



Mr Wayne Wallace
General Manager
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

Our ref: PP_2015_PORTS_006_00 (15/11885)
Your ref: PSC2014-00920

Att: Ms Jessica Franklin

Dear Mr Wallace,

Planning Proposal to amend Port Stephens Local Environmental Plan 2013

I am writing in response to your Council's letter dated 31 July 2015 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 rezone land from R5 Large Lot Residential to R2 Low Density Residential and to allow additional permitted uses on land at Kindiebark Drive and Heritage Avenue, Medowie.

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

I have also agreed the planning proposal's inconsistency with S117 Direction 4.1 Acid Sulfate Soils. No further approval is required in relation to this Direction. Further consideration of S117 Directions is required in relation to 3.4 Integrating Land Use and Transport, 5.1 Implementation of Regional Strategies and 6.3 Site Specific Provisions following Council's proposed economic impact assessment and consideration of net community benefit as required by the Department's guide *Right Place for Business and Services* for existing isolated commercial developments. The Secretary's agreement to the planning proposal's inconsistency with the relevant S117 Directions will be required before the plan may be made.

I note Council is currently preparing a revised Medowie Strategy. Should the draft strategy be exhibited or adopted before this planning proposal is exhibited, Council should update the proposal to detail how it aligns with the revised strategy's directions. A copy of the strategy (either exhibited draft or adopted, depending on timing) should be included in the exhibition package for this planning proposal, if available.

The Minister delegated plan making powers to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. 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 Local Environmental Plan (LEP) is to be finalised within 6 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.

Attached for your assistance is a simplified guide to the plan making process and reporting requirements to ensure that the LEP Tracking System is kept updated.

Should you have any questions regarding this matter, I have arranged for Ben Holmes from the Hunter office to assist you. Mr Holmes can be contacted on (02) 4904 2709.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'D. Rowland', is written over a light blue horizontal line.

15 September 2015

David Rowland
General Manager
Hunter and Central Coast Region
Planning Services

Gateway Determination

Planning Proposal (Department Ref: PP_2015_PORTS_006_00): to rezone land from R5 Large Lot Residential to R2 Low Density Residential and to allow additional permitted uses on land at Kindlebark Drive and Heritage Avenue, Medowie.

I, the General Manager, Hunter and Central Coast Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Port Stephens Local Environmental Plan (LEP) 2013 to rezone land from R5 Large Lot Residential to R2 Low Density Residential and to allow additional permitted uses on land at Kindlebark Drive and Heritage Avenue, Medowie should proceed subject to the following conditions:

1. Council is to update the Explanation of Provisions section in the planning proposal to refer to the correct lot size map LSZ_004B and amend the Objectives section to refer to the full list of additional permitted uses proposed for the site.
2. Council is to confirm whether the proposal satisfies the requirements of clause 6 of SEPP 55 Remediation of Land and the performance criteria for rezoning requests in its Comprehensive Koala Plan of Management (SEPP 44 Koala Habitat Protection).
3. 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 (Planning & Infrastructure 2013)* and must be made publicly available for a minimum of 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 5.5.2 of *A Guide to Preparing LEPs (Planning & Infrastructure 2013)*.
4. 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:
 - NSW Rural Fire Service
 - Hunter Water Corporation

The public authorities are 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. Once the consultation is undertaken with the public authorities, and information is provided, Council is to update its consideration of S117 Direction 4.4 Planning for Bushfire Protection.

5. A public hearing is not required to be held into the matter by any person or body under section 56(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).

6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Dated 15th day of September 2015.



David Rowland
General Manager
Hunter and Central Coast Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Port Stephens Council is authorised to exercise the functions of the Minister for Planning 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_2015_PORTS_006_00	Planning proposal to rezone land from R5 Large Lot Residential to R2 Low Density Residential and to allow additional permitted uses on land at Kindiebark Drive and Heritage Avenue, Medowie.

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

Dated 15 September 2015

David Rowland
General Manager
Hunter and Central Coast Region
Planning Services
Department of Planning and Environment