned land especially with respect to the potential for acoustic and other amenity impacts on new residential development;
 - c. The impacts of site development on the loss of vegetation and any resultant impacts on koala habitat and other environmental management processes;
 - d. The degree to which future site development will respond to the Department's Planning for Bushfire Protection Guidelines;
 - e. Whether there is an appropriate strategy in place to provide infrastructure to the site;
 - f. Whether the potential future traffic impacts of development of the site have been considered, including whether public transport and pedestrian and cycle planning issues have been addressed;
 - g. Council is to consider the potential impacts of future development of the site on the cultural heritage values of the land, including both Aboriginal and European heritage;
 - h. Council is to consider whether future development of the site will generate additional requirements for open space and community facilities and whether this matter should be addressed prior to exhibition of the planning proposal; and
 - i. Whether the site should provide for a range of housing densities through the identification of additional residential zones.

In considering the above issues, Council is to determine whether existing studies and background reports already prepared for the site are adequate for exhibition purposes or whether additional work is required to supplement and expand on the existing material. This decision should be made in conjunction with relevant agencies which should be provided with a copy of background material to review prior to exhibition.

2. Council is to remove the reference to requiring the development of a Voluntary Planning Agreement (VPA) from the objectives of the proposed clause. Including this requirement potentially fetters Council's ability to consider the proposal on merit and to consider alternative mechanisms to deliver appropriate infrastructure to the site.
3. In relation to the planning proposal's consistency with Section 117 Directions, consultation is required with the following agencies prior to the commencement of public exhibition as required in the relevant Direction:
 - a. Office of Environment and Heritage in relation to Direction 1.3 – Mining, Petroleum and Extractive Industries, and Direction 2.1 – Environmental Protection Zones;
 - b. Commissioner of the NSW Rural Fire Service in relation to Direction 4.4 – Planning for Bushfire Protection.

Council is to amend the planning proposal (if necessary) to reflect the outcomes of these discussions prior to proceeding to public exhibition.

4. Council is to provide appropriate mapping at the time of exhibition to support the planning proposal and to ensure that the community is adequately informed about the intent of the proposal. Depending on the timing of exhibition, this may include providing maps in accordance with the Standard Instrument format for development standards (FSR, height of buildings, minimum lot size), Urban Release Area, and other local planning matters. Council is to liaise with the Department's Regional Planning Team prior to exhibition to agree on the form and content of mapping to be provided for public exhibition.
5. Council is to prepare an assessment in accordance with the requirement of clause 6 of *State Environmental Planning Policy 55 – Remediation of Land* to demonstrate that the land is capable of supporting residential development.
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 must be made publicly available for **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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
7. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage
 - Department of Trade and Investment
 - NSW Rural Fire Service
 - NSW Roads and Maritime Services
 - Department of Primary Industries (Office of Water)
 - Department of Primary Industries (Minerals and Petroleum)
 - Office of Environment and Heritage
 - Hunter Central Rivers Catchment Management Authority

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning 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 **18 months** from the week following the date of the Gateway determination.

Dated 23rd day of March 2012.


Sam Haddad
Director-General
Delegate of the Minister for Planning and
Infrastructure