

Planning Proposal

Gan Gan Road Anna Bay East draft LEP No.22

The draft local environmental plan (LEP) aims to rezone the land from zone 1(a) Rural to 2(a) Residential and 7(a) Environment Protection to enable residential development to occur on the front part of the land and to protect the environment of a remaining part of the site. A copy of the draft LEP is attached.

Justification for the draft LEP being integrated into the LEP Gateway Process

The draft LEP is currently at section 62 stage. A section 65 certificate was issued on 6 January 2006 and the exhibition was held from 2nd to 31st March 2006. The draft LEP did not progress because the landowner did not want to proceed with the exhibited zone layout. The landowner has since advised that they want to proceed with the exhibited zone layout.

A minor expansion of the residential zone, to approximately 15-20m to the east, will be requested when the draft LEP is reported to Council and forwarded to the Department.

Due to the elapsed time, and the agreement of the landowners to proceed with the exhibited zone layout, it is appropriate to consider this draft LEP as a planning proposal.

This draft pending 'amending' LEP fits well with the final stage of the current Part 3 process. Council requests this amending LEP be incorporated in the current Part 3 process to ensure its completion.

Part 1 – Objectives or Intended Outcomes

The local environmental plan aims to rezone the land from 1(a) Rural to 2(a) Residential to enable the development of residential development on part of the land, and 7(a) Environment Protection to protect the environment of a remaining part of the land. The amendment will provide additional residential land for approximately 50 dwellings.

Part 2 – Explanation of Provisions

The draft LEP includes provisions to rezone the land from 1(a) Rural to 2(a) Residential to enable the development of residential development on part of the land, and 7(a) Environment Protection to protect the environment of a remaining part of the land.

Part 3 – Justification

Section A – Need for the planning proposal.

Is the planning proposal a result of any strategic study or report?

The proposal is identified as a possible neighbourhood in the Port Stephens Community Settlement and Infrastructure Strategy which was adopted by Council in 2007.

The rezoning of part of the land adjacent to Gan Gan Road is consistent with the local Anna Bay Strategy.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Council requests this draft pending 'amending' LEP be incorporated into the current Part 3 process to ensure its completion. The alternative is to restart the rezoning process with no benefit.

Is there a net community benefit?

The following community benefit will be provided:

- Provision of additional residential land in a proposed urban area identified in the Lower Hunter Regional Strategy and Anna Bay Strategy;
- Additional residential land to be provided adjacent to existing residential uses and with optimal access to services and facilities.

Section B – Relationship to strategic planning framework.

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy identifies the land as a proposed urban area with boundaries to be defined through local planning. The local planning was undertaken by Council through the development and adoption of the Anna Bay Strategy in December 2008. The draft LEP is consistent with the boundaries of the Anna Bay Strategy.

Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

Port Stephens Community Settlement and Infrastructure Strategy was adopted by Council in 2007. The main map of the CSIS identifies part of the land as a proposed urban area. The land identified for rezoning to 2(a) Residential is consistent with the principles of the CSIS.

Is the planning proposal consistent with the applicable LEP and Section 117 Ministerial Directions?

The planning proposal is consistent with the Port Stephens LEP 2000.

The proposal is also consistent with applicable Section 117 Ministerial Directions. The following specific comments are made about the following Directions:

Direction 1.2 Rural Zones

This Direction states that a draft LEP shall not rezone land from a rural to a residential zone. The inconsistency with this Direction is justified because the LEP is minor in the context of loss of land for agricultural purposes and is supported by the Anna Bay Strategy. The Department of Primary Industries advised that it does not object to the draft LEP (section 62 comments dated 21st October 2008).

Direction 1.5 Rural Lands

The objectives of this direction are to protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes.

It is considered that any loss of agricultural land on this site is minimal. The land is currently used for low intensity, small scale grazing or maintained with no stock.

Direction 3.1 Residential Zones

The objectives of this Direction are:

- To encourage a variety and choice of housing types to provide for existing and future housing needs
- To make an efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services
- To minimise the impact of residential development on the environment and resource lands.

The Direction applies because the planning proposal is seeking to propose additional residential development of approximately 50 dwellings. This direction also provides that a planning proposal must contain a requirement that residential development is not permitted until land is adequately serviced or arrangements that are satisfactory to the relevant authority have been made. The main issue is the provision of drainage infrastructure which is proposed to be funded by a Voluntary Planning Agreement.

Direction 3.4 Integrating Land Use and Transport

The objective of this Direction is to ensure that development:

- Improves access to housing, jobs and services by walking, cycling and public transport;
- Increases the choice of available transport and reducing dependence on cars;
- Reduces travel demand including the number of trips generated by development and the distances travelled, especially by car;
- Supports the efficient and viable operation of public transport services; and
- Provides for the efficient movement of freight.

This Direction applies because the proposal will rezone rural land for residential purposes. The main reference document is Improving Transport Choice – Guidelines for planning and development (DUAP 2001).

The site is located in a proposed urban area identified in the Lower Hunter Regional Strategy. It is in close proximity to the town centre of Anna Bay where limited public transport is available. The proposal is considered to be consistent with this Direction.

Direction 4.1 Acid Sulphate Soils

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.

The land proposed for residential development is identified as Class 4 acid sulphate soils.

Clause 51A of the Port Stephens LEP 2000 provides that development and its impact on acid sulphate soils is relevant where work with 500m of Class 1, 2, 3 or 4 land is likely to lower the water table below 1m AHD on the adjacent Class 1, 2, 3 or 4 land.

This issue will be managed by the preparation of an Acid Sulfate Soils Management Plan prepared in accordance with the *Acid Sulfate Soils Manual* if required.

Direction 4.3 Flood Prone Land

The objectives of this Direction are:

- To ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005
- To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

This Direction applies because part of land to the north is mapped as flood prone. Council is aware that flooding and drainage issues exist in the Anna Bay east area and that substantial drainage infrastructure is required if development is to occur in the area. The Drainage Investigation Report Anna Bay North Structure Plan (Parsons Brinkerhoff, 2005) was prepared to identify solutions to this issue and two large drainage basins and a drain through the ridge to the north is required. This is proposed to be funded by a Voluntary Planning Agreement with the developers prior to finalising any rezoning.

Direction 4.4 Planning for Bushfire Protection

The objectives of this Direction are to protect life, property and the environment from bushfire hazards, by discouraging the establishment of incompatible land uses in bushfire prone areas and to encourage sound management of bushfire prone areas.

This Direction applies because the land is mapped as bushfire prone land.

As part of the proposed LEP amendment, it is a requirement that a bushfire assessment be undertaken as part of a development application for the land.

Direction 5.1 Implementation of Regional Strategies

The proposal is considered to be consistent with the Lower Hunter Regional Strategy. The land is identified as a proposed urban area with boundaries to be defined through local planning. The land proposed to be rezoned 2(a) Residential is consistent with the Anna Bay Strategy.

Section C – Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The draft LEP proposes residential development on cleared land adjacent to Gan Gan Road. That land has been consistently identified for development in Council strategies and plans for the locality. There is little or no likelihood that any of the matters referred to will be adversely affected.

Most of the remaining vegetated land is proposed to be placed in the 7(a) Environment Conservation zone.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The potential impacts of flooding and drainage will be addressed at development application stage.

How has the planning proposal adequately addressed any social and economic effects?

The planning proposal may have positive social and economic impacts through the delivery of additional land for residential development. There has been no additional land rezoned for development in Anna Bay at least since the introduction of the Anna Bay Strategy.

Section D – State and Commonwealth interests.

Is there adequate public infrastructure for the planning proposal?

The RTA has no objection to the draft LEP. RTA recommends that Council update its Section 94 Contributions Plan to provide for any potential upgrade works identified in the Anna Bay Traffic Study at Nelson Bay Road and Frost Road. (Caldwell Traffic Engineering, 2007).

Adequate water and sewer infrastructure will be provided at development application stage. Hunter Water commented on 9th October 2008 that a water main system upgrade of the area is currently being constructed and should provide sufficient capacity to the development and be completed in early 2009, and that the Boulder Bay WWTWPS is at theoretical capacity.

It is understood that the upgrade to the water main system has commenced.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Views of relevant public authorities have been obtained in relation to the proposal. These include:

- Department of Water and Energy
- Department of Primary Industries
- Roads and Traffic Authority
- Rural Fire Service
- DECCW (formerly Department of Environment and Conservation)
- Catchment Management Authority
- Hunter Water Corporation
- Energy Australia

All agencies consulted do not raise issues that prohibit the processing of the Draft LEP.

Part 4 – Community Consultation

The draft plan was exhibited from 2nd to 31st March 2006. No submissions were received from members of the public.

Conclusion

The draft LEP will be reported to Council following the usual post-exhibition reporting process. If the Council resolves to continue proceeding with the draft LEP it will be forwarded to the Department with a request that it be made.