



13/12825

General Manager
Shellharbour City Council
Locked Bag 155
SHELLHARBOUR CITY CENTRE NSW 2529

Dear Mr Willis

**Planning Proposal No.3 – Lots 1 & 3 DP 1144885 Dunmore Road, Dunmore
(PP_2013_SHELL_005_00) – Amending Gateway Determination**

I refer to recent discussions between Shellharbour City Council, the Office of Environment & Heritage (OEH), the Department of Planning & Infrastructure (DP&I), and Development Planning Strategies (consultant) regarding the above planning proposal; and, specifically, the Gateway determination requirement for investigations into aboriginal heritage.

The parties met on 22 January 2014 in response to a request from the consultant to amend the Gateway determination (issued 17 September 2013) to delete the requirement for detailed investigations into Aboriginal Heritage prior to exhibition of the planning proposal. The consultant noted that the Aboriginal Heritage study was being undertaken but argued it was unreasonable to delay public exhibition – noting the work was expected to take more than 6 months.

All parties acknowledged that additional investigations into Aboriginal Heritage were necessary prior to the development of the land. However, OEH advised there is no requirement for detailed studies (including subsurface testing) prior to rezoning.

It is considered that the desired outcome, namely, the identification and protection of Aboriginal Heritage items will be achieved under the National Parks & Wildlife Act 1974 and that the timing of the investigations is essentially a risk management issue for the landowner.

On this basis, I have amended the Gateway determination to delete the requirement for additional investigations into Aboriginal Heritage. Please see the attached Amending Gateway determination.

Please contact Louise Wells on telephone number 4224 9463 should you have any further enquiries about this matter.

Yours sincerely

Brett Whitworth
**General Manager
Southern Region**

3 February 2014

Amending Gateway Determination

Planning Proposal (Department Ref: PP_2013_SHELL_005_00): to rezone and introduce appropriate planning controls for Lots 1 & 3 DP 1144885 Dunmore Road, Dunmore.

I, Brett Whitworth, General Manager, Southern Region, as delegate of the Minister for Planning and Infrastructure, have determined under section 56(7) of the EP&A Act to alter the Gateway Determination for the proposed amendment to the Shellharbour Local Environmental Plan 2013 described above as follows:

Delete

- "7. Additional information is required in order for the Planning Proposal to be consistent with the following s117 Directions:

1.3 Mining, Petroleum Production and Extractive Industries

Under this Direction, Council is required to forward a copy of the Planning Proposal to NSW Trade & Investment – Resources & Energy Division for comment. Council must provide that Department 40 days to respond. A copy of the response should be forwarded to the Southern Regional office of the Department of Planning and Infrastructure prior to public exhibition.

2.3 Heritage Conservation

Investigations into Aboriginal Heritage – including subsurface testing – are to be undertaken within the subject land on areas identified on Map 6.1 of the Urban Fringe Local Environmental Study as being "Potential Archaeological Sites". A copy of the results of these investigations should be provided to the Southern Regional office of the Department of Planning and Infrastructure prior to public exhibition.

4.1 Acid Sulfate Soils

A study to investigate Acid Sulfate Soils on land identified as Class 3 Acid Sulfate Soils in the Shellharbour LEP 2013 should be undertaken. A copy of the results of these investigations should be provided to the Southern Regional office of the Department of Planning and Infrastructure prior to public exhibition.

4.3 Flood Prone Land

A flood study should be undertaken to determine whether the subject land contains flood prone land should be undertaken. A copy of the results of these investigations should be provided to the Southern Regional office of the Department of Planning and Infrastructure prior to public exhibition."

and replace with:

- "7. Additional information is required in order for the Planning Proposal to be consistent with the following s117 Directions:

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Dated 3rd day of February 2013

Brett Whitworth
General Manager
Southern Region
Delegate of the Minister for Planning and
Infrastructure