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Our ref: PP_2012_SHOAL_001_00 (12/02248)
Your ref: 382 79E (D12/136455)

Mr Russell Pigg
General Manager
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Dear Mr Pigg,

Planning proposal to amend either Shoalhaven Local Environmental Plan (LEP) 1985 or draft Shoalhaven LEP 2009

I am writing in response to your Council's letter dated 12 June 2012 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 amend the Shoalhaven Local Environmental Plan (LEP) 1985 by rezoning land at Wollamia and Falls Creek to Rural 1(c) (Rural Lifestyle) or draft Shoalhaven LEP 2009 by amending the lot size map for the subject land and introducing a local clause which sets out additional matters for consideration prior to granting development consent for the purposes of a dwelling house.

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

Council's proposal to include a local clause which sets out additional matters for consideration, prior to granting development consent for a dwelling house, is not supported by the Department as a means of achieving the desired outcome. It is considered that Council's proposed clause is not necessary because local clauses 7.5 Biodiversity and 7.6 Water in draft Shoalhaven LEP 2009 will apply to development applications lodged on environmentally sensitive land.

I have also agreed that the planning proposal's inconsistency with S117 Direction 1.2 Rural Zones is of minor significance. No further approval is required in relation to this Direction.

The amending Local Environmental Plan (LEP) is to be finalised within 24 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 following agency consultation. Council's request for the department to draft and finalise the LEP should be made six (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 s54(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 Lisa Kennedy of the Regional Office of the Department on 02 4224 9450.

Yours sincerely,


Sam Haddad
Director-General

29/8/2012.

Gateway Determination

Planning proposal (Department Ref: PP_2012_SHOAL_001_00): to amend either the Shoalhaven Local Environmental Plan (LEP) 1985 or draft Shoalhaven LEP 2009

I, the Director General, 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 Shoalhaven Local Environmental Plan (LEP) 1985 by rezoning land at Wollamia and Falls Creek to Rural 1(c) (Rural Lifestyle) or draft Shoalhaven LEP 2009 by amending the lot size map for the subject land and introducing a local clause which sets out additional matters for consideration prior to granting development consent for the purposes of a dwelling house should proceed subject to the following conditions:

1. Council's proposal to include a local clause which sets out additional matters for consideration prior to granting development consent for a dwelling house is not supported.
2. Prior to undertaking public exhibition, Council is to amend the planning proposal to include proposed land zoning, lot size and environmentally sensitive area maps which clearly identify the subject site. These maps should be placed on public exhibition with the planning proposal.
3. It is noted that Council has identified that additional information regarding flora and fauna, water cycle management, bushfire, transport and access, onsite effluent management, water quality, acid sulfate soils, visual catchment assessment, infrastructure servicing, heritage and flooding is to be provided to support the planning proposal.

Council is to assemble this information prior to undertaking public exhibition and include this additional information as part of the public exhibition material. If necessary the planning proposal can be amended to take into consideration any findings of the additional information. This should be done prior to undertaking public exhibition.

4. Prior to undertaking public exhibition, Council is to amend the planning proposal to address the proposals consistency with S117 Directions 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land or advise whether the Director General's concurrence in relation to these directions is being sought.
5. Council is to consult with the Commissioner of the NSW Rural Fire Service in accordance with Section 117 Direction 4.4 Planning for Bushfire Protection and amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.
6. 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 **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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.

7. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- Jarvis Bay Marine Park Authority
- NSW Rural Fire Service
- Office of Environment and Heritage
- Southern Rivers Catchment Management Authority
- Endeavour Energy
- Transport for NSW (Roads and Maritime Services)
- Department of Primary Industries (Office of Water)
- Department of Primary Industries (Fisheries)
- Shoalhaven Water

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 they 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.

8. 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).
9. The timeframe for completing the LEP is to be **24 months** from the week following the date of the Gateway determination.

Dated 29th day of August 2012.


Sam Haddad
Director-General
Delegate of the Minister for Planning and
Infrastructure