



Mr Wayne Wallis
General Manager
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

Our ref: PP_2016_PORTS_004_00 (16/08341)
Your ref: 58-2016-2-1

Att: Jeffrey Bretag

Dear Mr Wallis,

Planning Proposal to amend Port Stephens Local Environmental Plan 2013

I write in response to your Council's letter dated 15 June 2016 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") and additional information received on 12 July 2016 in respect of the planning proposal to introduce Recreational Facility (Outdoor) as an additional permitted use on land at 775, 777 and 781 Marsh Road, Bobs Farm.

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.

Council will need to obtain the department's approval to comply with the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

The Minister delegated plan making powers to councils 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 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.

Attached for your assistance is a simplified guide to the plan making process and reporting requirements to ensure that the LEP Tracking System is kept updated.

Should you have any questions regarding this matter, I have arranged for Ken Phelan from the Hunter office to assist you. Mr Phelan can be contacted on (02) 4904 2705.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K. O'Flaherty', with a stylized flourish at the end.

29/07/2016

Katrine O'Flaherty
A/Director Regions, Hunter and Central Coast
Planning Services

Gateway Determination

Planning Proposal (Department Ref PP_2016_PORTS_004_00 (16/08341) to introduce Recreational Facility (outdoor) as an additional permitted use at 775, 777 and 781 Marsh Road, Bobs Farm.

I, the A/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 EP&A Act that an amendment to the Port Stephens Local Environmental Plan 2013 to introduce Recreational Facility (outdoor) as an additional permitted use at 775, 777 and 781 Marsh Road, Bobs Farm should proceed subject to the following conditions:

1. Prior to exhibition Council is to amend the planning proposal and supporting documentation to clarify the relationship between the proposal and an earlier development application.
2. Prior to exhibition Council is to amend the proposal to recognise that the site is located within the Watagan To Stockton Green Corridor identified in the Lower Hunter Regional Strategy and consider the proposal against this and the Draft Regional Strategy.
3. Prior to exhibition Council is to amend the planning proposal to clarify that the proposed explanation of provisions permits a broader range of use than that indicated within the objective of the proposal.
4. 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 (Planning & Infrastructure 2013)*.
5. 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:
 - Office of Environment and Heritage- (S.117 Direction 2.2 Coastal Protection, 2.3 Heritage Conservation and 4.3 Flood Prone Land).
 - NSW State Emergency Service- (s.117 Direction 4.3 Flood Prone Land and site evacuation planning).
 - Office of Environment and Heritage (SEPP 44- Koala Habitat Protection and Watagans to Stockton Bight biodiversity corridor).
 - NSW Department of Primary Industries - Fishing and Aquaculture re s.117 Direction 1.4 Oyster Aquaculture).
 - NSW Department of Primary Industries (SEPP Rural Lands 2008 and Direction 1.5 Rural Lands).
 - NSW Rural fire Service (s117 direction 4.4 Planning for Bushfire Protection)
 - Local Aboriginal Land Council (S.117 Direction 2.3 Heritage Conservation)

- Transport for NSW (Roads and Maritime Services) regarding state road access

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. Once the consultation is undertaken with the public authorities, and information is provided, Council is to update its consideration of S117 Directions.

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

Dated 29th day of July 2016.

A handwritten signature in dark ink, appearing to read 'K. O'Flaherty', with a long, sweeping horizontal stroke extending to the right.

Katrine O'Flaherty
A/Director Regions, Hunter and
Central Coast
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Port Stephens 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_PORTS_004_00 (16/08341)	Planning proposal to introduce Recreational Facility (outdoor) as an additional permitted use at 775, 777 and 781 Marsh Road, Bobs Farm

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

Dated 29 July 2016

Katrine O'Flaherty
A/Director Regions, Hunter and Central Coast
Planning Services
Department of Planning and Environment