

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

Our ref: PP_2016_WYONG_001_00 (16/03707)
Your ref: RZ/6/2015

Attn: Peter Kavanagh

Dear Mr Noble

Planning proposal to amend Wyong Local Environmental Plan 2013

I am writing in response to your Council's letter dated 25 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 from SP3 Tourist to B4 Mixed Use and apply floor space ratio and 'Key Site' building height development standards to enable a mixed use development comprising of residential, tourist, retail and commercial purposes at 200 Main Road, Toukley.

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.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with Section 117 Directions 3.2 Caravan Parks and Manufactured Home Estates, 4.1 Acid Sulfate Soils and 6.3 Site Specific Provisions are of minor significance. No further approval is required in relation to these Directions.

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 to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (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 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 of Planning and Environment 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 Act if the time frames outlined in this determination are not met.

This is the first planning proposal where Council has proposed an additional Key Site and it is also adjoining an existing Key Site. An objective of Council's Key Sites program was to provide incentives for short term development of the nominated sites. As the program has now been operating for several years and this proposal reflects a different approach, Council should consider reviewing the effectiveness of the program and the supporting material, including the need to document the process for adding new sites.

Should you have any queries in regard to this matter, I have arranged for Mr Glenn Hornal of the Department's regional office to assist you. Mr Hornal can be contacted on (02) 4348 5009.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Monica Gibson', written in a cursive style.

15/3/2016

Monica Gibson
Director Regions, Hunter and Central Coast
Planning Services

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

Planning proposal (Department Ref: PP_2016_WYONG_001_00): to rezone land from SP3 Tourist to B4 Mixed Use and apply floor space ratio and 'Key Site' building height development standards to enable a mixed use development comprising of residential, tourist, retail and commercial purposes at 200 Main Road, Toukley.

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 from SP3 Tourist to B4 Mixed Use and apply a floor space ratio of 1.7:1 and 'Key Site' building heights of 26m and 36m to enable a mixed use development comprising of residential, tourist, retail and commercial purposes at 200 Main Road, Toukley should proceed subject to the following conditions:

1. Council update the planning proposal prior to community consultation to:
 - more clearly articulate the proposed steps in the proposed Planning Proposal/VPA/DCP and DA process so the community can understand when it will have opportunities to comment on what is proposed for the site;
 - consider an option to map the actual FSR and remove the site from the operation of the FSR bonus and/or clearly describe how the FSR for the site is derived to facilitate community understanding;
 - include consideration of the proposal against the Toukley Planning Strategy and identify the significance of any inconsistencies; and
 - consider potential cumulative impacts of this and the adjoining Key Site proposal in terms of their relationship with the lake, adjacent development and the Toukley town centre.
2. Council is to update its consideration of the following s.117 Directions after the additional information has been prepared and public authority consultation has been undertaken:
 - 1.3 Mining, Petroleum Production and Extractive Industries
 - 2.2 Coastal Protection
 - 4.2 Mine Subsidence and Unstable Land
 - 4.3 Flood Prone Land
3. Council is to update the planning proposal to include the relevant matters for consideration as set out in clause 8 of the State Environmental Planning Policy (SEPP) No. 71 - Coastal Protection.
4. Council is to ensure 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. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal and 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



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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).

6. 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:
- Transport for NSW - Roads and Maritime Services
 - NSW Trade and Investment - Resources and Energy
 - Mine Subsidence Board
 - Office of Environment and Heritage
 - Darkinjung Local Aboriginal Land Council
 - Guringai Tribal Link

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.

7. 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).
8. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 15th

day of March

2016

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

Delegate of the Minister for Planning

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Wyong Shire Council is authorised to exercise the functions of the Minister for Planning 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_2016_WYONG_001_00	Planning proposal to rezone land from SP3 Tourist to B4 Mixed Use and apply floor space ratio and 'Key Site' building height development standards to enable a mixed use development comprising of residential, tourist, retail and commercial purposes at 200 Main Road, Toukley.

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 15th March 2016



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

Delegate of the Minister for Planning