

## Gateway Determination

***Planning proposal (Department Ref: PP\_2018\_PORTS\_006\_00): to allow residential development at 5 Speedy Lock Lane, Heatherbrae above the Flood Planning Level.***

I, the Director Regions, Hunter at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Port Stephens Local Environmental Plan (LEP) 2013 to rezone Lot 173 DP 808771, 5 Speedy Lock Lane, Heatherbrae to rezone to R2 Low Density Residential and amend the minimum lot size and height of building, should proceed subject to the following conditions:

1. Council is to update the planning proposal with the following information and forward it to the Department of Planning and Environment for review prior to public exhibition;
  - a. Apply the R2 Low Density Residential zone to the land above Flood Planning Level;
  - b. Remove any proposed amendment to planning controls below the Flood Planning Level;
  - c. Provide a Preliminary Contamination Investigation Report;
  - d. Map the site as an Urban Release Area on the Port Stephens LEP 2013 Urban Release Area map;
  - e. Apply a 9-metre height of building limit for the proposed R2 Low Density Residential zone; and
  - f. Address the amended Direction 1.5 Rural Lands issued on 28 February 2019 including Clause 5.16 Port Stephens LEP 2013
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - a. the planning proposal is classified as low impact as described in A guide to preparing local environmental plans (Department of Planning and Environment 2016) and must be made publicly available for a minimum of 14 days; and
  - b. the planning proposal 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 local environmental plans (Department of Planning and Environment 2016).

3. Consultation is required with the following public authorities / organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:

- Ausgrid;
- Hunter Water Corporation;
- Office of Environment and Heritage;
- Department of Primary Industries (Agriculture and Mining);
- NSW Rural Fire Services;
- NSW Roads and Maritime Service; and
- Worimi Local Aboriginal Land Council.

Each public authority/organisation 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.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(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).

5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:

- a. the planning proposal authority has satisfied all the conditions of the Gateway determination;
- b. the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
- c. there are no outstanding written objections from public authorities.

6. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 26<sup>th</sup> day of March 2019.



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

**Delegate of the Minister for Planning**