



Mr Wayne Wallis  
General Manager  
Port Stephens Council  
PO Box 42  
RAYMOND TERRACE NSW 2324

Dear Mr Wallis

**Planning proposal PP\_2020\_PORTS\_005\_00 to amend *Port Stephens Local Environmental Plan 2013***

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act), and additional information of 18 February 2021, in respect of the above planning proposal.

As delegate of the Minister for Planning and Public Spaces, I have now determined the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

The intention for rural residential development is generally consistent with the *Hunter Regional Plan 2036* and *Greater Newcastle Metropolitan Plan 2036*. However, the proposed minimum lot size is not considered to be consistent with these plans.

Introducing a minimum lot size of 8,000m<sup>2</sup> of large lot residential development on the periphery of the R5 Large Lot Residential zone may lead to land use conflict and a hard-urban edge with surrounding primary production land. The presence of poultry operations in proximity to this site highlights the importance of protecting both current agricultural production operations and future residential amenity.

This also is the third planning proposal that seeks to rezone primary production land for large lot residential purposes in the vicinity of Brandy Hill and represents a significant increase in yield and density from the previous two planning proposals.

There is limited justification for the proposed minimum lot sizes being at variance to the existing subdivision pattern in the location and the proposed two other rural residential developments, which provides an appropriate response to potential land use conflicts and maintains the scenic qualities and rural character of the area.

Therefore, a minimum lot size of 2 hectares should be applied to the site consistent with other land within Nelsons Plains/Brandy Hill.

After considering the advice from relevant public authorities and reasons outlined in the Gateway determination report, if Council considers there to be a more appropriate minimum lot size than 2 hectares it can update the planning proposal and submit to the Department for an amended Gateway determination. I would welcome an opportunity to work with Council if you wish to pursue this course of action.

As delegate of the Secretary, I have agreed the planning proposal's inconsistencies with section 9.1 Ministerial directions: 3.1 Residential Zones; 3.4 Integrating Land Use and Transport; 4.1 Acid Sulfate Soils is justified in accordance with the terms of the directions. No further approval is required in relation to these directions.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of relevant section 9.1 Ministerial directions:

- 1.2 Rural Zones;
- 1.5 Rural Lands;
- 2.1 Environment Protection Zones;
- 2.3 Heritage Conservation;
- 2.6 Remediation of Contaminated Land;
- 3.5 Development Near Regulated Airports and Defence Airfields;
- 4.3 Flood Prone Land;
- 4.4 Planning for Bushfire Protection; and
- 5.10 Implementation of Regional Plans.

Council should ensure this occurs prior to the plan being made.

Given the potential to impact current and future agricultural uses and operations, I consider it appropriate for Council to conduct a public hearing on the matter following community consultation.

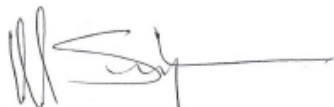
I have considered Council's request to be the local plan-making authority and determined not to condition the Gateway for Council to be the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within 14 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible and no later than 1 December 2021. Council's request for the Department of Planning, Industry and Environment to draft and finalise the LEP should be made eight weeks prior to the projected publication date.

The NSW 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 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Mr Glenn Horal, Senior Planning Officer, Central Coast and Hunter to assist you. Mr Horal can be contacted on 4345 4409.

Yours sincerely

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

12/04/2021

**Dan Simpkins**  
**Director, Central Coast and Hunter Region**  
**Planning and Assessment**

Encl: Gateway determination