

## Gateway Determination

**Planning proposal (Department Ref: PP\_2019\_PORTS\_001\_00):** to amend planning controls for Nelson Bay in the Port Stephens Local Environmental Plan 2013 to revitalise the town centre.

I, the Executive Director, Local and Regional Planning at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Port Stephens Local Environmental Plan (LEP) 2013 to amend planning controls for Nelson Bay to revitalise the town centre should proceed subject to the following conditions:

1. Council is to update the planning proposal with the following information and forward it to the Department for review prior to exhibition:
  - a. an urban design analysis for the study area that:
    - details how the proposed LEP controls were determined and demonstrate how the controls would create a high-quality built form including testing of the proposed building envelopes in selected strategic locations (in accordance with the Apartment Design Guide);
    - demonstrates how the proposed DCP controls complement the proposed amendments;
    - includes a visual impact analysis of the proposed built form;
    - demonstrates how the proposed heights provide appropriate transitions including consideration of topography, surrounding ridgelines, local character, view sharing and surrounding land uses;
    - demonstrates that solar access requirements can be achieved within the study area with inclusion of shadow diagrams, particularly for public domain areas;
    - outlines the desired future character of the study area in accordance with the *Local Character and Place Guideline* (DPIE, 2019);
    - includes a consistency assessment against *Better Placed* (DPIE, 2017); and
    - updates the DCP to correspond with this urban design analysis;

*Note: It is acknowledged that Council have undertaken significant urban design work and the analysis can build on this work. However, it should be presented in a consolidated document that specifically relates to the proposed amendments in this proposal.*
  - b. update the proposal to describe how social infrastructure requirements have been considered and be informed by estimated population, dwelling and job numbers;

- c. update the proposal to describe how traffic and transport in the study area has been considered and detail what upgrades are required (if any) to support the proposed growth;
  - d. clarify the following clauses:
    - active street frontages – provide detail on the proposed wording of the clause;
    - minimum building street frontages – clarify what is defined as new development and what type of development it would apply to;
    - design excellence – clarify if a design excellence clause will be included in the LEP;
  - e. update to proposal to address consistency with the Coastal Design Guidelines and section 9.1 Direction 2.2 – Coastal Management;
  - f. update the proposal to provide further details on the amendment to planning controls for land classified as ‘community’ land; and
  - g. update the proposed LEP maps to include a legend and outline of the study area.
2. Council is to prepare a summary document (plain English guide) of community consultation to date within the study area and clarify how the planning proposal relates to the various documents prepared by Council. This should be exhibited concurrently with the planning proposal.
  3. The proposed DCP provisions for the study area should be exhibited concurrently with the planning proposal.
  4. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
    - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
    - (b) the planning proposal 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 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning, Industry and Environment 2016).
  5. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
    - Ausgrid;
    - Hunter Water;
    - Crown Lands (DPIE)
    - NSW Rural Fire Service;
    - Transport for NSW; and
    - Government Architect NSW (DPIE).

Each public authority/organisation 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.

6. A public hearing is not required to be held into the matter by any person or body under section 3.34(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).
7. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
  - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
  - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
  - (c) there are no outstanding written objections from public authorities.
8. The time frame for completing the LEP is to be **18 months** following the date of the Gateway determination.

Dated 17<sup>th</sup> day of March 2020.



**Monica Gibson**  
**Executive Director**  
**Local and Regional Planning**  
**Department of Planning, Industry and**  
**Environment**

**Delegate of the Minister for Planning**  
**and Public Spaces**