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Our ref: PP_2014_SHOAL_003_00 (14/03420)
Your ref: 48477E (D14/41413)

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

Dear Mr Pigg,

Planning proposal to amend Shoalhaven Local Environmental Plan 2014

I am writing in response to your Council's letter dated 19 February 2014 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 land at Moss Vale Road, Kangaroo Valley to R5 Large Lot Residential, E3 Environmental Management and RU1 Primary Production, to enable subdivision into 11 large residential lots, 1 'cluster housing' lot (to accommodate 6 possible dwellings), and a residue rural lot.

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

The intended outcome to provide a greater range of residential accommodation in Kangaroo Valley is supported. Council should ensure that the outcome and how this is to be achieved is clearly described in the planning proposal, particularly in relation to the 'cluster housing' development. Council is to work with the Department's regional office to determine the most appropriate mechanism prior to finalisation for the 'cluster lot' component of the planning proposal. Council is encouraged to explore the option of applying appropriate minimum lots sizes, and the application of clause 7.11 'Essential services,' which requires Council to be satisfied services are available for new development and include this in the planning proposal as an alternative for exhibition purposes.

It is noted that the proposal seeks to allow for a residue rural lot without a dwelling entitlement. Council should ensure that the planning proposal is clear on its future intent to see the lot consolidated with another lot that includes a dwelling entitlement.

Furthermore, the planning proposal uses the term 'cluster housing,' which is not defined in the Standard Instrument Local Environmental Plan (LEP). Consequently, as discussed, Council is to amend the planning proposal to permit 'multi dwelling housing' on the site rather than 'cluster housing'. The planning proposal is to be amended prior to Council undertaking public exhibition.

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands, 3.4 Integrating Land Use and Transport and 5.1 Implementation of Regional Strategies are justified by the Shoalhaven Growth Management Strategy or are of minor significance. No further approval is required in relation to these Directions.

Council may still need to obtain the Secretary's agreement to satisfy the requirements of relevant S117 Directions, such as S117 Direction 6.3 Site Specific Provisions. Council should ensure this occurs prior to the plan being made.

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan because the proposal is considered to be a matter of local significance.

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 as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment for administrative purposes.

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, I have arranged for Mr George Curtis of the Department of Planning and Environment's regional office to assist you. Mr Curtis can be contacted on (02) 4224 9450.

Yours sincerely,



Richard Pearson
Deputy Director General
Growth Planning and Delivery

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

Planning proposal (Department Ref: PP_2014_SHOAL_003_00): to rezone land at Kangaroo Valley for large lot residential, rural and environmental management purposes.

I, the Deputy Director General, Growth Planning and Delivery at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Shoalhaven Local Environmental Plan (LEP) 2014 to rezone land at Moss Vale Road, Kangaroo Valley to R5 Large Lot Residential, E3 Environmental Management and RU1 Primary Production, to enable subdivision of 11 large residential lots, 1 'cluster housing' lot (to accommodate 6 possible dwellings), and a residue rural lot should proceed subject to the variations as outlined in the following conditions:

1. Council should ensure that the proposed outcome and how this is to be achieved is clearly described in the planning proposal, particularly in relation to the 'cluster housing' development. Council is to work with the Department's regional office to determine the most appropriate mechanism prior to finalisation for the 'cluster lot' component of the planning proposal. Council is encouraged to explore the option of applying appropriate minimum lots sizes, and the application of clause 7.11 'Essential services,' which requires Council to be satisfied services are available for new development and include this in the planning proposal as an alternative for exhibition purposes.
2. The use of the term 'cluster housing' is not supported because it is not defined in the Standard Instrument LEP and is to be removed from the planning proposal. Council should instead permit 'multi dwelling housing' as this is a defined land use. The planning proposal is to be amended prior to undertaking public exhibition.
3. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. An initial site contamination investigation report is to be prepared to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.
4. 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 a minimum of **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 LEPs* (Department of Planning and Environment 2013).
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - Roads and Maritime Services (regarding access to/from Moss Vale Road)
 - NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)
 - Sydney Catchment Authority (S117 Direction 5.2 Sydney Drinking Water Catchments)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.



Planning & Environment

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

30

day of

April

2014.

Richard Pearson
Deputy Director General
Growth Planning and Delivery
Department of Planning and Environment

Delegate of the Minister for Planning



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Shoalhaven City Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

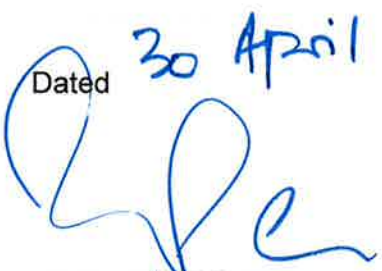
Number	Name
PP_2014_SHOAL_003_00	Planning proposal to rezone land at Moss Vale Road, Kangaroo Valley to R5 Large Lot Residential, E3 Environmental Management and RU1 Primary Production, to enable subdivision and development into 11 large residential lots, 1 'cluster housing' lot (to accommodate 6 possible dwellings), and a residue rural lot.

In exercising the Minister's functions under section 59, the Council must comply with the Department of Planning & Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated

30 April

2014


Richard Pearson
Deputy Director General
Growth Planning and Delivery
Department of Planning and Environment

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the RPA's request to have the LEP notified

Table 1 – To be completed by Department of Planning and Environment

Stage	Date/Details
Planning Proposal Number	PP_2014_SHOAL_003_00
Date Sent to DoP&E under s56	19/02/2014
Date considered at LEP Review Panel	27/032014
Gateway determination date	30/04/2014

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DoP&E requesting notification		

Table 3 – To be completed by Department of Planning and Environment

Stage	Date/Details
Notification Date and details	

Additional relevant information: