

Mr Tim Crosdale
General Manager
Port Stephens Council
PO Box 42
116 Adelaide Street
Raymond terrace NSW 2324

Our ref: 545032

Dear Mr Crosdale

Planning proposal PP-2022-3959 to amend *Port Stephens Local Environmental Plan 2013*

I am writing in response to the planning proposal forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) and additional information received on 6 December 2022 in respect of the planning proposal to amend Schedule 1 in the local environmental plan.

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

Keeping people safe during floods requires using many different risk management strategies and relies on good planning. This includes how infrastructure and development is designed and where it is located, flood preparedness and the ability to evacuate safely.

I have conditioned the Gateway determination to update the planning proposal to demonstrate there are appropriate arrangements for shelter-in-place and evacuation in a probable maximum flood event in consideration of the draft shelter-in-place guideline exhibited by the Department in January 2023.

This needs to occur prior to undertaking consultation with the relevant public authorities of Biodiversity Conservation Division and NSW State Emergency Service.

I have agreed, as delegate of the Secretary, the inconsistency of the planning proposal with applicable directions of the Minister under section 9.1 of the Act: 1.4 Site Specific Provisions, 4.2 Coastal Management, 4.3 Acid Sulfate Soils, 9.1 Rural Zones and 9.2 Rural Lands is justified in accordance with the terms of the directions.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of relevant applicable directions of the Minister under section 9.1 of the Act: 1.1 Implementation of Regional Plans, 3.1 Conservation Zones, 3.2 Heritage Conservation, 4.1 Flooding, 4.3 Planning for Bushfire Protection and 5.1 Integrating Land Use and Transport is unresolved and will require justification. Council should ensure this occurs prior to public exhibition.

Considering the nature of the planning proposal I have determined that Council may exercise local plan-making authority functions in relation to the planning proposal.


The proposed local environmental plan (LEP) is to be finalised on or before 8 May 2024. Council should aim to commence the exhibition of the planning proposal as soon as possible. Should Council seek to make a proposed LEP, the request to draft the LEP should be made directly to Parliamentary Counsel's Office well in advance of the date the LEP is projected to be made. A copy of the request should be forwarded to the Department of Planning and Environment.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the gateway determination.

The Department's categorisation of planning proposals in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, 2021) is supported by category specific timeframes for satisfaction of conditions and authority and Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required.

Should you have any enquiries about this matter, I have arranged for Rachel Murray, Planning Officer, Central Coast and Hunter to assist you. Miss Murray can be contacted on 4927 3191.

Yours sincerely

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

3 May 2023

Dan Simpkins
Director, Central Coast and Hunter
Local and Regional Planning

Encl: Gateway determination