

COPY

Contact: Paul Maher
Phone: (02) 4904 2700
Fax: (02) 4904 2701
Email: Paul.Maher@planning.nsw.gov.au
Postal: PO Box 1226, Newcastle NSW 2300

Our ref: PP_2012_PORTS_002_00 (10/07104)
Your ref: PSC2006-6592

Mr Peter Gesling
General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324

Dear Mr Gesling,

Planning Proposal to rezone land at Boundary Road, Medowie from 1(c1) Rural Small Holdings Zone to 1(c5) Rural Small Holdings, 1(c4) Rural Small Holdings and 7(a) Environmental Protection.

I am writing in response to your Council's letter dated 30 March 2012 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Port Stephens Local Environmental Plan 2000 to rezone land at Boundary Road, Medowie from 1(c1) Rural Small Holdings Zone to 1(c5) Rural Small Holdings, 1(c4) Rural Small Holdings and 7(a) Environmental Protection.

As Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

It is noted that Council has yet to finalise its Standard Instrument LEP, and the planning proposal proposes to amend the Port Stephens LEP 2000. It is also noted that Council intends to complete the planning proposal within 12 months, and prior to the expected notification of the draft Port Stephens LEP 2013. However, it is anticipated that the process to make the planning proposal may take up to 18 months. Therefore, the planning proposal is to proceed as both an amendment to the current Port Stephens LEP 2000 and to the draft Port Stephens LEP 2013. All exhibition material, including maps should be prepared to clearly identify to the community how the planning proposal will amend both instruments.

It is noted that the planning proposal is inconsistent with S117 Direction 6.3 in that a new development standard being a 1000sq.m minimum lot size for the 1(c5) Rural Small Holdings zone is proposed. Given that a minimum lot size of 2000sq.m is the development standard for land zoned 1(c5) under the Port Stephens LEP 2000, Council is to explain why a smaller lot size is appropriate in this case and for the explanation to form part of the public exhibition material.

It is acknowledged that a preliminary Aboriginal archaeological assessment has been provided with the planning proposal, and that a detailed study is proposed following finalisation of the proposed development areas. Council is to ensure that an adequate Aboriginal Archaeological assessment forms part of the public exhibition material. Accordingly Council is to address the requirements of S117 Direction 2.3 Heritage Conservation.

I have also agreed that the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.3 Flood Prone Land and 5.1 Implementation of Regional Strategies are of minor significance. No further approval is required in relation to these Directions.

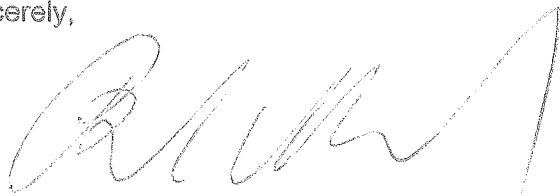
In regards to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation. Council is to take into account any comments made and amend the planning proposal (if necessary) as per the comments from the Commissioner.

The amending Local Environmental Plan (LEP) is to be finalised within 18 months of the week following the date of the Gateway Determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Paul Maher of the Regional Office of the Department on 02 4904 2700.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Brad Hazzard', written over a light blue horizontal line.

Brad Hazzard
Minister for Planning and Infrastructure

Gateway Determination

Planning Proposal (Department Ref: PP_2012_PORTS_002_00): to rezone land at Boundary Road, Medowie from 1(c1) Rural Small Holdings Zone to 1(c5) Rural Small Holdings, 1(c4) Rural Small Holdings and 7(a) Environmental Protection.

I the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Port Stephens Local Environmental Plan 2000 to rezone land at Boundary Road, Medowie from 1(c1) Rural Small Holdings Zone to 1(c5) Rural Small Holdings, 1(c4) Rural Small Holdings and 7(a) Environmental Protection should proceed subject to the following conditions:

1. This planning proposal is to proceed as both an amendment to the current Port Stephens LEP 2000 and to the draft Port Stephens LEP 2013. All exhibition material, including maps should be prepared to clearly identify to the community how the planning proposal will amend both instruments. Council should liaise with the department's Regional Team in relation to the material that should be prepared and placed on exhibition prior to proceeding to exhibition.
2. Council is to supply additional information as part of its planning proposal for the purposes of public exhibition, that addresses the following issues:
 - o Flora and Fauna
 - o Flooding and Drainage
 - o Contamination Assessment
 - o Access and Mobility
3. Council is to undertake an Aboriginal Archaeological assessment prior to the commencement of public exhibition, and subsequently amend the planning proposal to address the requirements of S117 Direction 2.3 Heritage Conservation. Council is to provide a copy of the study and revised planning proposal to the Department's Regional Team prior to community consultation.
4. In regards to the planning proposal's inconsistencies with S117 Direction 6.3 Site Specific Provisions, Council is to provide further justification for the proposed minimum lot size for this zone in relation to the subject land. Council is to amend the planning proposal accordingly prior to the commencement of public exhibition.
5. 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 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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - o Department of Defence
 - o Environment Protection Authority
 - o Energy Australia
 - o Hunter Water Corporation

- Karuah Local Aboriginal Land Council
- NSW Rural Fire Service
- Office of Environment and Heritage - NSW National Parks and Wildlife Service
- Transport for NSW - Roads and Maritime Services
- Telstra

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

7. Further to Condition 6 above, Council is to consult the Environment Protection Authority in relation to biodiversity and the loss of environmentally sensitive land identified as being within the Watagan Stockton Green Corridor under the Lower Hunter Regional Strategy. Council is to take into account any comments made and amend the planning proposal, if necessary, to provide further justification for the inconsistencies of the planning proposal with S117 Direction 2.1 Environment Protection Zones.
8. Further to Condition 6 above, Council is to consult with the Commissioner of the NSW Rural Fire Service and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, and forward a copy of the revised planning proposal to the Department's Regional Office.
9. Council is to undertake an assessment of the planning proposal against the sustainability criteria in Appendix 1 of the Lower Hunter Regional Strategy. Council is to include this assessment with the planning proposal for the purposes of public exhibition and provide a copy to the Department's Regional Team prior to the commencement of public exhibition.
10. Following completion of the pre public exhibition work and public authority consultation, Council is to revise the planning proposal, if necessary, to provide additional justification and/or assessment against any relevant S117 Directions. Council is to provide a copy of the revised planning proposal and additional information to the Department's Regional Team prior to the commencement of public exhibition.
11. 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).
12. The timeframe for completing the LEP is to be 18 months from the week following the date of the Gateway determination.

Dated day of 07 JUN 2012 2011.



Brad Hazzard
Minister for Planning and Infrastructure