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Our ref: PP_2013_CESSN_004_00 (13/01720)

Mr Stephen Glen
General Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Dear Mr Glen,

Planning proposal to amend Cessnock Local Environmental Plan 2011

I am writing in response to your Council's request for 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 part Lot 12 DP 1181682 at Rose Hill, Millfield from RU2 Rural Landscape to R5 Large Lot Residential and reduce the minimum lot size for the subject land from 40ha to 4,000sqm.

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.

Council is advised that it cannot reduce the permissible residential density of the subject land via an amendment to its Development Control Plan (DCP) because the DCP is to be consistent with controls included under Council's Local Environmental Plan (LEP). Consequently, the DCP can be amended to specify the infrastructure upgrades required to accommodate the proposed rezoning of land for large lot residential purposes. Alternatively, if Council wishes to restrict the number of residential allotments it may wish to consider amending the amount of land to be rezoned for large lot residential purposes. The planning proposal is to be updated to be consistent with the above approach.

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones and 1.5 Rural Lands are justified by the Lower Hunter Regional Strategy and inconsistency with S117 Direction 3.2 Caravan Parks and Manufactured Home Estates is of minor significance. No further approval is required in relation to these Directions.

The Minister delegated his plan making powers to councils 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.

The amending 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 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, please contact Trent Wink of the regional office of the department on 02 4904 2700.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Neil McGaffin', written over a horizontal line.

Neil McGaffin 16.7.13
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery

Gateway Determination

Planning proposal (Department Ref: PP_2013_CESSN_004_00): to rezone and amend the minimum lot size for land at Rose Hill, Millfield.

I, the Executive Director, Rural and Regional Planning 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 Cessnock Local Environmental Plan (LEP) 2011 to rezone part Lot 12 DP 1181682 at Rose Hill, Millfield from RU2 Rural Landscape to R5 Large Lot Residential and reduce the minimum lot size for the subject land from 40ha to 4,000sqm should proceed subject to the following conditions:

1. The discussion on the proposed amendments to Council's Development Control Plan (DCP) included within the 'explanation of provisions' of the planning proposal is to be updated to specify the infrastructure upgrades required to accommodate the proposed rezoning of land at Rose Hill, Millfield for large lot residential purposes. Alternatively, if Council wishes to restrict the number of residential allotments it may wish to consider amending the amount of land to be rezoned for large lot residential purposes.
2. Prior to undertaking public exhibition, the planning proposal is to be updated to advise that the subject land will be identified as an Urban Release Area under Cessnock LEP 2011.
3. Additional information regarding the below matters is to be placed on public exhibition with the planning proposal:
 - flora and fauna
 - Aboriginal archaeological
 - flooding, drainage and stormwater management
 - traffic and accessibility
 - preliminary geotechnical and hydro-geological
 - social impact
 - bushfire
 - Economic feasibility assessment to demonstrate the feasibility of meeting the projected residential yield under the Lower Hunter Regional Strategy

Once the above information has been obtained, Council is to update its consideration of the Lower Hunter Regional Strategy and S117 Direction 5.1 Implementation of Regional Strategies to reflect the outcome of this work.

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 & Infrastructure 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:

- Office of Environment and Heritage
- NSW Department of Primary Industries - Agriculture
- Hunter Water Corporation
- NSW Aboriginal Land Council
- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)
- NSW Trade and Investment - Minerals and Petroleum (S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries)

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.

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 *16th* day of *July* 2013.



Neil McGaffin
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

Delegate of the Minister for Planning and Infrastructure

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Cessnock City Council is authorised to exercise the functions of the Minister for Planning and Infrastructure 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_2013_CESSN_004_00	Planning proposal to rezone part Lot 12 DP 1181682 at Rose Hill, Millfield from RU2 Rural Landscape to R5 Large Lot Residential and reduce the minimum lot size for the subject land from 40ha to 4,000sqm.

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

Dated 16th July 2013



Neil McGaffin
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department 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 department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2013_CESSN_004_00
Date Sent to Department under s56	June 2013
Date considered at LEP Review Panel	11/07/2013
Gateway determination date	16/07/2013

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 DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information: