

Amendment to Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 - various matters

Proposal Title : **Amendment to Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 - various matters**

Proposal Summary : **This Planning Proposal (PP) aims to amend various matters in the Port Stephens LEP (Kings Hill, North Raymond Terrace) 2010 relating to existing and new provisions and maps.**

PP Number : **PP_2012_PORTS_009_00** Dop File No : **11/05691**

Proposal Details

Date Planning Proposal Received : **19-Jul-2012** LGA covered : **Port Stephens**

Region : **Hunter** RPA : **Port Stephens Council**

State Electorate : **MAITLAND** Section of the Act : **55 - Planning Proposal**

LEP Type : **Housekeeping**

Location Details

Street : **Pacific Highway**

Suburb : **Raymond Terrace** City : **Raymond Terrace** Postcode : **2324**

Land Parcel :

DoP Planning Officer Contact Details

Contact Name : **Monica Gibson**

Contact Number : **0249042710**

Contact Email : **monica.gibson@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Sarah Dasey**

Contact Number : **0249800462**

Contact Email : **sarah.dasey@portstephens.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Lower Hunter Regional Strategy** Consistent with Strategy : **Yes**

Amendment to Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 - various matters

MDP Number :

Date of Release :

Area of Release (Ha) **0.00**

Type of Release (eg
Residential /
Employment land) : **Both**

No. of Lots : **0**

No. of Dwellings
(where relevant) : **0**

Gross Floor Area : **0**

No of Jobs Created : **0**

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The statement of objectives satisfactorily outlines the intended outcomes of the Planning Proposal (PP) i.e. to amend the Port Stephens LEP (Kings Hill) 2010 (LEP 2010).**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The nature of the PP is to make various changes to LEP 2010.**

These changes are:

- 1. Permit car park with consent in the B4 Mixed Use zone**
- 2. Permit eco-tourist facilities, flood mitigation works, sewerage systems (parent term) and water supply systems (parent term) with consent in the E3 Environmental Management zone**
- 3. Replace existing cl 4.1A – Exception to minimum lot sizes for dwelling houses in Zone R1 and Zone B4 with a revised clause, which will newly apply to the B2 zone and permit subdivision below the minimum lot size for certain residential and commercial development.**
- 4. Insert a new clause for minimum subdivision lot sizes in certain split zones, which will permit subdivision below the minimum lot size for land that is partly within a residential or business zone and partly within the E2 or E3 zone.**
- 5. Insert a new clause for exceptions to the minimum lot size for land in the E2 or E3 zone where vegetation management outcomes have been accepted.**
- 6. Insert the adopted local model provision for eco-tourist facilities.**
- 7. Insert a new clause for biodiversity protection with an accompanying map (Natural**

Amendment to Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 - various matters

Resources- Biodiversity Map) that requires consideration of adverse impacts on ecological and water quality matters.

8. To amend the Land Zoning Map to rezone 95.65ha of land zoned E2 to R1 (94ha) and B4 (1.65ha), to better reflect the environmental significance and offsetting areas within the Kings Hill site. Council have advised that no significant increase in dwelling or commercial development will arise from the change from E2 to R1 or B4 as this land is generally the riparian corridors or setbacks. The primary purpose of the rezoning is to enable infrastructure to be provided in these locations.

9. To amend the Height of Buildings Map and Lot Size Map to be consistent with the amended zoning.

10. To permit manufactured home estates as an additional permitted use on certain land zoned R1 General Residential.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

2.1 Environment Protection Zones

* May need the Director General's agreement

4.4 Planning for Bushfire Protection

Is the Director General's agreement required? **Unknown**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 36—Manufactured Home Estates

SEPP No 44—Koala Habitat Protection

SEPP (Exempt and Complying Development Codes) 2008

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Unknown**

If No, explain :

Potential inconsistencies with Directions 2.1 and 4.4 are addressed below.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The PP contains the following LEP maps:

- **Land zoning map**
- **Height of buildings map**
- **Lot size map**
- **Natural resources – biodiversity map**

A locality plan, aerial photograph, existing zoning, additional permitted uses location plan, and flood prone land map are also attached to provide further information to support the PP.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The PP describes that community consultation will be required and the format in which it will be undertaken.

It is recommended that a 14 day exhibition period apply, as the PP is a low impact proposal insofar as it is consistent with the strategic planning framework.

Amendment to Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 - various matters

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **June 2013**

Comments in relation
to Principal LEP :

A Gateway Determination for the principal LEP was issued on 10 July 2012, with a 12 month timeframe for completion.

Port Stephens LEP (Kings Hill, North Raymond Terrace) 2010 is a standard instrument LEP, and will be wrapped into the new citywide SI LEP.

The draft principal LEP:

- Includes car parks as permitted with consent in B4 zone
- Includes eco-tourist facilities, flood mitigation works, water supply systems as permitted with consent in the E3 zone, but prohibits water treatment facilities (sub-term of water supply systems) and sewerage systems.
- Includes an exception to minimum lot sizes clause (4.1C in draft principal plan – proposed 4.1A in this PP), but this clause does not apply to commercial development and has different resulting lot size standards.
- Does not include the minimum lot sizes for split zones clause
- Does not include the exception for minimum lot sizes for environmental benefits clause
- Includes the eco-tourist facilities clause
- Does not include the biodiversity protection clause or associated natural resources maps
- Does not permit manufactured home estates on certain land in Kings Hill in Schedule 1

Council will be required to clarify its intention regarding the matters in this PP to be translated into the principal LEP.

Assessment Criteria

Need for planning
proposal :

Is the PP the result of a strategic study or report?

Since the making of LEP 2010, there have been further planning investigations to commence the release of land and development of the site for up to 4,500 new dwellings over the next 20 years. This PP intends to assist with the delivery of housing, by removing impediments related to the extent of E2 zoning whilst ensuring suitable consideration of environmental values through a mapping overlay. More detailed site survey work has been undertaken to better map the boundaries of the environmentally sensitive areas to define the E2 zone boundary and the biodiversity map.

There is no study or report demonstrating the need for the manufactured homes estate as an additional permitted use within the R1 zone. It is recommended that this matter not proceed with this PP, and for further investigation to be undertaken to examine the opportunities for an appropriate zone for the site or change in the land uses permitted within the R1 zone. Council is required to exhibit a justification for any inconsistency with s117 Direction 3.2 Caravan Parks and Manufactured Home Estates as part of the principal LEP. It is considered that the two sites in Kings Hill could be addressed through the principal LEP.

Amendment to Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 - various matters

Other matters, such as the inclusion of uses in certain zones and the adoption of the eco-tourist facilities model clause have arisen following changes to the SI Order since the making of LEP 2010.

✦ **Is the PP the best means of achieving the objectives?**

The proposed provisions are generally suitable and will assist in achieving the over-arching objective of removing development impediments for the Kings Hill urban release area.

As discussed above, the permissibility of manufactured home estates via an enabling clause is not supported and alternatives such as zoning or changes to a land use table should be considered.

Is there a net community benefit?

No net community benefit test has been prepared and included with the PP. However, for the reasons discussed above, this PP will facilitate the delivery of housing with consideration of environmental significance.

Amendment to Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 - various matters

Consistency with strategic planning framework :

Is the PP consistent with the objectives and actions contained within the Lower Hunter Regional Strategy?

The PP is consistent with the housing actions in the Lower Hunter Regional Strategy (LHRS, 2006), as councils are required to revise their LEPs to be consistent with the dwelling capacity projections for their LGAs and to be consistent with the identified urban footprints within the Regional Strategy (p. 27, LHRS). The Neighbourhood Planning Principals of the LHRS are also relevant (p. 26, LHRS), and it is the more detailed development planning for the Kings Hill urban release area that has identified the need to review the boundaries of the residential zones to provide for planned streets and suburbs, a wide range of housing choices and conservation lands around the development sites.

Is the PP consistent with the local strategy – Port Stephens Planning Strategy 2011?

The PP explains its consistency with the local strategy. Council have requested endorsement of the Port Stephens Planning Strategy 2011, which is being considered by the Department.

Is the PP consistent with applicable SEPPs?

The following SEPPs are applicable and have been addressed in the PP.

SEPP 36 Manufactured Home Estates - the objectives of this SEPP include facilitating new manufactured home estates on land where caravan parks are permitted. Item 10 of this Planning Proposal seeks to make manufactured home estates permitted on certain land; however SEPP 36 cannot be applied as caravan parks are prohibited in the R1 General Residential zone.

SEPP 44 Koala Habitat Protection – the aims of this SEPP is to encourage conservation and management of koala habitat thorough the preparation of plans of management for core areas. A plan has been prepared, adopted and endorsed for Port Stephens that applies to the Kings Hill site and comes into effect at a development application stage.

SEPP Exempt and Complying Development Codes 2008 – this SEPP identifies types of development that have minimal impact and where they may be carried out without the need for development consent or as complying development. Certain complying development in the General Housing Code or the Rural Housing Code cannot be carried out on the sensitive land in the new Natural Resources – Biodiversity Map as it will be excluded land for the purposes of this SEPP. It is considered that this is an appropriate outcome given the sensitive nature of this land.

Is the PP consistent with applicable s. 117 Ministerial Directions?

The following s.117 Directions are applicable to this PP and there are no inconsistencies:

- 1.1 Business and Industrial zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates (if item 10 is removed from the PP)
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.1 Acid Sulfate Soils
- 5.1 Implementation of Regional Strategies
- 6.3 Site Specific Provisions (if item 10 is removed from the PP)

The following s117 Directions are applicable to this PP and there are inconsistencies to be considered by the Director General:

- 2.1 Environment Protection Zones – this Direction is relevant as the PP affects environmentally significant land and intends to rezone 95.65ha of land currently zoned E2 to urban zones. Instead of the zoning, a local provision and associated map is proposed that requires additional matters to be considered prior to development consent. The sensitive areas on the Natural Resources map mostly correlate with the current E2 zoned

Amendment to Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 - various matters

land. In addition, the PP introduces two new clauses to permit subdivision of environmental land below the 40ha minimum lot size. These provisions are considered suitable as they resolve problems with split zoned land and require a high standard of environmental assessment prior to consent. Council has verbal advice from the Office of Environment and Heritage that this approach is suitable, and this should be confirmed in formal consultation with the OEH. The justification of the changes to the environmental protection standards and potential inconsistency with this Direction should be reviewed following formal advice from OEH.

- **4.4 Planning for Bushfire Protection** – this Direction is relevant as the PP will affect land that is mapped as bushfire prone. Council should consult the Commissioner of the NSW Rural Fire Service prior to public exhibition and amend the PP to take into account any comments made. Any inconsistency with this Direction should be reviewed following formal advice from RFS.

Environmental social
economic impacts :

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the PP?

It is the intention of this PP, through the introduction of the biodiversity protection clause and associated map, as well as the exception for minimum lot sizes for environmental benefits clause, to ensure that there is no adverse effect on critical habitat, threatened species, populations or ecological communities or their habitats.

Are there any other likely environmental effects as a result of the PP and how are they proposed to be managed?

No other environmental effects have been identified.

How has the PP adequately addressed any social or economic effects?

The PP explains that there will be positive social and economic effects as a result of the removal of impediments to housing delivery.

Is there adequate public infrastructure for the PP?

This PP will assist in making essential infrastructure more readily available and deliverable to the Kings Hill urban release area.

Assessment Process

Proposal type : **Routine** Community Consultation **14 Days**
Period :

Timeframe to make **12 Month** Delegation : **DG**
LEP :

Public Authority **Office of Environment and Heritage**
Consultation - 56(2)(d)
:

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Amendment to Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 - various matters

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
2012-06-26 Port Stephens Ordinary Council Minutes - Planning Proposal - Kings Hill Amendment 3.pdf	Proposal Covering Letter	Yes
2012-06-26 Port Stephens Ordinary Council Minutes and Council Committee 12.6.12 Resolution Adopt LEP Kings Hill Amendment 3.pdf	Proposal Covering Letter	Yes
Port Stephens Council_03-07-2012 00_00_00_Kings Hill North Raymond Terrace 2010 Revision of planning controls_.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **2.1 Environment Protection Zones
4.4 Planning for Bushfire Protection**

Additional Information :

- Support the Planning Proposal, with the removal of manufactured home estates as an additional permitted use on the R1 zoned area of Lot 481 DP 804971 and Lot 4822 DP 852073.**
- Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made as per the requirements of s117 Direction 4.4 Planning for Bushfire Protection.**
- Community consultation is required under section 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979, as follows:**
 - The Planning Proposal be made publicly available for 14 days;**
 - The relevant authority must comply with the notice requirements for public exhibition of planning proposal and the specifications for material that must be publicly available along with planning proposal as identified in section 4.5 of "A guide to preparing LEPs" (Department of Planning, 2009).**
- Consultation is required with the Office of Environment and Heritage under section 56(2) of the EP&A Act. The public authority is to be provided with a copy of the planning proposal and any relevant supporting material. The 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.**
- 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.**
- The timeframe for completing the LEP is 12 months from the date of the Gateway Determination.**

Amendment to Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 - various matters

7. Council should exhibit the Planning Proposal with sufficient information and maps to inform the community how the proposal will amend both the existing Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 and the draft Standard instrument Port Stephens Local Environmental Plan 2012, and is to liaise with the Regional Team regarding the changes to the Planning Proposal.

Supporting Reasons : The PP will assist with delivery of housing in the Kings Hill urban release area, which has potential for up to 4,500 dwellings over a 20 year period.

The additional permitted use is not supported as there is no supporting information regarding the identification of the sites and the consideration of alternative zones or land use table changes. Council is reviewing the provision of caravan parks and manufactured home estates as part of the preparation of the principal LEP and these sites could be considered as part of that process.

Signature:



Printed Name:

Maurice Gibson

Date:

20 July 2012