

8 Waropara Road, Medowie - Amendment to Port Stephens LEP

Proposal Title : 8 Waropara Road, Medowie - Amendment to Port Stephens LEP

Proposal Summary : This Planning Proposal aims to amend the minimum lot size applying to part of the land at 8 Waropara Road, Medowie.

PP Number : PP_2013_PORTS_005_00 Dop File No : 13/10213

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
 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
 6.3 Site Specific Provisions

Additional Information : It is recommended that:

Support the Planning Proposal and proceed subject to the following conditions:

1. Council needs to clarify whether the zone and minimum lot size applying to the remaining eastern area of the subject lot will be investigated in progression of the Planning Proposal. If so, this needs to be identified and an explanation of provisions to be included and updated in the planning proposal prior to exhibition. Council should consult with the Department's Regional Team to agree on the scope of additional required information.

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

(a) the Planning Proposal be made publicly available for 14 days; and
 (b) the relevant authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be publicly available along with planning proposal as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013).

3. The Director General (or delegate) agree with the following section 117 Direction inconsistencies as being of minor significance -

*** 4.1 Acid Sulfate Soils**

4. Community consultation is required with the following public authorities under 56(2)(d) of the EP&A Act

*** NSW Rural Fire Service to determine consistency with s.117 Direction - 4.4 Planning for Bushfire Protection.**

*** Office of Environment and Heritage to determine koala habitat impacts.**

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

Council is to amend the Planning Proposal, if necessary, to take into consideration any

comments made prior to undertaking public exhibition.

5. Council has noted that the following assessments are required as part of the PP. The studies will need to be included as material to be placed on exhibition with the planning proposal:

* The Koala assessment undertaken for the site does not address the requirements for rezonings as set out in the Port Stephens Koala Comprehensive Management Plan. As such, Council requires an amended and updated Koala assessment to address this matter.

* A preliminary site investigation contamination study in accordance with clause 6(1) of State Environmental Planning Policy (SEPP) No. 55 - Remediation of Land is required.

* A site specific drainage solution, comprising a drainage and flooding strategy for the proposal is required. Further investigations are to be undertaken to determine consistency with s.117 Direction - 4.3 Flood Prone Land.

6. A public hearing is not required to be held into the 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 submission of reclassifying land).

7 The site is identified as an Urban Release Area. Under PS LEP 2013 the land subject to the minimum lot size change is to be mapped as an Urban Release Area so that the development contributes toward the provision of designated State infrastructure, to provide for required public utility infrastructure.

8. The timeframe for completing the LEP is 12 months from the week following the date of the Gateway Determination.

9. Council exercise their delegations under section 59(1) of the EP&A Act.

Supporting Reasons :

* Port Stephens Council has identified the need for this amendment to meet operational needs, and assists to implement their strategic documents goals and outcomes.

* Medowie is identified as an Urban Release Area requiring State Infrastructure arrangements.

* A 12 month timeframe is appropriate as the PP requires additional studies to be undertaken.

* Council's resolution has indicated that Council wish to exercise their delegations under section 59(1) of the EP&A Act.

Panel Recommendation

Recommendation Date : 11-Jul-2013

Gateway Recommendation : **Passed with Conditions**

Panel

The planning proposal should proceed subject to the following conditions:

Recommendation :

1. Prior to undertaking public exhibition, Council is to update the planning proposal to clarify whether the zone and minimum lot size applying to the remaining eastern part of Lot 10 will be investigated as part of this planning proposal. Any changes proposed to the eastern part of the lot are to be clearly outlined in the planning proposal.

2. Council is to update the planning proposal to advise that the land subject to the change in minimum lot size is to be mapped as an Urban Release Area under draft Port Stephens LEP 2013.

3. Additional information regarding the below matters is to be placed on public exhibition with the planning proposal:

- koala habitat
- flooding and drainage

Once this information is provided and consultation has been undertaken with public

authorities, Council is to update its consideration of S117 Direction 4.3 Flood Prone Land and State Environmental Planning Policy (SEPP) 44 - Koala Habitat Protection to reflect the outcomes of the work and consultation undertaken.

4. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. Council is to prepare an initial site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.

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 is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013) and must be made publicly available for a minimum of 14 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 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013).

6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements or demonstrate consistency with relevant S117 Directions:

- Office of Environment and Heritage
- NSW Aboriginal Land Council
- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

7. 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).

8. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Signature:

S. Miller

Printed Name:

Sabine Miller

Date:

18 July 2013