



Office of the Director General

Mr Peter Gesling
General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324

Contact: Dylan Meade
Phone: (02) 4904 2700
Fax: (02) 4904 2701
Email: Dylan.Meade@planning.nsw.gov.au
Postal: PO Box 1226, Newcastle NSW 2300

Our ref: PP_2012_PORTS_010_00 (12/18130)
Your ref: PSC2011-04146

Dear Mr Gesling,

Planning proposal to amend either Port Stephens Local Environmental Plan (LEP) 2000 or draft Port Stephens LEP 2012

I am writing in response to your Council's letter dated 7 November 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 either the Port Stephens Local Environmental Plan (LEP) 2000 or draft Port Stephens LEP 2012 to rezone land at Nelson Bay Road, Nelson Bay for residential development and environmental protection.

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.

I have also agreed that the planning proposal's inconsistencies with S117 Direction 1.2 Rural Zones are of minor significance. No further approval is required in relation to this Direction.

The amending Local Environmental Plan (LEP) is to be finalised within 24 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 to meet the 24 months timeframe. 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 NSW 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 Dylan Meade of the regional office of the department on 02 4904 2700.

Yours sincerely,


Sam Haddad
Director General

5/12/2012.

Gateway Determination

Planning proposal (Department Ref: PP_2012_PORTS_010_00): to amend either Port Stephens Local Environmental Plan 2000 or draft Port Stephens Local Environmental Plan 2012 to rezone land for residential development and 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 rezone land at Lot 3452 DP 1044499, Lot 3551 DP 622263 and Lot 392 DP 753204, Nelson Bay Road, Nelson Bay from 1(a) Rural Agriculture to 2(a) Residential and 7(a) Environmental Protection under Port Stephens Local Environmental Plan (LEP) 2000 or R2 Low Density Residential and E2 Environmental Conservation under draft Port Stephens LEP 2012 should proceed subject to the following conditions:

1. Prior to commencing public exhibition, Council is to:
 - (a) amend the planning proposal to provide information on how infrastructure will be provided to the site and detail how Council intends for infrastructure to be funded,
 - (b) amend the planning proposal to include maps which clearly identify the intended zones proposed for the site. Exhibition material should refer to both the Port Stephens LEP 2000 and draft Port Stephens LEP 2012, and be prepared to an appropriate scale and clearly identify the subject land, and
 - (c) undertake further assessment of the impacts of the proposed rezoning on flora, fauna and bushfire protection and the suitability of the site for residential development.
2. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy No 55 (SEPP 55) – Remediation of Land and the *Contaminated Land Planning Guidelines*. Council is to prepare an initial site contamination investigation 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.
3. 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)*.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage
 - Office of Environment and Heritage – NSW National Parks and Wildlife Service
 - Hunter Water Corporation
 - NSW Rural Fire Service
 - Ausgrid
 - Transport for NSW - Roads and Maritime Services
 - NSW Aboriginal Land Council
 - Transgrid

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.

5. Council is to consult with:

- (a) the Office of Environment and Heritage in relation to S117 Direction 2.1 Environmental Protection Zones, the loss of native vegetation and the proposed biodiversity offset arrangements.
- (b) the Commissioner of the NSW Rural Fire Service as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection, and
- (c) the Roads and Maritime Services in relation to the proposed route location of the Fingal Bay Link Road,

Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.

- 6. 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).
- 7. The timeframe for completing the LEP is to be **24 months** from the week following the date of the Gateway determination.

Dated 5th day of December 2012.

Sam Haddad

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