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Sent: Monday, 6 September 2021 3:41 PM
To: 'rezoning@portstephens.nsw.gov.au'
Cc: John James (vicepresident@trra.com.au)
Subject: LEP amendments - ref 58-2020-1-1

To: Port Stephens Council
rezoning@portstephens.nsw.gov.au
Reference File 58-2020-1-1

Proposed 'housekeeping' amendments to the Port Stephens Local Environmental Plan 2013 (LEP)

<https://www.portstephens.nsw.gov.au/trim/other?RecordNumber=21%2F226534>

We note that only 10 of the 13 proposed amendments were initially listed in the summary of the changes on the website – this has subsequently been rectified.

It is also disappointing that the material on exhibition does not include a 'tracked changes' version of the LEP clearly showing all the proposed changes. This omission makes it very difficult for the public to fully understand the proposal and consider the implications of the changes.

As indicated on the website, most of the proposed amendments are of a technical nature designed to address minor administrative matters, and are uncontroversial.

There are however a few amendments that have more substantive effect and on which we make the following comments.

We have no objection to this submission being made public in full and unredacted.

Item 1 – changes to the Aims of the LEP (Clause 1.2).

No explanation is given for the omission of two of the current aims which we submit are very important, and which are not 'duplicates' of the objectives of the EPA Act.

These are:

- (i) to continue to implement the legislative framework that supports openness, transparency and accountability of assessment and decision making, and
- (j) to achieve intergenerational equity by managing the integration of environmental, social and economic goals in a sustainable and accountable manner.

We submit that these two 'aims' were crucial foundations for Council's application of the LEP to support maximum transparency and accountability and to underpin Council's approach to long term issues such as its response to climate change.

We urge Council to re-instate these two aims.

Item 4 – Deletion of Clause 7.13 – Conversion of serviced apartments to residential flat buildings

The Proposal justifies this deletion on the grounds that 'Clause 7.13 unnecessarily duplicates the requirements of section 4.15(1)(a)(i) and therefore is redundant.'

However, s 4.15(1)(a)(i) only includes a general reference to other planning instruments, including SEPP65 (Apartment Design Guide) which the Proposal argues will cover the same matters as Clause 7.13.

We seek confirmation that compliance with SEPP65 and other requirements will in fact ensure that the minimum parking standards currently set out in Clause 7.13(3) remain in effect.

Item 10 – Caravan parks to be prohibited in residential and business zones

We submit that this change, which we support, is more than a ‘minor administrative’ amendment. It is in fact a very welcome and overdue closing of a major loophole which could have allowed not only what most people would recognise as a caravan park but also potentially ‘lifestyle villages’ like those that have been approved in many parts of Port Stephens.

TRRA has consistently opposed the proliferation of these types of developments on rural zoned land. This particular loophole has already been closed in the 2013 LEP for any new ‘caravan parks’, although we continue to see extensions of the lifestyle villages on the basis of existing use rights and spurious ‘modification’ DAs.

This amendment may help to prevent inappropriate use of the ‘caravan park’ label to establish high density permanent residential estates in ways which escape the standards that would apply to equivalent residential subdivisions.

Solving the problem that the caravan park and manufactured home estate provisions in NSW planning law is a much bigger task which the Department of Planning is only just starting to address.

But in the meantime clearly prohibiting ‘caravan parks’ in all zones apart from RE1 and RE2 (Public and Private Recreation) zoned land will help and TRRA therefore strongly supports this amendment.

Item 11 – Allow childcare facilities and respite day care centres with consent in RU2 zones

We understand that this applies to all care facilities (whether for children, the aged or people with disabilities) that do not involve overnight accommodation.

The Proposal justifies this change primarily to provide more flexibility to meet care needs - especially child care and particularly in remote rural areas. We note that ‘home based child care’ is already permitted with consent on RU2 land, so this change is presumably considered desirable to encourage larger scale centres.

We support this objective but are concerned that the amendment could also be ‘abused’ by large scale commercial care providers seeking to build significant ‘urban’ scale facilities on rural landscape land on the fringe of existing urban areas as a low-cost alternative to more appropriate sites within the existing urban ‘footprint’.

Particularly in East and Central wards we have seen far too many inappropriate developments, including manufactured home estates and small industrial buildings on rural land. Based on experience, we have no confidence that when assessing DAs for rural land that Council will respect one of the objective of RU2 zones ‘To maintain the rural landscape character of the land’.

We submit that the wording of the amendment needs to be revised to provide greater assurance that only care facilities or centres that are of a modest scale are permitted on RU2 zoned land, particularly where it is on the fringes of urban areas of the LGA. A combination of a size limit and a ‘minimum distance’ condition might help to achieve this outcome.

Item 13 – to allow signs on sports fields and amenity facilities at sports fields, subject to conditions

The Proposal references and relies on a Sports Facility Signage Policy and Guidelines, which do not yet exist but which we understand Council is currently developing. We submit that this change is more than a minor administrative one and may have significant environmental, social and economic consequences – contrary to Council’s response to Questions 8 & 9 in Part 3 – Justification of the Planning Proposal (p29).

The Council's 'justification' on pp 12-13 and the assertion in the table on p20 that 'Council has a robust policy and assessment framework already in place for signage on sporting fields that addresses similar requirements listed in the SEPP[SEPP 64]' are clearly also not currently correct.

It would obviously be premature to make this change to the LEP until the Policy & Guidelines have been finalised, after the appropriate public consultation.

The Proposal asserts that 'This amendment implements Direction 7.3 of the Port Stephens Recreation Strategy', and notes that 'This amendment will enable clubs to acknowledge the contribution of sponsors and generate additional income.' (p13)

Direction 7.3 in the Recreation Strategy is 'Utilise external funding sources to manage and upgrade recreation facilities.' and Action 7.3.1 is 'Investigate opportunities for greater commercial use within recreation facilities.'

This all suggests that the objective of the amendment is to facilitate the introduction of signage rather than regulating it with particular consideration of the aesthetics and visual appearance of Council owned and managed sports facilities^[1]. Many in the community may also have concerns about encouragement of the commercialisation of sport.

We understand that consideration may be given to modelling the conditions of any exemption for sports facility signage on the relevant clause in Schedule 2 of the [Lake Macquarie Local Environmental Plan 2014](#). This clause, which is in the LEP itself, seems to better balance the different private and public interests. We note that it includes a requirement that signage should only be inward facing i.e. towards the sports pitches. Such a constraint may reduce concerns about the visual impact and commercialisation, but would obviously also reduce the value of the signage and therefore potentially the income for clubs.

We submit that these issues deserve a wider debate in the community and by Councillors before this amendment is made.

We also submit that the key conditions applying to signage should be in the LEP itself rather than in Policy and Guidelines which would be less binding and enforceable, and more easily changed. We would support a provision similar to that in the Lake Macquarie LEP, after further public debate about the detail.

We look forward to seeing a response to our submission when these proposed amendments are reported back to Council after the close of the public exhibition period.

Footnote 1 'There are currently no sporting fields that are privately owned in Port Stephens.' (Proposal p13)

Submission ends.

Nigel Waters
Convenor, Planning Committee
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^[1] 'There are currently no sporting fields that are privately owned in Port Stephens.' (Proposal p13)