

Port Stephens LEP 2013 – 1519 Richardson Road Salt Ash

Proposal Title : **Port Stephens LEP 2013 – 1519 Richardson Road Salt Ash**

Proposal Summary : **The planning proposal seeks to rezone land from RU2 Rural Landscape to B1 Neighbourhood Centre to allow the expansion of an existing service station and ancillary commercial operation.**

PP Number : **PP_2014_PORTS_006_00**

Dop File No :

14/18557

Proposal Details

Date Planning
Proposal Received : **26-Nov-2014**

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 : **1519 Richardson Road**

Suburb : **Salt Ash**

City :

Postcode : **2318**

Land Parcel : **Lot 20, DP 240103**

Street : **1515 Richardson Road**

Suburb : **Salt Ash**

City :

Postcode : **2318**

Land Parcel : **Lot 23 DP 240103**

Street : **3 Salt Ash Avenue**

Suburb : **Salt Ash**

City :

Postcode : **2318**

Land Parcel : **Lot 1, DP 158268**

Street : **5 Salt Ash Avenue**

Suburb : **Salt Ash**

City :

Postcode : **2318**

Land Parcel : **Lot 6 DP 240103**

Street : **7 Salt Ash Avenue**

Suburb : **Salt Ash**

City :

Postcode : **2318**

Land Parcel : **Lot 7 DP 240103**

DoP Planning Officer Contact Details

Contact Name : **Paul Maher**
Contact Number : **0249042719**
Contact Email : **paul.maher@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Jeffrey Bretag**
Contact Number : **0249480247**
Contact Email : **jeffrey.bretag@portsephens.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :
Contact Number : **0447661038**
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 :	No
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.08	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	25

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 : **The Planning Proposal was submitted to the Department on 3 November 2014. The Planning Proposal required additional information regarding the planning implications of the site in the Green Corridor under the Lower Hunter Regional Strategy 2006 and more refined mapping for the purpose of public exhibition. The additional information was submitted on 26 November 2014.**

Note the planning proposal seeks to rezone the site of the existing service station and shops and extend new zone over an adjoining property.

Adequacy Assessment

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

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

Comment : The planning proposal seeks to rezone 1.96 hectares of land from RU2 Rural Landscape to B1 Neighbourhood Centre to allow limited future expansion of the commercial floor space through Schedule 1 and to amend FSR, height and minimum lot size controls appropriate to the zone.

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

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

Comment : The explanation of provisions is adequate as it specifies the parameters to amend Port Stephens LEP 2013.

The PP will amend the following maps in relation to the subject site;

- LZN_004 map from R2 Rural Landscape to B1 Neighbourhood Centre
- HOB map from 10m to 14m
- FSR map from 0.9:1 to 2:1
- LSZ_004 map to remove the MLS control of AB2 – 20 hectares
- Amend additional permitted use map CL1_004 to identify the site

Council proposes to amend the instrument through Schedule 1 – Additional permitted uses. However as commercial premises are permitted in the B1 zone, it is proposed to insert the controls into Part 7 - Additional local provisions. These will include;

* site details

* consent not be granted for a single commercial premise in excess of 500m2 gross floor area

* consent not be granted for the combined commercial premises in excess of 2,100m2 gross floor area

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

1.2 Rural Zones

* May need the Director General's agreement

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

4.3 Flood Prone Land

5.1 Implementation of Regional Strategies

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 55—Remediation of Land

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 :

Direction 1.2 Rural Zones – the proposal is inconsistent with Direction 1.2 as it rezones land from a rural zone to a business zone. However, the land is not identified as prime agricultural land. Consultation should occur with DPI (Agriculture) to determine consistency with Direction 1.2 and whether any inconsistency is justified. This should occur prior to exhibition and this aspect of the proposal should be considered by the Secretary of P&E prior to making the plan.

Direction 1.3 Mining, Petroleum and Extractive Industries – State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 permits petroleum production and extractive industry on land where agriculture and industry are permitted. The effect of the planning proposal will remove agriculture as a permissible use.

Therefore it is necessary to consult with the Secretary of the Department of Trade & Investment, Regional Infrastructure & Services Division of Resources and Energy (T&I) and seek advice on land uses in conflict with mining.

Any advice from T&I should be included in the community consultation. Therefore until consultation with T&I has occurred it cannot be determined if the consistency is of minor significance. It is recommended that this aspect of the proposal be considered by the Secretary P & E prior to making the plan.

Direction 1.5 – Rural Lands – the planning proposal is potentially inconsistent with Direction 1.5 as it is not consistent with the Rural Planning Principals as it does not consider the importance of agriculture although the land is not identified as prime agricultural land. Consultation should occur with DPI (Agriculture) to determine consistency with Direction 1.5 and whether any inconsistency is justified. This should occur prior to exhibition and this aspect of the proposal should be considered by the Secretary of P&E prior to making the plan.

Direction 4.3 Flood Prone Land – the Planning Proposal is inconsistent with Direction 4.3 as it is located in a Flood Planning Area. The inconsistency is considered minor in this instance as Council Flooding Engineers were consulted and considered that any potential flood impacts can be ameliorated through a development application via a number of engineering measures. In addition, it is proposed that future development will be in accordance with the Floodplain Risk Management Plan and the existing floor level will be 0.46 metres above the ARI 100 year flood level. For this reason, the inconsistency may be considered minor.

The Secretary's agreement to the inconsistency is required.

Direction 5.1 Implementation of Regional Strategies – The PP is inconsistent with Direction 5.1 as it is identified in the Green Corridor in the LHRs. The subject site contains an existing commercial operation and limited vegetation. It is considered the proposal will not impinge on habitat linkages and the Green Corridor is currently under review. However consultation is required with OEHL to ensure that the inconsistency is of a minor nature. This should occur prior to exhibition and should be considered by the Secretary of P&E prior to making the plan.

STATE POLICIES

SEPP 55 – Remediation of Land – Due to the past agricultural uses of the subject site a Phase 1 Contamination Assessment will be completed post-gateway to satisfy the provisions of this SEPP. The proposal will not permit residential but will permit sensitive developments such as respite day care centre and child care centres under the B1 zone. Council is required to provide a statement to the Department in its s59 submission demonstrating that it is confident that the proposed zone is suitable subject to the Phase 1 Contamination Assessment.

SEPP (Rural Lands) 2008 – as indicated under s117 Direction 1.5 above, the Planning Proposal is inconsistent with the Rural Planning Principals and therefore consultation should occur with DPI (Agriculture).

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment : The maps provided are adequate for community consultation.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has proposed a 28 day consultation period. This is considered appropriate given the proposal involves placing a cap on proposed commercial floor space to prevent adverse affects on the existing centres hierarchy.**

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons : **PROJECT TIMELINE**

Council's timeline indicates that the Planning Proposal will be completed within nine (9) months after the Gateway Determination. It is considered that a nine (9) month timeframe is appropriate which requires the Planning Proposal to be completed by August 2015.

PLAN-MAKING DELEGATION

Council has requested delegation for this Planning Proposal. As the proposal is consistent with Council's local planning strategy, it is recommended plan-making delegation be given.

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 : **The Port Stephens Local Environmental Plan 2013 commenced in February 2014**

Assessment Criteria

Need for planning proposal :

The Planning Proposal is consistent with the Port Stephens Planning Strategy (PSPS) which identifies the site as a small village centre.

The proposed additional floor space is supported by the Economic Impact Assessment EIA and the magnitude of the increase is underpinned by the Independent review provided. The material provided demonstrates that an increase in commercial floor space on the site will fill the identified demand and will not adversely impact on the established centre hierarchy.

A planning proposal is considered the most effective and timely method available to reclassify the land and achieve the objectives of the proposal.

Consistency with
strategic planning
framework :

LOWER HUNTER REGIONAL STRATEGY (LHRS)

The site is identified as part of the Watagan Stockton Green Corridor. Innovative land use proposals, outside areas identified as future urban, may be considered under the Regional Strategy where it can be shown that the proposal meets the Sustainability Criteria. This consideration does not apply to proposals for development in the area identified as a green corridor on the Strategy Map which includes the subject site.

The Planning Proposal is inconsistent with the Regional Strategy with respect to the Green Corridor however the site contains minimal vegetation and is not identified to be of high conservation value. In addition, the Green Corridor is currently under review. Consideration of the ecological value of the site to the corridor may occur as part of this review.

It is recommended that the Planning Proposal be forwarded to the Office of Environment and Heritage for formal consultation. This should occur prior to exhibition and this aspect of the proposal should be considered by the Secretary of P&E prior to making the plan.

PORT STEPHENS PLANNING STRATEGY (PSPS)

The PSPS identifies the site as a smaller village centre which means a cluster of shops to service surrounding communities. The expansion is in line with the existing centres hierarchy.

PORT STEPHENS COMMERCIAL AND INDUSTRIAL LANDS STUDY

The Study identifies the site as a smaller village centre and estimates it contains approximately 1,800m². The site addresses Richardson Road which is characterised by high traffic volumes. The study estimated that the village centre could accommodate an increase of 450 m² of commercial floor space.

More accurate analysis of the existing floor space indicated an additional 1,288 m² commercial floor space was justified.

ECONOMIC IMPACT ASSESSMENT (EIA)

The proponent's analysis proposed an expanded centre totaling 2,500m² commercial floor space would represent an impact of 1.1% on other centres.

The assessment notes;

'More services for Salt Ash residents would marginally reduce leakage to other retail centres. However, an expanded Paul's Corner will still provide only a small fraction of residents' needs. Larger centres with full-line supermarkets, discount department stores and department stores will continue to be the main destination for both weekly convenience and comparison shopping'.

The Planning Proposal does not intend to provide opportunity for a full-line supermarket as it will have adverse effects on surrounding centres.

INDEPENDENT REVIEW OF THE EIA

A third party was commissioned to carry out an independent review of the proponent's proposed commercial floor space increase. The review arrived at a discrepancy in commercial/retail demand, based on traffic volumes on Richardson Road. The review estimated the floor space demand as 1,870m² rather than 2,162m². The traffic forecasts were extended out to 2034 which lead to a revised commercial floor space cap of 2,100m².

It is evident that the proposed expansion of commercial floor space is based on analysis of the proposal as transit oriented development. The planning proposal has taken into

consideration the potential for development in principle identified under local strategies and sought more specific examination of the site to arrive at a measured limit.

Apart from the Green Corridor under the LHRS, the Planning Proposal is consistent with the strategic planning framework.

Environmental social
economic impacts :

ENVIRONMENTAL

There is little ecological value attributed to the site as it contains an existing service station and it is within an urban transport corridor. The adjoining lot that is subject to the proposed expansion of the operation contains a small amount of regrowth vegetation. The loss of this land from the Green Corridor will be considered through consultation with OEH.

ECONOMIC

The Planning Proposal provides adequate analysis that the proposal will fulfil an economic demand generated by traffic volumes. The proposed clause will restrict individual commercial premises not to exceed 500m² and the combined floor space not to exceed 2,100m². These controls will prevent a big box development such as a supermarket, taking advantage of the site.

SOCIAL

The proposed expansion of the small village centre will allow the services available to be augmented to meet future demands providing positive social benefit to local commuters. The cap placed on the commercial floor space will ensure that adverse social impacts are not felt by competing commercial centres in the area.

Assessment Process

Proposal type : **Inconsistent** Community Consultation Period : **28 Days**

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

Public Authority Consultation - s56(2)(d) : **NSW Department of Primary Industries - Agriculture
Department of Trade and Investment**

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 :

Remediation report

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
14 11 26_Amended PP_New Maps_1519 Richardson Road, Salt Ash.pdf	Proposal	Yes
Port Stephens Council_03-11-2014_Request for Gateway Determination - 1519 Richardson Road Salt Ash_.pdf	Proposal Covering Letter	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 4.3 Flood Prone Land
- 5.1 Implementation of Regional Strategies

Additional Information :

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 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 LEPs (Department of Planning & Infrastructure 2013).
 2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act.
 - NSW Trade and Investment – Mineral Resources and Energy - Regional Infrastructure and Services Division (S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries)
 - Department of Primary Industries – Agriculture (S117 Direction 1.2 Rural Zones)
 - Office of Environment & Heritage – (S117 Direction 5.1 Implementation of Regional Strategies)
 3. Council undertake the Phase 1 Contamination in accordance with the contaminated land planning guidelines to ensure that the land is suitable for the permitted uses/purposes within a residential zone for the purposes of SEPP 55.
 4. 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 (for example, in response to a submission or if reclassifying land).
 5. The timeframe for completing the LEP is to be 9 months.
- Supporting Reasons :
1. The PP proposes to provide opportunities for limited expansion of an existing service station and ancillary commercial operation.

Signature:



Printed Name:

K. O'Farherly

Date:

9/12/14