

Planning Proposal

Rezoning and Reclassification of various Council lands - 2013

Context

Port Stephens Council prepared an **Open Space Consolidation Review** that was adopted by Council on 27 November 2007. The review identified a number of sites that were either considered to be surplus to Council's needs, or required reclassification to operational land to facilitate greater flexibility in management of the site.

Council adopted a report at its meeting on 28 July 2009 to reclassify and rezone eighteen (18) sites as an outcome of this review process. Fifteen (15) of these sites are included in this planning proposal.

Council engaged *Strategy Hunter Consultants* to prepare a planning proposal for each site. These individual planning proposals have been consolidated by Council into one combined planning proposal to eliminate replication of common matters for consideration. The combined planning proposal also includes reference to the Draft Port Stephens Local Environmental Plan 2013 (final version adopted by Council on 26 March 2013) as the individual planning proposals were prepared before the draft LEP was placed on public exhibition.

Attachment 2 includes a description of each site (including locality plans and photographs) and responds to the specific range of matters identified in the Department's LEP Practice Note PN 09-003.

Part 1 - Objectives or Intended Outcomes

The planning proposal actions Council resolution to rezone and reclassify land identified in this review process. The sites are identified as follows:

Site	Description/Intended Outcome	Proposed
1	27 Garden Avenue, Raymond Terrace Lot 279 DP 740009 Outcome: Dispose of site	(Note: the Draft Port Stephens LEP 2013 adopts Zone R2 Low Density Residential for this site). Reclassify from community land to operational land
2	9 Rosemount Avenue, Raymond Terrace Lot 5 DP 261238 Outcome: Dispose of site	Reclassify from community to operational land
3	1 Sketchley Street, Raymond Terrace Lot 1 DP 1093118 Outcome: Retain site for continued use as museum	Rezone from public recreation to residential Reclassify from community land to operational land
4	77 Dawson Road, Raymond Terrace Lot 23 DP 843416 Outcome: Dispose of site	Reclassify from community land to operational land
5	20 Enterprise Drive, Tomago Lot 133 DP 246855 Outcome: Dispose of site.	Reclassify from community land to operational land

6	15 Enterprise Drive, Tomago Lot 132 DP 246855 Outcome: Retain site for continued use as detention basin. Investigate options to use part of site not required for stormwater for compatible uses.	Reclassify from community land to operational land
7	44 Ferodale Road, Medowie Lot 10 DP 596640 Outcome: Retain site for continued use by Medowie Community Centre	Reclassify from community land to operational land
8	2 Coachwood Drive, Medowie Lot 39 DP 807956 Outcome: Dispose of site	<i>(Note: the Draft Port Stephens LEP 2013 adopts Zone R2 Low Density Residential for this site).</i> Reclassify from community land to operational land
9	1 Coachwood Drive, Medowie Lot 38 DP 807956 Outcome: Dispose of site	<i>(Note: the Draft Port Stephens LEP 2013 adopts Zone R2 Low Density Residential for this site).</i> Reclassify from community land to operational land
11	1 Lyndel Close, Soldiers Point Lot 109 DP 243096 Outcome: Dispose of site	Rezone from public recreation to residential Reclassify from community land to operational land
12	8 Garuwa Street, Fingal Bay Lot 22 DP 241918 Outcome: Dispose of site	Reclassify from community land to operational land
14	44A Squire Street, Fingal Bay Lot 25 DP 247555 Outcome: Dispose of site	Rezone from public recreation to residential Reclassify from community land to operational land
15	13 School Drive, Tomago Lot 34 DP 580267 Outcome: Dispose of site	Reclassify from community land to operational land
17	9 Mitchell Street, Soldiers Point Part Lot 322 DP 636840 Outcome: Retain site for continued use as marina site.	Reclassify from community land to operational land
18	2 Ridgeway Avenue, Soldiers Point Part Lot 2071 DP 852662 Outcome: Retain site for continued use as public thoroughfare in association with marina.	Rezone from public recreation to business. Reclassify from community land to operational land.

Part 2 - Explanation of Provisions

It is proposed to amend either the Port Stephens Local Environmental Plan 2000 or the Port Stephens Local Environmental Plan 2013 (final draft version adopted by Council on 26 March 2013) in the following manner:

Port Stephens Local Environmental Plan 2000

1. Amend the land zoning map to rezone the following sites in accordance with the maps shown at **Attachment 1** in this planning proposal:

Site Description	Proposed rezoning
Site 3: 1 Sketchley Street, Raymond Terrace	Rezone from 6(a) General Recreation "A" to 2(a) Residential "A"
Site 11: 1 Lyndel Close, Soldiers Point	Rezone from 6(a) General Recreation "A" to 2(a) Residential "A"
Site 14: 44A Squire Street, Fingal Bay	Rezone from 6(a) General Recreation "A" to 2(a) Residential "A"
Site 18: 2 Ridgeway Avenue, Soldiers Point	Rezone from 6(a) General Recreation 'A' to 3(a) Business General 'A'

2. Amend Parts 1 & 2 in Schedule 1 in the following manner and as shown on the relevant land reclassification maps (see **Attachment 1**).

Schedule 1 Classification and reclassification of public land

Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1 Locality	Column 2 Description
Medowie, 44 Ferodale Road	Lot 10, DP 596640, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)

Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1 Locality	Column 2 Description	Column 3 Any trusts etc not discharged
Fingal Bay, 8 Garuwa Street	Lot 22, DP 241918, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)	Nil
Fingal Bay, 44A Squire Street	Lot 25, DP 247555, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)	Nil
Medowie, 1 Coachwood Drive	Lot 38, DP 807956, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)	Nil
Medowie, 2 Coachwood Drive	Lot 39, DP 807956, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)	Nil

Raymond Terrace, 77 Dawson Road	Part Lot 23, DP 843416, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)	Nil
Raymond Terrace, 27 Garden Avenue	Lot 279, DP 740009, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)	Nil
Raymond Terrace, 9 Rosemount Drive	Lot 5, DP 261238, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)	Easement to drain water (3 metres wide) as noted in the Certificate of Title Folio Identifier 14424/5
Raymond Terrace, 1 Sketchley Street	Lot 1, DP 1093118, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)	Z755783 Easement to drain sewerage 3.5 metres wide affecting the part shown so burdened in the title diagram; DP 1093118 Easement for sewer main 2.5m wide and variable affecting the part shown so burdened in the title diagram as noted in the Certificate of Title Folio Identifier 1/1093118
Soldiers Point, 1 Lyndel Close	Lot 109, DP 243096, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)	Nil
Soldiers Point, 9 Mitchell Street	Part Lot 322, DP 636840, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)	Nil
Soldiers Point, 2 Ridgeway Avenue	Part Lot 2071, DP 852662, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)	Nil
Tomago, 15 Enterprise Drive	Lot 132, DP 246855, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)	Nil
Tomago, 20 Enterprise Drive	Lot 133, DP 246855, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)	Easement for pipeline created by Deed Book 3072 No. 929 affecting the part of the land above described shown as "Easement for Pipeline 20.115 Wide (DP 224706)" as noted in the Certificate of Title Folio Identifier Vol. 12360 Folio 189.
Tomago, 13 School Drive	Lot 34, DP 580267, as shown edged heavy black on Sheet XX of the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No XX)	Nil

OR

Port Stephens Local Environmental Plan 2013

If this LEP is published before this planning proposal is finalised, then the planning proposal will amend the Port Stephens Local Environmental Plan 2013 in the following manner:

1. Amend the following Land Zoning Maps to rezone the following sites:

Land Zoning Map	Rezoning	Site Description
LZN_002C	RE1 Public Recreation to R2 Low Density Residential	Site 3: 1 Sketchley Street, Raymond Terrace
LZN_005A	RE1 Public Recreation to R2 Low Density Residential	Site 11: 1 Lyndel Close, Soldiers Point
LZN_005A	RE1 Public Recreation to B1 Neighbourhood Centre	Site 18: 2 Ridgeway Avenue, Soldiers Point
LZN_005E	RE1 Public Recreation to R2 Low Density Residential	Site 14: 44A Squire Street, Fingal Bay

2. Amend the following Lot Size Maps to adopt the minimum lot size for subdivision in a consistent manner with surrounding lands:

Lot Size Map	Min. lot size	Site Description
LSZ_002C	500m ²	Site 3: 1 Sketchley Street, Raymond Terrace
LSZ_005A	500m ²	Site 11: 1 Lyndel Close, Soldiers Point
LSZ_005E	500m ²	Site 14: 44A Squire Street, Fingal Bay

3. Amend the following Height of Buildings Maps to adopt the maximum building height in a consistent manner with surrounding lands:

Height of Buildings Map	Max. height	Site Description
LSZ_002C	9.0m	Site 3: 1 Sketchley Street, Raymond Terrace
LSZ_005A	9.0m	Site 11: 1 Lyndel Close, Soldiers Point
LSZ_005E	9.0m	Site 14: 44A Squire Street, Fingal Bay

4. Amend Parts 1 & 2 in Schedule 4 as detailed above. Should this planning proposal amend the Port Stephens Local Environmental Plan 2013, a new **Land Reclassification Map** layer (RPL series) will be required to be inserted into the LEP. All sites will be identified as 'operational land' on the Land Reclassification Map.

Land Reclassification Map	Site Description
RPL_002	Site 5: 20 Enterprise Drive, Tomago
RPL_002	Site 6: 15 Enterprise Drive, Tomago
RPL_002	Site 15: 13 School Drive, Tomago
RPL_002B	Site 1: 27 Garden Avenue, Raymond Terrace
RPL_002B	Site 4: 77 Dawson Road, Raymond Terrace
RPL_002C	Site 2: 9 Rosemount Drive, Raymond Terrace
RPL_002C	Site 3: 1 Sketchley Street, Raymond Terrace

RPL_004B	Site 7: 44 Ferodale Drive, Medowie
RPL_004B	Site 8: 2 Coachwood Drive, Medowie
RPL_004B	Site 9: 1 Coachwood Drive, Medowie
RPL_005A	Site 17: 9 Mitchell Street, Soldiers Point
RPL_005A	Site 18: 2 Ridgeway Avenue, Soldiers Point
RPL_005A	Site 11: 1 Lyndel Close, Soldiers Point
RPL_005E	Site 12: 8 Garuwa Street, Fingal Bay
RPL_005E	Site 14: 44A Squire Street, Fingal Bay

(Note: See Attachment 2: Sites 17 & 18 for specific Part 3 comments relating to these sites).

Part 3 - Justification

Section A - Need for the planning proposal.

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is an outcome of the Open Space Consolidation Review that was adopted by Council on 27 November 2007.

The Open Space Consolidation Review took a consistent LGA wide approach to directing Council's open space resources. This Review identified that a number of sites were surplus to Council's open space requirements based on a set of selection criteria which reflected Council's open space standards of provision. Council's 2010 draft Open Space Strategy has refined these criteria, and the sites would not be identified as suitable for open space under the draft Open Space Strategy. From an operational perspective, the review of land classifications also resulted in a number of sites being recommended for reclassification to operational land to facilitate improved management regimes.

Council's Port Stephens Planning Strategy (2011) seeks to ensure a sufficient supply of a diverse range of housing in the Local Government Area (LGA). The Lower Hunter Regional Strategy projects 5300 additional infill dwellings in Port Stephens by 2031. The development of this land will assist in achieving this projection.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is the only way the intended outcomes can be achieved. The proposed rezoning and reclassifications of public land require an amendment to Council's environmental planning instrument. This can only be achieved by following the plan-making process under the Environmental Planning and Assessment Act 1979 which requires the preparation of a planning proposal.

Section B - Relationship to strategic planning framework.

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The proposal is consistent with the Lower Hunter Regional Strategy's (LHRS) policies which

encourage residential infill development and increased housing choice. The proposal is not contrary to the Lower Hunter Conservation Plan.

4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The proposal is consistent with Council's Integrated Strategic Plan (Port Stephens 2022) which states that Council should provide for a range of lot sizes and housing types to respond to demographic needs and affordability, and that Council should provide a diverse range of fit-for-purpose, quality recreational assets which are safe and highly accessible – balanced with the ability to maintain these on a financially sustainable basis.

Council's Port Stephens Planning Strategy (2011) seeks to encourage a sufficient supply of a diverse range of housing in the Local Government Area (LGA).

The proposal is an outcome of Council's comprehensive Open Space Consolidation Review and draft Open Space Strategy.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The following State Environmental Planning Policies are applicable to the planning proposal:

SEPP 71 (Coastal Protection)

The provisions of SEPP 71 are relevant to the following sites.

- Site 11: 1 Lyndel Close, Soldiers Point
- Site 12: 8 Garuwa Street, Fingal Bay
- Site 14: 44A Squire Street, Fingal Bay
- Sites 17 & 18: 9 Mitchell Street and 2 Ridgeway Avenue, Soldiers Point

The relevant matters listed in Part 8 of the SEPP (matters for consideration when preparing an LEP) are adequately addressed under other matters for consideration in the plan-making process.

SEPP 55 - Remediation of Land

Three (3) sites are proposed to be rezoned for residential purposes as part of this planning proposal. Clause 6 in the SEPP requires Council to consider whether the land has the potential to be contaminated as part of the plan-making process.

Site 3: 1 Sketchley Street, Raymond Terrace

The use of the site will not change with the proposed rezoning. The site will continue to be used as a museum complex. As such, there is no potential for the site to be used for residential purposes. Therefore, the provisions of the SEPP are not considered to be applicable in this instance.

Site 11: 1 Lyndel Close, Soldiers Point and Site 14: 44A Squire Street, Fingal Bay

Both sites are public reserves that have retained as natural bushland. There is no development history relating to either site. Therefore, Council is satisfied that both sites do not have the potential for the land to be contaminated.

SEPP 44 Koala Habitat Protection

The Port Stephens Comprehensive Koala Plan of Management (2001) implements the provisions of SEPP44.

The following sites have been categorised as "mainly cleared" under the CKPoM. This would need to be considered in any development application over the land. Council's Environmental Services Section raises no objection to the planning proposal for these sites.

- Site 1: 27 Garden Avenue, Raymond Terrace
- Site 2: 9 Rosemount Drive, Raymond Terrace
- Site 4: 77 Dawson Road, Raymond Terrace
- Site 8: 2 Coachwood Drive, Medowie
- Site 9: 1 Coachwood Drive, Medowie
- Site 11: 1 Lyndel Close, Soldiers Point
- Site 14: 44A Squire Street, Fingal Bay
- Sites 17 & 18: 9 Mitchell Street and 2 Ridgeway Avenue, Soldiers Point

The following sites have been categorised as "supplementary habitat" and "mainly cleared" under the CKPoM. This would need to be considered in any development application over the land.

- Site 5: 20 Enterprise Drive, Tomago
- Site 6: 15 Enterprise Drive, Tomago
- Site 12: 8 Garuwa Street, Fingal Bay
- Site 15: 13 School Drive, Tomago

Site 3: 1 Sketchley Street, Raymond Terrace

The site is categorised as "preferred" and "50m buffer over preferred". A site inspection indicates that this categorisation overstates the significance of the vegetation. It is also noted that the existing use of the site is not proposed to change. The significance of the vegetation would need to be considered in any development application over the land.

Site 7: 44 Ferodale Road, Medowie

The site is categorised as "50m buffer over cleared" over the south-eastern half of Lot 10; and "link over cleared" over the north-western half of Lot 10. It is also noted that the existing use of the site is not proposed to change. The significance of the vegetation would need to be considered in any development application over the land.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following s.117 Ministerial Directions are applicable to the planning proposal:

S117 Ministerial Direction	Status
2.2 – Coastal Protection	Inconsistent
2.3 – Heritage Protection	Consistent
3.1 – Residential Zones	Consistent
3.4 – Integrating Land Use and Transport	Consistent
3.5 – Development near Licensed Aerodromes	Inconsistent
4.1 – Acid Sulfate Soils	Consistent
4.3 – Flood Prone Land	Inconsistent
4.4 – Planning for Bushfire Protection	Consistent
5.1 – Implementation of Regional Strategies	Consistent
6.1 – Approval and Referral Requirements	Consistent
6.2 – Reserving Land for Public Purposes	Consistent

The inconsistencies with the various Ministerial Directions listed above are considered to be of minor significance. Council seeks the Director-General's concurrence that these inconsistencies are justified in these instances.

2.2 Coastal Protection

The objective of this direction is to implement the principles in the NSW Coastal Policy.

The following sites are within the coastal zone. The relevant matters listed in Part 8 of the SEPP (matters for consideration when preparing an LEP) are adequately addressed in other matters for consideration relating to the plan-making process.

- Site 11: 1 Lyndel Close, Soldiers Point
- Site 12: 8 Garuwa Street, Fingal Bay
- Site 14: 44A Squire Street, Fingal Bay
- Sites 17 & 18: 9 Mitchell Street and 2 Ridgeway Avenue, Soldiers Point

While the planning proposal is inconsistent with clause (4) in this Direction, the inconsistency is considered to be justified under clause 5(d) in this Direction as being of minor significance. Council requests the Director-General's concurrence in this regard.

2.3 Heritage Conservation

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

A search of the Australian Heritage Database, the Aboriginal Heritage Information Management system (AHIMS), the NSW Department of Planning Heritage Database and the Port Stephens Local Environmental Plan indicate that the sites (other than Site 3, Sites 17 & 18 listed below) do not contain known areas of heritage significance.

Site 3: 1 Sketchley Street, Raymond Terrace

Sketchley's Cottage has been nominated by the Historical Society for heritage listing. This matter is under consideration by Council as a separate planning proposal. In addition, an item of local heritage significance is listed in the Port Stephens Local Environmental Plan in the form of a Port Jackson Fig Tree, located on the (wide) road reserve immediately east of the land. It should be noted that the existing use of the site as a museum complex is not proposed to change as a result of the planning proposal.

Sites 17 & 18: 9 Mitchell Street and 2 Ridgeway Avenue, Soldiers Point

A search of the Australian Heritage Database shows that the Port Stephens Estuary is listed on the Register of the National Estate. This proposal is not considered to impact on the values of the Estuary in this respect.

The Aboriginal Heritage Information Management system (AHIMS) shows that 3 Aboriginal sites are recorded in or about the site. Should development of the site be proposed an "extensive search" of AHIMS would need to be undertaken, and relevant procedures followed, including those described in the Soldiers Point (Park) Plan of Management. Consultation with representatives of the Indigenous community would also be necessary.

A search of the NSW Department of Planning Heritage Database and the Port Stephens Local Environmental Plan did not identify additional sites of heritage significance.

3.1 Residential Zones

The objectives of this Direction are:

- To encourage a variety and choice of housing types to provide for existing and future housing needs

- To make an efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services
- To minimise the impact of residential development on the environment and resource lands.

The proposal is consistent with this Direction, as it facilitates additional housing within established residential areas.

3.4 Integrating Land Use and Transport

The objective of this Direction is to ensure that development:

- Improves access to housing, jobs and services by walking, cycling and public transport;
- Increases the choice of available transport and reducing dependence on cars;
- Reduces travel demand including the number of trips generated by development and the distances travelled, especially by car;
- Supports the efficient and viable operation of public transport services; and
- Provides for the efficient movement of freight.

All sites that are proposed to be disposed of by Council for redevelopment are within established urban areas.

3.5 Development Near Licensed Aerodromes

The objectives of this direction are:

- to ensure the effective and safe operation of aerodromes, and
- to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and
- to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

All sites that are proposed to be disposed of by Council for redevelopment are within established urban areas. The following sites are affected by an ANEF contour greater than 20, according to ANEF 2025. Council's aircraft noise policy applies to the subject lands, as does AS 2021, which will need to be considered in any development application applying to the lands. Council will consult with the Department of Defence to ensure consistency with the provisions in this Direction. Both the Port Stephens Local Environmental Plan 2000 and the Draft Port Stephens Local Environmental Plan 2013 include specific provisions that address the requirements in clause (6) in this Direction.

- Site 1: 27 Garden Avenue, Raymond Terrace
- Site 4: 77 Dawson Road, Raymond Terrace
- Site 8: 2 Coachwood Drive, Medowie
- Site 9: 1 Coachwood Drive, Medowie

The planning proposal is inconsistent with clause (5) in this Direction in that the residential zone will permit land uses of the type listed in this clause. Council is of the opinion that this inconsistency can be justified under clause 7(d) in this Direction as being of minor significance. Council requests the Director-General's concurrence in this regard.

4.1 Acid Sulfate Soils

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. Both the Port Stephens Local Environmental Plan 2000 and the Draft Port Stephens Local Environmental Plan 2013 include provisions that address development of acid sulfate soils.

The following sites are classified as Class 5 on the ASS Map, namely "works within 500 metres of Class 1, 2, 3 or 4 land which are likely to lower the watertable below 1 metre AHD on the adjacent Class 1, 2, 3 or 4 land. Council will require appropriate measures to be taken at a development application stage should adverse impacts be likely.

- Site 1: 27 Garden Avenue, Raymond Terrace
- Site 2: 9 Rosemount Drive, Raymond Terrace
- Site 4: 77 Dawson Road, Raymond Terrace
- Site 7: 44 Ferodale Road, Medowie
- Site 8: 2 Coachwood Drive Medowie
- Site 9: 1 Coachwood Drive, Medowie
- Site 11: 1 Lyndel Close, Soldiers Point
- Site 12: 8 Garuwa Street, Fingal Bay
- Site 14: 44A Squire Street, Fingal Bay

The following sites are classified as Class 4 on the ASS Map, namely "any works 2m below natural ground surface". Notwithstanding the unlikelihood of this eventuality, Council will require appropriate measures to be taken at a development application stage should adverse impacts be likely.

- Site 3: 1 Sketchley Street, Raymond Terrace
- Site 5: 20 Enterprise Drive, Tomago
- Site 6: 15 Enterprise Drive, Tomago
- Site 15: 13 School Drive, Tomago
- Sites 17 & 18: 9 Mitchell Street and 2 Ridgeway Avenue, Soldiers Point

4.3 Flood Prone Land

The objectives of this Direction are:

- To ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005
- To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

The planning proposal is considered to be inconsistent with clause (5) in this Direction, in that the following sites are identified as being flood prone land:

- Site 3: 1 Sketchley Street, Raymond Terrace
- Site 6: 15 Enterprise Drive, Tomago
- Site 15: 13 School Drive, Tomago

However, Council seeks the Director-General's concurrence that this inconsistency is justified as being of minor significance under clause 9(b) in this Direction for the following reasons:

Site 3: The existing use of the site is not proposed to change as a result of the planning proposal.

Site 6: Council will retain the ownership of this site. Reclassifying the land from community to operational land will better reflect the use of the land as a detention basin. Council may investigate the use of some of this site (that is not required for the detention basin) to complement adjoining land uses. A drainage study will be required to examine the level of risk to life and property and the impact of the development on flooding in association with any development application to intensify the use of this site.

Site 15: The site is a narrow strip of land fronting School Drive. The adjacent developed industrial land is also flood prone.

4.4 Planning for Bushfire Protection

The objectives of this Direction are to protect life, property and the environment from bushfire hazards, by discouraging the establishment of incompatible land uses in bushfire prone areas and to encourage sound management of bushfire prone areas.

The following sites are considered to be bush fire prone land:

- Site 5: 20 Enterprise Drive, Tomago
- Site 6: 15 Enterprise Drive, Tomago
- Site 7: 44 Ferodale Road, Medowie (vegetation buffer eastern half only)
- Site 8: 2 Coachwood Drive, Medowie (vegetation buffer)
- Site 9: 1 Coachwood Drive, Medowie (vegetation buffer)
- Site 11: 1 Lyndel Close, Medowie (vegetation buffer)
- Site 12: 8 Garuwa Street, Fingal Bay (vegetation buffer)
- Site 14: 44A Squire Street, Fingal Bay (vegetation buffer)
- Site 15: 13 School Drive, Tomago

Council will consult with the NSW Rural Fire Service in accordance with clause (4) in this Direction to ensure consistency with this Direction.

5.1 Implementation of Regional Strategies

The proposal is consistent with the Lower Hunter Regional Strategy.

6.1 Approval and Referral Requirements

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. The proposal is consistent with this direction.

6.2 Reserving Land for Public Purposes

The objectives of this direction are:

- to facilitate the provision of public services and facilities by reserving land for public purposes, and
- to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

The planning proposal does propose to remove reservations of land for public purposes over the following sites. The rationale for the removal of these reservations is provided elsewhere in this planning proposal. Council seeks the approval of the Director-General to remove these reservations.

- Site 1: 27 Garden Avenue, Raymond Terrace (public reserve)
- Site 2: 9 Rosemount Drive, Raymond Terrace (public reserve)
- Site 3: 1 Sketchley Street, Raymond Terrace (public reserve)
- Site 5: 20 Enterprise Drive, Tomago (public reserve)
- Site 6: 15 Enterprise Drive, Tomago (public reserve)
- Site 8: 2 Coachwood Drive, Medowie (public reserve)
- Site 9: 1 Coachwood Drive, Medowie (public reserve)
- Site 11: 1 Lyndel Close, Medowie (public reserve)
- Site 12: 8 Garuwa Street, Fingal Bay (public reserve)
- Site 14: 44A Squire Street, Fingal Bay (public reserve)
- Site 15: 13 School Drive, Tomago (public reserve)
- Site 17: 9 Mitchell Street, Soldiers Point (public reserve)
- Site 18: 2 Ridgeway Avenue, Soldiers Point (public reserve)

Section C - Environmental, social and economic impact.

7. 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 proposal?

General Comment

The planning proposal will not adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats. The majority of the sites are within established urban areas, isolated from any areas of environmental significance. The sites are not located within the LHRS green corridor or any areas identified by the Lower Hunter Conservation Plan as being of conservation significance.

Council's Environmental Services Section has no objection to the proposal.

Site 5: 20 Enterprise Drive, Tomago

The proposal does not appear to adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats. Detailed ecological studies will be required with any proposal to develop the land. The land is not located within the LHRS green corridor or any areas identified by the Lower Hunter Conservation Plan as being of conservation significance.

Council's Environmental Services Section has no objection to the proposal.

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

No significant effects.

9. How has the planning proposal adequately addressed any social and economic effects?

The social impacts of the planning proposal are:

- A potential increase in the supply of housing within established urban areas;
- A potential increase in employment opportunities associated with industrial development;
- An improved management regime for the marina site.
- Possible community reaction to the reclassification and rezoning process which will be determined through the public exhibition and public hearing phase of the plan-making process.

The economic effects are:

- Potential employment creation associated with the construction and on going occupation of any dwelling on the lands;
- Potential employment creation and economic activity associated with the construction and operation of any additional economic activities;
- An improved management regime for the marina site.
- Infrastructure efficiencies achieved as a result of infill development.

The environmental impacts of the proposal are:

- The potential loss of vegetation on a number of the sites
- The environmental impacts associated with the construction and ongoing operation of any dwelling on the lands;
- The environmental impacts associated with the construction and ongoing operation of any industrial buildings on Site 5 – 20 Enterprise Drive, Tomago.
- The potential reduction in the ability of the detention basin to perform its intended

functions (Site 6). Council will not enter into any leases or licenses which would have a negative impact on the functioning of the detention basin.

These negative impacts of the proposal can be reduced by any resultant dwelling complying with BASIXs and any other environmental policies which may apply at a local, State or National level.

Any negative impacts from the industrial sites (Sites 5, 6 & 15) can be reduced by any industry operating in an environmentally responsible manner and undertaken initiatives to reduce its environment impact and to increase its resource usage efficiency.

Council's Environmental Services Section has proposed additional coastal vegetation regeneration planting in coastal reserves as an offsetting measure for the disposal of surplus council owned lands.

Section D - State and Commonwealth interests.

10. Is there adequate public infrastructure for the planning proposal?

The reclassification proposal does not require additional public infrastructure. Each site is located within an established urban area.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Council will consult with the Department of Defence to ensure compliance with the provisions of Ministerial Direction 3.5 – Development near licensed aerodromes and the NSW Rural Fire Service to ensure compliance with the provisions of Ministerial Direction 4.4 – Planning for Bushfire Protection. Council has not identified any other State or Commonwealth public authorities that require to be consulted in relation to this planning proposal.

Site 1: 27 Garden Avenue, Raymond Terrace

NSW Roads and Maritime Services (RMS) has been consulted in relation to the right-of-way on the land, and they have agreed in writing to its release.

Part 4 – Mapping

Maps provided in **Attachment 1** are provided for information purposes. The maps identify the site and whether it is proposed to rezone the land as well as reclassify the land from community land to operational land.

More detailed information specific to each site is provided in **Attachment 2**.

Council will prepare relevant maps for exhibition purposes, as directed by the Department of Planning and Infrastructure in the Gateway Determination.

Part 5 – Community Consultation

The planning proposal will be exhibited in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the Local Government Act 1993 and their regulations, and in accordance with Section 2.5 of the "Guide to Making Local Environmental Plans" (October, 2012).

This includes public notification of the exhibition, inviting public submissions, and holding a public hearing.

The public hearing will be conducted in accordance with the details provided in the Department's Practice Note (PN 09-003). This Practice Note will form part of the public exhibition material.

The exhibition period will be for a minimum of 28 days and will include the availability of hard copy exhibition material at a local venue, Council libraries, the Council administration building and for download from the internet.

Following the exhibition, the public submissions and the outcome of the public hearing will be assessed, and a recommendation made to Council for their consideration.

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Attachments

- 1: Maps (13 sheets)
- 2: Site Descriptions
- 3: Council report and minutes (28 July 2009) and Open Consolidation Review Report (27 November 2007).

