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Our ref: PP_2012_PORTS_007_00 (12/08686)
Your ref: PSC2010-04979

Mr Peter Gesling
General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324

Dear Mr Gesling,

Planning proposal to amend either the Port Stephens Local Environmental Plan (LEP) 2000 or draft Port Stephens LEP 2012

I am writing in response to your Council's letter dated 11 May 2012 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend either the Port Stephens Local Environmental Plan (LEP) 2000 or draft Port Stephens LEP 2012 to rezone land and amend the minimum lot size map for land at Pacific Dunes, Medowie.

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

I have also agreed that the planning proposal's inconsistency with S117 Direction 4.1 Acid Sulfate Soils is of minor significance. No further approval is required in relation to this Direction.

The amending LEP is to be finalised within 18 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 following agency consultation. Council's request for the department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The NSW 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 s54(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 Dylan Meade of the regional office of the department on 02 4904 2700.

Yours sincerely,


Sam Haddad
Director-General

10/10/2012

Gateway Determination

Planning proposal (Department Ref: PP_2012_PORTS_007_00): to amend either Port Stephens Local Environmental Plan (LEP) 2000 or draft Port Stephens LEP 2012 to facilitate residential development.

I, the Acting Director-General, 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 either the Port Stephens Local Environmental Plan (LEP) 2000 or draft Port Stephens LEP 2012 to should proceed subject to the following conditions:

1. In relation to S117 Direction Flood Prone Land, Council is to finalise the supporting flood study and modelling for the site, and ensure the proposed residential zone is not within a flood prone area. Council is to amend the planning proposal to clarify the proposal's consistency with this direction. This information should be exhibited with the planning proposal.
2. Prior to commencing public exhibition, Council is to amend the planning proposal to ensure consistency with clause 15(b) of State Environmental Planning Policy No 44 (SEPP 44) – Koala Habitat Protection. Any land defined as 'core koala habitat' under SEPP 44 should have an environmental protection zone applied to it.
3. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy No 55 (SEPP 55) – Remediation of Land and the *Contaminated Land Planning Guidelines*. Council is to prepare an initial site contamination investigation to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.
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 is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning 2009)* and must be made publicly available for **14 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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage
 - Hunter Water Corporation
 - NSW Rural Fire Service
 - Department of Defence

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 they 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.

6. Further to Condition 5 above, Council is to consult with the Commissioner of the NSW Rural Fire Service as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.
7. Further to Condition 5 above, Council is to consult the Heritage Branch of the Office of Environment and Heritage in relation to S117 Direction 2.1 Environmental Protection Zones. Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.
8. Further to Condition 5 above, Council is to consult the Department of Defence in relation to S117 Direction 3.5 Development Near Licensed Aerodromes. Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.
9. Further to Condition 5 above, Council is to consult the Hunter Water Corporation regarding potential impacts on the adjoining surface and groundwater catchments. Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.
10. 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).
11. The timeframe for completing the LEP is to be **18 months** from the week following the date of the Gateway determination.

Dated 10th day of October 2012.


Sam Haddad
Director-General
Delegate of the Minister for Planning and
Infrastructure