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Our ref: PP_2012_PORTS_006_00 (12/10014)
Your ref:

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

Dear Mr Gesling,

Planning Proposal to amend the Port Stephens LEP 2000

I am writing in response to your Council's letter 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 LEP 2000 to include 'subdivision' as an additional permitted use on rural land at 456 Fullerton Cove Road, Fullerton Cove.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should not proceed for the reasons outlined in the attached Gateway Determination.

It is noted that Council met with the Department on 2 February 2012 to discuss the proposed subdivision of an existing dual occupancy on land at Fullerton Cove. The Department indicated that the preferred approach was to consider the desired planning outcome at a broader strategic level rather than through an additional permitted use, potentially enabling rural subdivision on the basis of a 4ha minimum lot size. The outcome of the meeting is attached.

Council is encouraged to undertake a strategic assessment of the area, considering how the desired pattern of subdivision and development relates to the strategic direction of the local and regional planning framework and the objectives of the rural zone. The Department is happy to work with Council to assist in identifying a suitable approach to achieve rural subdivision at a precinct level.

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

Yours sincerely,



Sam Haddad
Director-General

6/8/2012.

Gateway Determination

Planning Proposal (Department Ref: PP_2012_PORTS_006_00): to include 'subdivision' as an additional permitted use on rural land at 456 Fullerton Cove Road, Fullerton Cove

I, the Director General, Department of Planning and Infrastructure as delegate of 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 include 'subdivision' as an additional permitted use on rural land at 456 Fullerton Cove Road, Fullerton Cove should not proceed for the following reasons:

1. The planning proposal is inconsistent with the following S117 Directions:
 - a. 1.2 Rural Zones
 - b. 1.5 Rural Lands
 - c. 4.1 Acid Sulfate Soils
 - d. 5.1 Implementation of Regional Strategies
 - e. 6.3 Site Specific Provisions
2. The subject site is located in the Watagan to Stockton Green Corridor. Although the proposed subdivision of the subject land is considered minor in isolation, the planning proposal has not considered the broader strategic implications of rural land fragmentation. The planning proposal is also inconsistent with the Lower Hunter Regional Strategy in that it does not seek to 'provide for the on-going role of biodiversity corridor and inter-urban break'.
3. It is noted that the surrounding land is already heavily fragmented as a consequence of a lack of strategic direction for the Fullerton Cove area. Having regard to the number of lots within the 5ha to 20ha range on the Lot Size Analysis Map at Appendix E, and if Council wishes to approve further subdivision in this locality, it should undertake a strategic assessment of the area and select a more appropriate minimum lot size that permits subdivisions such as that covered by the planning proposal, and determine applications on their merits having regard to relevant environmental constraints.

Dated

6th

day of

August

2012.

SHaddad

Sam Haddad

Director-General

Delegate of the Minister for Planning and
Infrastructure

File Note

Port Stephens

C·O·U·N·C·I·L

... a community partnership

File No: PSC 2006-1004
From: David Broyd
Group Manager, Sustainable Planning
Date: 13 February 2012
Subject: Notes of Meeting 2 February
Present: State Member for Port Stephens, Craig Baumann MP
Director General Department of Planning and Infrastructure, Sam Haddad
Executive Director, Neil McGaffin
Boral Pty Ltd, Judy McKittrick
Port Stephens Council, General Manager Peter Gesling
Group Manager Sustainable Planning David Broyd
Manager DA & EH, Matthew Brown

PURPOSES:

The purposes of the meeting were two-fold:

1. To respond to the submissions by Boral Pty Ltd for reconsideration for rezoning of the Companies land at Fullerton Cove; and
2. To follow through on Council's resolution of November 2011 for a Development Application at Fullerton Cove.

DRAFT LEP – BORAL, FULLERTON COVE

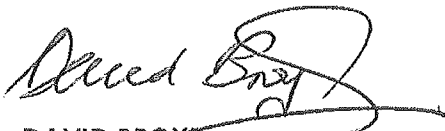
- Judy McKittrick has been lobbying for the consideration of the land owned by Boral Pty Ltd for reconsideration of re-zoning. (The land is located at Nelson Bay Rd, Fullerton Cove). The land comprises approximately 80 hectares;
- Boral did not respond to the recent letter of invitation forwarded by the Minister for developers / land owners to nominate land which could be subject of relatively imminent development to provide housing in NSW that will "increase dwelling production in the short term at no additional cost to Government";
- Boral Pty Ltd originally submitted an application to rezone the land in 2007. In late 2007, Council resolved to support the proposed rezoning in principle subject to significant infrastructure planning in the sector of Port Stephens comprising Fullerton Cove, Fern Bay & Stockton;
- The NSW Department of Planning responded in August 2008 declining to support the Draft LEP Amendment (letter: 1 August 2008);
- The Director General advised that he was prepared to be flexible in this instance and notwithstanding the non inclusion in the Lower Hunter Regional Strategy, he was prepared to enable this proposal to go forward. I advised that Council's resolution December 2011 to incorporate an Eastern Corridor into the Port

Stephens Planning Strategy which complies the Medowie Urban Release Area, Newcastle Airport and related Williamstown Aerospace Centre, Fullerton Cove and Fern Bay;

- As the next action, it was agreed that I draft a scoping paper for the preparation of an appropriate planning and infrastructure study, to fully evaluate on a strategic basis, whether the Boral Company's proposed re-zoning should be considered further for potential inclusion in the Lower Hunter Regional Strategy and specifically by way of an amendment in the Port Stephens Planning Strategy.

FULLERTON COVE SUBDIVISION D.A.

- Matt explained the Development Application which was recommended for refusal to Council in December 2011, the background of historical approvals that provided some merit to this consent also being granted and the context of the already subdivided land in this sector of Fullerton Cove;
- Based upon a suggestion from Mr McGaffin, it was agreed that a sector-specific draft LEP provision be taken forward which enabled potential subdivision of Rural 1A land in that sector on the basis of a 4 hectare minimum lot size. (The sector incorporates only that land covered by historical approvals for subdivision in the immediate vicinity and primarily based upon road separation) Matt will clarify this with Bruce for action by Peter Marler and Wonona Christian. It was therefore agreed that enabling a legal basis for Council to grant consent to this development application should go forward.



DAVID BROYD
GROUP MANAGER
SUSTAINABLE PLANNING
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