

ITEM NO. 2

**FILE NO: 17/185848
RM8 REF NO: PSC2015-03236**

**PLANNING PROPOSAL TO AMEND ZONING AND MINIMUM LOT SIZE
PROVISIONS AT GEORGE STREET AND COXS LANE, FULLERTON COVE**

REPORT OF: MARC GOODALL - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the planning proposal (**ATTACHMENT 1**) under the *Environmental Planning and Assessment Act 1979* (NSW) (s55) to amend the *Port Stephens Local Environmental Plan 2013* for land at 16, 16A George Street; 3, 3A Zircon Lane, 10, 12 Road 530, 21 Cocks Lane, Fullerton Cove to:
 - a) Rezone from RU2 Rural Landscape to part R5 Large Lot Residential and part E2 Environmental Conservation; and
 - b) Amend the minimum lot size from 20 Ha to 4,000 m² for all land proposed to be rezoned R5 Large Lot Residential Zone and 40 Ha for all land proposed to be rezoned E2 Environmental Conservation Zone.
 - 2) Forward the planning proposal to the NSW Department of Planning and Environment to seek a gateway determination and request delegated authority to make the Plan.
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Councillor Jaimie Abbott left the meeting at 5:37pm.

**ORDINARY COUNCIL MEETING - 28 NOVEMBER 2017
MOTION**

286	<p>Councillor Steve Tucker Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Adopt the planning proposal (ATTACHMENT 1) under the <i>Environmental Planning and Assessment Act 1979</i> (NSW) (s55) to amend the <i>Port Stephens Local Environmental Plan 2013</i> for land at 16, 16A George Street; 3, 3A Zircon Lane, 10, 12 Road 530, 21 Cocks Lane, Fullerton Cove to:<ol style="list-style-type: none">a) Rezone from RU2 Rural Landscape to part R5 Large Lot Residential and part E2 Environmental Conservation; andb) Amend the minimum lot size from 20 Ha to 4,000 m² for all land proposed to be rezoned R5 Large Lot Residential Zone and 40 Ha for all land proposed to be rezoned E2
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	Environmental Conservation Zone.
	2) Forward the planning proposal to the NSW Department of Planning and Environment to seek a gateway determination and request delegated authority to make the Plan.

In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Giacomo Arnott, Glen Dunkley, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to advise Council of a request to rezone 26 hectares of land at 16, 16A George Street; 3, 3A Zircon Lane, 10, 12 Road 530, 21 Coxs Lane, Fullerton Cove (the site) from RU2 Rural Landscape to part R5 Large Lot Residential Zone and part E2 Environmental Conservation for the purposes of rural residential development and environmental conservation.

A summary of the planning proposal (**ATTACHMENT 1**) is provided below:

Proponent:	Pulver Cooper & Blackley (pcb) on behalf of Coastal Developments Pty Ltd
Site:	16 George Street, Fullerton Cove (Lot 991 DP 627179) 16A George Street, Fullerton Cove (Lot 201 DP 39968) 3 Zircon Lane, Fullerton Cove (Lot 1910 DP 557701) 3A Zircon Lane, Fullerton Cove (Lot 1 DP 1142113) 10 Road 530, Fullerton Cove (Lot 1 DP 794575) 12 Road 530, Fullerton Cove (Lot 3 DP 111519) 21 Coxs Lane, Fullerton Cove (Lot 1 DP 1006307)
Site Area:	26.08 hectares
Existing Zoning:	Part RU2 Rural Landscape
Recommended Zoning:	R5 Large Lot Residential Zone and part E2 Environmental Conservation
Existing Minimum Lot Size:	20 hectares
Proposed Minimum Lot Size:	Part 4,000m ² and part 40 hectares

The site is located off George Street and Coxs Lane in Fullerton Cove. Access is gained by George Street and Coxs Lane. The site is surrounded by rural housing and properties. Land uses adjoining the subject land are a mix of large lot residential

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development and businesses (such as bus depot, Boral Quarries and the RAAF Base 3km north).

The current land use has been extractive industry (sand quarry) since 2008. The current approvals for the site include a total extraction area of 18ha with the approved resource of 1,056,500 tonnes of sand until 30 June 2020. Given the nature of the current development activity and the site being located on the periphery of the Williamstown RAAF Base affected area consideration has been provided to potential contamination matters.

The remaining portions of the subject land are considered either native bushland or rural land. The northern and southern portion of the site is identified as minimal risk flood prone land, with the north-west corner identified as low hazard flood fringe area as well as being mapped Class 2 acid sulphate soils. The entire site is identified as bushfire prone land.

The proposal considers the lifecycle of the sand quarry and seeks a future land use that is most appropriate, suitable and compatible for the surroundings. From a preliminary assessment, it is considered the future use for the site as rural residential may be considered an appropriate end use once the sand quarry extraction has ceased. Any new rural residential development on the site will be consistent with the rural residential nature of the adjoining allotments and surrounding area. It is also considered the site meets the assessment criteria of the Port Stephens Rural Residential Policy 2017. Further information is provided in the policy implication section of this report.

Additional information to support the proposal and confirm site suitability for potential rural residential development will be required by the proponent following a conditional gateway determination. Key issues to be further investigated and updated prior to public exhibition include: Bushfire, Stage 2 contamination assessment and further flora and fauna investigation for the purposes of a Revegetation Management Plan.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Sustainable Development.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications if Council resolves to proceed with the proposal. The proponent has paid proposal fees in accordance with Council's Fees and Charges Schedule, being \$5,250 for Stage 1. The Stage 2 Post Gateway fee of \$10,640 and Stage 3 Gazettal fee of \$5,319 will apply if the proposal proceeds.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Environmental Planning and Assessment Act 1979 (NSW)

Under the *Environmental Planning & Assessment Act 1979 (Part 3) (NSW)*, only the Minister or Council can initiate a local environmental plan. If Council resolves to proceed with the recommendation and adopt the planning proposal, it will be forwarded to the NSW Department of Planning and Environment for a gateway determination. This will include a request for the delegation of plan making functions.

Regional Planning

Department of Planning and Environment, 2016, Hunter Regional Plan outlines the vision, goals and actions for sustainable growth in the Hunter region between now and 2036. The proposal is considered consistent and relevant with the goals, directions and actions (Goal 2: Protect and connect natural areas and Direction 22 Promote Housing Diversity). Further detail and justification on the consistency against the Hunter Regional Plan criteria for rural residential development is provided in the proposal **(ATTACHMENT 1)**.

Port Stephens Rural Residential Policy 2017

The Port Stephens Planning Strategy 2011 (PSPS) identifies concerns surrounding rural residential development on account of increased costs to providing services to dispersed populations, effluent and waste disposal, weed control and rural land management. In addition to this, Port Stephens has limited land suitable for future higher density urban development land. As such, rural land with urban potential should, where reasonable, be protected from premature or inappropriate development such as rural residential development or smaller lot subdivision.

The Rural Residential Policy provides a framework and guidance to consider the appropriateness of future rural residential planning proposals. The Policy provides assessment criteria on the suitability of rural residential development. The assessment under this policy concludes the subject site is adequately justified under the criteria. Further information on this assessment is provided in the planning proposal **(ATTACHMENT 1)**.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
The site is located on the periphery of the Williamstown RAAF Base Contamination Investigation Area and the current development activity means the site should provide due consideration to contamination.	Medium	It is recommended that a detailed site investigation (Stage 2 contamination assessment) is needed to confirm that the identified contaminants of concern do not present an issue for the subject land to be rezoned for rural/residential purposes. This additional assessment will be required post-Gateway Determination.	Yes
The existing development consent includes conditions that require the site to be rehabilitated following the completion of the extractive industries licence.	Medium	Correspondence from the Department has been received that acknowledges they are aware of the future potential rural residential use of the site.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposal considers the lifecycle of the sand quarry and seeks a future land use that is most appropriate, suitable and compatible for the surroundings. From a preliminary assessment, it is considered that the future use for the site and landform may be considered an appropriate end use once the sand quarry extraction has ceased. Any new rural residential development on the site will be consistent with the rural residential nature of the adjoining allotments and surrounding area.

Given the nature of the current development activity (extractive industry) and the site being located on the periphery of the Williamstown RAAF Base Contamination it may mean the site may be associated with legacy contamination. It is recommended a detailed site investigation (Stage 2 contamination assessment) will be required post-Gateway Determination. This additional assessment will confirm that any identified contaminants of concern do not present an issue for the subject land to be rezoned for rural residential purposes.

In addition to this, the planning proposal provides an E2 Environmental Conservation zoning over areas which include the existing biodiversity offset lands (under the existing condition of consent) and areas of high ecological value located outside of

the approved excavation extents. The zoning also covers a 40m buffer around the freshwater Wetland/Paperbark Swamp Forrest, areas identified as preferred and supplementary koala habitat and a corridor along the northern boundary and eastern site boundary along Nelson Bay Road.

The social and economic impacts associated with the proposal are considered to be of a minor nature.

CONSULTATION

Internal

Internal consultation has been undertaken by the Strategy and Environment Section. The objective of this consultation was to review the proposal submitted by the proponent prior to preparing a proposal for Council's consideration. Internal consultation was undertaken with: Natural Resources, Social Planning, Engineering Services (infrastructure requirements, flooding, drainage and traffic) and Economic Development.

External

Consultation with Government Agencies will be undertaken in accordance with the gateway determination. It is suggested that consultation with the following agencies will take place: Roads and Maritime Services, Rural Fire Services, Hunter Water Cooperation, Office of Environment and Heritage, Department of Primary Industries, NSW Trade & Investment, Division Resources and Energy and NSW Environment Protection Authority (EPA).

Community

The proposal will be publically exhibited in accordance with the Gateway determination. Due to the size of the proposal, an exhibition period of 28 days is recommended to allow the community with enough time to provide input.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Planning Proposal - George Street and Cox Lane, Fullteton Cove.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.