



## Gateway Determination

***Planning proposal (Department Ref: PP\_2020\_PORTS\_003\_00): to rezone RU1 Primary Production land to zone R5 Large Lot Residential and amend the minimum lot size from 40ha to 2ha at 792 Seaham Road, Seaham.***

I, Director, Western Region at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Port Stephens Local Environmental Plan (LEP) 2013 to amend zoning and minimum lot size for land at 792 Seaham Road, Seaham should proceed subject to the following conditions:

1. Prior to undertaking community consultation, the following is required:
  - a. Preparation of a Bushfire Assessment Report and consultation with the Rural Fire Service to address the proposal's inconsistency with section 9.1 Direction 4.4 Planning for Bushfire Protection.
  - b. Consultation with Department of Planning, Industry and Environment - Agriculture to address the proposals inconsistency with section 9.1 Direction 1.5 Rural Lands and potential agricultural land use conflict.
  - c. Preparation of the necessary Biodiversity Study(s) and consultation with Department of Planning, Industry and Environment – Biodiversity Conservation Division to address the proposals inconsistencies with section 9.1 Direction 2.1 Environmental Protection Zones and performance criteria (c) and (d) of Port Stephens Comprehensive Koala Plan of Management.
  - d. Preparation of report detailing the findings of a preliminary contamination investigation of the land carried out in accordance with the contaminated land planning guidelines to address section 9.1 Direction 2.6 Remediation of Contaminated Land.
  - e. Consultation with Newcastle Airport, Civil Aviation and Safety Authority (CASA) and Commonwealth Department of Defence to address section 9.1 Direction 3.5 Development Near Regulated Airports and Defence Airfields.
  - f. Consultation with Department of Planning, Industry and Environment – Water to address section 9.1 Direction Flood Prone Land.
  - g. Consultation with Hunter Water to confirm capacity of existing water infrastructure & feasibility of onsite wastewater management to service future development of the site.

Council is to update the planning proposal to take into account the outcomes of the above studies and consultation and reflect the findings in the final public

exhibition document along with all updated reports and consultation documents. Council is to seek approval from the Department of Planning, Industry and Environment prior to undertaking community consultation.

2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:

- (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018) and must be made publicly available for a minimum of **28 days**; and

the planning proposal 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 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).

3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the 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).
4. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
  - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination and
  - (b) there are no outstanding written objections from public authorities.
5. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 28<sup>th</sup> day of August 2020.



28.8.20

**Damien Pfeiffer**  
**Director, Western Region**  
**Local and Regional Planning**  
**Department of Planning, Industry and**  
**Environment**

**Delegate of the Minister for Planning**  
**and Public Spaces**