

ITEM NO. 3

**FILE NO: 23/272493
EDRMS NO: 58-2023-2-1**

**ADMINISTRATIVE AMENDMENT TO THE PORT STEPHENS LOCAL
ENVIRONMENTAL PLAN 2013**

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER
DIRECTORATE: COMMUNITY FUTURES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the administrative planning proposal (**ATTACHMENT 1**) to amend the Port Stephens Local Environmental Plan 2013.
 - 2) Forward the planning proposal to the NSW Department of Planning and Environment for a Gateway determination and request authority to make the plan.
-

**ORDINARY COUNCIL MEETING - 28 NOVEMBER 2023
MOTION**

279	<p>Councillor Giacomo Arnott Mayor Ryan Palmer</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Adopt the administrative planning proposal (ATTACHMENT 1) to amend the Port Stephens Local Environmental Plan 2013, with the deferral of points 1, 2, 3 and 5 from the report for consideration by the Mayor and Councillors at a workshop to determine the future strategic direction of Council on these proposals.2) Forward the planning proposal to the NSW Department of Planning and Environment for a Gateway determination and request authority to make the plan.
------------	---

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to seek Council's endorsement to submit the administrative planning proposal (**ATTACHMENT 1**) to amend the Port Stephens Local Environmental Plan 2013 (LEP) to the NSW Department of Planning and Environment (DPE) for a Gateway determination.

The objectives of the planning proposal are to make administrative amendments to the LEP to address minor matters that have recently been identified for improvement. The planning proposal seeks to make the following amendments:

1. Amend Clause 4.1B Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings to:
 - Increase the minimum lot size for residential flat buildings from 450sqm to 900sqm
 - Correct an error by omitting 'despite clause 4.1' in subclause (2)
 - Expand the clause objectives.
2. Amend Clause 4.1E Boundary adjustments of land in certain rural, residential and conservation zones to limit its application to 2 lots.
3. Amend Clause 4.3 Height of buildings to expand the objectives to include considerations for:
 - Natural topography
 - Solar access
 - Privacy
 - Visual amenity
 - Disruption of views.
4. Adopt optional Clause 5.22 Special Flood Considerations.
5. Amend Clause 7.23 to no longer apply a minimum street frontage of 15m to dwellings and dual occupancies in the Nelson Bay town centre.
6. Amend Schedule 5 Environmental Heritage to correct the property address and mapping for item I79 Raymond Terrace Court House.
7. Rezone land at Medowie State Conservation Area and Cumbey National Park to C1 National Parks and Nature Reserves.
8. Amend the Minimum Lot Size map to align with the Land Zoning Map at Kinross, Estate Heatherbrae (Lot 1401 DP 1272419).

A community guide summarising the proposed amendments is provided in the Explanation of Amendments (**ATTACHMENT 2**).

MINUTES ORDINARY COUNCIL - 28 NOVEMBER 2023

Detailed justification for the proposed amendments is provided in the administrative planning proposal (**ATTACHMENT 1**).

Should Council resolve to endorse the planning proposal, it will be forwarded to the DPE requesting a Gateway determination. Council will be requesting to be made the Plan Making Authority for the proposal.

Following the issuing of the Gateway determination, the planning proposal would be publicly exhibited in accordance with any gateway conditions from DPE, prior to being reported to Council for determination.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Thriving and safe place to live	Program to develop and implement Council's key planning documents

FINANCIAL/RESOURCE IMPLICATIONS

There are no direct financial/resource implications for Council as a consequence of the recommendations of this report.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no foreseen legal, policy or risk implications for Council as a result of the recommendations of this report.

Environmental Planning and Assessment Act, 1979 (EP&A Act)

The planning proposal is being processed in accordance with Part 3 of the EP&A Act. Should Council resolve to endorse the planning proposal, it will be forwarded to DPE for a Gateway determination, including a request for Council to be made the Plan Making Authority.

Hunter Regional Plan 2041 (HRP)

The planning proposal is consistent with the aims of the HRP, including protecting the biodiversity network, improving resilience to flood events and protecting productive rural landscapes. The planning proposal will give effect to the following objectives of the HRP:

- Objective 6 – Conserve heritage landscapes, environmentally sensitive areas, waterways and drinking water catchments
- Objective 7 – Reach net zero and increase resilience and sustainable infrastructure
- Objective 9 – Sustain and balance productive rural landscapes.

Port Stephens Local Strategic Planning Statement (LSPS)

The LSPS identifies the 20-year vision for land use in Port Stephens and sets out social, economic and environmental planning priorities for the future.

The planning proposal will give effect to the following planning priorities of the LSPS:

- Planning Priority 2 – Make business growth easier
- Planning priority 7 – Conserve biodiversity values and corridors
- Planning Priority 8 – Improve resilience to hazards and climate change
- Planning Priority 9 – Protect and preserve productive agricultural land.

Port Stephens Local Housing Strategy (Live Port Stephens)

The planning proposal will give effect to the following priorities and actions of Live Port Stephens:

- Priority 3.1 – Facilitate new housing within urban areas
- Priority 3.2 – Encourage a range of housing types and sizes
- Action 15 – Consider opportunities to encourage the amalgamation of sites.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the LEP will contain administrative errors and redundant provisions if the amendment is not made.	Medium	Accept the recommendation.	Yes

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that proposals for inappropriate development will be lodged, should the amendment not be made.	Medium	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed amendments, whilst relatively minor in nature, are expected to deliver a range of positive social, economic and environmental outcomes, including:

- Streamlined development assessment due to the correction of errors and anomalies
- Improved consideration of flood affected land
- Increased opportunity for new dwellings and dual occupancies in Nelson Bay due to the amendment of Clause 7.23
- Improved urban design outcomes, particularly around residential flat buildings
- Greater protection of conservation lands
- Increased opportunities for industrial subdivision and new development in Heatherbrae
- Greater protection of rural landscapes.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section to inform the planning proposal.

Internal

Consultation was undertaken with Development Planning and Development Engineering teams to develop and review the proposed amendments.

All of the proposed items are supported by the relevant internal stakeholders.

External

Preliminary consultation has been undertaken with the Department of Planning and Environment (DPE) with no issues raised regarding the proposed amendments. All recommendations have been incorporated into the planning proposal. Due to the nature of the planning proposal, DPE advised the undertaking of preliminary consultation with authorities and government agencies would not be required.

It is anticipated that consultation or referral of the planning proposal to authorities and government agencies may be required after Gateway determination. A Gateway condition may be imposed where an authority or agency has an interest in the proposal.

The draft administrative planning proposal would be publicly exhibited in accordance with the Gateway determination.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Administrative Planning Proposal. (Provided under separate cover)
- 2) Explanation of Amendments.

COUNCILLORS' ROOM

Nil.

TABLED DOCUMENTS

Nil.