



Your ref: 56071E (D19/111724)  
Our ref: PP\_2019\_SHOAL\_003\_00/(IRF19/2876)

Mr Stephen Dunshea  
Acting General Manager  
Shoalhaven City Council  
PO Box 42  
NOWRA NSW 2541

Shoalhaven City Council  
Received

16 JUL 2019

Attention: Ms Jenna Tague

File No. 56071E  
Referred to: J. Tague  
Rel to: D19/111724

Dear Mr Dunshea

**Planning proposal PP\_2019\_SHOAL\_003\_00 to amend Shoalhaven Local Environmental Plan 2014**

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) in respect of the planning proposal to review subdivision provisions for residentially zoned land in the Shoalhaven LGA.

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

I have decided not to support Council's proposal to amend State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 for the permanent exclusion of land from the Low Rise Medium Density Housing Code. The Minister for Planning and Public Spaces has requested an independent review to assess progress on the code to date, identify impediments to the code's delivery in deferred areas, and make recommendations on the appropriate pathway forward to finalise the code's implementation. It would be inappropriate to prejudge the outcomes of the review.

A Gateway condition has been included requiring this matter to be removed from the planning proposal prior to public consultation. Subject to the outcomes of the independent review Council consider applying separately to the Department to assess and consider the proposed exclusion from the code.

A Gateway condition has also been included requiring Council to write to all affected land owners providing notice of consultation on the proposal and explaining the effects of the proposed amendments to ensure that land owners are well informed of the proposal.


Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of section 9.1 Directions 4.4 Planning for Bushfire Protection and 5.2 Sydney Drinking Water Catchments. Council should ensure this occurs prior to the plan being made.

The amending local environmental plan (LEP) is to be finalised within six months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department to draft and finalise the LEP should be made eight weeks prior to the projected publication date.

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 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 George Curtis, Senior Planner in the Department's Southern Region office, to assist you. Mr Curtis can be contacted on 4247 1824.

Yours sincerely

 10 July 2019  
**Stephen Murray**  
**Executive Director, Regions**

Encl: Gateway determination

## Gateway Determination

**Planning proposal (Department Ref: PP\_2019\_SHOAL\_003\_00):** to review subdivision provisions for residentially zoned land in the Shoalhaven local government area and rezone certain land from R2 Low Density Residential to R5 Large Lot Residential.

I, the Executive Director, Regions 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 Shoalhaven Local Environmental Plan (LEP) 2014 as described above should proceed subject to the following conditions:

1. The planning proposal is to be updated prior to consultation to:
  - (a) remove the component of the proposal to exclude land at Greenwell Point, Kangaroo Valley, Bawley Point, Kioloa, Depot Beach and Durras North from the Low Rise Medium Density Housing Code in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008;
  - (b) provide quantitative analysis and assess the impacts of the proposal on future housing supply and diversity as follows but not limited to:
    - i. the total area of land zoned R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential and RU5 Village in the local government area (LGA);
    - ii. the number and lot sizes of medium-density housing developments and associated Torrens subdivisions approved in the R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential and RU5 Village zones in the LGA in the past five years; and
  - (c) include a savings and transition provision to ensure that the proposed amendments do not affect any development applications or appeal processes.
2. Prior to consultation, the planning proposal is to be updated in accordance with condition 1 and submitted to the Department for approval.
3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal 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 2016).

- (c) Council is to write to all affected land owners providing notice of consultation on the proposal and explaining the effects of the proposed amendments.

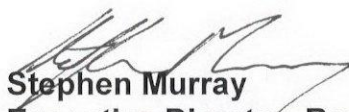
4. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:

- NSW Rural Fire Service;
- WaterNSW; and
- Office of Environment and Heritage.

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. 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).
6. The time frame for completing the LEP is to be **six months** following the date of the Gateway determination.

Dated 10<sup>th</sup> day of July 2019.

  
**Stephen Murray**  
Executive Director, Regions  
Department of Planning, Industry and  
Environment

**Delegate of the Minister for Planning  
and Public Spaces**