

Correction of mapping anomalies for land at Tomago and Karuah

Proposal Title : **Correction of mapping anomalies for land at Tomago and Karuah**

Proposal Summary : **The planning proposal seeks to correct a number of mapping anomalies in the Port Stephens LEP 2013 for land at Tomago and Karuah.**

The anomalies occurred when the Port Stephens LEP 2000 planning controls were converted across to the Port Stephens LEP 2013.

The planning proposal would put in place equivalent LEP 2013 controls to those LEP 2000 controls applying prior to the transfer.

The planning proposal would also change the zone and minimum lot size standard for a 370 m2 portion of a 0.6 hectare site at Tomago (site 5).

The site is currently split zoned E2 Environmental Conservation/ IN1 General Industrial and has a 40 hectare minimum lot size applying to the E2 portion. The whole site is to be given an IN1 zoning with no minimum lot size.

PP Number : **PP_2015_PORTS_004_00**

Dop File No :

15/11626

Proposal Details

Date Planning
Proposal Received : **24-Aug-2015**

LGA covered : **Port Stephens**

Region : **Hunter**

RPA : **Port Stephens Council**

State Electorate : **PORT STEPHENS**

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

LEP Type : **Housekeeping**

Location Details

Street : **15 Gray Drive**

Suburb : **Karuah**

City :

Postcode : **2324**

Land Parcel : **part of lot 302 DP 1004596**

Street : **38 Old Punt Road**

Suburb : **Tomago**

City :

Postcode : **2322**

Land Parcel : **part of lot 143 DP 605461**

Street : **1 Laverick Avenue**

Suburb : **Tomago**

City :

Postcode : **2322**

Land Parcel : **part of lot 12 DP 1138643**

Street : **12 Laverick Avenue**

Suburb : **Tomago**

City :

Postcode : **2322**

Land Parcel : **part of lot 2 DP 1195849**

Correction of mapping anomalies for land at Tomago and Karuah

Street : **14 Laverick Avenue**
Suburb : **Tomago** City : Postcode : **2322**
Land Parcel : **part of lot 1 DP 1195849**

DoP Planning Officer Contact Details

Contact Name : **Ben Holmes**
Contact Number : **0249042709**
Contact Email : **ben.holmes@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Renee Read**
Contact Number : **0249800163**
Contact Email : **Renee.Read@portstephens.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 :	Lower Hunter Regional Strategy	Consistent with Strategy :	N/A
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
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 : **ADDITIONAL INFORMATION**

The planning proposal was first received on 28 July 2015. Additional information was sought from Council and this was provided 13 August 2015 and 24 August 2015.

PROPERTY MISDESCRIPTION

Correction of mapping anomalies for land at Tomago and Karuah

The lot and DP details listed on the title page of the planning proposal contain an error. Lot 2 DP 1138643 is incorrect. It should be lot 2 DP 1195849. This will need to be corrected.

External Supporting
Notes :

Adequacy Assessment

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

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

Comment : It clearly identifies that the proposal is to correct mapping anomalies which occurred as part of the transition from the Port Stephens LEP 2000 to the Port Stephens LEP 2013.

The current Statement of Objectives is considered adequate. It is consistent with the Department's "A Guide to Preparing Planning Proposals" and generally describes the intent of the proposal which broadly is to correct mapping anomalies.

While the Objectives section of the PP attributes these anomalies to LEP transition errors, site 5 is not a transition error. The Objectives should be updated to reflect this. The 'Background' section of the PP contains the same reference and should be updated also.

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

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

Comment : The specific provisions to be changed are described in this section. It is consistent with the Department's "A Guide to Preparing Planning Proposals".

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 3.1 Residential Zones
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements

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 14—Coastal Wetlands
- SEPP No 44—Koala Habitat Protection
- SEPP No 71—Coastal Protection
- SEPP (Housing for Seniors or People with a Disability) 2004
- SEPP (Rural Lands) 2008
- SEPP (Affordable Rental Housing) 2009

e) List any other matters that need to be considered : **N/A**

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain : Council's assessment considers the proposal to be either consistent with particular

Correction of mapping anomalies for land at Tomago and Karuah

s117 directions or does not come to a conclusion regarding consistency.

Section 117 directions are discussed in detail later in this report.

Also, the s117 direction for Rural Land is incorrectly referred to as direction 1.4, when it should be 1.5. This is minor.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Mapping has been provided. Lot size maps, both current and proposed, for the specific Tomago sites should be included.**

While mapped, the Tomago sites are not clear given their size. The use of larger maps would assist with community consultation.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council considers the proposal to be a 'low impact' given it would correct anomalies. A 14 day community consultation period is proposed. This is supported.**

Additional Director General's requirements

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

If Yes, reasons : **TIMELINE**

Council indicates the proposal would be completed by October 2015. A six month completion timeframe is recommended to provide an adequate buffer for any delays.

PLAN-MAKING DELEGATION

Council has requested plan-making delegation. This is supported.

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 LEP 2013 commenced in February 2014.**

Assessment Criteria

Need for planning proposal : **Council states the proposal is not the result of a study or report. Rather, the anomalies have been identified and therefore need to be corrected.**

Of the five sites in the proposal, four did not have equivalent zones (and development standards) applied through Council's conversion process from PS LEP 2000 to PS LEP 2013. These sites are to have equivalent zones to their old zones (and development standards) applied.

Site 5 (part of lot 1 DP 1195849) is the exception. This land formed part of a different lot

Correction of mapping anomalies for land at Tomago and Karuah

and was zoned 1(a) Agriculture in the PS LEP 2000 and converted to E2 in the PS LEP 2013. Following a subdivision approval this 370 m² portion of land was transferred into an adjoining lot (ie the remaining part of lot 1 DP 1195849) which was already zoned IN1 and had no minimum lot size. Council now proposes to apply the IN1 and no minimum lot size standard across the entire lot.

Council states this change is a result of a boundary adjustment on the property which was registered in May 2014. The updated survey plan has since been included in Council's cadastre and the change is to ensure that the zoning matches the updated cadastre. While Council has not clarified the environmental value of the 370 m² portion, Council proposes to consult with OEH which would help identify any issues.

The proposed changes are supported. Re-instating equivalent zones and standards corrects errors introduced through the LEP conversion process. For site 5, the change proposed is considered minor. Rezoning a 370 m² E2 zoned section of a 0.6 ha Industrial site is supported and should allow a more efficient use of the site.

Consistency with
strategic planning
framework :

LOWER HUNTER REGIONAL STRATEGY (LHRS)

Council notes the proposal does not conflict with the objectives of the LHRS. Further, that it would ensure land is zoned appropriately to facilitate employment opportunities.

The Department considers the Regional Strategy to be a high level strategic planning tool that does not provide specific guidance for proposals such as this one.

PORT STEPHENS COMMUNITY STRATEGIC PLAN 2022

Council states the proposal is consistent with the plan, specifically directions 11.1 'Balance the environmental, social and economic needs of Port Stephens for the benefit of future generations' and 3.6 'Develop strategic land use and infrastructure plans and prepare and maintain statutory planning instruments, development control plans and policies'.

PORT STEPHENS PLANNING STRATEGY 2011

Council states this strategy seeks to ensure there is adequate housing and industrial land in the local government area, and that the proposal is consistent with these outcomes.

STATE ENVIRONMENTAL PLANNING POLICIES

Council identifies several SEPPs as being relevant to this proposal. As the proposal would generally correct mapping anomalies resulting from the LEP translation, the proposal is considered not inconsistent with these SEPPs. Site 5 is a small site and considered not inconsistent with the SEPPs either.

SECTION 117 DIRECTIONS

The proposal is inconsistent with the following s117 directions:

1.1 Business and Industrial Zones - inconsistent because the proposal would create a new employment area but not in accordance with a Secretary-endorsed strategy (subclause 4e). The inconsistency is of minor significance because the proposal is re-instating an industrial zoning which was removed from the site in error. The Secretary should agree to the inconsistency accordingly (subclause 5d).

Rezoning site 5 as proposed is also inconsistent with this direction (subclause 4e). However, given the site is a 370 m² portion of a 0.6 ha industrial zoned lot, the inconsistency is of minor significance and the Secretary should agree to the inconsistency accordingly (subclause 5d).

1.2 Rural Zones - inconsistent because the proposal would rezone land from a rural zone (RU2 Rural Landscape) to a residential zone (R2 Low Density Residential). A residential zone applied to the site prior to the LEP translation and this proposal would re-instate an equivalent residential zone. The Secretary should therefore agree that the inconsistency is of minor significance (subclause 5d).

1.5 Rural Lands - inconsistent because the proposal would provide for residential and industrial development which is inconsistent with the rural planning principles listed in the SEPP (subclause 4). The rural and environmental outcomes sought by the SEPP are not relevant to these sites which were mistakenly given rural and environmental zonings through the LEP translation process. The Secretary should therefore agree that the inconsistency is of minor significance (subclause 6b).

Site 5 would rezone the land to enable industrial development which is also inconsistent with the rural planning principles (subclause 4). As the site is small (370 m²) the site is not considered to be suitable for agricultural purposes. The inconsistency with the direction is therefore of minor significance and the Secretary should agree accordingly (subclause 6b).

Correction of mapping anomalies for land at Tomago and Karuah

2.1 Environment Protection Zones - inconsistent because the proposal would reduce the environment protection standards for those E2 zoned sites which are to be zoned IN1 (subclause 5).

For four of the sites, the proposal would re-instate equivalent zones (and subdivision standards) to those in place prior to the LEP conversion. Given this, the inconsistency with this direction could be considered to be of minor significance (subclause 6d).

Site 5 would change the zoning (and minimum lot size) for land that has historically been zoned agriculture to an industrial zone. The area of land affected by this proposal is small, 370 m², and so this inconsistency could be considered to be of minor significance also (subclause 6d).

Notwithstanding the above, Council proposes to consult with the Office of Environment and Heritage regarding the proposed changes. Consistency with this direction can be re-evaluated following OEH consultation.

4.1 Acid Sulfate Soils - inconsistent because the proposal would intensify land use on land affected by acid sulfate soils and no acid sulfate soils study is proposed to be prepared (subclause 6). The inconsistency is considered to be of minor significance (subclause 8b) as the proposal fixes mapping errors and any future DA would be subject to the ASS clause in Council's LEP. The Secretary should agree to the inconsistency accordingly.

4.3 Flood Prone Land - inconsistent because the proposal would rezone land (sites 2-4) in flood planning areas from an environment protection zone to an industrial zone (subclause 5). The inconsistency is considered to be of minor significance (subclause 9b) as the proposal fixes mapping errors and re-instates the equivalent zone to that in place prior to the LEP translation. The Secretary should agree to the inconsistency accordingly.

4.4 Planning for Bushfire Protection - consistency cannot be determined until consultation has occurred with the Rural Fire Service (subclause 7).

Environmental social
economic impacts :

As the proposal generally corrects mapping errors, and equivalent zone and development controls are to be put in place to those that were in place previously (under the PS LEP 2000), environmental, social and economic impacts are unlikely for sites 1 to 4. For site 5, this impacts are unknown but would be clarified through OEH and community consultation.

Notwithstanding the above, Council intends to consult with OEH and the RFS and this should help inform Council's understanding of potential impacts.

In any case, should the rezoning proceed and the LEP be finalised, future development that may result in impacts would be subject to further assessment by Council as part of the development application process.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	14 Days
Timeframe to make LEP :	6 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage - NSW National Parks and Wildlife Service NSW Rural Fire Service		

Correction of mapping anomalies for land at Tomago and Karuah

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 :

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

If Yes, reasons : **The sites were previously zoned for residential and industrial purposes. State infrastructure contributions are therefore not considered appropriate. Site 5 is too small an industrial site to warrant contribution requirements.**

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal.pdf	Proposal	Yes
Request for Gateway Determination.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**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 3.1 Residential Zones**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 6.1 Approval and Referral Requirements**

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

- 1. Council is to update the planning proposal**
 - (a) cover page to list the correct property descriptions; and**
 - (b) the Background and Objectives section to note that site 5 (part lot 1 DP 1195849) does not result from the LEP translation process.**
- 2. Council is to include minimum lot size maps which show the current and proposed minimum lot sizes for the Tomago sites.**
- 3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:**

Correction of mapping anomalies for land at Tomago and Karuah

(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).

4. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant section 117 Directions:

- Office of Environment and Heritage
- Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. This should occur prior to community consultation. Once the consultation is undertaken with the public authorities, and information is provided, Council is to update its consideration of S117 Directions, in particular Direction 2.1 Environment Protection Zones and 4.4 Planning for Bushfire Protection.

5. 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).

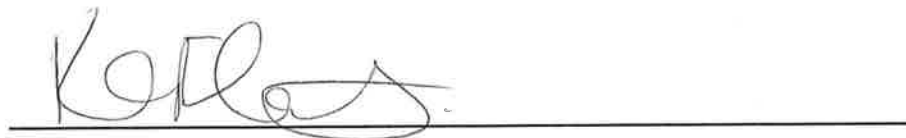
6. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.

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

- Council may use the Minister's Plan-Making delegation;
- Council should consider including larger maps in the exhibition material to assist with community consultation;
- The Secretary should agree that inconsistencies with section 117 Directions 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.5 Rural Land, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are of minor significance; and
- Council should reconsider consistency with section 117 Directions 2.1 Environment Protection Zones and 4.4 Planning for Bushfire Protection following agency consultation.

Supporting Reasons : per report

Signature:



Printed Name:

KOFLAHERTY Date: 2/9/15.

