



Ms Meredith Wallace
General Manager
Rockdale City Council
PO Box 21
Rockdale NSW 2216

15/08679

Dear Ms Wallace

Planning proposal to amend Rockdale Local Environmental Plan 2011

I am writing in response to Council's letter dated 20 February 2015 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* in respect of the planning proposal to include a clause providing incentives for increased development standards on land at 8-10 Martin Avenue, 9 Bidjigal Road and 47- 49 Bonar Street, Arncliffe.

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

The intent of the proposal, to provide high density residential development in a location close to services and transport and complemented by community facilities, is supported. However, the Department has concerns with the mechanism by which Council is seeking to achieve its objectives.

Council cannot provide bonus development incentives in exchange for mandatory development contributions through an environmental planning instrument. The planning proposal is to be amended to remove all references that mandate or infer that a developer must enter into a Voluntary Planning Agreement with Council, dedicate land and/or undertake works, in direct exchange for bonus floor space. Condition 1(d) of the Gateway requires the preparation of a plain English explanation of the intended effect of the proposed changes to avoid the need to prepare a draft clause that will be subject to change through the legal drafting process.

Further, Council is to specify maximum building height and floor space controls for the site and provide certainty and clarity to the community in regard to the maximum development potential.

In addition, the use of Schedule 1 is not supported as this is reserved for additional land use permissibility where no other acceptable solution can be found to facilitate the use through the land use table. Therefore, Council is to remove the proposed amendment to Schedule 1 and replace this with a plain English explanation of the intended effect of the proposed changes.

I agree that the planning proposal's inconsistencies with S117 Directions 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are of minor significance. No further approval is required in relation to these Directions.

Plan making powers were delegated to councils by the Minister in October 2012. I have considered the nature of Council's planning proposal and have decided not to issue authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan is to be finalised within 9 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 Local Environmental Plan should be made 6 weeks prior to the projected publication date.

Should you have any queries in regard to this matter, please contact Mr Lee Mulvey, Director, Metropolitan (CBD) branch, at the Department on (02) 9228 6512.

Yours sincerely



Tim Hurst
A/Deputy Secretary
Planning Services

24/7/15

Encl:
Gateway Determination