

Anna Bay North

Proposal Title : **Anna Bay North**

Proposal Summary : **To rezone 40 ha of land at Anna Bay North from 1(a) Rural Agriculture for residential and recreation purposes.**

PP Number : **PP_2012_PORTS_001_00**

Dop File No : **12/01107**

Proposal Details

Date Planning : **18-Jan-2012**

LGA covered : **Port Stephens**

Proposal Received :

Region : **Hunter**

RPA : **Port Stephens Council**

State Electorate : **PORT STEPHENS**

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

LEP Type : **Precinct**

Location Details

Street : **Gan Gan Road**

Suburb : **Anna Bay**

City :

Postcode : **2316**

Land Parcel : **Lot 21 DP 718935, Lot A DP 360150, Lot 9001 DP 1039267, Lot 10 DP 884411, Lot 50 DP 1087677, Lot 21 DP 602720, Lot 222 DP 791705, Lot 221 DP 791705, Lot 2 and 4 DP 614468, Lots 961, 963 and 964 DP 731955**

DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Matthew Borsato**

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DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : **N/A**

Release Area Name : **Other**

Regional / Sub : **Lower Hunter Regional**

Consistent with Strategy : **Yes**

Regional Strategy : **Strategy**

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MDP Number :

Date of Release :

Area of Release (Ha) **40.00**
:

Type of Release (eg
Residential /
Employment land) :

No. of Lots : **200**

No. of Dwellings **200**
(where relevant) :

Gross Floor Area : **0**

No of Jobs Created : **0**

The NSW Government Yes
Lobbyists Code of
Conduct has been
complied with :

If No, comment :

Have there been **No**
meetings or
communications with
registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes :

Adequacy Assessment

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

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

Comment : **The statement of objectives provided indicates that the planning proposal will enable residential development and associated open space with residual rural areas on land to the north of Anna Bay town centre.**

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

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

Comment : **The explanation of provisions provided states that the planning proposal will amend the Port Stephens LEP 2000 by rezoning land from 1(a) Rural to 2(a) Residential and 6(a) General Recreation.**

Depending on the outcomes of further studies, amendments may be required to other relevant provisions including Urban Release Area. The explanation of provisions will be updated prior to exhibition if required.

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

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.1 Environment Protection Zones

2.2 Coastal Protection

3.1 Residential Zones

3.4 Integrating Land Use and Transport
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies

Is the Director General's agreement required? **Unknown**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified?

SEPP No 14—Coastal Wetlands
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 71—Coastal Protection
SEPP (Mining, Petroleum Production and Extractive Industries) 2007
SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

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

If No, explain : **Further studies are required to determine the consistency of the planning proposal with S.117 Directions and SEPPs.**

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **Mapping is provided showing the area to be investigated. Further investigations are required to determine the specific zone boundaries.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council proposes 28 days exhibition period. Due to the size of the investigation area and the possibility of issues being identified through investigations, the 28 day exhibition period is supported.**

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 2012**

Comments in relation to Principal LEP : **Council has received Planning Reform Funding to carry out the necessary background studies to underpin Port Stephens SI LEP and these studies are in the main complete. The Department has recently offered the Council LEP acceleration funding to prepare its SI LEP, however Council is yet to prepare a Planning Proposal under section 55.**

Assessment Criteria

Need for planning
proposal :

Anna Bay North is identified in the Lower Hunter Regional Strategy (LHRS) as a 'proposed urban area'. Port Stephens LGA is required to provide 7,200 dwellings in new release areas between 2006 and 2031. The planning proposal will assist in meeting these targets.

The site is identified in the Anna Bay Strategy and Town Plan as a suitable for standard residential, villas and townhouses, recreation, and environmental living.

An LEP amendment is considered the most effective and timely method available to achieve the objectives and intended outcomes of the proposal.

Although no formal net community benefit test has been undertaken, the proponent's assessment has indicated that there is likely to be a net community benefit.

Consistency with strategic planning framework :

LOWER HUNTER REGIONAL STRATEGY

The planning proposal is consistent with the Lower Hunter Regional Strategy (LHRS) as the site is mapped as a 'proposed urban area'. The site is outside of the Watagan to Stockton Green Corridor. The proposal is considered consistent with the objective and aims of the Strategy.

ANNA BAY STRATEGY

The LHRS states that the boundaries of 'proposed urban areas' are to be defined through local planning. Council has adopted the Anna Bay Strategy (ABS) to define the boundaries of the proposed urban area. The Strategy has not been submitted to the Department for endorsement by the DG. The Strategy is supported in principle, and the plan making process started through this planning proposal will enable appropriate zone boundaries to be defined.

The planning proposal is consistent with Anna Bay Strategy and Town Plan except for approximately 10 ha of land in the western part of the site. The planning proposal acknowledges that further studies are required to demonstrate the suitability of the western part of the site for residential development. It is considered appropriate that the western portion of the site be included in any studies required for progression of the proposal.

SECTION 117 DIRECTIONS

The following Section 117 Directions are considered applicable to the planning proposal. Further assessment will be required to determine the consistency of the directions after Council has completed required studies.

1.2 Rural Land

The planning proposal is inconsistent with this direction as it rezones land from rural zone to a residential zone. The inconsistency is justified as it is in accordance with the LHRS which gives consideration to this direction. 30 ha of the site is also in accordance with the Anna Bay Strategy which gives consideration to this direction. The 10 ha of the site inconsistent with the Anna Bay Strategy needs to be investigated further to determine if this portion of the site can be developed for residential purposes and if the inconsistency with the direction should be supported.

2.1 Environment Protection Zones

As there is no recent ecological study of the site, it is uncertain if the planning proposal will include provisions that facilitate the protection and conservation of environmentally sensitive areas. It is recommended that Council prepares a ecological study for the subject site, and undertakes consultation with the Office of Environment and Heritage.

2.3 Heritage

It is uncertain if the planning proposal is consistent with this direction as there has been no preliminary investigation into the Aboriginal cultural heritage significance of the site. It is recommended that Council consult with the Aboriginal Land Council and undertake an archaeological study if there is a likelihood of cultural heritage impacts.

3.1 Residential Zones

It is uncertain if the planning proposal is consistent with the objectives of this direction as Council advises water supply to the subject site needs to be upgraded. The planning proposal will need to contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it). It is also recommended that Council undertakes consultation with Hunter Water on the availability of drinking water and sewerage servicing to the site.

4.1 Acid Sulfate Soils

The planning proposal is inconsistent with this direction as an intensification of land uses is proposed on land identified as having a probability of containing acid sulfate soils on the Port Stephens Acid Sulfate Soils Planning Maps. It is recommended that Council

prepares and considers an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.

4.3 Flood Prone Land

The planning proposal is inconsistent with this direction as it rezones land within a flood planning area from Rural Zone to a Residential Zone. A flood study completed in 1995 identifies the western portion of the proposed urban investigation area as being inundated during the 100 year average recurrence interval storm event. It is recommended that Council prepares an updated flood study assessing the appropriateness of residential development for flood affected parts of the site.

4.4 Planning for Bushfire Protection

Land within the subject site is mapped as bushfire prone land. It is recommended that Council consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination, and prior to undertaking community consultation take into account any comments made by the Commissioner.

It is recommended that appropriate studies are undertaken and additional information submitted to the Regional Office prior to exhibition to demonstrate consistency with Section 117 Directions.

The planning proposal is considered consistent with all other Section 117 Directions, including:

1.3 Mining, Petroleum and Extractive Industries

The site is located with Petroleum Exploration Licence 458. The proposed drill hole for PEL is located approximately 25km to the south west of the site. It is considered that the proposed development will not impact upon the PEL, however, consultation with DPI is recommended as required by the direction.

1.5 Rural Lands

The planning proposal is consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008 and justified by the LHRS.

2.2 Coastal Protection Zones

The planning proposal is considered consistent with the objectives and aims of this direction as it does not impact on the natural, cultural, recreational and economic attributes of the New South Wales coast.

3.4 Integrating Land Use and Transport

A planning proposal is considered consistent with this direction as it locates zones for urban purposes close to an existing urban centre and local community facilities, and include provisions that give effect to and are consistent with the aims, objectives and principles of 'Improving Transport Choice – Guidelines for planning and development'

5.1 Implementing of Regional Strategies

The planning proposal is considered consistent with this direction as it is in accordance with the Lower Hunter Regional Strategy.

SEPPS

The following SEPPs are considered applicable to the planning proposal. Further assessment will be required to determine the consistency of the SEPPs after Council has completed required studies.

SEPP 44 – Koala Habitat

The subject site contains land identified as Preferred Koala Habitat and Supplementary Koala habitat under the Port Stephens Comprehensive Koala Plan of Management (CKPoM) 2002. It is recommended that the planning proposal undertakes a study in accordance with the requirements of the SEPP.

SEPP 55 - Remediation of Land

The planning proposal advises that there is no known contamination of the subject are at this time, however, the site has a history of previous agricultural use. It is recommended that a preliminary contamination assessment of the site be carried out to satisfy the requirements of the SEPP 55.

Environmental social
economic impacts :

ENVIRONMENTAL

The subject site contains a mix of cleared and vegetated land, and is known to contain an Endangered Ecological Community (Swamp Sclerophyll Forest). Although the submitted planning proposal identifies no threatened species, Council advises that no ecological assessment has been undertaken in seven years, and a new study is required to assess the presence of threatened species.

The subject site contains land identified in the Port Stephens Koala Plan of Management as Preferred Koala Habitat and Supplementary Koala habitat. Council advises that it is unclear from the submitted proposal of the impact the development will have on the Kola habitats, and further detail on the level and area is required for assessment.

The western portion of the site is affected flooding. Preliminary sea level rise maps indicates that flooding may become more severe in the future due to sea level rise. The Anna Bay Strategy states that an engineered flood way and some fill outside the flood way may alleviate flooding in this part of the site. It is recommended that Council undertake an updated flood and drainage study taking into account predicted 2100 sea level rise.

It is considered that environmental constraints to the subject site can be better identified with required studies. This will enable identification of appropriate zone boundaries.

SOCIAL AND ECONOMIC

A Net Community Test has been undertaken by the proponent where it is stated that the planning proposal will result in a significant positive benefit for Anna Bay.

There are economic concerns relating to the current insufficient water supply to Anna Bay. It is considered that the proponent needs to demonstrate, through discussions with Hunter Water, that the supply of water to the site will not result in a economic burden to the wider community.

Assessment Process

Proposal type :	Precinct	Community Consultation Period :	28 Days
Timeframe to make LEP :	24 Month	Delegation :	DDG
Public Authority Consultation - 56(2)(d) :	NSW Aboriginal Land Council Hunter - Central Rivers Catchment Management Authority Office of Environment and Heritage NSW Department of Primary Industries - Agriculture NSW Department of Primary Industries - Minerals and Petroleum Hunter Water Corporation NSW Rural Fire Service Transport for NSW - Roads and Maritime Services		

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Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **Yes**

If Yes, reasons : **The**

Identify any additional studies, if required. :

Flora

Fauna

Bushfire

Flooding

Other - provide details below

If Other, provide reasons :

Acid Sulfate Soils - s.117 requirement

Contamination - SEPP 55 requirement

Koala - SEPP 44 requirement

Cultural Heritage - if possible impacts are identified during preliminary consultation

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
PSC_Planning_Proposal_AnnaBayNorth.pdf	Proposal	Yes
Cover_Letter_Planning_Proposal_Anna_Bay_North_.pdf	Proposal Covering Letter	Yes
PSC_Council_Report&resolution.pdf	Proposal	Yes

Planning Team Recommendation

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

- S.117 directions:
- 1.2 Rural Zones**
 - 1.3 Mining, Petroleum Production and Extractive Industries**
 - 1.5 Rural Lands**
 - 2.1 Environment Protection Zones**
 - 2.2 Coastal Protection**
 - 3.1 Residential Zones**
 - 3.4 Integrating Land Use and Transport**
 - 4.1 Acid Sulfate Soils**
 - 4.3 Flood Prone Land**
 - 4.4 Planning for Bushfire Protection**
 - 5.1 Implementation of Regional Strategies**

Additional Information : **The Planning Proposal should proceed subject to the following conditions:**

- 1. Council will need to undertake a number of additional studies to further demonstrate the form and content of the planning proposal and provide this additional information as part of its planning proposal for exhibition purposes. The following matters need to be addressed:**
 - Undertake studies to support the proposal including:**
 - o biodiversity and ecological assessment, including impact on Koala populations;**

- o bushfire hazard assessment;
 - o traffic impact assessment;
 - o acid sulfate soils assessment;
 - o preliminary contamination assessment;
 - o flood and drainage assessment;
 - o cultural heritage study if impacts are identified following preliminary consultation; and
 - o infrastructure and service strategy report.
- The identification of appropriate zones for the subject site based on the outcomes of the above studies and consultation with key agencies;

2. A copy of all proposed exhibition material, including demonstration of consistency with applicable S.117 Directions and SEPPS, is to be provided to the Department's Regional Planning Team. Council should liaise with the Regional Planning Team to ensure the appropriate material is prepared.

3. Council is to prepare appropriate mapping for the planning proposal which clearly identifies the intended land use zones (based on the outcomes of the studies above) proposed for the site.

4. 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).

5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- Hunter Water Corporation
- NSW Aboriginal Land Council
- Office of Environment and Heritage
- NSW Department of Primary Industries - Agriculture
- NSW Department of Primary Industries - Fishing and Aquaculture
- NSW Department of Primary Industries - Minerals and Petroleum
- Transport for NSW - Roads and Maritime Authority
- NSW Rural Fire Service
- Hunter - Central Rivers Catchment Management Authority

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.

6. 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).

7. The timeframe for completing the LEP is to be 24 months from the week following the date of the Gateway determination.

Supporting Reasons :

The planning proposal has strategic merit and is consistent with the Lower Hunter Regional Strategy where it identified as a 'proposed urban area'. The Anna Bay Strategy, which implements the LHRS, identifies the the majority of the site as residential land.

Further studies are required to determine exact zone boundaries for the subject site. The planning proposal has provided enough information to show that the majority of the site

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can be developed for residential purposes.

The 10 ha of land not identified in the Anna Bay Strategy should be considered as part of investigations as it will allow for holistic planning of Anna Bay North. This area should only proceed if Council can demonstrate consistency with applicable Section 117 Directions and SEPPs.

Signature:



Printed Name:

Monica Gibson.

Date:

9.2.2012