



Mr Russ Pigg
General Manager
Shoalhaven City Council
PO Box 42
Nowra NSW 2541

Our ref: PP_2016_SHOAL_002_00 (13/08481)
Your ref: 49462E(D16/71158)

Attention: Mr Gordon Clark

Dear Mr Pigg

Planning proposal to amend Shoalhaven Local Environmental Plan 2014

I am writing in response to Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the Warrah Road, Bangalee Planning Proposal to rezone Lots 21 to 24 DP714096, Warrah Road, Bangalee for residential development and environmental conservation.

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 planning proposal requests the Gateway determination establish the appropriateness of further biodiversity investigations over Lot 24 to support a possible increase in residential zoned land. I have noted the independent Peer Review of Biodiversity Studies which identifies that the studies are sufficient to clearly define areas of High Conservation Value (HCV) as defined in the South Coast Regional Conservation Plan, 2010. Therefore, no further biodiversity studies are required at this time for Lot 24.

The planning proposal is inconsistent with the section 117 Directions 2.1 Environmental Protection Zones and 5.10 Implementation of Regional Plans in that it seeks to rezone areas of the illegally cleared HCV lands in Sub-remediation Area B of the s38 Remedial Direction under the *Native Vegetation Act, 1993* to residential. The rezoning of the lands subject to the Remedial Direction for residential development is not supported given the lands were exhibited as E2 under the draft Shoalhaven LEP 2013 prior to clearing. As the Remedial Direction is in place until 2029 the lands may regain their pre-cleared HCV state once rehabilitated.

The planning proposal is to be revised to remove the proposed rezoning of lands subject to the Remedial Direction from rural to residential. Council should consider an appropriate environmental zoning for these lands. Council will need to revise the planning proposal to amend the explanation of provisions and update proposed zoning, floor space ratio, height of buildings and lot size maps prior to exhibition.

Any further inconsistencies with section 117 Direction 2.1 Environmental Protection Zones and 5.10 Implementation of Regional Plans will need to be justified by Council to the satisfaction of the Secretary's delegate before the planning proposal is finalised.

I have agreed the planning proposal's inconsistency with section 117 Directions 1.2 Rural Zones and 1.5 Rural Lands are justified by the endorsed Nowra Bomaderry Structure Plan and are of minor significance. No further approval is required in relation to these Directions.

Council is to address inconsistencies with section 117 Direction 2.3 Heritage Conservation following completion of further studies and consultation with relevant public authorities and prior to the commencement of public exhibition. Further, Council is to consult with the NSW Rural Fire Service prior to undertaking community consultation in order to satisfy section 117 Direction 4.4 Planning for Bushfire Protection and update the planning proposal accordingly.

Plan making powers were delegated to councils by the Minister in October 2012. I note that Council has requested to be issued with delegation for this planning proposal. I have considered the complex nature of Council's planning proposal and have decided not to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the Gateway determination. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made six 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 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 Mr Graham Towers, Team Leader of the Southern Region office to assist you. Mr Towers can be contacted on (02) 4224 9467.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services

12/07/2016

Encl:
Gateway Determination