

Eastern Entrance Nelson Bay Road, Nelson Bay

Proposal Title : **Eastern Entrance Nelson Bay Road, Nelson Bay**

Proposal Summary : **The planning proposal seeks to rezone 14ha of land at Nelson Bay from 1(a) Rural Agriculture to 2(a) Residential and 7(a) Environmental Protection. The rezoning will facilitate up to 168 residential dwellings and protect land for a environmental corridor.**

PP Number : **PP_2012_PORTS_010_00** Dop File No : **12/18130**

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
2.1 Environment Protection Zones
4.1 Acid Sulfate Soils
4.4 Planning for Bushfire Protection

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

- 1. Council is to undertake preliminary consultation with the Office of Environment and Heritage regarding the loss of native vegetation and proposed biodiversity offset arrangements.**
- 2. Council is to undertake studies required to demonstrate the suitability of the site for residential development.**
- 3. Council is to revise and 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. Exhibition material should include both draft Port Stephens LEP 2000 Zone maps, and draft Port Stephens LEP 2012 Land Use Zone and Minimum Lot Size maps.**
- 4. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy No 55 (SEPP 55) – Remediation of Land and the Contaminated Land Planning Guidelines. Council is to prepare an initial site contamination investigation 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 2009) and 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:**
 - Office of Environment and Heritage**
 - Hunter Water Corporation**

- NSW Rural Fire Service
- Hunter Water Corporation
- National Parks and Wildlife Service
- Ausgrid
- Roads and Maritime Service

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 5 above, Council is to consult with the Commissioner of the NSW Rural Fire Service as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.

8. Further to Condition 5 above, Council is to consult the Office of Environment and Heritage in relation to S117 Direction 2.1 Environmental Protection Zones. Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.

9. Further to Condition 5 above, Council is to consult the Roads and Maritime Service in relation to the proposed route location of the Fingal Bay Link Road, and if necessary, to take into consideration any comments prior to the commencement of public exhibition.

10. Council is to ensure that all proposed mapping amen – Remediation of Land and the Contaminated Land Planning Guidelines. Council is to prepare an initial site contamination investigation 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.

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 24 months from the week following the date of the Gateway determination.

Supporting Reasons :

The planning proposal is not identified in the LHRS or the draft PSPS as a new release area, but is considered to have strategic merit. The site adjoins the existing urban area of Nelson Bay, and is located only 1.2km from the town centre. The site is well positioned on the main arterial Nelson Bay Road, and lies just to the north of the proposed Fingal Bay Bypass. The non-inclusion of the site in the prepared local strategy (PSPS) is considered to be derived from a lack of strategic planning for new release areas in Nelson Bay rather than strategic unsuitability of the site for urban development. There are concerns relating the loss of environmentally sensitive land and koala habitat, as well as unconfirmed availability of infrastructure provision. It is considered that preliminary consultation with OEH regarding loss of biodiversity and offsetting arrangements will enable greater certainty if the proposal can be progressed.

Panel Recommendation

Recommendation Date : 22-Nov-2012

Gateway Recommendation : Passed with Conditions

Panel

The Planning Proposal should proceed subject to the following conditions:

Recommendation :

1. Prior to commencing public exhibition, Council is to:

- (a) amend the planning proposal to provide information on how infrastructure will be provided to the site and detail how Council intends for infrastructure to be funded,
- (b) amend the planning proposal to include maps which clearly identify the intended zones proposed for the site. Exhibition material should refer to both the Port Stephens LEP 2000

and draft Port Stephens LEP 2012, and be prepared to an appropriate scale and clearly identify the subject land, and

(c) undertake further assessment of the impacts of the proposed rezoning on flora, fauna and bushfire protection and the suitability of the site for residential development.

2. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy No 55 (SEPP 55) – Remediation of Land and the Contaminated Land Planning Guidelines. Council is to prepare an initial site contamination investigation 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.

3. 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).

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

- Office of Environment and Heritage
- Office of Environment and Heritage – NSW National Parks and Wildlife Service
- Hunter Water Corporation
- NSW Rural Fire Service
- Ausgrid
- Transport for NSW - Roads and Maritime Services
- NSW Aboriginal Land Council
- Transgrid

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.

5. Council is to consult with:

(a) the Office of Environment and Heritage in relation to S117 Direction 2.1 Environmental Protection Zones, the loss of native vegetation and the proposed biodiversity offset arrangements.
(b) the Commissioner of the NSW Rural Fire Service as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection, and
(c) the Roads and Maritime Services in relation to the proposed route location of the Fingal Bay Link Road,

Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.

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.

Eastern Entrance Nelson Bay Road, Nelson Bay

Signature:



Printed Name:

Ned McGaffin

Date:

28-11-12