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Department Generated Correspondence (Y)

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Our ref: PP_2011_SHOAL_008_00 (11/20928)
Your ref: 43685E (D11/244997)

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

Dear Mr Pigg,

Re: Planning Proposal to resolve uncertainty in relation to the development potential of small lot rural subdivisions in the Woollamia Farmlets area

I am writing in response to your Council's letter dated 27 September 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 amend the Shoalhaven Local Environmental Plan LEP 1985 to resolve uncertainty in relation to the development potential of small lot rural subdivisions in the Woollamia Farmlets area.

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.

It is noted that Council has a draft Standard Instrument LEP which has recently been exhibited. Due to the timing of the draft SI LEP, Council is to proceed with this planning proposal identifying the proposed amendment as both an amendment to Council's existing LEP 1985 and the draft Shoalhaven LEP 2009.

Several additional studies are also required to be prepared to support the planning proposal. Council is to prepare the following studies to better inform implementation of the planning proposal:

- Flora and fauna study;
- Flooding;
- Water cycle management;
- Planning for bushfire protection;
- Heritage;
- Onsite effluent management; and
- Acid sulfate soils assessment.

These studies should also address the requirements of relevant Section 117 Directions. Council should reassess the planning proposal following completion of the above studies to identify appropriate environmental management and residential zones for the area. The studies are to be included as part of the public exhibition material. Council should liaise with the Regional Planning Team to determine the appropriate level of detail that is to be included in the scope of the above studies. Copies of all studies are also to be provided to the Department's Regional Planning Team.

The Director General's delegate has also agreed that the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones are of minor significance and have been justified by the Jervis Bay Settle Strategy. No further approval is required in relation to this Direction.

Additional justification is required by Council in relation to the planning proposal's consistency or otherwise with Section 117 Directions 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 3.1 Residential zones, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land.

In regards to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made as per the requirements of the Local Planning Direction.

The planning proposal is inconsistent with Section 117 Direction 6.3 Site Specific Provisions in that it is proposing development standards and requirements for the erection of a dwelling on each lot. The Department does not consider that a clause with site specific provisions is necessary and subsequently the inclusion of this provision is not supported. The existing clause 21 in the Shoalhaven LEP 1985 and the proposed clauses 7.5 and 7.6 in the draft Shoalhaven LEP 2009 provide additional heads of consideration when assessing a development proposal on the land. Council is therefore to amend the planning proposal to reflect this approach, prior to proceeding to public exhibition.

The amending Local Environmental Plan (LEP) is to be finalised within 18 months of the week following the date of the Gateway Determination. Council is not to commence exhibition of the planning proposal until all relevant background environmental studies are completed. 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,



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

17/1/12

Gateway Determination

Planning Proposal (Department Ref: PP_2011_SHOAL_008_00): to resolve uncertainty in relation to the development potential of small lot rural subdivisions in the Woollamia Farmlets area.

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 Local Environmental Plan LEP 1985 to resolve uncertainty in relation to the development potential of small lot rural subdivisions in the Woollamia Farmlets area should proceed subject to the following conditions:

1. In regards to the planning proposal's consistency with S117 Direction 6.3 Site Specific Provisions, the Department does not consider that a clause with site specific provisions is necessary and subsequently the inclusion of this provision is not supported. The existing clause 21 in the Shoalhaven LEP 1985 and the proposed clauses 7.5 and 7.6 in the draft Shoalhaven LEP 2009 provide additional heads of consideration when assessing a development proposal on the land. Council is therefore to amend the planning proposal to reflect this approach, prior to proceeding to public exhibition.
2. Council is to prepare the following studies to better inform implementation of the planning proposal:
 - a. Flora and fauna study;
 - b. Flooding;
 - c. Water cycle management;
 - d. Planning for bushfire protection;
 - e. Heritage;
 - f. Onsite effluent management; and
 - g. Acid sulphate soils assessment
3. Copies of the above studies are to be made available with the planning proposal during public exhibition.
4. Following completion of the above flood study, Council is to amend the planning proposal to exclude all lots wholly within the 1% AEP Flood Planning Area.
5. Following completion of the above studies, Council is to consider amending the planning proposal to reflect appropriate zones for areas identified for environmental protection purposes, and to identify whether the R5 Large Lot Residential zone is more appropriate for parts of the area than the proposed RU2 zone.
6. The planning proposal is to be placed on exhibition as both a proposed amendment to the Shoalhaven LEP 1985 and an amendment to the draft Shoalhaven LEP 2009.
7. Maps identifying the proposed amendments to both instruments are to be prepared and exhibited, including maps which identify the proposed zone changes and minimum lot sizes under the draft Shoalhaven LEP 2009.
8. 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)*.

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

- Jervis Bay Marine Park Authority
- Southern Rivers Catchment Management Authority
- Office of Environment and Heritage
- NSW Rural Fire Service

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.

- 10. Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection.
- 11. Additional justification is required by Council in relation to the planning proposal's consistency or otherwise with Section 117 Directions 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 3.1 Residential zones, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land.
- 12. 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).
- 13. The timeframe for completing the LEP is to be **18 months** from the week following the date of the Gateway determination.

Dated 17th day of January 2012.



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