



Planning & Environment

POSTED
25/8/14

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Mr Michael Willis
General Manager
Shellharbour City Council
Locked Bag 155
SHELLHARBOUR CITY CENTRE NSW 2529

Ref: PP_2014_SHELL_004 (14/13696)

Dear Mr Willis

Planning Proposal No. 12 to amend Shellharbour Local Environmental Plan 2013

I am writing in response to Council's request for 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 the Shellharbour Local Environmental Plan 2013 to identify zones and controls for land at Lot 2 DP 1191252 Yellow Rock Road, Tullimbar to facilitate the development of up to 119 residential lots.

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

Council will still need to obtain the Secretary's agreement that the proposal is consistent (or justifiably inconsistent) with Section 117 Direction 4.3 Flood Prone Land. Council should provide necessary information to the Department prior to the plan being made.

The Minister's plan making powers were delegated to councils in October 2012. It is noted that Council has indicated it does not wish to exercise its delegations for this planning proposal, but has not explained why this is the case. As this proposal is considered to be a matter of local significance, I have decided that it is appropriate for Council to use its delegations. I have issued an authorisation for Council to exercise delegation to make this plan.

Council is reminded that it must not use its delegation where there is an unresolved agency objection to the proposal. In the event there is an unresolved agency objection, Council should contact the regional office of the Department to seek assistance in resolving the matter so that the plan may proceed under delegation.

In issuing this Gateway determination, I have found that the planning proposal's inconsistencies with the following s117 Directions are justified and/or are of minor significance:

- 1.2 Rural Zones;
- 2.3 Heritage Conservation, and
- 3.1 Residential Zones.

To ensure consistency with s117 Direction 4.4 Planning for Bushfire Protection, Council is required to consult with the NSW Rural Fire Service (RFS) prior to exhibition of the planning proposal.

No further approval is required in relation to these, or other Directions (apart from 4.3 Flood Prone Land as identified above), while the proposal remains in its current form, subject to consultation with the RFS.

Council has identified that additional visual analysis and investigations into bush fire are required to determine whether the land is suitable for residential development. While these studies have not been required as a condition of the Gateway Determination, this does not prevent Council from requiring the studies, if it considers that they are necessary to progress the proposal.

The amending Local Environmental Plan (LEP) is to be finalised within 18 months of the week following the date of the Gateway determination. 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.

Should you have any queries in regard to this matter, I have arranged for Louise Wells of the Department's Southern Regional office to assist you. Louise can be contacted on (02) 4224 9463.

Yours sincerely



22/8/14

Linda Davis
Acting General Manager
Southern Region
Housing, Growth and Economics

Enc: Gateway determination

Authorisation to use delegation

Reporting Template

Gateway Determination

Planning proposal (PP_2014_SHELL_004_00): to introduce standard instrument zones (R2, R5 & E3) and development controls for Lot 2 DP 1191252 Yellow Rock Road, Tullimbar to facilitate the development of up to 119 residential lots.

I, the Acting General Manager, Southern Region 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 Shellharbour Local Environmental Plan (LEP) 2013 as described above should proceed subject to the following conditions:

1. Council is to update the planning proposal to include sufficient additional information to adequately demonstrate consistency (or to justify any inconsistency) with S117 Direction 4.3 Flood Prone Land.
The revised planning proposal should be re-submitted to obtain the Secretary's agreement prior to the plan being made.
2. 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 is to 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 5.5.2 of A Guide to Preparing local environmental plans (Department of Planning and Infrastructure 2013).
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage
 - Sydney Water
 - Integral Energy
 - NSW Rural Fire Service

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 it 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.

Consultation is required with the NSW Rural Fire Service prior to undertaking community consultation in order to satisfy the requirements of s117 Direction 4.4 Planning for Bushfire Protection.



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4. No public hearing is required to be held into the matter 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).
5. The timeframe for completing the LEP is to be 18 months from the week following the date of the Gateway determination.

Dated 22nd day of August 2014.

Linda Davis
Acting General Manager, Southern Region
Housing, Growth and Economics
Department of Planning and Environment

Delegate of the Minister for Planning



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WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Shellharbour City 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_2014_SHELL_004_00	Planning proposal to introduce zones and controls for Lot 2 DP 1191252 Yellow Rock Road Tullimbar, to facilitate the development of up to 119 lots.

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

22 / August / 2014

Linda Davis
Acting General Manager
Southern Region
Department of Planning and Environment

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the Department following receipt of the planning proposal
- The Department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the Department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department with the RPA's request to have the LEP notified

Table 1 – To be completed by the Department

Stage	Date/Details
Planning Proposal Number	PP_2014_SHELL_004_00
Date Sent to Department under s56	14/08/2014
Date considered at LEP Review Panel	
Gateway determination date	22/08/2014

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the Department

Stage	Date/Details
Notification Date and details	

Additional relevant information: