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Our ref: PP\_2013\_SHELL\_003\_00 (13/10750)

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 2013**

I am writing in response to your Council's letter dated 24 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 identify zones and development standards for 12 properties at Albion Park, Croom and Dunmore that were deferred from Shellharbour Local Environmental Plan (LEP) 2013, add 2 items of local heritage significance, add 2 properties as Mineral Resource Transition Areas, remove Mineral Resource Transition Areas from 4 properties and introduce a new provision that permits subdivision and the construction of dwellings on certain split zoned land into the LEP.

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.

I have also agreed that the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environment Protection Zones, 3.1 Residential Zones and 6.3 Site Specific Provisions are justified by a local environmental study or are of minor significance. No further approval is required in relation to these Directions.

As you are aware, the department has received a request for a Pre-Gateway review for Lot 4300 DP 1058963 at Ulan Place, Albion Park and Lot 4250 DP 1057886 at Jamberoo Road, Albion Park, which is also subject to this planning proposal. Consequently, Council is to place the landowners proposal as submitted for the Pre-Gateway review on public exhibition with this planning proposal.

I note that Council has not formally accepted plan making delegation. Council is strongly encouraged to formally accept plan making delegations and nominate the officer 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** 23.8.13  
**Executive Director**  
**Rural & Regional Planning**  
**Planning Operations & Regional Delivery**

Encl:

- Gateway determination

## Gateway Determination

**Planning proposal (Department Ref: PP\_2013\_SHELL\_003\_00):** to introduce zones and development standards for land 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 identify zones and development standards for 12 properties at Albion Park, Croom and Dunmore that were deferred from Shellharbour LEP 2013, add 2 items of local heritage significance, add 2 properties as Mineral Resource Transition Areas, remove Mineral Resource Transition Areas from 4 properties and introduce a new provision that permits subdivision and the construction of dwellings on certain split zoned land should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update the planning proposal to:
  - apply a maximum floor space ratio of 0.5:1 and a maximum building height of 6m for Lot 102 DP 566417 at 21 Dunmore Road, Dunmore, consistent with the floor space ratio and height controls of adjoining land. The floor space ratio and height of buildings maps are to be updated to reflect the above position;
  - advise that 2 local heritage items at 2 and 35 James Road, Croom will be added to Schedule 5 - Environmental Heritage and the Heritage Map of Shellharbour LEP 2013, within Part 1 - 'objectives or intended outcomes' of the planning proposal; and
  - advise that mineral resource mapping will be updated for 6 properties (2 additions and 4 removals) to reflect work undertaken by NSW Trade and Investment - Mineral Resources and Energy within Part 1 - 'objectives or intended outcomes' of the planning proposal.
2. Council is to place the landowners proposal as submitted for the Pre-Gateway review for Lot 4300 DP 1058963 at Ulan Place, Albion Park and Lot 4250 DP 1057886 at Jamberoo Road, Albion Park, on public exhibition with the planning proposal.
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
  - Department of Primary Industries - Agriculture
  - NSW Trade and Investment - Mineral Resources and Energy

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 23rd day of August 2013.



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

**Delegate of the Minister for Planning & Infrastructure**