



Contact: Dylan Meade
Phone: (02) 4904 2700
Fax: (02) 4904 2701
Email: Dylan.Meade@planning.nsw.gov.au
Postal: PO Box 1226, Newcastle NSW 2300

Our ref: PP_2013_PORTS_006_00
(13/12522)

Mr Peter Gesling
General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324

Dear Mr Gesling,

Planning proposal to amend Port Stephens Local Environmental Plan (LEP) 2000 or draft Port Stephens LEP 2013

I am writing in response to your Council's request for a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone land at 42 Fullerton Cove Road, Fullerton Cove to 3(a) General Business and 7(a) Environmental Protection under Port Stephens Local Environmental Plan (LEP) 2000 or rezone the land to B1 Neighbourhood Centre and E2 Environmental Conservation under draft Port Stephens LEP 2013.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should not proceed.

The planning proposal to rezone land at Fullerton Cove for business and environmental protection purposes was not supported because the proposal as submitted does not sufficiently demonstrate that the subject land is suitable for development, given the land contains class 2 acid sulphate soils, endangered ecological communities, is flood prone and in close proximity to oyster aquaculture and the Hunter Wetlands National Park. The planning proposal is also inconsistent with the Lower Hunter Regional Strategy and various applicable S117 Directions because it proposes to rezone land for business purposes that is located outside of a commercial centre with limited access to public transport and is within the Green Corridor, as identified in the regional strategy.

While the planning proposal is not supported at this stage, should Council wish to pursue the rezoning of land at Fullerton Cove, it is encouraged to undertake further strategic planning work. Council is to address matters regarding flood prone land and filling, acid sulphate soils, impacts of the proposal on oyster aquaculture areas and endangered ecological communities, including the cumulative impacts of the proposal on surrounding vegetation, demonstrate that a biodiversity offset can be achieved and address the proposal's impact on existing centres, including the commercial zoned land at Seaside Village. Council will also need to consult further with the Office of Environment and Heritage to determine an appropriate biodiversity offset and the local and regional ecological implications of the proposal.

Should you have any queries in regard to this matter, please contact Dylan Meade of the regional office of the department on 02 4904 2700.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Neil McGaffin', written over a circular stamp or seal.

Neil McGaffin 27. 9. 13
Acting Deputy Director General
Planning Operations & Regional Delivery

Encl: Gateway determination

Gateway Determination

Planning proposal (Department Ref: PP_2013_PORTS_006_00): to rezone land at Fullerton Cove for business and environmental protection purposes.

I, the Deputy Director General, Planning Operations and Regional Delivery at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Port Stephens Local Environmental Plan (LEP) 2000 to rezone land at 42 Fullerton Cove Road, Fullerton Cove to 3(a) General Business and 7(a) Environmental Protection or rezone the land to B1 Neighbourhood Centre and E2 Environmental Conservation under draft Port Stephens LEP 2013 should not proceed for the following reasons:

1. The planning proposal as submitted does not sufficiently demonstrate that the subject land is suitable for development, given the land contains class 2 acid sulphate soils, endangered ecological communities, is flood prone and in close proximity to oyster aquaculture and the Hunter Wetlands National Park and may compromise any future proposal to rehabilitate the Fullerton Cove wetlands.
2. The planning proposal does not sufficiently demonstrate that there will be a net economic or community benefit to rezoning the subject land for business purposes and does not give full consideration to the impact of the proposal on existing centres, including the commercial zoned land at Seaside Village.
3. The planning proposal is inconsistent with the Lower Hunter Regional Strategy and various applicable S117 Directions because it proposes to rezone land for business purposes that is located outside of a commercial centre, with limited access to public transport, and the site is identified within the Watagan to Stockton Green Corridor, due to its environmental significance.

Dated 27th day of September 2013.



Neil McGaffin
Acting Deputy Director General
Planning Operations & Regional Delivery
Department of Planning and Infrastructure

Delegate of the Minister for Planning and Infrastructure