

713 Newline Road, Eagleton

Proposal Title : **713 Newline Road, Eagleton**

Proposal Summary : **Amendment to Schedule 1 of the Port Stephens Local Environmental Plan 2013 to allow dual occupancy development on the subject land.**

PP Number : **PP_2015_PORTS_007_00**

Dop File No : **14/02614**

Proposal Details

Date Planning Proposal Received : **04-Sep-2015**

LGA covered : **Port Stephens**

Region : **Hunter**

RPA : **Port Stephens Council**

State Electorate : **PORT STEPHENS**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **713 Newline Road**

Suburb : **Eagleton**

City : **Hunter**

Postcode : **2324**

Land Parcel :

DoP Planning Officer Contact Details

Contact Name : **Amy Blakely**

Contact Number : **0249042723**

Contact Email : **amy.blakely@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Sarah Connell**

Contact Number : **0249800462**

Contact Email : **Sarah.Connell@portastephens.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub Regional Strategy :

Consistent with Strategy :

713 Newline Road, Eagleton

MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
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 : **In 1998, approval was granted on the subject land for a tourist facility, managers residence and subsequent subdivision. Approval was given under clause 12(b) of the Port Stephens LEP 1987, which allowed subdivision of rural land for an approved use other than a dwelling. The development consent required the land to be burdened by an 88b instrument restriction prohibiting a dwelling or duplex.**

The tourist facility included a water ski school and became unviable in 2003 due to changes made by the NSW State Government regarding the use of waterways. The land holder has lodged numerous development applications seeking a change of use to a dual occupancy since 2003.

In March 2015 Council refused such a development application but indicated support for the applicant to lodge a planning proposal seeking an amendment to Schedule 1 to permit a dual occupancy development on the site. Council indicates that the proposal is for the existing buildings to be re-purposed as a dual occupancy however no planning controls are proposed to require this.

Under Councils current provisions, land in the RU1 zone requires a minimum of 40 hectares for dual occupancy to be permissible. The site is estimated at 5.3 hectares.

External Supporting Notes : **Council initially submitted the planning proposal to the Department on the 19 August 2015, further information was required and was received 4 September 2015, it is this latter date that the proposal was considered adequate.**

Adequacy Assessment

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

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

Comment :

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

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

Comment :

Justification - s55 (2)(c)

- a) Has Council's strategy been agreed to by the Director General? **No**
- b) S.117 directions identified by RPA :
 - 1.2 Rural Zones**
 - 1.5 Rural Lands**
 - * May need the Director General's agreement**
 - 4.1 Acid Sulfate Soils**
 - 4.3 Flood Prone Land**
 - 5.1 Implementation of Regional Strategies**
 - 6.3 Site Specific Provisions**

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

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

d) Which SEPPs have the RPA identified?
SEPP No 44—Koala Habitat Protection
SEPP (Rural Lands) 2008

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

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **Mapping not required**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Given the minor nature of the proposal, Council recommend a 14 day exhibition period, this is considered appropriate.**

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 :

Comments in relation to Principal LEP : **Port Stephens LEP 2013 is in force.**

Assessment Criteria

Need for planning proposal : **Council considers the planning proposal is needed to enable the land owner to use the existing buildings on site as a dual occupancy. An 88b restriction of title will also be**

removed to allow this.

The previously approved tourist facility, which incorporated a water-ski school, is no longer viable due to changes to the management of waterways.

Council considers this unique circumstances and doesn't wish to permit the use on undersized lots more generally.

Consistency with strategic planning framework :

Lower Hunter Regional Strategy

The planning proposal is inconsistent with the LHRS which seeks to limit new dwelling entitlements in rural zones.

The planning proposal will not compromise agricultural land. Given it is limited to a single dual occupancy development and may use existing buildings, there will be limited impact on the change on the rural vistas or rural capability of the locality. Given this proposal affects one lot, and due to its unique circumstance the inconsistency is considered minor.

Port Stephens Planning Strategy

Council considers the proposal to be consistent with the strategy as the proposal will not compromise agricultural land or provide provisions that will allow for any further fragmentation. The use of Schedule 1 to allow a dual occupancy on the site will not provide broader opportunities for further development.

State Environmental Planning Policies

SEPP 44 - Koala Habitat Protection

Part of the site contains Preferred Koala Habitat/cleared buffer area. However Council states that this area of habitat is mostly cleared and contains little vegetation. The location of the existing dwellings is cleared land and Council indicates that the proposal is not expected to require any tree removal. Council should confirm that the proposal complies with the Koala Plan of Management in place for the LGA.

SEPP (Rural Lands) 2008

Council has determined that the proposal complies with the objectives of the SEPP as it provides for the most economically viable use of the land. The proposal will not impact on the surrounding rural land use. The lot has little agricultural value given its small size and the existing development upon it.

The proposal has the potential to re-purpose existing buildings to provide another opportunity for rural housing.

Section 117 Directions

1.2 Rural Zones

The planning proposal is inconsistent with this Direction as it seeks to increase the permissible density in a rural zone.

The inconsistency is considered to be of minor significance as the site is already developed and the proposal may utilise approved buildings for a dwelling, rather than a tourist facility or managers residence.

1.5 Rural Lands

The proposal will not impact on the surrounding rural land use. The lot has little agricultural value given its small size and the existing development upon it. The potential use of the existing buildings as dual occupancy dwellings is unlikely to impact the viability of the surrounding rural land. The proposal's inconsistency with this direction is considered minor.

4.1 Acid Sulfate Soils

The subject site is identified as containing Acid Sulfate Soils (ASS). The site is subject to the standard ASS clause and any impacts on ASS will be considered through a future development application.

4.3 Flood Prone Land

The subject land is partially flood prone. However, the existing buildings are located above the flood level and council considers this to be adequate space to accommodate the dual-occupancy development. Any future buildings will be subject to further development

assessment.

5.1 Implementation of Regional Strategies

The proposal is considered to be inconsistent with the Lower Hunter Regional Strategy as it seeks to increase dwelling density on rural land.

Given the minor nature of the proposal, the inconsistency with this direction is considered minor and the proposal is not considered to undermine the land use strategy, policies, outcomes or actions of the LHRS.

6.3 Site Specific Provisions

The planning proposal is inconsistent with this direction as it proposes a site specific provision.

The provisions of the planning proposal that are inconsistent are of minor significance. The site specific provisions will not create an undesirable precedent due to the unique circumstances. A site specific provision will enable the development only on the subject lot, it is not desirable to permit this provision more broadly.

Environmental social economic impacts :

There is limited environmental, social or economic impacts from the proposal.

Council may experience similar applications if this application is supported, however it is considered that this represents a unique circumstance and does not suggest support for dual occupancy development on undersized lots more generally.

Assessment Process

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

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority 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. :

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
Planning Proposal - 713 Newline Rd.pdf	Proposal	Yes
submission letter.docx	Proposal Covering Letter	Yes

Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones**
 1.5 Rural Lands
 4.1 Acid Sulfate Soils
 4.3 Flood Prone Land
 5.1 Implementation of Regional Strategies
 6.3 Site Specific Provisions

Additional Information : **The planning proposal should be supported on the basis that the following conditions are to apply:**

1. **Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:**
 - (a) **the planning proposal must be made publicly available for a minimum of 14 days; and**
 - (b) **the relevant planning 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 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Infrastructure 2013).**
2. **A public hearing is not required to be held into the matter by any person or body under section 56(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).**
3. **The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.**

In the covering letter, Council should be advised the following:-

- **Council may use the Minister's Plan-Making delegations; and**
- **The inconsistencies with section 117 Directions 1.2 Rural Zones, 1.5 Rural Land, and 6.3 Site Specific Provisions are of minor significance.**
- **The inconsistencies with section 117 Direction 5.1 Implementation of Regional Strategies are of minor significance and the planning proposal does not undermine the land use strategy, policies, outcomes or actions of the Lower Hunter Regional Strategy.**

Supporting Reasons : **The proposal is of minor significance.**

The use of Schedule 1 to permit a dual occupancy development on the site will provide the potential for the use of buildings on the site to be used for another purpose. The proposal is considered to respond to the unique circumstances of this site. It is undesirable to permit this provision more broadly across the Local Government Area.

Council has requested plan making delegations for the planning proposal.

Signature:

K. O'Keefe

Printed Name:

K. O'Keefe

Date:

14/9/15.