

SECTION 59 PLANNING REPORT

Port Stephens Local Environmental Plan 2013 (Amendment No. 18)

Planning proposal details:

PP_2016_PORTS_001_00

Planning Proposal to amend Port Stephens Local Environmental Plan 2013

Planning proposal summary:

Planning proposal (Department Ref: PP_2016_PORTS_001_00): to amend Port Stephens LEP 2013 by:

- Amending Clause 7.3(2)(a) of *Port Stephens Local Environmental Plan 2013*
- Removing Flood Prone Land Map
- Amending Clause 7.3
- Deleting definition of 'Flood Planning Map'

Date of Gateway Determination:

21 June 2016

1.0 SUMMARY

Background

On 8 March 2016, Council adopted a Floodplain Risk Management Policy and Flood Hazard Maps. The Policy and maps have been prepared in accordance with the State Government's Floodplain Development Manual 2005 and were developed using data from a number of flood studies undertaken throughout the LGA. The maps are under constant review and amendments will be made when new information is available. The Flood Hazard Map more accurately reflects the flood planning level than the current 'Flood Planning Map' contained in the *PSLEP 2013*.

This planning proposal seeks to remove the Flood Planning Map from the LEP to avoid any confusion between the LEP and the adopted Flood Hazard Map. Removing the flood maps from the LEP will ensure reliance on most up to date flood mapping, without the need for a lengthy LEP amendment process every time the Flood Hazard Maps are updated. Council will instead rely on Clause 7.3 (as amended), the Floodplain Risk Management Policy and Flood Hazard Maps. The Flood Hazard Maps are available for viewing by the community on Council's website, ensuring that the most accurate and up to date mapping is readily accessible and used in the assessment of development applications.

- *overview of the zones/development standards to be amended*

The objectives of this planning proposal will be achieved by the following amendments to the *Port Stephens Local Environmental Plan 2013*:

a) Amending Clause 7.3(2) from:

(2) *This clause applies to:*

- (a) *land identified as "Flood Planning Area" on the Flood Planning Map, and*
- (b) *other land at or below the flood planning level.*

To:

(2) *This clause applies to land at or below the flood planning level.*

b) Deleting Map Identification Numbers:

- FLD_001 6400_COM_FLD_001_080_20131210
- FLD_002 6400_COM_FLD_002_080_20131210
- FLD_003 6400_COM_FLD_003_080_20131128
- FLD_004 6400_COM_FLD_004_080_20131128
- FLD_005 6400_COM_FLD_005_080_20131128

c) Deleting the definition of **Flood Planning Map** contained in the Dictionary.

- *summary of key exhibition dates and main points raised in submissions*

The planning proposal was exhibited for a period of 28 days, from 7 July 2016 to 5 August 2015. One submission was received during the exhibition period.

One submission was received during the exhibition period and requests an amendment to the Flood Hazard Category for a site located in Williamstown. It further suggests that the Floodplain Risk Management Policy and Flood Hazard Maps be altered so that development within the high risk zones can be facilitated where flood mitigation measures that minimise risk to life and property are incorporated into the development.

- *summary of any key amendments made to the planning proposal as a consequence of public exhibition*

The submission raises a number of concerns regarding the Floodplain Risk Management Policy and the Flood Hazard maps. The issues raised are not directly relevant to the planning proposal as the LEP does not currently identify flood hazard categories nor is it proposed by this planning proposal. The concerns relate more to the mapping rather than the planning proposal, removing the ability for the submitter's concerns to be addressed. The issues raised are therefore outside the scope of the planning proposal.

No changes to the planning proposal have been made as a result of this submission.

2.0 GATEWAY DETERMINATION

- Date of Gateway Determination: 21 June 2016
- Timeframe for completion of planning proposal: 9 months
- the Gateway determination was not subject to a review request
- The conditions of the Gateway determination have been complied with.

3.0 COMMUNITY CONSULTATION

- The planning proposal was exhibited from 7 July to 5 August 2016
- 1 submission was received
- Consultation was undertaken in accordance with the Gateway determination
- No amendments were made to the planning proposal as a result of issues raised during community consultation

4.0 VIEWS OF PUBLIC AUTHORITIES

The Gateway determination required Council to undertake consultation with the Office of Environment & Heritage and the State Emergency Service. Details provided below:

Office of Environment & Heritage

OEH concur that inclusion of flood mapping in the LEP delays dissemination of the most up to date flooding information obtained from flood studies and floodplain risk management studies. Providing flood mapping remains publically available via Councils web site in a readily accessible form, OEH do not object to the removal of the Flood Prone Land maps from the LEP and the facilitating changes to the wording as suggested in the planning proposal. They recommend Council's website be updated so that the Flood Hazard Maps can be more easily found by members of the public.

State Emergency Service

SES did not provide a response.

5.0 CONSISTENCY WITH S.117 DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS

Section 117 Directions

An assessment of relevant s.117 Directions against the planning proposal is provided below.

Section 117 Direction No. 4.3 aims to:

- (a) 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, and*
- (b) 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 Floodplain Risk Management Policy and Flood Hazard Maps, adopted by Council on 8 March 2016, were prepared in accordance with the Floodplain Development Manual 2005.

Adequate provision remains in the PSLEP 2013 to consider development on flood prone land under Clause 7.3 Flood planning.

State Environmental Planning Policies

There are no existing or draft State Environmental Planning Policies that prohibit or restrict amendments outlined in this planning proposal.

The planning proposal is consistent with relevant State Environmental Planning Policies.

Hunter Regional Plan

The Hunter Regional Plan monitors and investigates risks from natural hazards to inform future planning and management.

The planning proposal is consistent with this Plan as it will ensure the most up-to-date flooding information is accessible to the community and used in planning decisions.

Port Stephens Planning Strategy

The PSPS recognises the large area of land within the LGA that is subject to flooding. The planning proposal ensures community and planners are not relying on outdated maps contained in the LEP.

6.0 PARLIAMENTARY COUNSEL OPINION

24 March 2017

7.0 OTHER RELEVANT MATTERS

Council has not met with the Minister or any members for Parliament in relation to this plan.

8.0 MAPPING

The planning proposal seeks to delete Map Identification Numbers:

- FLD_001 6400_COM_FLD_001_080_20131210
- FLD_002 6400_COM_FLD_002_080_20131210
- FLD_003 6400_COM_FLD_003_080_20131128
- FLD_004 6400_COM_FLD_004_080_20131128
- FLD_005 6400_COM_FLD_005_080_20131128

9.0 RECOMMENDATION

It is recommended that the plan be made, without any amendments.

NOTES:

- Final version of the Planning Proposal (including Council report and resolution dated 28 February 2017) and Parliamentary opinion are attached.