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Mr Carey McIntyre
General Manager
Shellharbour City Council
Locked Bag 155
Shellharbour City Centre NSW 2529

Attention: Cheryl Lappin

Dear Mr McIntyre

**Planning proposal to amend Shellharbour Local Environmental Plan 2013 –
71 Yellow Rock Road, Tullimbar (PP_2016_SHELL_002_00)**

I am writing in response to Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to zone Lot 16 DP 1206346 (71) Yellow Rock Road, Tullimbar for low density residential development – and to apply appropriate minimum lot size, floor space ratio, and height of buildings controls. I note that this proposal will bring previously deferred land into the Shellharbour Local Environmental Plan 2013.

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

In issuing this Gateway determination, I have found that the planning proposal's inconsistencies with the following s117 Directions are justified and/or are of minor significance:

- 1.2 Rural Zones;
- 3.1 Residential Zones; and

Note that Direction 5.1 Implementation of Regional Strategies no longer applies to areas covered by a Regional Plan.

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 other Directions while the proposal remains in its current form, subject to consultation with the RFS.

I note that the proposal is affected by the Obstacle Limitation Surface and will be referred to the Civil Aviation Safety Authority.

Council has identified that additional visual analysis and investigations into bush fire and infrastructure servicing are required to determine whether the land is suitable for residential development. While these studies have not been required as a condition of the Gateway determination, this does not prevent Council from requiring the studies if it considers that they are necessary to progress the proposal. In relation to bushfire, it is considered that referral to the NSW Rural Fire Service will identify whether additional studies or information is required.

Plan making powers were delegated to Councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. 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.

The amending Local Environmental Plan is to be finalised within 12 months of the date of the Gateway determination. Council's request to draft and finalise the Local Environmental Plan should be made directly to Parliamentary Counsel's Office six 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 Local Environmental Plans 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 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 Ms Louise Myler of the Department's regional office to assist you. Louise can be contacted on (02) 4224 9463.

Yours sincerely


10/8/16

Linda Davis
Acting Director Regions
Southern
Planning Services

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

Gateway Determination

Planning proposal (Department Ref: PP_2016_SHELL_002_00): to zone Lot 16 DP 1206346 (71) Yellow Rock Road, Tullimbar for low density residential development – and to apply appropriate minimum lot size, height of buildings and floor space ratio controls.

I, the Acting Director Regions, Southern at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Shellharbour Local Environmental Plan 2013 as described above 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* 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 5.5.2 of 'A guide to preparing local environmental plans (Planning and Infrastructure, 2013)'.
2. Consultation is required with the following public authorities under section 56(2)(d) of the Act:
 - Sydney Water
 - Integral Energy
 - 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 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.

Consultation is required with the NSW Rural Fire Service prior to undertaking community consultation in order to satisfy the requirements of s117 Direction 4.4 Planning for Bushfire Protection.

3. No public hearing is required to be held into the matter under section 56(2)(e) of the 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 10th day of August 2016



Linda Davis
Acting Director Regions, Southern
Planning Services
Department of Planning and
Environment
Delegate of the Minister for Planning



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

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

Number	Name
PP_2016_SHELL_002_00	Planning proposal to apply a residential zone to Lot 16 DP 1206346 (71) Yellow Rock Road, Tullimbar – and to apply appropriate lot size, height of buildings, and floor space ratio controls.

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

Dated 10 / 8 / 2016

Linda Davis
Acting Director Regions
Southern
Planning Services
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_2016_SHELL_002_00
Date Sent to DP&E under s56	03/08/2016
Gateway determination date	10/8/16.

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		
Have changes been made to the draft LEP after obtaining final PC opinion?	YES NO	
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: