



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

Our ref: PP_2014_SHELL_001_00

Mr Michael Willis
General Manager
Shellharbour City Council
PO Box 155
SHELLHARBOUR CITY CENTRE NSW 2529

Attention: Ms Cheryl Lappin

Planning proposal to amend Shellharbour Local Environmental Plan 2013

I am writing in response to your Council's letter requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 in respect of the planning proposal to identify zones and controls for land at Lot 12 DP 849162 Ashburton Drive, Albion Park.

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

I have also agreed that any inconsistency with the following s117 Directions is of minor significance, or has been justified by a study:

- 1.2 Rural Zones;
- 1.5 Rural Land;
- 2.3 Heritage Conservation;
- 3.1 Residential Zones; and
- 4.3 Flood Prone Land.

To ensure consistency with s117 Direction 4.4 Planning for Bushfire Protection, Council is required to consult with the NSW Rural Fire Service (RFS) prior to exhibition of the planning proposal.

No further approval is required in relation to these, or any other Directions, while the planning proposal remains in its current form, subject to consultation with the RFS.

I note that Council has chosen not to use its delegation in this matter.

Council is to finalise the timeframe in the planning proposal by inserting the relevant dates for key stages prior to consultation.

While the intention of the planning proposal is clear, and therefore appropriate for exhibition, Council may wish to reconsider the minimum lot size selected for the E3 Environmental Management Zone of 40ha. The lots proposed in this area are significantly below 40ha and *clause 4.6 Exceptions to development standards* in your LEP will only allow a variation of 10% for environmental protection zones i.e. 36ha. A lot size that reflects the actual size of the

proposed lots may be more appropriate to ensure that the LEP will achieve the desired outcome. Alternatively, Council may wish to consider the potential inclusion of a clause allowing subdivision to occur across a lot split by different minimum lot size controls (such as clause 4.1A in *Wollongong Local Environmental Plan 2009*).

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 for the Department to draft and finalise the LEP should be made 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. 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 regional office of Planning and Infrastructure on 02 4224 9463.

Yours sincerely,



18 March 2014

Brett Whitworth
General Manager
Southern Region
Growth Planning & Delivery



Gateway Determination

Planning proposal (Department Ref: PP_2014_SHELL_001_00): to introduce zones and controls for Lot 12 DP 849162 Ashburton Drive, Albion Park, which was deferred from Shellharbour LEP 2013.

I, Brett Whitworth, General Manager, Southern Region, 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 identify zones and controls for land at Ashburton Drive, Albion Park, facilitate the creation of up to 107 residential lots, 9 environmental living lots, and 6 large environmental management lots 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 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 (Planning & 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 Rural Fire Service (s117 Direction 4.4 Planning for Bushfire Protection)
3. 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).
4. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated

19th day of March

2014.

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