

Planning Services

Gateway Determination Report

LGA	Port Stephens
RPA	Port Stephens Council
NAME	Rezone land at Adelaide Street Raymond Terrace for residential purposes (60 dwellings, 0 jobs)
NUMBER	PP_2017_PORTS_005_00
LEP TO BE AMENDED	Port Stephens Local Environmental Plan 2013
ADDRESS	251 Adelaide Street Raymond Terrace
DESCRIPTION	Lot 232 DP 593512
RECEIVED	27 September 2017
FILE NO.	17/10930
QA NUMBER	Not applicable
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

The proposal is the rezoning of a 5 hectare part of a 44.36 hectare site on the fringe of Raymond Terrace for residential purposes, and a change to the minimum lot size to allow subdivision of the land into about 60 residential lots.

The current zoning of the site is RU2 Rural Landscape, and the current minimum lot size for subdivision is 20 hectares.

Site Description and Surrounding Area

The site is located on the southern fringe of the township of Raymond Terrace. The edge of Raymond Terrace is defined by residential development and the adjoining land is generally used for rural purposes and forms the floodplain of the Hunter River.

Adelaide Street is the access road to Raymond Terrace from the Pacific Highway. The site is approximately 1km from the Raymond Terrace commercial and civic area, and 500 metres from the Raymond Terrace public school. There is a shared path from the site to the commercial area, as well as to nearby parks and sporting fields. Buses connect Raymond Terrace to Newcastle, via Williamtown or Hexham, and there is a bus stop immediately adjoining the site.

The site has legal access to Adelaide Street, however there is an embankment along part of the street frontage which currently limits vehicle access. There is vehicle access to the site via a driveway to part of the site that is not intended to be rezoned.

Immediately adjoining the site to the north is a residential zone (R2 Low Density Residential), with a 500 sqm minimum lot size. The same residential zone is opposite the site across Adelaide Street. A recreation zone adjoins the northern corner of the site, and this zone continues in a strip along Adelaide Street towards the public school, and a shared path is within this strip. To the northeast, the site adjoins an environmental corridor that is zoned E3 Environmental Management, which follows Grahamstown Drain to the Grahamstown Dam. The Raymond Terrace wastewater treatment plant and a pump station adjoin the site to the east and are zoned SP1 Special Purposes. Rural land to the west is zoned RU2 Rural Landscape, and some cropping is occurred on the fertile floodplain. The Hunter River adjoins this rural land.

The larger site itself contains a large dam, which was formed following sand mining. All sand mining has ceased on the site. There are no dwellings on the site, and some buildings and infrastructure remains from the sand mining operation. Vegetation is dense in part, and some is mapped as remnant native vegetation and some is pine plantation.

There is an electricity easement along the Adelaide Street frontage of the site.

All of the site is flood prone in the 1% AEP flood event, with a high hazard floodway through part of the site. The northern part of the site, proposed for rezoning, is categorised as minimal risk flood prone land and low hazard flood storage. The proposal is to fill this part of the site so that it is above the flood planning level.

Summary of Recommendation

The proposal should proceed subject to conditions, as the site adjoins the residential area of Raymond Terrace and is capable of being serviced. Flooding constraints will limit the further expansion of the residential area, and the balance of the site should be reviewed to determine the extent of environmental conservation required for the riparian areas along Grahamstown Drain and other tributaries to the Hunter River, and potential for the conservation of remnant native vegetation.

PROPOSAL

Objectives or Intended Outcomes

The objective of the proposal is to facilitate subdivision for additional dwelling lots.

The objectives should be amended to include the long-term protection of part of the site containing significant biodiversity values, including Grahamstown Drain.

Explanation of Provisions

The provisions in the proposal are clear in relation to part of the site for the spot residential rezoning. They are.

1. Rezone the part of the subject land from Zone RU2 Rural Landscape to R2 Low Density Residential.
2. Change the minimum lot size from 20 hectares to 500 sqm for that part of the site to be rezoned to R2
3. Introduce a maximum building height of 9 metres for that part of the site to be rezoned to R2.

The balance of the site (approximately 40 hectares) may require rezoning or the application of other development standards in order to secure the long-term protection of significant

biodiversity values, including Grahamstown Drain. The explanation of provisions may require amendment prior to community consultation.

The R2 zoning and minimum lot size are consistent with the provisions for the adjoining residential land. Grahamstown Drain is zoned E3 with a 40 hectare minimum lot size, and the current proposal is not consistent with the zoning and development standards for that part of Grahamstown Drain that extends into the site. This will need to be reviewed further before community consultation.

As the proposal involves the rezoning of rural land to residential land, the site should be mapped as an urban release area and the provisions of Part 6 of Port Stephens LEP 2013 should apply. A condition to map the site as an urban release area is recommended for the Gateway determination.

Mapping

Maps have been provided which adequately show how the provisions apply. These may need to be amended prior to community consultation in relation to the long-term protection of significant biodiversity values, and for the urban release area designation.

NEED FOR THE PLANNING PROPOSAL

The intended (and possible new) outcomes for the site would be difficult to achieve without this proposal. There are alternate mechanisms to achieve seniors housing without the proposal, and other regulations to manage environmental conservation without a zone change.

However, the current proposal and the recommended long-term conservation outcome, is a better way of achieving the intended outcomes.

The proposal is not the result of a strategic study or report. The Raymond Terrace and Heatherbrae Strategy, adopted by Council in November 2015, is a strategy to accommodate the planned growth of Raymond Terrace. The site is not identified as a location for infill housing or change of use in the strategy. Land is identified in the strategy to accommodate the increased dwelling yield (300 dwellings by 2031). There is no demonstrated need to identify additional land for residential development.

STRATEGIC ASSESSMENT

State

The Hunter Regional Plan 2036 outlines goals for a biodiversity rich natural environment and greater housing choice and jobs.

The proposal is not consistent with Direction 14 to protect and connect natural areas, as it has not identified and protected terrestrial and aquatic biodiversity values. This could be achieved through a review of the zoning for the Grahamstown Drain corridor.

The proposal is partially consistent with Direction 21 to create a compact settlement. The focus of the Direction is to encourage development in locations with established services and infrastructure. This site is well located for access to utility and community services. The proposal is inconsistent with the Direction's requirements to avoid development on land subject to hazards. This may be considered to be of minor significance if filling of the site has limited effect on the floodplain.

The proposal is consistent with Direction 17 to create healthy built environments through good design and Direction 23 to grow centres and renewal corridors, as there are good shared path connections from the site and the additional development will help to grow Raymond Terrace as a strategic centre in the Hunter region.

Local

The site is not identified as an infill housing site in Council's local strategy (Raymond Terrace and Heatherbrae Strategy 2015). The proposal is consistent with the local strategy Direction 2.1 to enable development that supports compatible land clustering "like with like" land uses as it adjoins a residential zone, and the additional houses are likely to be incompatible with the rural and environmental values of adjoining land.

Section 117(2) Ministerial Directions

The proposal is consistent with the following applicable Directions, and no further assessment is required:

- 3.1 Residential Zones
- 3.3 Home occupations
- 3.4 Integrating land use and transport
- 4.1 Acid sulphate soils
- 4.2 Mine subsidence and unstable land
- 6.1 Approval and referral requirements

The proposal has not yet demonstrated consistency with the following applicable Directions, and conditions requiring further consultation or assessment are recommended as conditions of the Gateway determination:

- 1.3 Mining, Petroleum Production and Extractive Industries
- 2.1 Environmental protection zones
- 2.3 Heritage conservation
- 4.3 Flood prone land
- 4.4 Planning for bushfire protection
- 5.10 Implementation of Regional Plans

The proposal is inconsistent with the following applicable Directions, and an assessment has been made of the inconsistency as detailed and no further assessment is required:

- 1.2 Rural zones and 1.5 Rural lands

The proposal is inconsistent because this Direction does not allow the zoning of land from a rural zone to a residential zone. The inconsistency is considered to be of minor significance as there is no demonstrated agricultural value for the land.

State Environmental Planning Policies

The proposal is consistent with the following applicable SEPPs, and no further assessment is required:

- SEPP 44 Koala habitat
- SEPP Rural Lands, as addressed through the minor inconsistency with Direction 1.5

The proposal has not yet demonstrated consistency with the following applicable SEPPs, and conditions required further consultation or assessment are recommended as conditions of the Gateway determination:

- SEPP 55 Remediation of land
- SEPP Mining, Petroleum Protection and Extractive Industries

SITE SPECIFIC ASSESSMENT

Social and Economic

The proposal will create small positive social and economic changes as a result of the increase dwelling yield, however as the site was not identified for infill housing in the recent local strategy, there may be concerns within the local community.

A condition for community consultation is recommended for the Gateway determination.

Environmental

The proposal for residential zoning may have a small environmental impact as an ecological study has identified that there is native vegetation that would be removed. The vegetation includes low and moderate-good condition swamp sclerophyll forest EEC. This will need to be further surveyed and an offset may be required.

The balance of the site contains some more significant environmental values, including the riparian areas of Grahamstown Drain and tributaries that drain to the Hunter River. There are also larger areas of moderate-good condition swamp sclerophyll forest EEC. The ecological study recommended that these areas be protected for the long-term in an environmental zone. A condition requiring consideration of the long-term protection of these areas is recommended for the Gateway determination.

The potential for bushfire, land contamination and flooding hazards have not been fully addressed, nor has the potential for odour and noise from the adjacent wastewater treatment plant. Conditions requiring further study and consultation with responsible agencies is recommended for the Gateway determination.

Infrastructure

As the proposal is for a rural to a residential rezoning, and the site is close to regional roads and a high school, a contribution towards State or regional infrastructure is warranted. A condition to include the site as an urban release area is recommended for the Gateway determination.

CONSULTATION

Community

A 28 day consultation period is appropriate for this proposal.

Agencies

Consultation with the following agencies is recommended for the Gateway determination:

- Ausgrid
- Department of Planning and Environment –Resources and Geoscience
- Hunter Water Corporation
- NSW Rural Fire Service
- Office of Environment and Heritage
- Worimi Local Aboriginal Land Council

TIMEFRAME

Council has indicated that it would take eight months to progress the proposal to LEP finalisation. This does not include an anticipated timeframe for the completion of technical studies that may be conditions of the Gateway determination.

Therefore a slightly longer nine month timeframe is recommended as a condition of the Gateway determination.

DELEGATION

Council has request plan-making delegation. Given the nature of the proposal, this can be supported. Council would still need to seek the Secretary's approval for the six Local Plan-making Directions where consistency has not yet been determined.

CONCLUSION

The proposal is supported to proceed with conditions that require additional consideration of the site hazards and the long-term protection of the environmental values of the larger site. Additional studies and consultation with agencies is required to address potential environmental impacts. Consultation with the community is required to address the proposed land use change.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Agree any inconsistencies with Section 117 Directions 1.2 Rural zones and 1.5 Rural lands are minor and justified; and
2. Note that the consistency with Section 117 Directions 1.3 Mining, 2.1 Environmental protection zones, 2.3 Heritage conservation, 4.3 Flood prone land, 4.4 Planning for bushfire protection and 5.10 Implementation of Regional Plans is unresolved and will require justification.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - Ausgrid
 - Department of Planning and Environment –Resources and Geoscience
 - Hunter Water Corporation
 - NSW Rural Fire Service
 - Office of Environment and Heritage
 - Worimi Local Aboriginal Land Council
3. The timeframe for completing the LEP is to be nine months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be authorised to exercise delegation to make this plan.
5. Prior to community consultation, Council is to
 - (a) Consider mechanisms to secure the long-term protection of significant environmental outcomes for the site; and
 - (b) Amend the maps to include the site as an urban release area; and

- (c) Address the inconsistencies with s117 Directions 1.3 Mining, 2.1 Environmental protection zones, 2.3 Heritage conservation, 4.3 Flood prone land, 4.4 Planning for bushfire protection and 5.10 Implementation of Regional Plans, with further detailed studies and consultation with the relevant public authority; and
- (d) Address Council's Floodplain Risk Management Plan in relation to the flood free access to the site and the cumulative impact of filling within the floodplain; and
- (e) Amend the planning proposal in response to (a), (b), (c) and (d).



20/10/2017

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