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Our ref: PP_2013_SHELL_001_00 (13/09480)

Mr Michael Willis
General Manager
Shellharbour City Council
PO Box 155
SHELLHARBOUR CITY CENTRE NSW 2529

Dear Mr Willis,

Planning proposal to amend Shellharbour Local Environmental Plan (LEP) 2013

I am writing in response to your Council's letter dated 3 June 2013 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 rezone rural land, deferred from Shellharbour Local Environmental Plan (LEP) 2013, at Albion Park, Croom, Dunmore, Shell Cove and Yellow Rock and, where applicable, amend the minimum lot size, maximum building height and maximum floor space ratio controls for the subject lands, introduce mineral resources and transition areas for 23 properties and identity 2 items of local heritage significance.

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

It is noted that the planning proposal seeks to rezone deferred land owned by Sydney Water, being Lot 2 DP 590432 at Crest Road, Albion Park and Lot 1 DP 1031825 at Crest Road, Yellow Rock to SP2 Infrastructure (Water Supply). I understand Sydney Water prefers this land to be zoned for residential purposes (large lot residential/environmental living). I note that a subsequent planning proposal which rezones land adjoining the subject sites has recently been submitted to the department for a Gateway determination.

If Council wishes to maintain the proposed SP2 zone for Lot 2 DP 590432 and Lot 1 DP 1031825, it is to update this planning proposal to include additional information to justify the proposed SP2 zoning, including consideration of the current and futures uses of the sites and the proposed zoning of adjoining land. Alternatively, Council may wish to defer the zoning of Lot 2 DP 590432 and Lot 1 DP 1031825 from this planning proposal to allow time to consider an appropriate zone for the subject sites and include the sites in the planning proposal which addresses the zoning of adjoining land. In this case, Council is to contact the regional office of the department to discuss the best approach to achieve this. This planning proposal is to be amended to reflect Council's preferred position.

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands and 3.1 Residential Zones are of minor significance or justified by a local study. No further approval is required in relation to these Directions.

I note that Council has not formally accepted plan making delegation. Council is strongly encouraged to formally accept plan making delegations and nominate the officers or employee of Council who will be granted the proposed delegation as soon as possible, and advise the department that delegations have been accepted. Accepting plan making delegations will enable locally significant proposals to be delegated back to Council.

The amending 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 for the department to draft and finalise the LEP should be made 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 section 54(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 Louise Wells of the regional office of the department on 02 4224 9450.

Yours sincerely,



Neil McGaffin
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery

27.6.13

Gateway Determination

Planning proposal (Department Ref: PP_2013_SHELL_001_00): to rezone rural land, which is currently deferred from Shellharbour LEP 2013.

I, the Executive Director, Rural and Regional Planning at the 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 Shellharbour Local Environmental Plan (LEP) 2013 to rezone rural land, deferred from the LEP, at Albion Park, Croom, Dunmore, Shell Cove and Yellow Rock and, where applicable, amend the minimum lot size, maximum building height and maximum floor space ratio controls for the subject lands, introduce mineral resources and transition areas for 23 properties and identify 2 items of local heritage significance should proceed subject to the following conditions:

1. Council is to update the planning proposal to include additional information to justify the proposed SP2 Infrastructure (Water Supply) zoning for Lot 2 DP 590432 and Lot 1 DP 1031825, including consideration of the current and futures uses of the sites and the proposed zoning of adjoining land. Alternatively, Council may wish to defer the sites from this planning proposal to allow time to consider the appropriate zone for the sites and include the sites in the planning proposal which addresses the zoning of adjoining land. Council is to amend the planning proposal accordingly and provide a copy of the revised planning proposal to the department's regional office.
2. Prior to undertaking public exhibition, Council is to update the 'objectives or intended outcomes' within the planning proposal to advise that:
 - the proposal will implement mineral resource and transition area mapping, which reflects the outcomes of work undertaken by NSW Trade and Investment – Mineral Resources and Energy, and
 - the proposal identifies transition areas on 23 properties and advise what the transition areas do.
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 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* (Department of Planning & Infrastructure 2013).
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage
 - NSW Department of Primary Industries – Agriculture
 - NSW Trade and Investment – Mineral Resources and Energy
 - Transport for NSW – Roads and Maritime Services
 - Sydney Water

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.

5. 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).
6. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 27th day of June 2013.



Neil McGaffin
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

Delegate of the Minister for Planning and Infrastructure