



qB176064

11/15751

Department Generated Correspondence (Y)

Contact: Lisa Kennedy
Phone: (02) 4224 9450
Fax: (02) 4224 9470
Email: Lisa.Kennedy@planning.nsw.gov.au
Postal: PO Box 5475, Wollongong NSW 2520

Our ref: PP_2011_SHOAL_004_00 (10/04286-2)
Your ref: 2653E (D11/196888)

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

Dear Mr Pigg,

Re: Planning Proposal to enable residential and environmental living at Jerberra Estate, Tomerong, a small lot 'paper' subdivision of 152 lots.

I am writing in response to your Council's letter dated 5 August 2011 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 enable residential and environmental living at Jerberra Estate, Tomerong, a small lot 'paper' subdivision of 152 lots. The land is currently zoned part Rural 1(b) (Arterial and Main Road Protection) and part Rural 1(d) (General Rural) under the Shoalhaven LEP 1985. The proposed amendment will either amend the provisions of the existing LEP to achieve the desired intent of the planning proposal, or rezone the land E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living under the draft Shoalhaven LEP 2009.

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 is to confirm which development scenario they wish to pursue in proceeding with the planning proposal. It is noted that the Gateway has determined to proceed with Scenario B as identified in the planning proposal. However, if Council wishes to pursue Scenario A, the Gateway Determination can be amended.

Council is required to exhibit the planning proposal identifying the current and proposed zones for the site under its existing LEP and the proposed zones under its draft comprehensive Standard Instrument LEP.

A stormwater management assessment is required to examine potential impacts on downstream receiving waters including Moona Moona Creek, SEPP 14 Wetland No. 325 and Jervis Bay Marine Park. Effluent disposal management reports and investigations are also to be completed. These documents are to form part of the planning proposal for public exhibition.

The Director General's delegate has determined that the planning proposal is consistent with S117 Directions 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 4.4 Planning for Bushfire Protection and 5.1 Implementation of Regional Strategies are consistent. In regard to S117 Direction 6.3 Site Specific Provisions, the Director General's delegate has ruled that the planning proposal's inconsistency is of minor significance. No further approval is required in relation to these Directions. In accordance with S117 Direction 4.4 Planning for Bushfire Protection, the Council is to consult with the Commissioner of the NSW Rural Fire Service prior to proceeding to public exhibition.

Generally a site specific enabling clause is not supported. In this particular circumstance, given the history of the site, there is merit in the planning proposal which achieves residential development whilst also protecting environmental values. However, Council is encouraged to ensure that the land is appropriately zoned in the Standard Instrument comprehensive LEP so that site specific provisions will not be required.

It is noted that under the Standard Instrument provisions, the Office of Environment and Heritage has requested that clause 5.9(9) be applied to this specific site. The Office of Environment and Heritage has also identified that Council should pursue options to add the tree Protection and Conservation Management Area as identified in the planning proposal to Schedule 4 and 5 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. The Department does not object to pursuing this matter; however it is noted that a separate approval process is required.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the Planning Proposal within four (4) weeks from the week following this determination. 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,



2/9/11

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_SHOAL_004_00): to enable residential and environmental living at Jerberra Estate, Tomerong, a small lot 'paper' subdivision of 152 lots. The land is currently zoned part Rural 1(b) (Arterial and Main Road Protection) and part Rural 1(d) (General Rural) under the Shoalhaven LEP 1985. The proposed amendment will either amend the provisions of the existing LEP to achieve the desired intent of the planning proposal, or rezone the land E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living under the draft Shoalhaven LEP 2009.

I, the Deputy Director General, Plan Making & Urban Renewal 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 LEP 1985 to enable residential and environmental living at Jerberra Estate, Tomerong, a small lot 'paper' subdivision of 152 lots, should proceed. The land is currently zoned part Rural 1(b) (Arterial and Main Road Protection) and part Rural 1(d) (General Rural) under the Shoalhaven LEP 1985. The proposed amendment will either amend the provisions of the existing LEP to achieve the desired intent of the planning proposal, or rezone the land E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living under the draft Shoalhaven LEP 2009. The Gateway Determination is subject to the following conditions:

1. Council is to confirm which development scenario they wish to pursue in proceeding with the planning proposal. It is noted that the Gateway has determined to proceed with Scenario B as identified in the planning proposal. However, if Council wishes to pursue Scenario A, the Gateway Determination can be amended.
2. Council is required to exhibit the planning proposal identifying the current and proposed zones for the site under its existing LEP and the proposed zones under its draft comprehensive Standard Instrument LEP.
3. A stormwater management assessment is required to examine potential impacts on downstream receiving waters including Moona Moona Creek, SEPP 14 Wetland No. 325 and Jervis Bay marine Park. Effluent disposal management reports and investigations are also to be completed. These documents are to form part of the planning proposal for public exhibition.
4. Community consultation is required under sections 56(2)© 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)*.
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Catchment Management Authority – Southern Rivers
 - Jervis Bay Marine Park Authority
 - Office of Environment and Heritage

- Department of Primary Industry (Fisheries)
- Department of Trade and Investment, Regional Infrastructure and Services
- NSW Rural Fire Services
- Origin Energy
- Roads and Traffic Authority
- NSW Office of Water
- Shoalhaven Water
- Commonwealth Department of Sustainability, Environment, Water, Population and Communities

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.

6. 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).
7. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Dated 2nd day of September 2011.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure