

Gateway Determination

Planning proposal (Department Ref: PP-2021-4405): to amend permitted uses and miscellaneous provisions to enable rural economic development.

I, the Director, Central Coast and Hunter 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 2013* should proceed subject to the following conditions:

1. Prior to public exhibition, the planning proposal must be updated to:
 - (a) identify in the explanation of provisions, that the planning proposal will amend the *Port Stephens Local Environmental Plan 2013*;
 - (b) amend the additional objective to read “*to facilitate a variety of tourist and visitor land uses that complement and promote a stronger rural sector appropriate for the area*”;
 - (c) clarify the increased floor area for home businesses and home industries applies only to the RU1 Primary Production and RU2 Rural Landscape zones;
 - (d) remove reference to section 9.1 Ministerial direction 3.3 Home Occupations as it has been revoked; and
 - (e) include analysis against section 9.1 Ministerial directions:
 - i. 1.5 Rural Lands;
 - ii. 2.2 Coastal Management;
 - iii. 2.6 Remediation of Contaminated Land;
 - iv. 4.1 Acid Sulfate Soils;
 - v. 4.3 Flooding; and
 - vi. 4.4 Planning for Bushfire Protection.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018) and 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 and Environment, 2018); and

(c) public exhibition is to commence **by 1 April 2022**.

3. 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).
4. 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 Ministerial directions:
 - NSW Rural Fire Service;
 - Biodiversity Conservation Division;
 - Department of Primary Industries;
 - Hunter Water Corporation;
 - Transport for NSW;
 - Heritage NSW; and
 - NSW Local Land Services.

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.

5. 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 Ministerial directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
6. The time frame for completing the local environmental plan is to be **9 months** following the date of the Gateway determination.

Dated 20th day of October 2021.

A handwritten signature in black ink, appearing to read 'Dan Simpkins', with a long horizontal line extending to the right.

Dan Simpkins
Director, Central Coast and Hunter Region
Planning and Assessment
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning and
Public Spaces