

Subdivision of land at 509 Gan Gan Road, One Mile

Proposal Title : Subdivision of land at 509 Gan Gan Road, One Mile

Proposal Summary : The planning proposal (PP) would change the minimum lot size of the 8.4 ha site from 10 ha to 2000 sq.m (western portion) and 4 ha (eastern portion). The site would retain its current E4 Environmental Living zone.

The PP would amend the Port Stephens LEP 2013.

PP Number : PP_2014_PORTS_004_00 Dop File No : 14/01156

Proposal Details

Date Planning Proposal Received : 16-May-2014 LGA covered : Port Stephens

Region : Hunter RPA : Port Stephens Council

State Electorate : PORT STEPHENS Section of the Act : 55 - Planning Proposal

LEP Type : Spot Rezoning

Location Details

Street : 509 Gan Gan Road

Suburb : One Mile City : Postcode : 2316

Land Parcel : Lot 2 DP 810866

DoP Planning Officer Contact Details

Contact Name : Ben Holmes

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RPA Contact Details

Contact Name : Matthew Borsato

Contact Number : 0249800282

Contact Email : Matthew.Borsato@portstephens.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : Release Area Name :

Regional / Sub Regional Strategy : Lower Hunter Regional Strategy Consistent with Strategy : No

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MDP Number :		Date of Release :	
Area of Release (Ha) :	8.40	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	8
Gross Floor Area :	0	No of Jobs Created :	0

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

If No, comment :

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

If Yes, comment :

Supporting notes

Internal Supporting Notes : **THE SITE**

The site is broadly surrounded by E4 zoned land already developed for residential with the exception of the lot to the south which is undeveloped and a portion to the east which forms part of the Tomaree National Park. The adjoining E4 zoned and developed land is unserviced and these lots are generally 4,000 sq.m.

A total yield of 8-10 lots is anticipated by Council.

The site is constrained by flooding as well as flora and fauna.

The landowner advises that the site was formerly used to run cattle but this ceased in 1990.

DATE RECEIVED

The PP was originally received on 19 March 2014 however further information was sought by the Department on 9 April 2014. Council provided the last of that information on 16 May 2014.

DOCUMENTATION PROVIDED TO THE DEPARTMENT

Council has provided the Department with copies of the PP submitted to the Council by the landowner. The landowner PP is different to the Council prepared PP (eg it proposes a new zoning regime).

The Department's assessment focuses on the PP prepared by Council. For this reason, the landowner PP has not been made public.

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 is consistent with the Department's 'A Guide to Preparing Planning Proposals'.**

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

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

Comment : **The Explanation of Provisions is consistent with the Department's 'A Guide to Preparing Planning Proposals'. It states that the minimum lot size would be changed to 2,000 sq.m for the part of the site that is to be developed (the western portion) and 4 ha for the eastern portion.**

The 2,000 sq.m minimum lot size has been supported by Council for the western part of the site because the landowner intends to service the site. The remaining eastern portion may also provide for a dwelling.

Council has not considered alternative zones for the site. It notes the current E4 zone is consistent with the zone applying to the surrounding land and reflects site environmental constraints (eg flooding). Lower minimum lot sizes have not been considered for the western portion. Presumably this is also due to site constraints.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

2.1 Environment Protection Zones

* May need the Director General's agreement

2.2 Coastal Protection

2.3 Heritage Conservation

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? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

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

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 discussion on inconsistencies with SEPPs and s117 directions is detailed in the "Consistency with Strategic Planning Framework" section of this report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

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Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **28 days has been nominated by Council.**

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons : **PROJECT TIMEFRAME**

Council has nominated completion of the LEP by November 2015 (approximately 18 months), allowing 8 months for relevant studies to be undertaken. It is not clear whether this would be adequate time to resolve the issues associated with this proposal (discussed later).

DELEGATION

Council has not requested plan-making delegation for this PP.

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : **The PP is generally consistent with the Department's 'A Guide to Preparing Planning Proposals' and is adequate for consideration by the Gateway.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The PS LEP 2013 came into effect in February 2014.**

Assessment Criteria

Need for planning proposal :

Council advises the PP has been initiated at the request of the landowner. While Council has supported this request by sending the PP to the Gateway, Council notes that there are several issues which require resolution before the minimum lot size could be amended. Examples include flooding and drainage, flora and fauna, and bushfire.

Neither Council's local planning strategies nor the Regional Strategy identifies this land as necessary for urban development. Further, at this stage there is no evidence to suggest that this specific site could be developed given its flooding and flora/ fauna constraints (discussed later in this report).

It is recommended that further work be undertaken to determine the suitability of this site for large lot residential development, before the Gateway support the PP. This should also include the land adjoining the site to the south.

Ideally, Council would consider the opportunities for more intensive development in the broader One Mile area given the extent of existing cleared land (zoned RU2) and the benefit of undertaking a co-ordinated approach to addressing matters like flooding, acid sulfate soils, ecology and koala habitat.

Given the above, the need for the PP is considered to be questionable at this time.

Consistency with
strategic planning
framework :

LOWER HUNTER REGIONAL STRATEGY (LHRS)

The development of this land is not identified in the LHRS and therefore it needs to satisfy the strategy's Sustainability Criteria. At this stage there is insufficient evidence to determine whether the proposal could potentially comply with the criteria (eg Criterion 5 Avoidance of Risk (flooding) and Criterion 7 Environmental Protection (flora & fauna impact)).

PORT STEPHENS PLANNING STRATEGY 2011-2036 (PSPS, Council's development strategy)

Council advises the PSPS does not identify the site for development nor is the development of the site necessary to meet dwelling projections.

The PSPS does however identify the potential for infill development to occur which it states may include "...small scale subdivision of previously undeveloped land within an existing urban area...".

As the site is broadly surrounded by E4 zoned land developed for large lot residential purposes, it could be argued that this PP satisfies the definition of infill in the PSPS.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

SEPP 14 Coastal Wetlands - Council identifies this SEPP as being relevant to the proposal. The land is not mapped as SEPP 14 wetlands and therefore the SEPP does not apply.

SEPP 44 Koala Habitat Protection – Areas of 'marginal', 'other', and 'supplementary' habitat are located on the eastern portion of the site, with areas of 'preferred' and 'supplementary' koala habitat located on the central and western portions of the site. Council notes these areas are utilised by koalas.

Council identifies further investigation would be needed before consistency with the SEPP could be determined. This should occur as part of the upfront flora and fauna work required and should be undertaken in consultation with OEH.

SEPP 55 Remediation of Land – Further investigation is required. A preliminary assessment per the SEPP could occur following receipt of a Gateway determination in support of the PP.

SEPP 71 Coastal Protection – Council has considered the PP against the matters set out in clause 8 of the SEPP. The further investigations proposed by Council (eg flora & fauna study) would further inform consistency with the SEPP.

S117 DIRECTIONS

The PP is currently either inconsistent with the following directions or further work is required before consistency can be fully determined. It is suggested that these matters be reconsidered by the Gateway when the PP is resubmitted, following the further flooding and flora/ fauna work identified.

1.5 Rural Lands – applies where a PP affects land within an environment protection zone. The PP is potentially inconsistent with the rural planning principles (subclause 4) and rural subdivision principles (subclause 5) of the SEPP (Rural Lands) 2008.

The land is 8.4 ha, vegetated and largely surrounded by land developed for residential purposes. As a result, the agricultural value of the land is limited. Inconsistency with this direction can be reconsidered following submission of a revised PP.

2.1 Environment Protection Zones – the PP is inconsistent with this direction because in reducing the minimum lot size the PP would not facilitate the protection and conservation of an environmentally sensitive area (subclause 4) being zoned E4 and containing EECs.

The site contains three endangered ecological communities (totalling 5.2 ha; a large part of the remaining 3.2 ha is supplementary Koala habitat), two of which largely cover the western portion to be developed (refer MAP EEC). Desktop analysis provided by the landowner suggests a number of threatened fauna species are likely to occur within the study area and seven threatened flora species are also potentially located on the site.

Council intends to undertake further investigation to clarify these aspects following a favourable Gateway determination. However, at this stage limited evidence has been provided to suggest that ecological issues can be adequately resolved. The site appears highly constrained and development of the western portion would require clearing of 2.2 ha of EEC and threatened species affectation is unknown, however the extent of offsets required and the landowner's willingness to provide offsets is unknown.

It is therefore recommended that this further work be undertaken and that consultation with OEH occur regarding mitigation measures/ offsets before the Gateway determines that the PP should proceed. An updated PP should be prepared following this work and it should be submitted anew to the Gateway for its consideration.

Consistency with direction 2.1 can be reconsidered when the revised PP is submitted to the Gateway.

2.3 Heritage Conservation – Council is of the view that heritage impacts are unlikely, with an earlier study of the site identifying one possible cultural item. Consultation with the Local Aboriginal Land Council should occur however the matter can be reconsidered following resubmission to the Gateway.

3.4 Integrating Land Use & Transport – given that One Mile is relatively isolated from services and frequent public transport, the PP is inconsistent with this direction (subclause 4a). This matter can be reconsidered following resubmission to the Gateway.

4.1 Acid Sulfate Soils – the site is affected by Class 3 and Class 5 ASS. Council advises that an ASS study was undertaken in 2001 and it recommended an ASS management plan be required at the DA stage.

The site sits within the Anna Bay subcatchment which is subject to ASS issues. A series of drains are in place to remove surface water from the area however this can also create problems due to the underlying ASS (fish kills, oyster cultivation issues, degraded environmental values). The Anna Bay Drainage Union has responsibility for the drains.

This matter can be reconsidered following resubmission to the Gateway.

4.3 Flood Prone Land – the PP is potentially inconsistent because it may permit development in a floodway area (subclause 6a), result in significant flood impacts to other properties (subclause 6b), and result in a significant increase in the development of a site in a flood planning area (subclause 6c). Refer MAP Flood.

Council notes it is currently undertaking a flood study that applies to the broader locality. This will determine correct flood planning levels for the area, as well as the potential increase in flood levels/ frequency as a result of sea level rise and climate change. However, this work is unlikely to be completed before June 2016.

Council has indicated that until this broader work occurs, it is unable to determine the impacts of the PP on flooding characteristics (eg is the site in a floodway? is the site high risk?) and impacts on neighbouring land owners. To overcome this, Council has proposed specific flooding assessment requirements to be undertaken.

As with ecological impacts, it is not evident, based on the information provided, that flooding impacts can be resolved for this site. It is therefore recommended that the work identified by Council be undertaken prior to the Gateway determining that the PP should proceed. An updated PP should be prepared following the work and submitted anew to the

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Gateway for its consideration.

Further, given the role of the Anna Bay Drainage Union in managing drainage within the Anna Bay sub-catchment (including the flood mitigation capacity of the Main Drain), consultation with the Drainage Union is recommended at an early stage.

4.4 Planning for Bushfire Protection – consultation with RFS needs to occur before consistency with this direction can be determined. This matter can be reconsidered following resubmission to the Gateway.

5.1 Implementation of Regional Strategies – the PP is inconsistent with the Lower Hunter Regional Strategy. Further investigations (flora and fauna, ecology) are required before consistency with the Strategy's Sustainability Criteria could be determined. This matter can be reconsidered following resubmission to the Gateway.

Environmental social
economic impacts :

Council has identified further studies to determine whether amending the minimum lot size, and in turn enabling large lot residential on part of the site, is appropriate.

At this stage however it is unclear whether flora/ fauna impacts and flooding issues can be adequately resolved. It is recommended that this work occur prior to the Gateway determining the PP proceed. A revised PP could be submitted to the Gateway, afresh, following this work. Consultation with OEH (and the Drainage Union) needs to occur as part of that work, particularly in relation to offsets.

The PP would facilitate a marginal increase in residential development and therefore economic and social impacts would likely be minimal.

Assessment Process

Proposal type :	Inconsistent	Community Consultation Period :	Nil
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Timeframe to make LEP :	0 months	Delegation :	Nil
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Public Authority Consultation - 56(2) (d) :	Office of Environment and Heritage Other
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Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **No**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

Is the provision and funding of state infrastructure relevant to this plan?

If Yes, reasons : **Advice from the Infrastructure Team was sought on 8 May 2014 however no response**

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was received.

Documents

Document File Name	DocumentType Name	Is Public
Council Letter.pdf	Proposal Covering Letter	Yes
Council Report.pdf	Proposal Covering Letter	Yes
Updated Planning Proposal 2014 04 10.pdf	Proposal	Yes
MAP EEC.pdf	Map	No
MAP Flood.pdf	Map	No

Planning Team RecommendationPreparation of the planning proposal supported at this stage : **Not Recommended**

S.117 directions:

- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 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 : It is recommended the PP be refused until it can be demonstrated that the site is suitable for the proposed development. In particular, flooding and flora/ fauna work is required to demonstrate both the development potential and greater certainty regarding how impacts would be managed in the long term. Consultation with OEH should occur, particularly in relation to biodiversity impacts, as well as with the Anna Bay Drainage Union as part of this process.

Consideration should be given to developing a planning strategy for the broader locality, including One Mile. This will assist in considering possible future proposals for the area, noting the extent of cleared land and the benefit of undertaking a co-ordinated approach to addressing constraints like flooding, acid sulfate soils, ecology and koala habitat.

Supporting Reasons :

Signature:



Printed Name:

DAVID ROWLAND

Date:

6/6/14