

Amendment to Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 - land uses in E2 Environmental Conservation zone

Proposal Title : **Amendment to Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 - land uses in E2 Environmental Conservation zone**

Proposal Summary : **This Planning Proposal aims to amend the Port Stephens LEP (Kings Hill, North Raymond Terrace) 2010 to include infrastructure land uses in the Land Use Table for Zone E2 Environmental Conservation to enable private infrastructure works to be undertaken in the E2 zone.**

PP Number : **PP_2012_PORTS_008_00** Dop File No : **11/09793**

Proposal Details

Date Planning Proposal Received : **19-Jul-2012** LGA covered : **Port Stephens**

Region : **Hunter** RPA : **Port Stephens Council**

State Electorate : **MAITLAND** Section of the Act : **55 - Planning Proposal**

LEP Type : **Housekeeping**

Location Details

Street : **Pacific Highway**

Suburb : **Raymond Terrace** City : **Raymond Terrace** Postcode : **2324**

Land Parcel :

DoP Planning Officer Contact Details

Contact Name : **Monica Gibson**

Contact Number : **0249042710**

Contact Email : **monica.gibson@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Sarah Dasey**

Contact Number : **0249800462**

Contact Email : **sarah.dasey@portstephens.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

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 : **Yes**

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MDP Number :

Date of Release :

Area of Release (Ha)

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

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 :

External Supporting
Notes :

The Planning Proposal (PP) intends to permit flood mitigation works, roads, sewerage systems and water supply systems with consent in the E2 Environmental Conservation zone. These uses were exhibited as permissible with consent in the E2 zone when the principal Port Stephens LEP (Kings Hill, North Raymond Terrace) 2010 was exhibited in 2007, under the proposed definitions of public utility undertakings, public utility infrastructure and telecommunication networks. These terms were removed from the Standard Instrument Order in December 2007 when State Environmental Planning Policy (Infrastructure) 2007 came into force, and the principal LEP was amended after exhibition to remove these terms, with the understanding that the uses would be controlled by the SEPP.

The SEPP includes the following relevant provisions:

- Flood mitigation works carried out by or on behalf of a public authority are permitted without consent in any zone by SEPP Infrastructure (cl. 50).

- Sub-terms of sewerage systems, such as sewerage reticulation systems are permitted with consent in any zone by SEPP Infrastructure (cl. 106). Other sub-terms are not addressed by the SEPP.

- Water supply systems is a group term. Water reticulation systems carried out by or on behalf of a public authority are permitted without consent in any zone by SEPP Infrastructure (cl. 125). Other water supply system sub-terms are not addressed by the SEPP.

- Roads carried out by or on behalf of a public authority are permitted without consent on any land by SEPP Infrastructure (cl. 94).

The purpose of this PP is to ensure that works not covered by SEPP Infrastructure, including private works or works not on behalf of a public authority, are permitted with consent in the E2 zone.

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Adequacy Assessment

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

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

Comment : **The statement of objectives satisfactorily outlines the intended outcomes of the Planning Proposal (PP) i.e. to amend Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 to permit certain infrastructure uses in the E2 Environmental Conservation zone, to be consistent with the exhibited version of the plan.**

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

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

Comment : **The PP explains that flood mitigation works, roads, water supply systems and sewerage systems are to be permitted with consent in the E2 zone.**

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

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified? **SEPP (Infrastructure) 2007**

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 :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **No mapping is required. The PP only amends the land use table for the E2 zone.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment : **Council have requested that the PP not be exhibited, as the changes to the LEP are consistent with the previously exhibited plan.**

The Gateway can determine that no community consultation is required if the changes are minor and will not have any significant adverse impact on the environment or adjoining land (s73A(1)(c) EP&A Act).

This position is not agreed with, as some of the proposed uses may have significant environmental effects that warrant development assessment processes (i.e. the uses are not so minor as to be permitted without consent). It is also five years since the draft plan was exhibited, the terms used have changed and the plan has been in force since December 2010.

A 14 day exhibition period is recommended.

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Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **June 2013**

Comments in relation
to Principal LEP :

A Gateway Determination for the principal LEP was issued on 10 July 2012, with 12 month timeframe for completion.

Port Stephens LEP (Kings Hill, North Raymond Terrace) 2010 is a standard instrument LEP, and will be wrapped into the new citywide SI LEP.

The draft principal LEP permits flood mitigation works, roads and water supply systems (except water treatment facilities) with consent in the E2 zone. Sewerage systems and its sub-terms are prohibited, along with water treatment facilities in the E2 zone. Council will be required to clarify its intention for the E2 zone in the Kings Hill LEP to be translated in the principal LEP.

Assessment Criteria

Need for planning
proposal :

The one of the reasons for removing public utility definitions from the exhibited Kings Hill LEP was that the uses were expected to be permitted by SEPP Infrastructure. Many infrastructure types are permitted in zones where they are constructed by or on behalf of a public authority. However, there has been uncertainty about what constitutes works on or behalf of a public authority. Legal advice obtained by Council and the Department confirms that works such as the construction of new public roads undertaken by a proponent and then dedicated to Council, is not work on behalf of a public authority. If the works are not permitted by the SEPP, then the closed E2 zone prohibits the use.

The E2 zone in the Kings Hill LEP is an extensive and dominant zone, reflecting the significance of the local environment. The zoning follows drainage lines and large patches of remnant vegetation, and is contiguous, leaving isolated residential and business zones. This means that infrastructure needs to traverse E2 zoned land to connect the various urban areas.

A separate PP is being progressed by Council to review the boundaries of the E2 zone in Kings Hill to better reflect the development planning that has been underway.

Consistency with
strategic planning
framework :

Kings Hill is identified as a major urban release area in the Lower Hunter Regional Strategy, providing for up to 4,500 new lots over a 20 year period. This PP would assist with the provision of essential infrastructure to enable this development to occur.

Environmental social
economic impacts :

The PP will assist in enabling essential infrastructure to be provided to the Kings Hill urban release area. This will have positive social and economic impacts, as the alternatives include public infrastructure which to date has not been funded, or isolated private infrastructure that cannot connect across the environmental corridors.

Environmental impacts arising from infrastructure construction within the E2 zones will be assessed at a DA stage (Part 4 assessment).

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Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 Month** Delegation : **DG**

Public Authority
Consultation - 56(2)(d)

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 :

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
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Planning Team Recommendation

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

S.117 directions:

Additional Information : **1. Support the Planning Proposal.**

2. Community consultation is required under section 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979, as follows:

(a) the Planning Proposal be made publicly available for 14 days;

(b) the relevant authority must comply with the notice requirements for public exhibition of planning proposal and the specifications for material that must be publicly available along with planning proposal as identified in section 4.5 of "A guide to preparing LEPs" (Department of Planning, 2009).

3. No consultation is required with public authorities under section 56(2) of the EP&A

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Act.

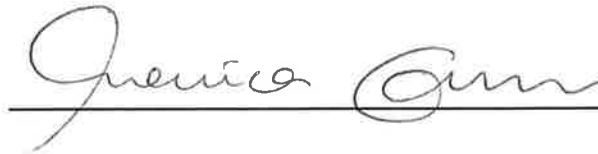
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing.

5. The timeframe for completing the LEP is 6 months from the date of the Gateway Determination.

6. Council should exhibit the Planning Proposal with sufficient information to inform the community how the proposal will amend both the existing Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 and the draft Standard instrument Port Stephens Local Environmental Plan 2012.

Supporting Reasons : The PP will assist in enabling essential infrastructure to be provided to the Kings Hill urban release area.

Signature:



Printed Name:

Monica Gibson

Date:

20 July 2012