



Contact: Louise Wells
Phone: (02) 4224 9463
Fax: (02) 4224 9471
Email: louise.wells@planning.nsw.gov.au

Our ref: PP_2013_SHELL_005_00 (13/14744)

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

Dear Mr Willis,

Planning proposal to amend Shellharbour Local Environmental Plan 2013

I am writing in response to your Council's letter dated 29 August 2013 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 rezone and introduce appropriate planning controls for Lots 1 & 3 DP 1144885, Dunmore Road, Dunmore.

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

I have agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, and 3.1 Residential Zones are justified and/or are of minor significance. No further approval is required in relation to these Directions. In order for the Planning Proposal to be consistent with S117 Directions 1.3 Mining, Petroleum Production and Extractive Industries, 2.3 Heritage Conservation, 4.1 Acid Sulfate Soils, and 4.1 Flood Prone Land, additional studies and/or referrals are required. Details of the required investigations are contained in the attached Gateway determination.

I note that the proposed area of the B1 Neighbourhood Centre Zone is 8000m². Council should consider whether the potential retail floor area this would enable, taking into account the floor space ratio and the need for car parking, complements the retail hierarchy. Council may elect to introduce a clause to set a maximum total floor area for the neighbourhood centre.

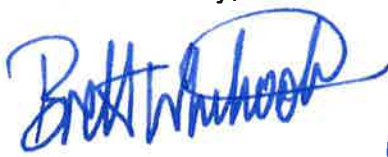
The amending Local Environmental Plan (LEP) is to be finalised within 18 months of the week following the date of the Gateway determination. Council's request for the department to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

I note that Council has not formally accepted plan making delegation. Council is strongly encouraged to formally accept plan making delegations and nominate the officers or employee of Council who will be granted the proposed delegation as soon as possible, and advise the department that delegations have been accepted. Accepting plan making delegations will enable locally significant proposals to be delegated back to Council.

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 section 54(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 Ms Louise Wells of the Southern Regional office of the Department on 02 4224 9463.

Yours sincerely,



17 September 2013

Brett Whitworth
Regional Director
Southern Region
Planning Operations and Regional Delivery

As delegate of the Minister for Planning and Infrastructure

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, Regional Director, Southern Regional Team at the 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 Shellharbour Local Environmental Plan (LEP) 2013 to rezone land at Lots 1 & 3 DP 1144885 Dunmore Road, Dunmore from RU2 Rural Landscape to a mix of R2 Low Density Residential and B1 Neighbourhood Centre; and to set a floor space ratio of 0.5:1, a maximum building height of 9m, and a minimum lot size of 450m² should proceed subject to the following conditions:

1. 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 is to 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 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Infrastructure 2013).
2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage
 - NSW Trade & Investment - Resources and Energy Division
 - Transport for NSW - RailCorp
 - Transport for NSW - Roads and Maritime Services

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 (40 days in the case of NSW Trade & Investment - see s117 Direction 1.3 Mining, Petroleum Production and Extractive Industries), or to indicate that it 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.

3. No public hearing is required to be held into the matter 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).

4. The timeframe for completing the LEP is to be 18 months from the week following the date of the Gateway determination.
5. Council should consider the size of the proposed B1 Neighbourhood Centre Zone - currently 8000m² - in the context of Council's Retail/Commercial Hierarchy. Council may elect to include a clause to set a maximum floor area for any future retail/commercial operation.
6. The Director General's delegate is satisfied that inconsistencies with the following s117 Directions:

1.2 Rural Zones;
3.1 Residential Zones; and

are justified and/or are of minor significance.
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.

8. The Director General's delegate is satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are only of minor significance.

Dated 17th day of September 2013.



**Brett Whitworth
Regional Director
Southern Region
Planning Operations and Regional
Delivery
Department of Planning and Infrastructure
Delegate of the Minister for Planning and
Infrastructure**