



# 42 Fullerton Cove Road Planning Proposal

**Proposed amendment to Port Stephens Local  
Environmental Plan 2013**

Rezoning of Lot 14 DP 258848  
42 Fullerton Cove Road, Fullerton Cove



**PORT STEPHENS**  
COUNCIL

# CONTENTS

---

<b>SUMMARY .....</b>	<b>3</b>
<b>BACKGROUND.....</b>	<b>4</b>
<b>SITE.....</b>	<b>5</b>
<b>PART 1 – Intended outcome .....</b>	<b>8</b>
<b>PART 2 – Explanation of provisions .....</b>	<b>8</b>
<b>PART 3 – Justification .....</b>	<b>10</b>
<b>Section A – Need for the planning proposal.....</b>	<b>10</b>
Q1. Is the planning proposal a result of any strategic study or report? ...	10
Q2. Is the planning proposal the best means of achieving the intended outcome, or is there a better way?.....	11
<b>Section B – Relationship to strategic planning framework .....</b>	<b>12</b>
Q3. Will the planning proposal give effect to the objectives and actions of the Hunter Regional Plan or Greater Newcastle Metropolitan Plan? .....	12
Q4. Will the planning proposal give effect to a council’s endorsed local strategic planning statement? .....	16
Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)? .....	19
Q6. Is the planning proposal consistent with applicable Ministerial Directions? .....	23
<b>Section C – Environmental, social and economic impact .....</b>	<b>36</b>
Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal? .....	36
Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed? .....	37
Q9. Has the planning proposal adequately addressed any social and economic effects? .....	38
<b>Section D – State and Commonwealth interests .....</b>	<b>39</b>
Q10. Is there adequate public infrastructure for the planning proposal? ..	39
Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination? .....	39
<b>PART 4 – Mapping .....</b>	<b>40</b>
<b>PART 5 – Community consultation .....</b>	<b>40</b>
<b>PART 6 – Project timeline .....</b>	<b>41</b>

## ATTACHMENTS

---

**ATTACHMENT 1** – Current Land Zoning Map  
**ATTACHMENT 2** – Proposed Land Zoning Map  
**ATTACHMENT 3** – Current Lot Size Map  
**ATTACHMENT 4** – Proposed Lot Size Map  
**ATTACHMENT 5** – Current Height of Building Map  
**ATTACHMENT 6** – Proposed Height of Building Map  
**ATTACHMENT 7** – Fern Bay & North Stockton Commercial Lands Study  
**ATTACHMENT 8** – Fern Bay and North Stockton Strategy  
**ATTACHMENT 9** – Petition to Support and Complete Planning Proposal  
**ATTACHMENT 10** – Ecological Assessment  
**ATTACHMENT 11** – Flooding and Stormwater Management Study

## FILE NUMBERS

---

**Council:** 58-2017-4-1

**Department:** To be provided at Gateway determination.

## SUMMARY

---

**Purpose:** The purpose of this planning proposal is to amend the *Port Stephens Local Environmental Plan 2013* (LEP) to enable the development of a neighbourhood centre with a neighbourhood supermarket in Fullerton Cove to provide day to day retail services for the residents in Fern Bay and Fullerton Cove.

**Subject land:** Lot 14, DP 258848  
42 Fullerton Cove Road, Fullerton Cove

**Proponent:** Monteath & Powys on behalf of Christine Jordan

**Proposed changes:**

- Rezone part of Lot 14 DP 258848 from RU2 Rural Landscape to E2 Environmental Conservation
- Rezone part of Lot 14 DP 258848 from RU2 Rural landscape to B1 Neighbourhood Centre
- Remove Minimum Lot Size requirement of the proposed B1 zone from AB2 20 hectares

- Introduce a height of building limit of 9 metres to the B1 zone
- Introduce a new local provision limiting future retail development to a maximum gross floor area of 1,500 square metres

**Area of land:** ~ 6.7 hectares

**Jobs created:** ~ 60 - 90 ongoing jobs

## **BACKGROUND**

---

The planning proposal seeks to amend the *Port Stephens Local Environmental Plan 2013* (LEP) to enable the development of a neighbourhood centre, with a neighbourhood supermarket, at 42 Fullerton Cove Road, Fullerton Cove.

The subject site is currently zoned RU2 Rural Landscape and the planning proposal seeks to rezone approximately 2.5ha to B1 Neighbourhood Centre with the remaining 4.2ha to be rezoned E2 Environmental Conservation to address the environmental constraints of the site.

There is nearby land zoned B1 Neighbourhood Centre within Seaside Estate, Fern Bay, identified in **Figure 1**. The Seaside Estate site has been subdivided and is not suitable to provide a supermarket. Landowners are pursuing businesses of a lower scale such as a pharmacist.

Fern Bay and Fullerton Cove are underserved. The planning proposal seeks to facilitate a neighbourhood supermarket and shops to provide day to day retail services to the local community. Submissions received from the local community on the Fern Bay and North Stockton Strategy indicate a strong desire for local retail services within Fern Bay and Fullerton Cove in the immediate future.

As identified in the planning proposal, the following additional investigations will be provided should the planning proposal receive a Gateway determination to proceed:

- Biodiversity Development Assessment Report
- Traffic Impact Study
- Stage 1 Contamination Report
- Flood and Drainage Study
- Bushfire Risk Assessment

## SITE

---

The subject site has an area of approximately 6.7 hectares and is located adjacent to the intersection of Nelson Bay Road and Fullerton Cove Road.

**Figure 1** identifies the subject site and local context.

The subject site is currently zoned RU2 Rural Landscape and comprises one lot. The site is currently used for residential purposes and has been largely cleared around the existing dwellings.

The surrounding land use zones are a mixture of rural, residential and environmental conservation zones. The neighbouring properties consist of residential and rural dwellings, rural activities including livestock grazing and a wedding venue with guesthouse at Stanley Park House. The nearest commercial development that offers day to day grocery items is Stockton IGA located 8km to the south.

The site was previously the subject of a similar planning proposal which was refused at Gateway in 2013. The following table details how the reasons for refusal have been addressed in this planning proposal.

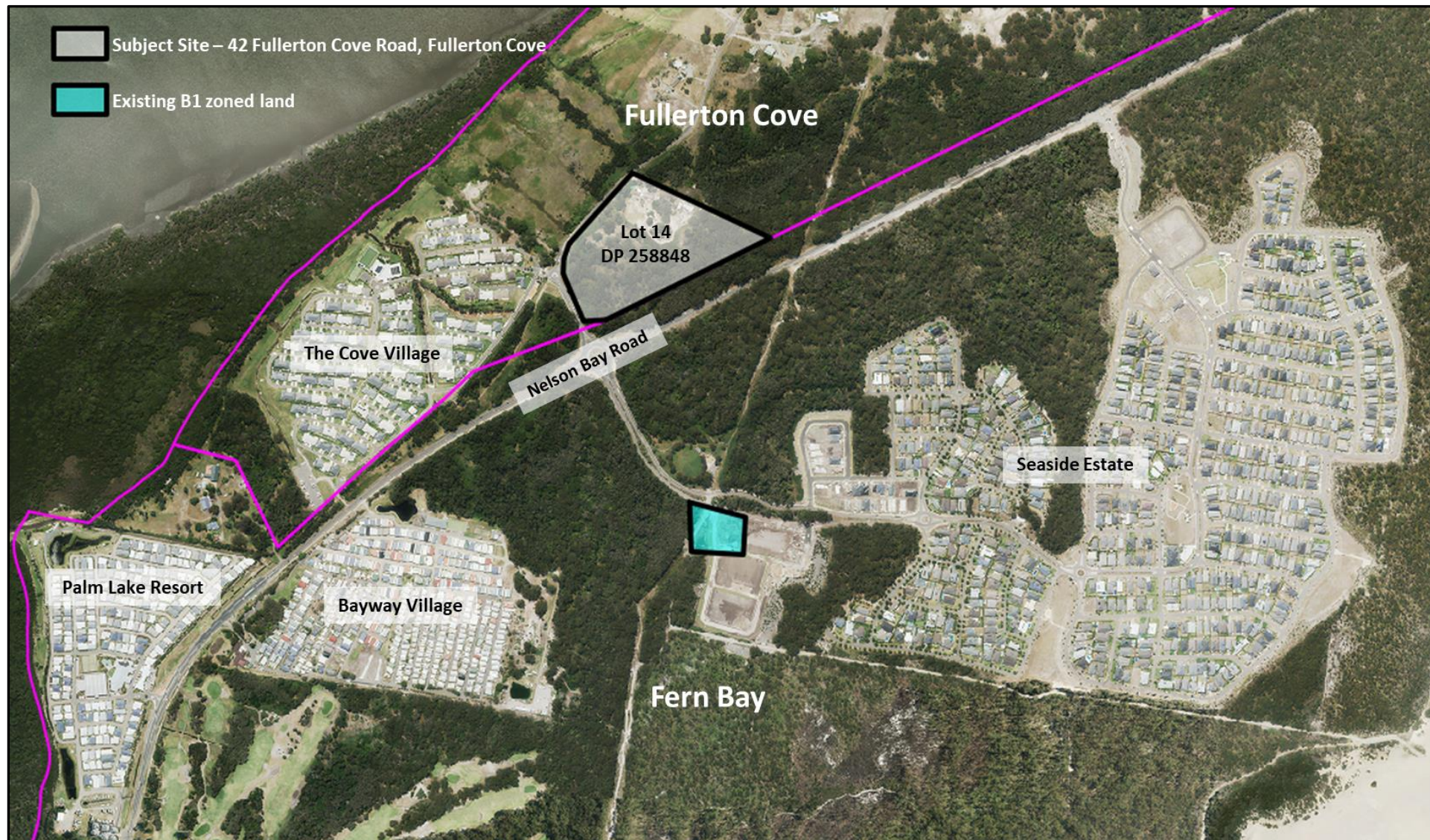
**Table 1 – Reasons for refusal of the previous planning proposal**

Reasons for refusal	Addressed in the planning proposal
Inconsistency with strategic framework including the Lower Hunter Regional Strategy (LHRS) and the Port Stephens Planning Strategy (PSPS)	The planning proposal has been updated to demonstrate consistency with the PSPS, the draft Local Strategic Planning Statement and the Hunter Regional Plan (HRP) which has replaced the LHRS.
Lack of demonstrated site-specific merit.	The planning proposal has been updated to detail the site-specific merit criteria provided by the DPIE <i>Guide to preparing planning proposals</i> including reference to the Hill PDA Fern Bay & North Stockton Commercial Lands Study 2017, justifying the need for the planning proposal and site suitability ( <b>ATTACHMENT 7</b> ).
Unable to demonstrate land could be developed.	The planning proposal is considered to warrant sufficient strategic merit to proceed beyond Gateway. Additionally, the planning proposal has been updated to include a restriction on retail floor area and the B1 zone has been reduced. Should the planning proposal receive a Gateway determination to proceed, a Biodiversity Development Assessment Report (BDAR) and a

	Flood and Drainage Study will be prepared.
Inconsistent with relevant State Environmental Planning Policies (SEPPs) and Ministerial Directions.	The planning proposal has been updated to address consistency with the relevant SEPPs and Ministerial Directions. Where the planning proposal is inconsistent, the inconsistency is considered minor or justifiable.
No identification of biodiversity offsetting.	The proposed B1 Neighbourhood Centre zone has been reduced since the previous proposal. Any offsetting requirements will be addressed through a BDAR should the planning proposal receive a Gateway determination to proceed.
Needs to demonstrate community benefit.	<b>Section C</b> of the planning proposal details the community benefit of progressing this planning proposal, including support from residents received as submissions during the exhibition of the Fern Bay and North Stockton Strategy.



Figure 1 – Locality



## **PART 1 – Intended outcome**

---

The intended outcome of the planning proposal is to enable a neighbourhood centre, with neighbourhood supermarket, for local day to day retail convenience and services within the Fern Bay area while protecting and managing biodiversity values and flood prone land.

The proposal will enable the development of a neighbourhood centre comprising:

- a neighbourhood supermarket;
- neighbourhood shops; and
- associated car parking and landscaping

## **PART 2 – Explanation of provisions**

---

The intended outcome of the planning proposal will be achieved by the following amendments to the *Port Stephens Local Environmental Plan 2013*:

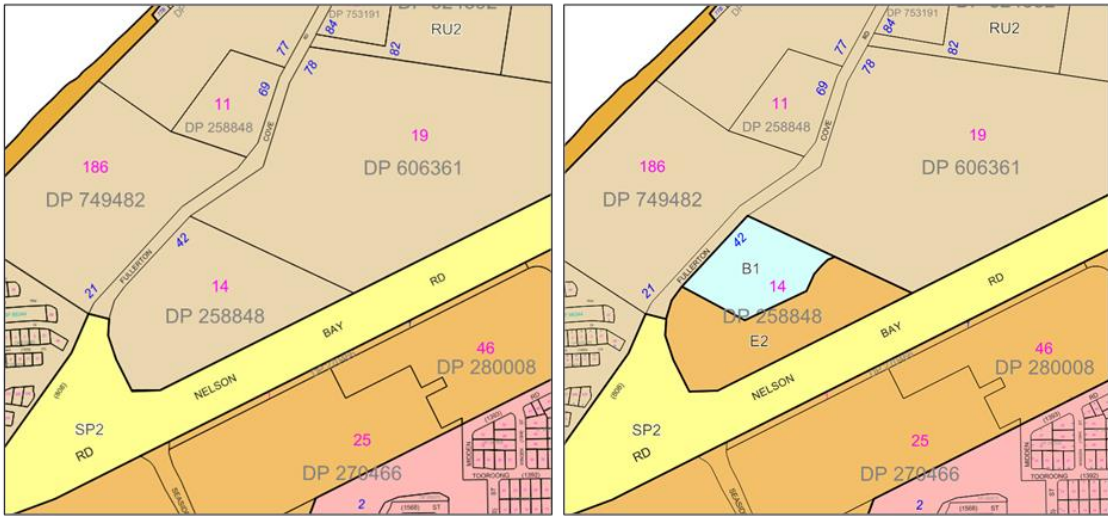
- Amend Land Zoning Map Sheet LZN\_004A (**ATTACHMENT 1**) for Lot 14 DP 258848 from RU2 Rural Landscape to part B1 Neighbourhood Centre and part E2 Environmental Conservation (**ATTACHMENT 2**)
- Amend Lot Size Map Sheet LSZ\_004A (**ATTACHMENT 3**) from AB2 20 hectares to part AB2 20 hectares and part no specified minimum lot size (**ATTACHMENT 4**)
- Amend Height of Building Map Sheet HOB\_004A from no height specified (**ATTACHMENT 5**) to part no height specified and part J 9 metres (**ATTACHMENT 6**)
- Insert a local provision limiting the retail gross floor area of development to 1,500 square metres

**Figures 2, 3 and 4** indicate the proposed changes to the Land Zoning Map, Lot Size Map and Height of Building Map.

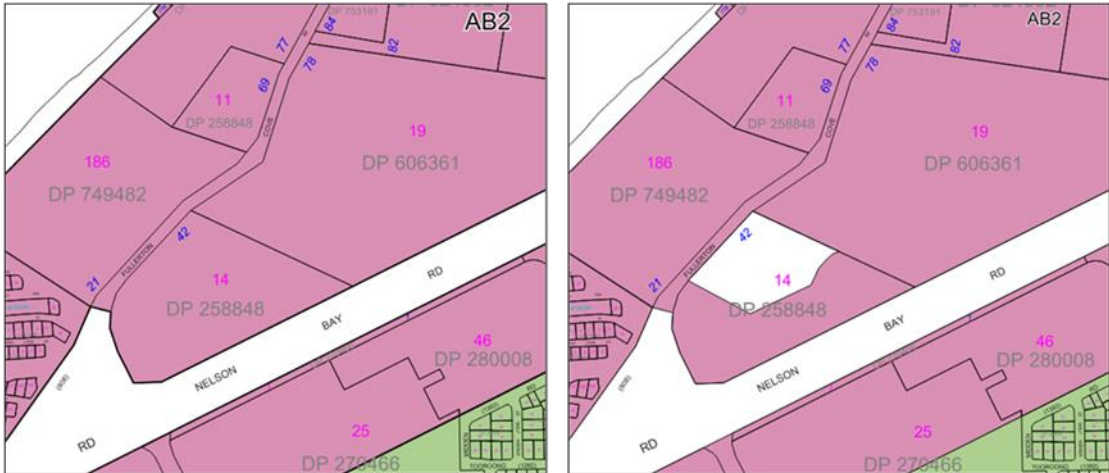
It is noted that the proposed boundaries are indicative and will be informed by the findings of a Biodiversity Development Assessment Report (BDAR) should the planning proposal receive a Gateway determination to proceed.



**Figure 2 - Existing and proposed land zoning map**



**Figure 3 - Existing and proposed lot size map**



**Figure 4 –Existing and proposed height of building map**



## PART 3 – Justification

---

### Section A – Need for the planning proposal

#### Q1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the result of the Hill PDA Fern Bay and North Stockton Commercial Lands Study 2017 (Hill PDA Study) (**ATTACHMENT 7**) prepared for Newcastle City and Port Stephens councils to guide the development of a land use strategy for Fern Bay and North Stockton.

The Hill PDA study identified the subject site as a potential future location for a new town centre. While the study found the Stockton Residential Centre, Oval Drive, Stockton to be the preferred option for a town centre, the planning proposal is seeking to develop a smaller scale neighbourhood centre, with a neighbourhood supermarket, that can provide day to day services for the community.

The Hill PDA Study also conducted a shopper survey which found 75% of respondents indicated a new retail centre, or expanded retail offer, was a priority for Fern Bay and Stockton in the next 10 years. As the timing for redevelopment of the existing Stockton Residential Centre is uncertain, rezoning the subject site at 42 Fullerton Cove Road can facilitate this need for local retail services. The Hill PDA study found the demand for additional retail floorspace in 2017 was 2,300sqm, confirming the area is currently underserved.

The planning proposal will have a limited gross floor area for retail development of 1,500sqm to allow for the development of a viable town centre in Stockton in the future.

The B1 zoned land in Seaside Estate consists of 6 undeveloped 500sqm lots and has a potential gross retail floorspace of 0 - 900sqm. The potential has a wide range due to the permissibility of non-retail developments such as community facilities, medical centres, places of public worship and attached dwellings.

Based on the projected demand (**Table 2**), it is considered there is sufficient demand for a neighbourhood centre in Fullerton Cove, businesses at Fern Bay and a larger town centre at North Stockton.

**Table 2 – Demand for retail floorspace by 2031 under a high residential growth scenario (adapted from the Hill PDA Study, page 29)**

	2031
Net demand of retail floorspace (sqm)	6,700
Proposed neighbourhood centre maximum floorspace (sqm)	1,500
Potential floorspace at Seaside Fern Bay (sqm)	0 – 900
Net demand of retail floorspace for a future town centre (sqm)	4,300 - 5,200

NB: the high growth scenario assumes all planning proposals within the locality are realised.

Informed by the Hill PDA Study, the Fern Bay and North Stockton Strategy (FBNSS) (**ATTACHMENT 8**) identified a strong community desire for a neighbourhood centre in the short to medium term to support local residents. In response to the exhibition of the FBNSS, the local community prepared a petition (**ATTACHMENT 9**) to support and complete this planning proposal. The petition was brought to the attention of councillors during public access on the 26 November 2019 where Councillors supported the idea of a neighbourhood supermarket at this location. The planning proposal will enable an outcome from the FBNSS by facilitating the development of a neighbourhood centre in Fern Bay.

## **Q2. Is the planning proposal the best means of achieving the intended outcome, or is there a better way?**

In order to achieve the intended outcome, the following options were considered:

- a. **Develop land already zoned B1 Neighbourhood Centre** – Rather than rezone the subject site, the land at Seaside Estate that is already zoned B1 Neighbourhood Centre could be developed to facilitate a small neighbourhood centre, with a neighbourhood supermarket.

The Hill PDA Study (**ATTACHMENT 7**, pages 34 and 38) identified that land zoned B1 Neighbourhood Centre within Seaside Estate is less desirable than the land the subject of this planning proposal due to the following:

- Developable area – Seaside Estate has only 3,000sqm of developable land which has already been subdivided into 6 lots
- Exposure – Seaside Estate does not have direct exposure to Nelson Bay Road. While 42 Fullerton Cove Road has limited exposure to Nelson Bay Road due to the need to retain existing vegetation, the site can attract passing traffic from Nelson Bay Road onto Fullerton Cove Road.
- Accessibility – Seaside Estate does not have right turn access to the site for users entering from Nelson Bay Road. Whereas 42 Fullerton Cove Road has more suitable vehicle and pedestrian access.

In consideration of both sites for a new retail centre the Hill PDA Study ranked the Seaside Estate site as the least preferred option of the six identified sites. The 42 Fullerton Cove Road site however, was ranked third.

- b. **Rezone the Stockton Residential Centre for a new town centre** – Develop the land at Stockton Residential Centre and create a single town centre.

The Hill PDA Study found the existing Stockton Residential Centre to be the preferred location for a new town centre. The redevelopment of the Stockton Residential Centre is uncertain and there is an immediate need to service residents. The future town centre requires further strategic planning, rezoning and significant investment in order to provide an expanded retail offering. As

outlined in **Section A**, this proposal will not prevent the future use of the Stockton Residential Centre for a town centre as envisioned by the FBNSS. This proposal will facilitate a neighbourhood centre to service residents in the immediate future that will complement the future town centre.

## **Section B – Relationship to strategic planning framework**

**Q3. Will the planning proposal give effect to the objectives and actions of the Hunter Regional Plan or Greater Newcastle Metropolitan Plan (or any exhibited draft plans that have been prepared to replace these)?**

**a) Does the proposal have strategic merit?**

### Hunter Regional Plan 2036

The *Hunter Regional Plan 2036* (HRP) applies to the Port Stephens local government area (LGA) and is an applicable consideration for this planning proposal.

The HRP does not directly address Fullerton Cove but does identify the adjacent suburb of Fern Bay as a centre of local significance.

The HRP identifies a regional priority for Port Stephens to “leverage proximity to major global gateways – and its attractive and valuable natural environment and coastal and rural communities – to generate economic growth and diversity”.

The planning proposal will support this priority by enabling the development of a neighbourhood centre that will generate economic growth and diversity within the Fern Bay and Fullerton Cove localities and increase expenditure in the Port Stephens LGA.

The most relevant direction from the HRP is:

- *Direction 6 – Grow the economy of Midcoast and Port Stephens*

The planning proposal will lead to short term jobs during construction and long-term jobs once businesses are established as a result of the zoning change. Approximately 60 – 90 ongoing jobs may be provided through the development of a neighbourhood supermarket and shops. The new retail services will also increase local expenditure by allowing locals to purchase day to day needs within their own LGA instead of travelling to higher order centres in neighbouring LGAs.

The planning proposal is also consistent with:

- *Direction 8 – Promote innovative small business and growth in the service sectors* as it will provide local commercial opportunities for small businesses;

- *Direction 14 – Protect and connect natural areas* as it will rezone 4.5ha of RU2 Rural Landscape zoned land within the Watagan to Stockton Link to E2 Environmental Conservation and focus development on disturbed areas of the site;
- *Direction 17 – Create healthy built environments through good design* as the neighbourhood centre would be in walking distance and cycling distance for residents of The Cove Village and Seaside Estate. While the total walkable catchment is low, there are limited alternative locations to provide these essential services;
- *Direction 21 – Create a compact settlement* as the site is centrally located between existing residential neighbourhoods and will provide significant social benefits for residents; and
- *Direction 26 – Deliver infrastructure to support growth and communities* as development of the site will provide the growing community with day to day retail services including a neighbourhood supermarket.

Further investigations are required should the planning proposal receive a Gateway determination to proceed to determine consistency with:

- *Direction 16 – Increase resilience to hazards and climate change* A revised Flood and Drainage Study will be prepared to address resilience to hazards and climate change.

The planning proposal is consistent with the HRP as it will assist in growing the economy within Port Stephens, provide opportunities for small businesses, provide retail facilities that support the growing community and will protect the natural environment.

### Greater Newcastle Metropolitan Plan 2036

The *Greater Newcastle Metropolitan Plan 2036* (GNMP) applies to part of the Port Stephens LGA, including Fullerton Cove and Fern Bay.

The GNMP does not directly address Fullerton Cove but does identify the adjacent suburbs of Fern Bay and Stockton as areas “where housing and infrastructure opportunities should be maximised while protecting the transport connection between the Newcastle Airport and Newcastle Port”.

The most relevant strategy from the GNMP is:

- *Strategy 8 – Address changing retail consumer demand*

Changing shopper habits has led to increased demand for fresh produce, dairy, baked goods and prepared food being purchased on a more frequent basis. The planning proposal will facilitate a local neighbourhood centre that would allow Fern Bay and Fullerton Cove residents to access grocery items and other necessities within close proximity of their homes instead of outside the local area (e.g. Raymond Terrace, Stockton, Mayfield).



The planning proposal is also consistent with:

- *Strategy 9 – Plan for jobs closer to the Metro frame* as it will provide additional retail jobs within the Metro frame (**Figure 5**);
- *Strategy 10 – Create better buildings and great places* as future commercial development would be subject to design objectives of the Port Stephens Development Control Plan 2014;
- *Strategy 11 – Create more great public spaces where people come together* as it will facilitate the development of a neighbourhood centre where people can come together; and
- *Strategy 13 – Protect rural amenity outside urban areas* as the site is surrounded by low density urban development including The Cove Village, Bayway Village, Palm Lake Resort and Seaside Estate (**Figure 1**, page 7)

Further investigations are required should the planning proposal receive a Gateway determination to proceed to determine consistency with:

- *Strategy 14 – Improve resilience to natural hazards* A revised Flood and Drainage Study will be prepared to address resilience to natural hazards.

The planning proposal is consistent, or justifiably inconsistent, with the GNMP as it will address changing retail needs, provide jobs and create great places where people can come together.

**Figure 5 - Identification of the subject site in the Greater Newcastle Metropolitan Plan (page 10)**



**b) Does the proposal have site-specific merit, having regard to the following?**

Natural Environment

The site has high biodiversity values including two endangered ecological communities (EECs), koala habitat, and several threatened fauna species observed on site (**ATTACHMENT 10**). The proposed E2 Environmental Conservation zoning will facilitate the protection of the environmental values by limiting development in these areas. The E2 zoning is in keeping with neighbouring lands including land surrounding the Seaside Estate.

The remaining portion of the site is to be zoned B1 Neighbourhood Centre. The B1 zoned land will avoid land with biodiversity value and occur in predominantly cleared and disturbed parts of the site. It is noted the final boundary of the rezoning is to be informed by a BDAR should the planning proposal receive a Gateway determination to proceed.

Land Uses

The proposal will not conflict with the current land uses surrounding the subject site as the proposed zoning maintains ecological values and development will complement the residential needs of the area.

The majority of the site is proposed to be zoned E2 Environmental Conservation in keeping with the land surrounding the Seaside Estate. The remainder of the site is proposed to be zoned B1 Neighbourhood Centre to meet the needs of the local community and provide necessary retail services.

The subject site is suitable for a neighbourhood centre, with a neighbourhood supermarket, as it has good exposure to a major arterial road, is centrally located and accessible for local residents and passing trade along Nelson Bay Road.

Fern Bay is expected to experience continued population growth where demand for retail services will continue to grow. The proposal will facilitate day to day retail convenience for these residents as well as provide greater employment opportunities for the local area on land that is underutilised.

Services and Infrastructure

All relevant infrastructure and services are available within the area and will be connected at the time of development.

It is considered that there is sufficient infrastructure capacity in the existing road networks to support the proposal. A traffic impact study will be prepared to consider the impact of development on the local road network should the planning proposal receive a Gateway determination to proceed.

Local augmentation of sewer, water, drainage and other infrastructure services can be undertaken as the site adjoins an existing urban area.

#### **Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another local strategy or strategic plan?**

Council does not currently have an endorsed Local Strategic Planning Statement, or endorsed local strategy or strategic plan. Responses to the most relevant local strategies are provided below.

##### Draft Port Stephens Local Strategic Planning Statement

The draft Port Stephens Local Strategic Planning Statement (LSPS) was considered by Council on 11 February 2020, where it was endorsed for public exhibition. 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 is consistent with the following planning priorities from the LSPS:

- *Planning Priority 2 Make business growth easier* as the proposal will provide new business opportunities;
- *Planning Priority 6 Plan infrastructure to support communities* as the proposal will provide necessary retail facilities and services for the community;
- *Planning Priority 7 Conserve biodiversity values and corridors* as the proposed E2 zoning will conserve the environmental values of the site
- *Planning Priority 9 Protect and preserve productive agricultural land* as the land, while rural, is not productive agricultural land; and
- *Planning Priority 10 Create people friendly spaces in our local centres where people can come together* as the commercial development can provide a place for people to come together in close proximity to housing.

Further investigations are required should the planning proposal receive a Gateway determination to proceed to determine consistency with:

- *Planning Priority 8 Improve resilience to hazards and climate change* A revised Flood and Drainage Study will be prepared to address resilience to hazards and climate change.

The planning proposal is consistent with the LSPS as it will provide business opportunities and retail facilities for the community, conserve the biodiversity values of the site and create a great space for people to come together.

##### Port Stephens Planning Strategy 2011

The *Port Stephens Planning Strategy 2011* (PSPS) was adopted by Council in 2011. The PSPS pre dates the most recent strategic planning guidance that has been provided by the NSW Government in the *Hunter Regional Plan 2036* and *Greater Newcastle Metropolitan Plan 2036*. The PSPS will be replaced by the Port Stephens Local Strategic Planning Statement in 2020.

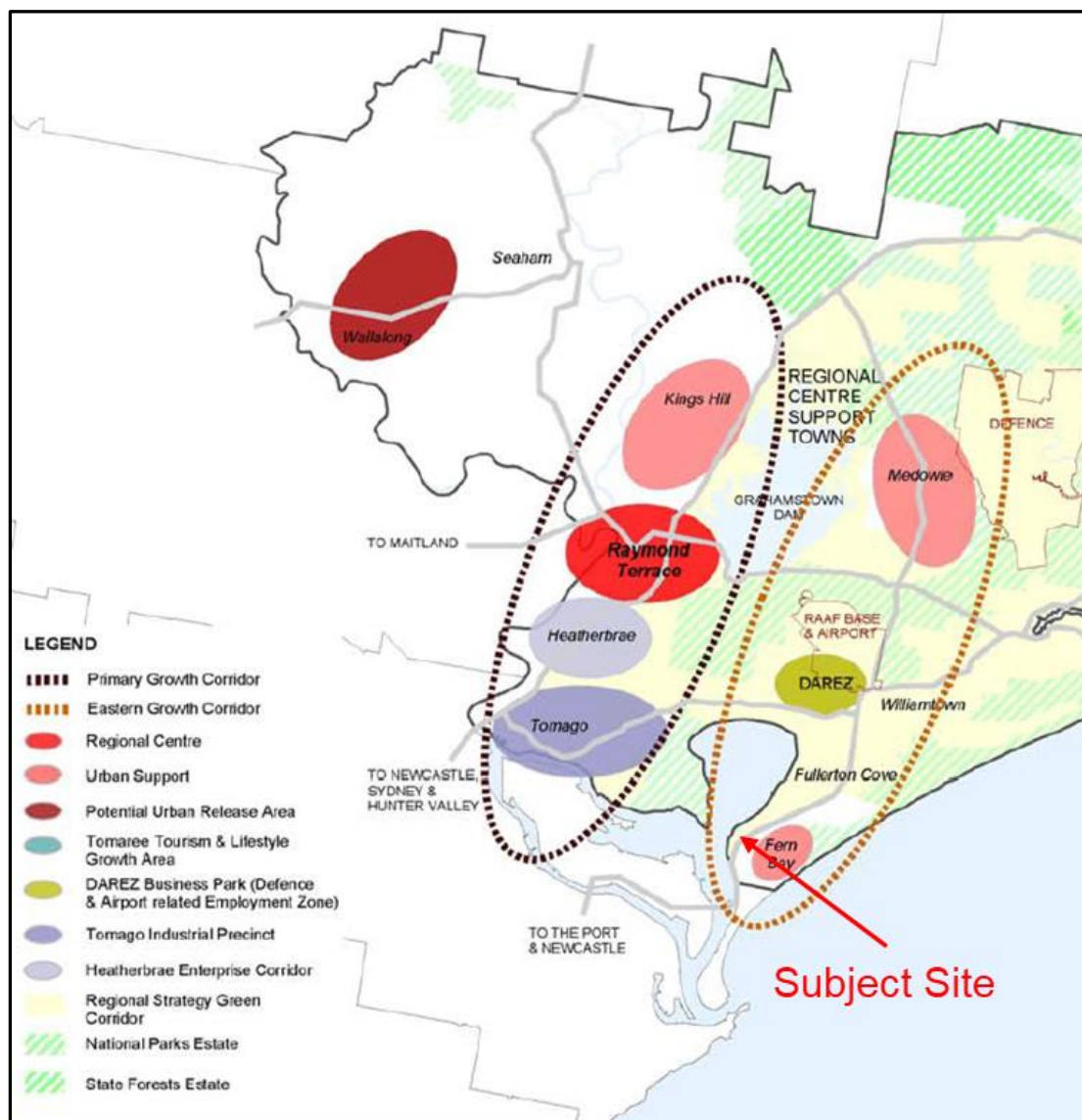
The PSPS identifies the subject site in the “Eastern Growth Corridor” encompassing Medowie, Williamtown, Newcastle Airport and Fullerton Cove / Fern Bay (**Figure 6**).

The PSPS indicates significant new residential development is expected at Seaside Estate with population projections indicating future growth.

The population of Fern Bay and Fullerton Cove increased by 103% between 2006 and 2016. This growth has increased demand for more retail services in the area.

The planning proposal is consistent with the objectives of the PSPS as it will increase employment and provide convenience retail for the day to day needs of surrounding residents.

**Figure 6 – Identification of the subject site in the Port Stephens Planning Strategy (page 4)**





## Fern Bay and North Stockton Strategy

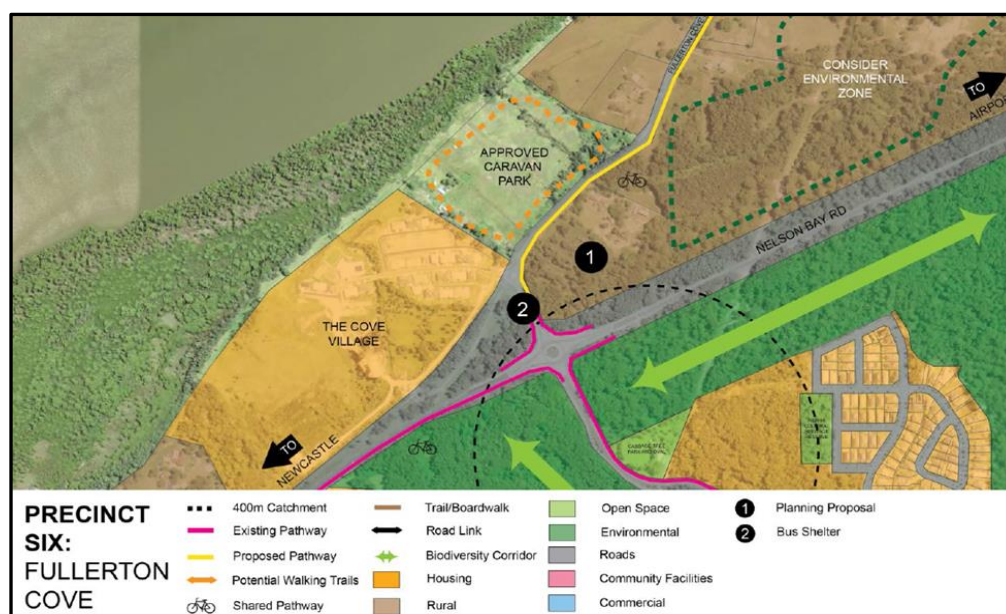
The Fern Bay and North Stockton Strategy (FBNSS) (**ATTACHMENT 8**) has been developed by Port Stephens Council and the City of Newcastle to guide future development and ensure sufficient community infrastructure is provided for the growing community. The FBNSS was adopted by the City of Newcastle on the 24 March 2020 and Port Stephens Council on the 14 April 2020. The subject site is located within Precinct 6 and identified in **Figure 7**.

The planning proposal is consistent with:

- *Environment Planning principle – Protect important environmental assets and enhance biodiversity connections* as it seeks to rezone 4.5ha of land with high environmental value to E2 Environmental Conservation; Rezoning this land will provide better protection of the Swamp Oak Forest and koala habitat located on site;
- *Overall Structure Plan Outcome – Support the development of a neighbourhood centre in Fern Bay* as it seeks to facilitate the development of a neighbourhood centre, with a neighbourhood supermarket, in the Fern Bay area;
- *Precinct 6 Outcome – Consider rezoning land mapped as containing an endangered ecological community to an environmental zone* as it seeks to rezone the referenced land to E2 Environmental Conservation; and
- *Precinct 6 Outcome – Undertake a detailed assessment of the ‘Request to Amend the Port Stephens Local Environmental Plan’ submitted for 42 Fullerton Cove Road, Fullerton Cove* as this has been undertaken during the progression of this planning proposal.

The planning proposal is consistent with the FBNSS as it seeks to protect environmentally significant land as well as facilitate a neighbourhood centre in the Fern Bay area.

**Figure 7 - Identification of the subject site within the Fern Bay and North Stockton Strategy (page 31).**





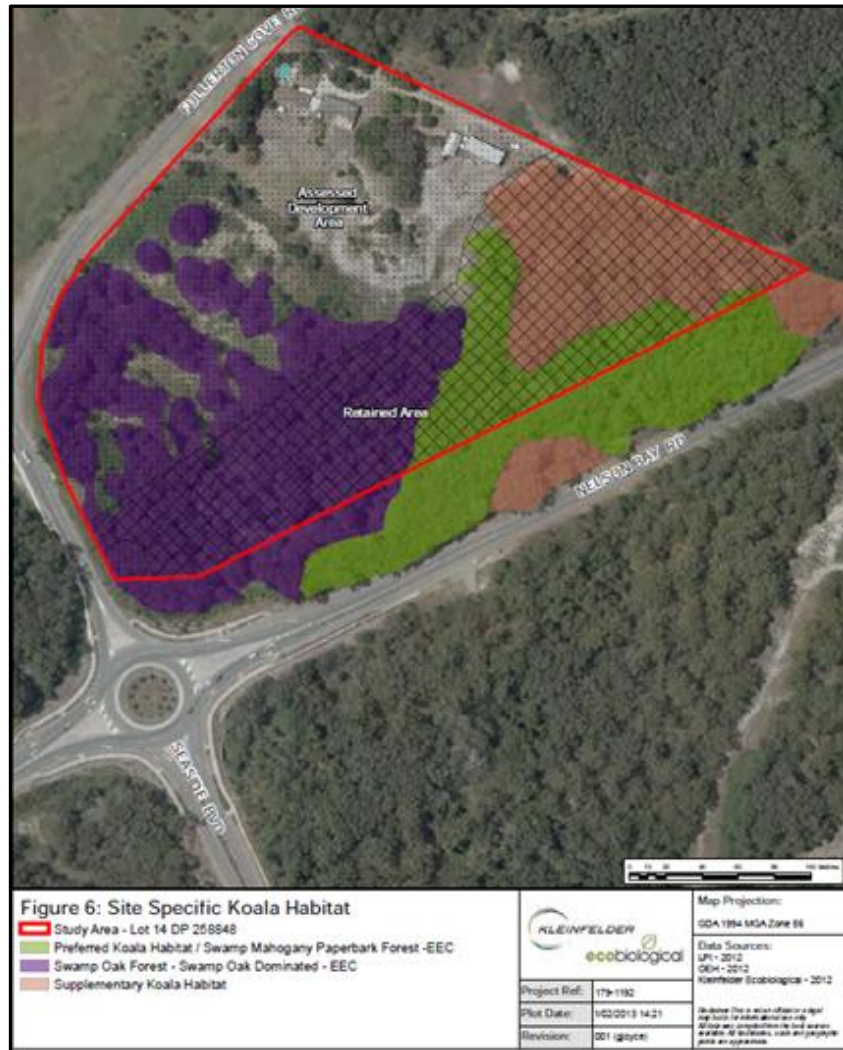
## Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

An assessment of relevant State Environmental Planning Policies (SEPPs) against the planning proposal is provided in the table below.

**Table 3 – Relevant State Environmental Planning Policies**

SEPP	Consistency and Implications
<b>SEPP 44 - Koala Habitat Protection</b>	<p>The Port Stephens Comprehensive Koala Plan of Management (CKPoM) has been prepared in accordance with Part 3 of SEPP 44, and is applicable in the Port Stephens LGA. Schedule 2 of the CKPoM sets out the performance criteria for planning proposals, which have been addressed below.</p> <p>a. <i>Not result in development within areas of preferred koala habitat;</i></p> <p>The proposed B1 Neighbourhood Centre does not contain land mapped as preferred koala habitat (<b>Figure 8</b>).</p> <p>b. <i>Allow only for low impact development within areas of Supplementary Koala Habitat and Habitat Linking Areas;</i></p> <p>The proposed B1 Neighbourhood Centre does not contain land mapped as supplementary habitat (<b>Figure 8</b>).</p> <p>c. <i>Minimise the removal of any individual preferred koala food trees, where ever they occur on the site;</i></p> <p>There are no preferred koala feed trees within the proposed B1 zone. No preferred koala feed trees will be removed as a result of this rezoning.</p> <p>d. <i>Not result in development which would sever koala movement across the site generally and for minimising the likelihood of impediments to safe/unrestricted koala movement</i></p> <p>Development of the site would not sever koala movement across the site. Fullerton Cove Road and Nelson Bay Road currently form significant barriers that limit koala movements through the site.</p> <p>Additionally, an Ecological Assessment (<b>ATTACHEMENT 10</b>) of the site found the proposal was “unlikely to have a significant impact upon the koala”.</p>

**Figure 8 - Site specific koala habitat mapping from the Ecological Assessment (ATTACHMENT 10, page 34)**



**The planning proposal is consistent with this SEPP.**

**SEPP 55 – Remediation of Land**

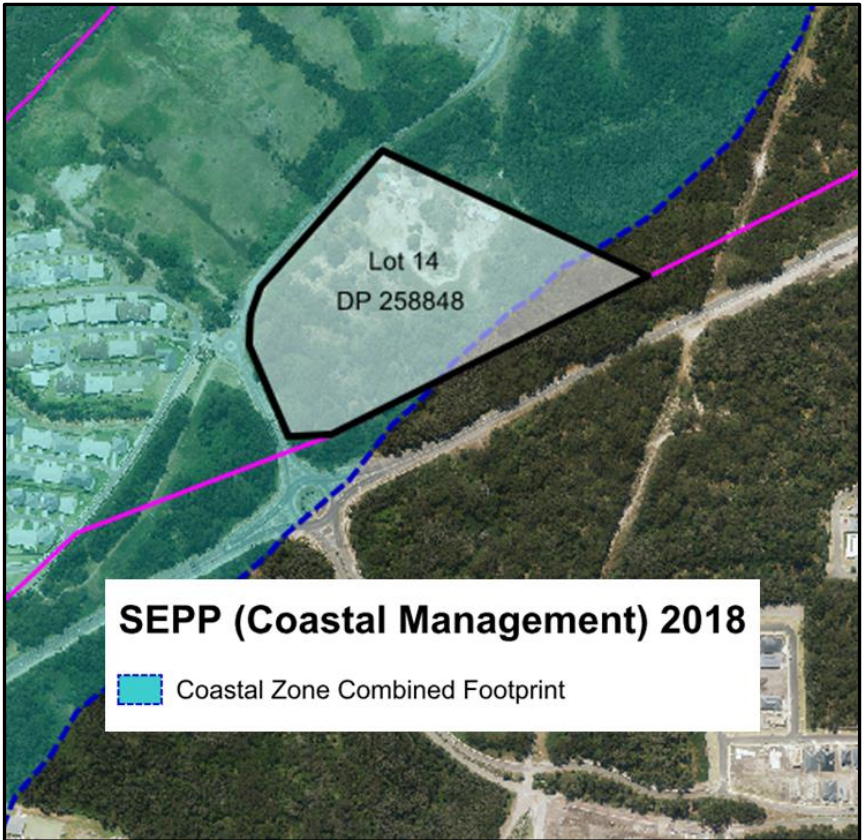
Council has considered the likely contamination of the subject site in accordance with Clause 6 of the SEPP. As the subject site is within the broader PFAS Management Zone, a Stage 1 Contamination Report will be prepared should the planning proposal receive a Gateway determination to proceed.

**The planning proposal is consistent with this SEPP.**

**SEPP – Coastal Management**

The Coastal Management SEPP is applicable as the subject site is mapped within the NSW Coastal Zone Combined Footprint (**Figure 9**).

The planning proposal is not likely to cause increased risk of coastal hazards.

	<p>The site does not have direct frontage to the coastal foreshore. The proposal will have no direct impact on the amenity of the coastal foreshore. The proposal will not exacerbate potential impact of coastal processes and coastal hazards.</p> <p>A detailed flood study will be prepared to confirm the water quality of nearby coastal bodies will not be impacted should the planning proposal receive a gateway determination to proceed.</p> <p><b>Figure 9 - Coastal management mapping</b></p>  <p><b>Any inconsistency of the planning proposal with this SEPP is considered of minor significance and can be investigated further following a Gateway determination.</b></p>
<p><b>SEPP – Infrastructure 2007</b></p>	<p>The Infrastructure SEPP applies to the subject site, however it is considered that there is sufficient infrastructure capacity in the existing networks to support the proposal.</p> <p>A traffic impact study will be prepared to consider the impact of development on the local road network should the planning proposal receive a Gateway determination to proceed.</p> <p><b>The planning proposal is consistent with this SEPP.</b></p>

<p><b>SEPP – Primary Production and Rural Development</b></p>	<p>The Primary Production and Rural Development SEPP applies because the subject site is currently zoned RU2 Rural Landscape and located within proximity of oyster leases in Fullerton Cove.</p> <p>The subject site, while zoned rural, is not used for agricultural purposes. The environmental constraints of the site make the land unsuitable for primary production and would benefit from a rezoning to E2 Environmental Conservation. The remaining land could be better utilised to provide a neighbourhood centre with a supermarket for the residents of Fullerton Cove and Fern Bay.</p> <p>The proposal has considered the effects of the proposal on the water quality of Fullerton Cove and potential impacts on oyster aquaculture. Further investigation will be undertaken through a flooding and drainage study and consultation with the Department of Primary Industries – Agriculture should the planning proposal receive a Gateway determination to proceed.</p> <p><b>Any inconsistency of the planning proposal with this SEPP is considered of minor significance and can be investigated further following a Gateway determination.</b></p>
---	--

## Q6. Is the planning proposal consistent with applicable Ministerial Directions?

An assessment of relevant Ministerial Directions against the planning proposal is provided in the table below.

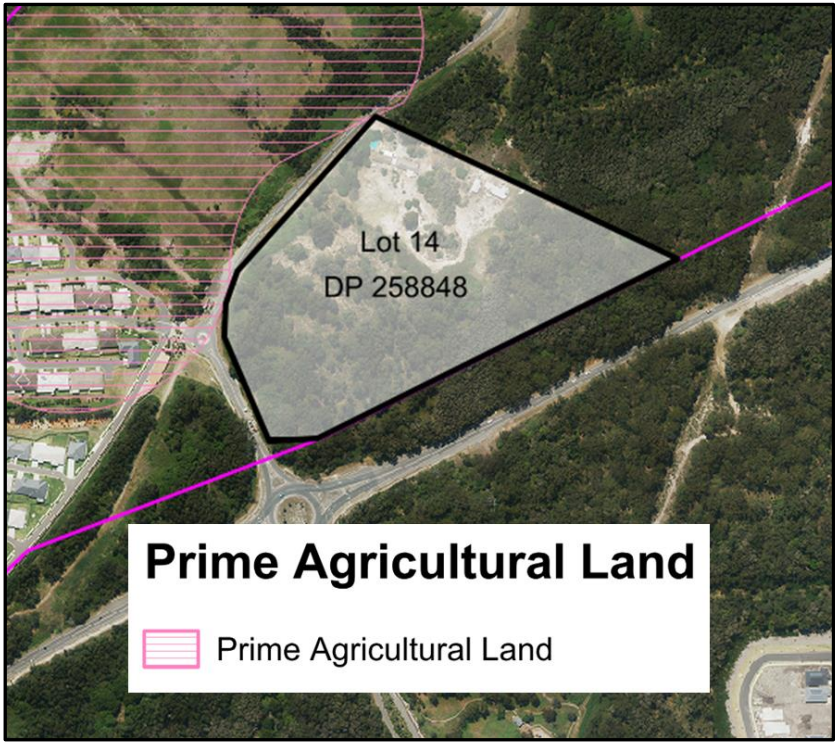
**Table 4 – Relevant Ministerial Directions**

Ministerial Direction	Consistency and Implications
<b>1. Employment and Resources</b>	
<p><b>1.1 Business and Industrial Zones</b></p> <p>The objectives of this direction are to: encourage employment growth in suitable locations; protect employment land in business and industrial zones; and support the viability of identified centres.</p>	<p>This direction applies because the planning proposal will affect land within a proposed business zone.</p> <p>A planning proposal must:</p> <p><i>(a) give effect to the objectives of this direction</i></p> <p>The planning proposal will provide additional employment land in close proximity to residential neighbourhoods. Additionally, the proposal will not undermine employment opportunities in the area or the viability of a future town centre due a restricted gross floor area (GFA) of 1,500sqm.</p> <p><i>(b) retain the areas and locations of existing business and industrial zones</i></p> <p>The planning proposal does not propose removing any existing business or industrial zones.</p> <p><i>(c) not reduce the total potential floor space area for employment uses and related public services in business zones</i></p> <p>The planning proposal seeks to provide an additional business zone and will not reduce the total potential floorspace for existing business zones as the retail GFA will be limited to 1,500sqm.</p> <p><i>(d) not reduce the total potential floor space area for industrial uses in industrial zones</i></p> <p>The planning proposal will not impact on the potential floor space area of industrial zones.</p> <p><i>(e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment</i></p>

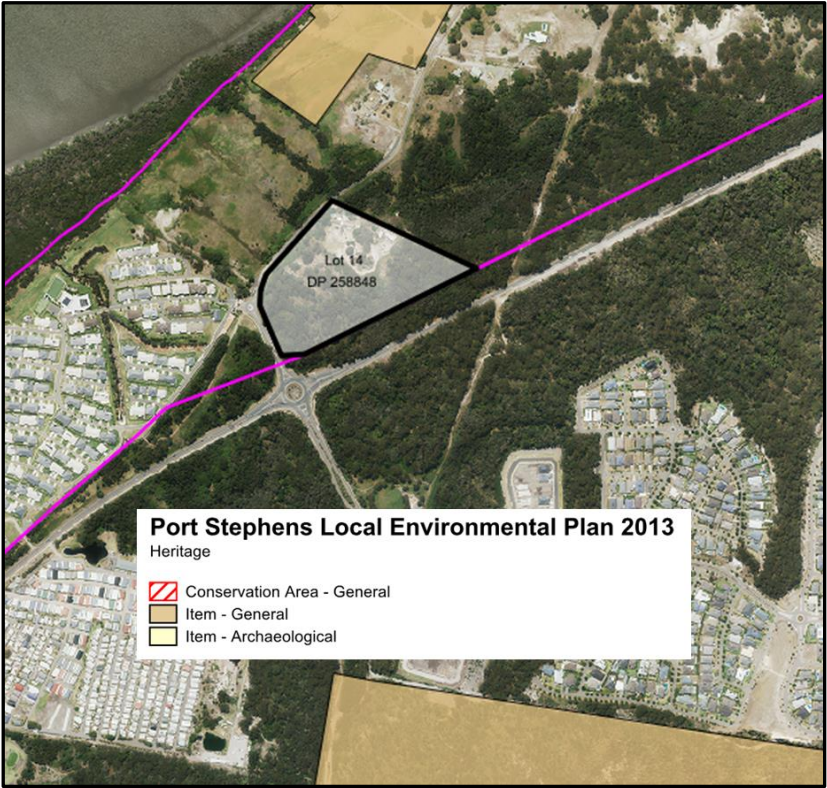


	<p>As identified in <b>Section B</b>, the planning proposal is consistent, or justifiably inconsistent, with the HRP and the GNMP.</p> <p><b>The planning proposal is consistent with this direction.</b></p>
<p><b>1.2 Rural Zones</b></p> <p>The objective of this direction is to protect the agricultural production value of rural land.</p>	<p>This direction applies because the proposal will affect land within an existing rural zone.</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>• <i>not rezone land from a rural zone to residential, business, industrial, village or tourist zone</i></li> <li>• <i>not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village)</i></li> </ul> <p>The planning proposal seeks to rezone rural land to B1 Neighbourhood Centre and increase the permissible density. The subject site, however, is currently used for residential purposes and is within proximity of low density residential housing located on rural zoned land. The redevelopment of this site would be in keeping with the nearby developments and would support the neighbouring residents of Fullerton Cove and Fern Bay.</p> <p><b>The inconsistency of the planning proposal with this direction is considered to be of minor significance.</b></p>
<p><b>1.4 Oyster Aquaculture</b></p>	<p>This direction does not apply as the planning proposal does not affect land in proximity to a Priority Oyster Aquaculture Area. While there are current oyster leases in the area there are no operating oyster farms.</p>
<p><b>1.5 Rural Lands</b></p> <p>The objectives of this direction are to: protect the agricultural production value of rural land; facilitate the orderly and economic use and development of rural lands for rural and related purposes; assist in the proper management, development and</p>	<p>This direction applies because the proposal seeks to rezone rural land.</p> <p>A planning proposal must:</p> <p><i>(a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement</i></p> <p>The planning proposal is consistent with the HRP and the GNMP, which has considered the objectives of this direction. The proposal is also consistent with the draft LSPS.</p> <p><i>(b) consider the significance of agriculture and primary production to the State and rural communities</i></p>

<p>protection of rural land to promote the social, economic and environmental welfare of the State; minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses; encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land; and support the delivery of the actions outlined in the New South Wales Right to Farm Policy.</p>	<p>The planning proposal will not result in the fragmentation of agriculture and primary production lands or impact on the industry as the site is used for residential purposes.</p> <p><i>(c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources</i></p> <p>The planning proposal seeks to rezone the majority of the site from RU2 Rural Landscape to E2 Environmental Conservation to protect the environmental values of the site.</p> <p><i>(d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions</i></p> <p>The subject site is constrained by flood prone land and high environmental values, making it unsuitable for agricultural activities. The less constrained parts of the site where clearing and development has occurred is suitable for an intensification of land use through the provision of a neighbourhood centre to support surrounding residential communities.</p> <p><i>(e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</i></p> <p>The subject site is currently used for residential purposes and is not suitable for primary production. Rezoning the land will not impact on rural economic activities.</p> <p><i>(f) support farmers in exercising their right to farm</i></p> <p>The planning proposal will not impact on the rights of neighbouring rural properties as it will facilitate non-residential uses.</p> <p><i>(g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses</i></p> <p>The proposal will not result in the fragmentation of rural land as the subject site is not currently used for rural land uses. The proposal will complement the neighbouring residential and urban uses.</p>
---	---

	<p>(h) consider State significant agricultural land identified in <i>State Environmental Planning Policy (Primary Production and Rural Development) 2019</i> for the purpose of ensuring the ongoing viability of this land</p> <p>The land is not State significant agricultural land and is not mapped as prime agricultural land (<b>Figure 10</b>).</p> <p>(i) <i>consider the social, economic and environmental interests of the community.</i></p> <p>The planning proposal will provide positive social, economic and environmental outcomes for the community. The rezoning will provide additional employment and retail services for the community, boost the local economy and will protect the environmental values of the site through E2 Environmental Conservation zoning. Additionally, the community has indicated strong support for a local supermarket at this location.</p> <p><b>Figure 10 Prime agricultural land mapping</b></p>  <p>The inconsistency of the planning proposal with this direction is considered to be of minor significance.</p>
<b>2. Environment and Heritage</b>	
<p><b>2.1 Environmental Protection Zones</b></p>	<p>This direction applies because the planning proposal seeks to rezone part of the subject site to E2 Environmental Conservation.</p>

<p>The objective of this direction is to protect and conserve environmentally sensitive areas.</p>	<p><i>(4) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</i></p> <p>The planning proposal seeks to protect the environmental values of the site by zoning approximately 4.2ha of land to E2 Environmental Conservation. The proposed boundary of the E2 zone has been informed by an Ecological Assessment (<b>ATTACHMENT 10</b>) taking into consideration the existing disturbed land, ecologically endangered communities and koala habitat.</p> <p>The final zone boundaries will be informed by a BDAR should the planning proposal receive a Gateway determination to proceed.</p> <p><b>The planning proposal is consistent with this direction.</b></p>
<p><b>2.2 Coastal Management</b></p> <p>The objective of this direction is to protect and manage coastal areas of NSW.</p>	<p>This direction applies because the land is mapped within the NSW Coastal Zone Combined Footprint (<b>Figure 9</b> page 21).</p> <p>The direction provides that a planning proposal must not rezone land which would enable increased development or more intensive land use on land that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan. The site is identified as flood prone. Flooding is addressed separately in the response to Direction 4.3 Flood Prone Land.</p> <p><b>Any inconsistency of the planning proposal in relation to enabling increased development on flood prone land is addressed separately in the response to Direction 4.3 Flood Prone Land.</b></p>
<p><b>2.3 Heritage Conservation</b></p> <p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>	<p>The site does not contain any listed items of heritage significance listed in the LEP.</p> <p>There are however listed conservation items within the locality of the site (<b>Figure 11</b>). Stanley Park House is located to the north of the subject site. To the south and east is the Stockton Beach Dune System which includes Aboriginal sites, shell middens, ship wrecks, WWII ramparts, tank traps, proofing range, rifle range and tin huts.</p> <p>A search of the AHIMS database was undertaken. Some items of Aboriginal heritage were identified as being recorded in the locality including within the Stockton Beach Dune System.</p>

	<p>The site is not identified as an area of potential archaeological value.</p> <p>Consultation will be undertaken with the Worimi Aboriginal Land Council and the Environment, Energy and Science Group of the Department of Planning, Industry and Environment should the planning proposal receive a Gateway determination to proceed.</p> <p><b>Figure 11 – Heritage conservation items map</b></p>  <p><b>The consistency of the planning proposal with this direction can be confirmed by undertaking consultation following a Gateway determination.</b></p>
--	--

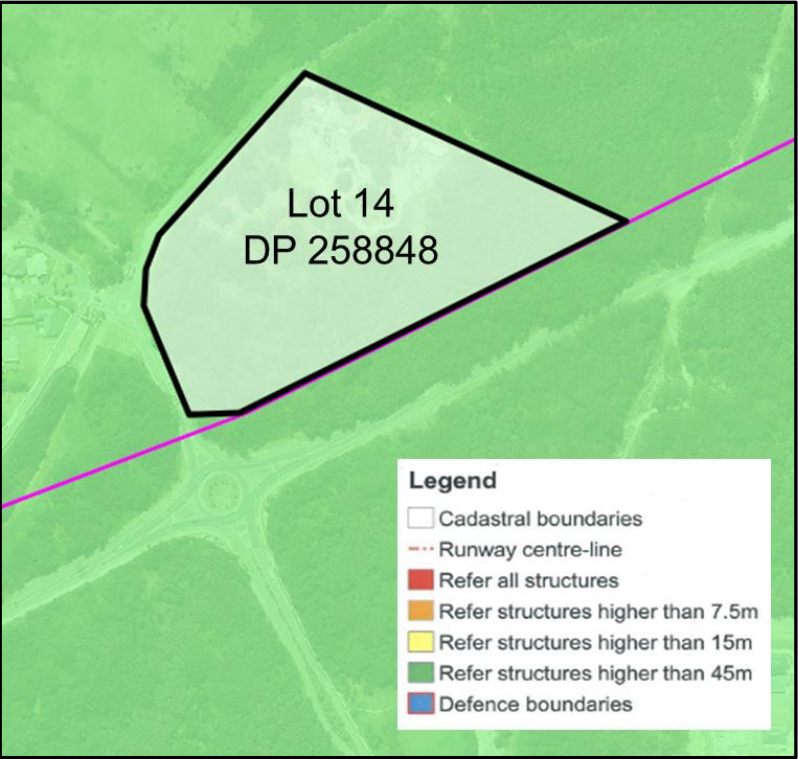
### 3. Housing, Infrastructure and urban Development

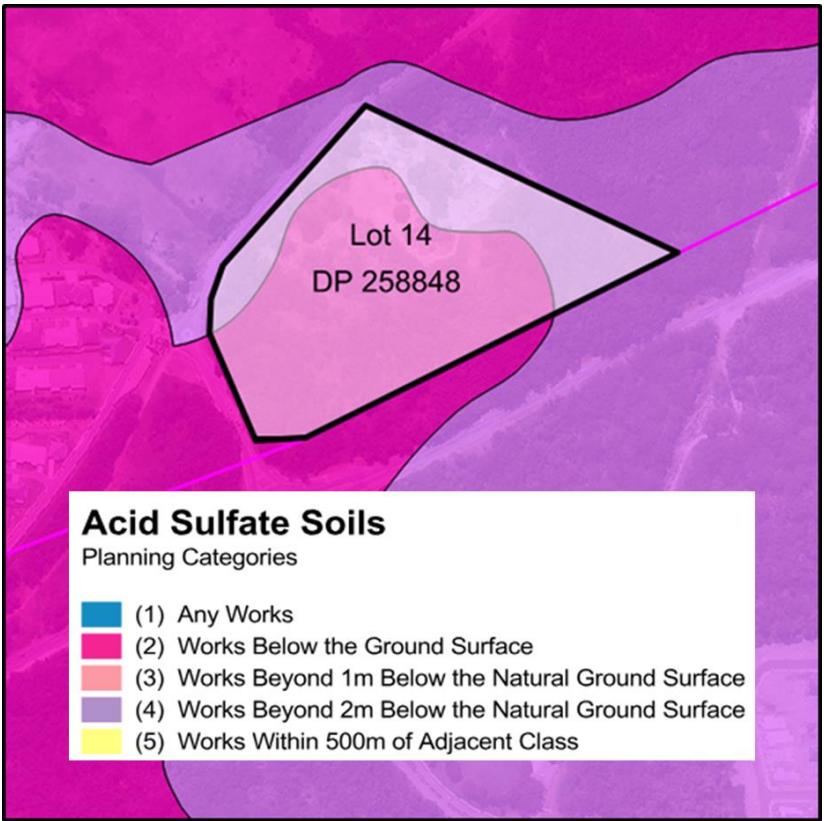
<p><b>3.4 Integrating Land Use and Transport</b></p> <p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development</p>	<p>This direction applies because the planning proposal will create a business zone.</p> <p>The planning proposal is consistent with the aims, objectives and principles of <i>Improving Transport Choice – Guidelines for planning and development (DUAP 2001)</i> and <i>The Right Place for Business and Services – Planning Policy (DUAP 2001)</i> as detailed below.</p> <p><u>Improving Transport Choice</u></p>
---	--



<p>designs, subdivision and street layouts achieve the sustainable transport objectives.</p>	<p>The planning proposal is consistent with the following development principles of <i>Improving Transport Choice</i>:</p> <ol style="list-style-type: none"> <li>1. <i>Concentrate in centres</i> – The subject site is located within the Fern Bay area, and within walking distance of the nearby residences. The nearest bus stop is located less than 200m from the proposed neighbourhood centre ensuring the site is accessible.</li> <li>2. <i>Mix uses in centres</i> – The planning proposal will provide essential retail services for the surrounding residential neighbourhoods that are currently underserved. The site will be in walking distance of a bus stop and residences.</li> <li>3. <i>Align centres within corridors</i> – The site is located adjacent to Nelson Bay Road and within walking distance of existing bus stops. The development of a neighbourhood centre could boost the effectiveness of the existing bus service.</li> <li>4. <i>Link public transport with land use strategies</i> – The planning proposal is consistent with the FBNSS which has considered and established goals for public transport in Fern Bay.</li> <li>5. <i>Connect streets</i> – The site is located adjacent to an existing bus stop and will provide a connecting pathway to the bus stop in line with the Port Stephens Development Control Plan 2014 (DCP).</li> <li>6. <i>Improve pedestrian access</i> – The subject site is located within walking distance of existing residences. To comply with the DCP pathways will be provided that connect to adjacent bus stop and existing pathways on site as well as connection to the future shared pathway identified in the Port Stephens Pathways Plan.</li> <li>7. <i>Improve cycle access</i> – The subject site is located within cycling distance of several existing residential neighbourhoods. Cycling facilities will be provided to comply with the DCP. A future shared pathway has been identified in the Port Stephens Pathways Plan along Fullerton Cove Road and Nelson Bay Road in proximity of the subject site.</li> <li>8. <i>Manage parking supply</i> – Appropriate parking will be provided during the development application stage.</li> </ol>
--	---

	<p><i>9. Improve road management</i> – The development will utilise the access from Fullerton Cove Road avoiding Nelson Bay Road, a classified road.</p> <p><i>10. Implement good design</i> – The needs of pedestrians, cyclists and public transport users will be further considered during the development application stage.</p> <p><u>The Right Place for Business and Services</u></p> <p>The planning proposal is consistent with the following strategies from <i>The Right Place for Business and Services</i>:</p> <p><i>1. The right location</i> – The planning proposal seeks to provide a neighbourhood centre at a site located centrally to the Fern Bay and Fullerton Cove area. The site is within walking distance of residents of The Cove and future residents of Seaside Estate. The site will provide the only retail services in the immediate area.</p> <p><i>2. The right centre</i> – The planning proposal seeks to provide a neighbourhood centre to cater for the day to day retail needs of the surrounding community. The area is currently underserved and this proposal will meet those needs.</p> <p><b>The planning proposal is consistent with this direction.</b></p>
<p><b>3.5 Development Near Regulated Airports and Defence Airfields</b></p> <p>The objectives of this direction are to: ensure the effective and safe operation of regulated airports and defence airfields; ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and ensure development, if</p>	<p>This direction applies because the site is mapped within the RAAF Base Obstacle Limitations or Operations Surface Map and Height Trigger Map (<b>Figure 12</b>).</p> <p>The site is mapped within the range requiring structures higher than 45m to be referred to the Commonwealth Department of Defence.</p> <p>In the preparation of a planning proposal that sets controls for the development of land near a defence airfield, the relevant planning authority must:</p> <p>(a) <i>consult with the Department of Defence if:</i></p> <ul style="list-style-type: none"> <li>(i) <i>the planning proposal seeks to exceed the height provisions contained in the Defence Regulations 2016 – Defence Aviation Areas for that airfield; or</i></li> <li>(ii) <i>no height provisions exist in the Defence Regulations 2016 – Defence Aviation Areas for the airfield and the proposal is within 15km of the airfield.</i></li> </ul> <p>The planning proposal seeks to introduce a building height limit of 9m and will not exceed height provisions.</p>

<p>situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</p>	<p>(b) <i>for land affected by the operational airspace, prepare appropriate development standards, such as height controls.</i></p> <p>The subject land is affected by the RAAF Base Weapons Range Height Trigger restricting structures over 45m (<b>Figure 12</b>). The planning proposal seeks to introduce a building height limit of 9m.</p> <p>(c) <i>not allow development types that are incompatible with the current and future operation of that airfield.</i></p> <p>The subject site is located 7km from Newcastle Airport and RAFF Base Williamtown. A neighbourhood centre at this location would not be incompatible with the current and future use of the airfields.</p> <p>While not required, consultation will be undertaken with the Department of Defence should the planning proposal receive a Gateway determination to proceed.</p> <p><b>Figure 12 – RAAF Base Williamtown and Salt Ash Air Weapons Range Height Trigger Map</b></p>  <p>The planning proposal is consistent with this direction.</p>
<p><b>4. Hazard and Risk</b></p>	

<p><b>4.1 Acid Sulfate Soils</b></p> <p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>	<p>This direction applies because the site is mapped as containing Class 2 and Class 4 acid sulfate soils (<b>Figure 13</b>).</p> <p>As development of the site will require significant fill, the risk from acid sulfate soils as a result of the planning proposal is low. The provisions of Clause 7.1 <i>Acid sulfate soils</i> of the LEP will apply to any future development and suitable to manage this issue.</p> <p><b>Figure 13 – Acid sulfate soil mapping</b></p>  <p><b>The consistency of the planning proposal with this direction can be confirmed by undertaking an acid sulfate soils study following a gateway determination.</b></p>
<p><b>4.3 Flood Prone Land</b></p> <p>The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Policy and the</p>	<p>This direction applies as the subject site is identified as flood prone land within the flood planning area (<b>Figure 14</b>).</p> <p>The land proposed to be zoned B1 Neighbourhood Centre is predominantly Low Hazard Flood Fringe (green), Low Hazard Flood Storage (light blue) or High Hazard Flood Storage (blue).</p> <p><i>(4) A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone</i></p>

<p>principles of the Floodplain Development Manual 2005 and to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p>	<p><i>Land Policy and the principles of the Floodplain Development Manual 2005.</i></p> <p>The provisions of Clause 7.3 <i>Flood Planning</i> of the LEP and Chapter B5 <i>Flooding</i> of the Port Stephens Development Control Plan will apply to any future development.</p> <p><i>(5) A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</i></p> <p>The planning proposal is inconsistent with this direction but it is considered to be of minor significance due to the social and economic benefits of the proposal and community feedback detailed in <b>Section C</b>.</p> <p><i>(6) A planning proposal must not contain provisions that apply to the flood planning areas which:</i></p> <p><i>(a) permit development in floodway areas</i></p> <p>The planning proposal is inconsistent with this direction but it is considered to be of minor significance due to the social and economic benefits of the proposal and community feedback detailed in <b>Section C</b>.</p> <p><i>(b) permit development that will result in significant flood impacts to other properties</i></p> <p>Consistency with this direction can be confirmed following a Flooding and Drainage Study should the planning proposal receive a Gateway determination to proceed.</p> <p><i>(c) permit a significant increase in the development of that land</i></p> <p>The planning proposal is inconsistent with this direction but it is considered to be of minor significance as the associated risk of commercial development on the site would be commensurate with the existing and recent development on flood prone land.</p> <p><i>(d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure of services</i></p> <p>The planning proposal is unlikely to require additional government spending on flood mitigation measures.</p>
---	--

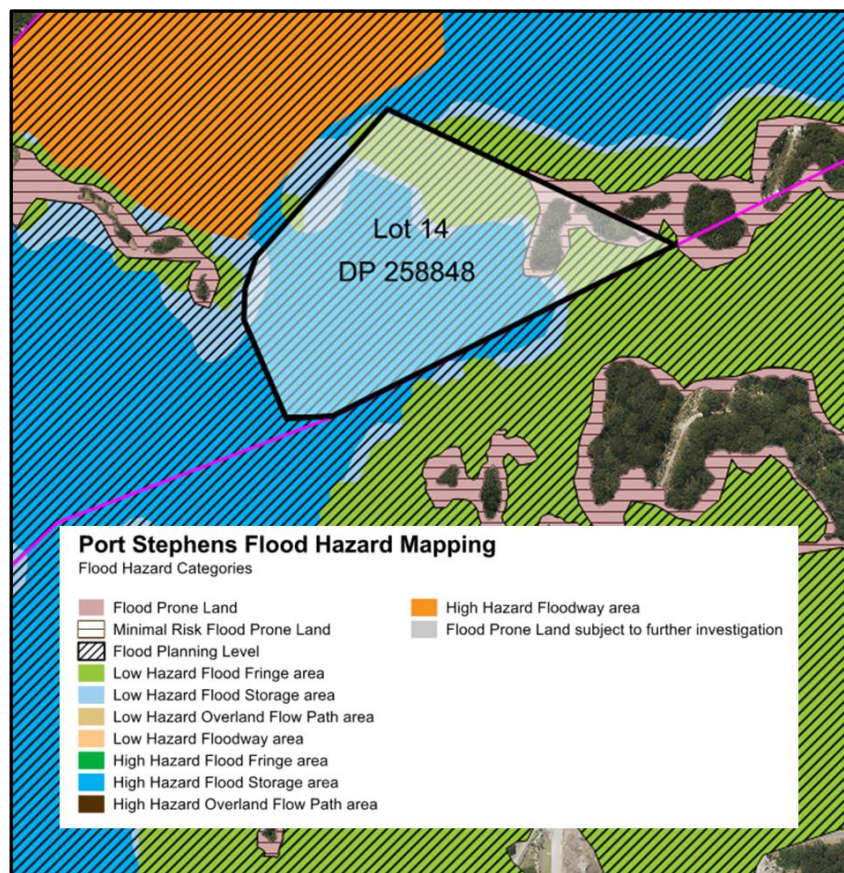


*(e) permit development to be carried out without development consent except for the purposes of agriculture, roads or exempt development*

Future development of the site would require development consent.

Further technical information on the potential impact of development of the site through a Flooding and Drainage Study will be undertaken should the planning proposal receive a Gateway determination to proceed.

**Figure 14 – Port Stephens flood hazard mapping**



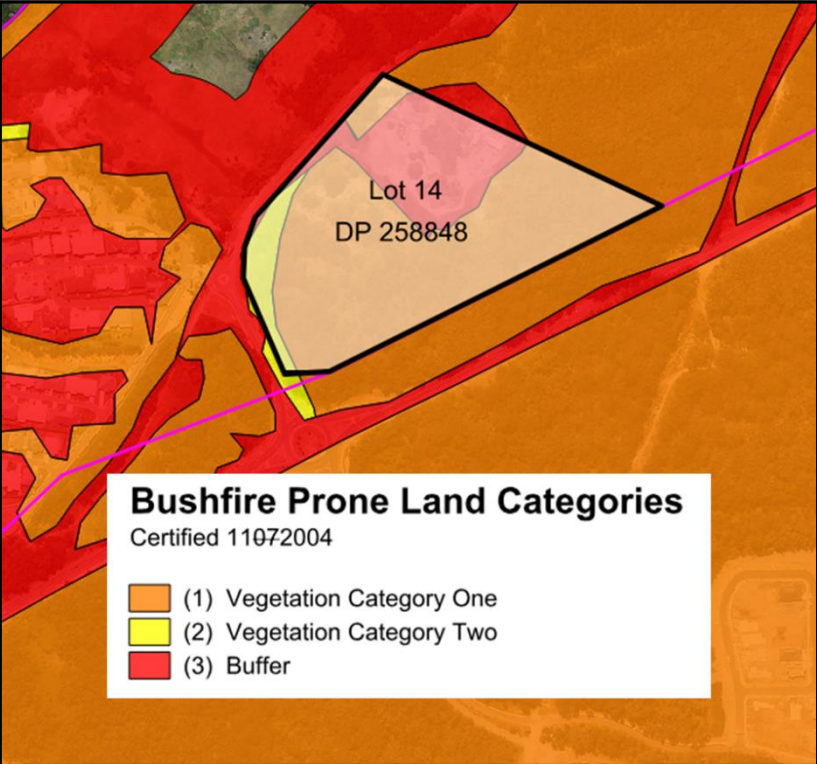
**Any inconsistency of the planning proposal with this direction is considered of minor significance and can be addressed through a Flooding and Drainage Study following a Gateway determination.**

#### 4.4 Planning for Bushfire Protection

The objectives of this direction are to:

This direction applies because the subject site is identified as bushfire prone land (**Figure 15**).

Consultation with the Commissioner of the NSW Rural Fire Service will be undertaken should the planning proposal receive a Gateway determination to proceed.

<p>protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas; and to encourage sound management of bush fire prone areas.</p>	<p>A planning proposal must:</p> <p><i>(a) have regard to Planning for Bushfire Protection 2006</i>  <i>(b) introduce controls that avoid placing inappropriate developments in hazardous areas</i>  <i>(c) ensure that bushfire hazard reduction is not prohibited within the APZ</i></p> <p>The planning proposal has considered the planning principles detailed in Planning for Bushfire Protection. A Bushfire Risk Assessment will be undertaken should the planning proposal receive a Gateway determination to proceed.</p> <p><b>Figure 15 – Bushfire prone land mapping</b></p>  <p><b>Bushfire Prone Land Categories</b>  Certified 11072004</p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black; margin-right: 5px;"></span> (1) Vegetation Category One</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black; margin-right: 5px;"></span> (2) Vegetation Category Two</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: red; border: 1px solid black; margin-right: 5px;"></span> (3) Buffer</li> </ul> <p><b>Any inconsistency of the planning proposal with this direction is considered of minor significance and can be addressed through a Bushfire Risk Assessment following a Gateway determination.</b></p>
<p><b>5. Regional Planning</b></p>	
<p><b>5.10 Implementation of Regional Plans</b></p>	<p>This direction applies because the subject site is located within the boundaries of the Hunter Regional Plan (HRP).</p> <p>As detailed under <b>Section B</b>, the planning proposal is consistent with the HRP as it will enable the development of a neighbourhood centre that will generate economic</p>

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional plans.	<p>growth and diversity within the Fern Bay and Fullerton Cove locality and increase expenditure in the Port Stephens local government area.</p> <p><b>The planning proposal is consistent with this direction.</b></p>
---	---

## Section C – Environmental, social and economic impact

### **Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

An Ecological Assessment (**ATTACHMENT 10**) was prepared as part of the previous planning proposal over the subject site, examining the likelihood of significant impact upon any threatened species, populations or ecological communities listed within the *Threatened Species Conservation Act 1995* (TSC Act) and the threatened entities listed federally under the *Environment Protection and Biodiversity Conservation Act* (EPBC Act).

The Ecological Assessment was undertaken in 2011 and considered the likelihood of biodiversity offset requirements. Since the preparation of this assessment, the boundaries of the proposed B1 zone have been minimised to lessen impacts on the endangered ecological communities (EECs) present on site. The findings of the assessment are detailed below.

Field investigations confirmed that no threatened flora was present onsite however eight threatened fauna species including the Eastern False Pipistelle, Little Bentwing-bat, Eastern Bentwing-bat, Eastern Freetail-bat, Powerful Owl, Grey-headed Flying Fox, Greater Broad-nosed Bat and Eastern Cave Bat and two EECs being Swamp Oak Floodplain Forest and Swamp Mahogany - Paperbark Forest (Swamp Sclerophyll Forest) were present on site.

Desktop investigations found an additional 13 threatened flora and 39 threatened fauna species recorded or predicted to occur within five kilometres of the subject site.

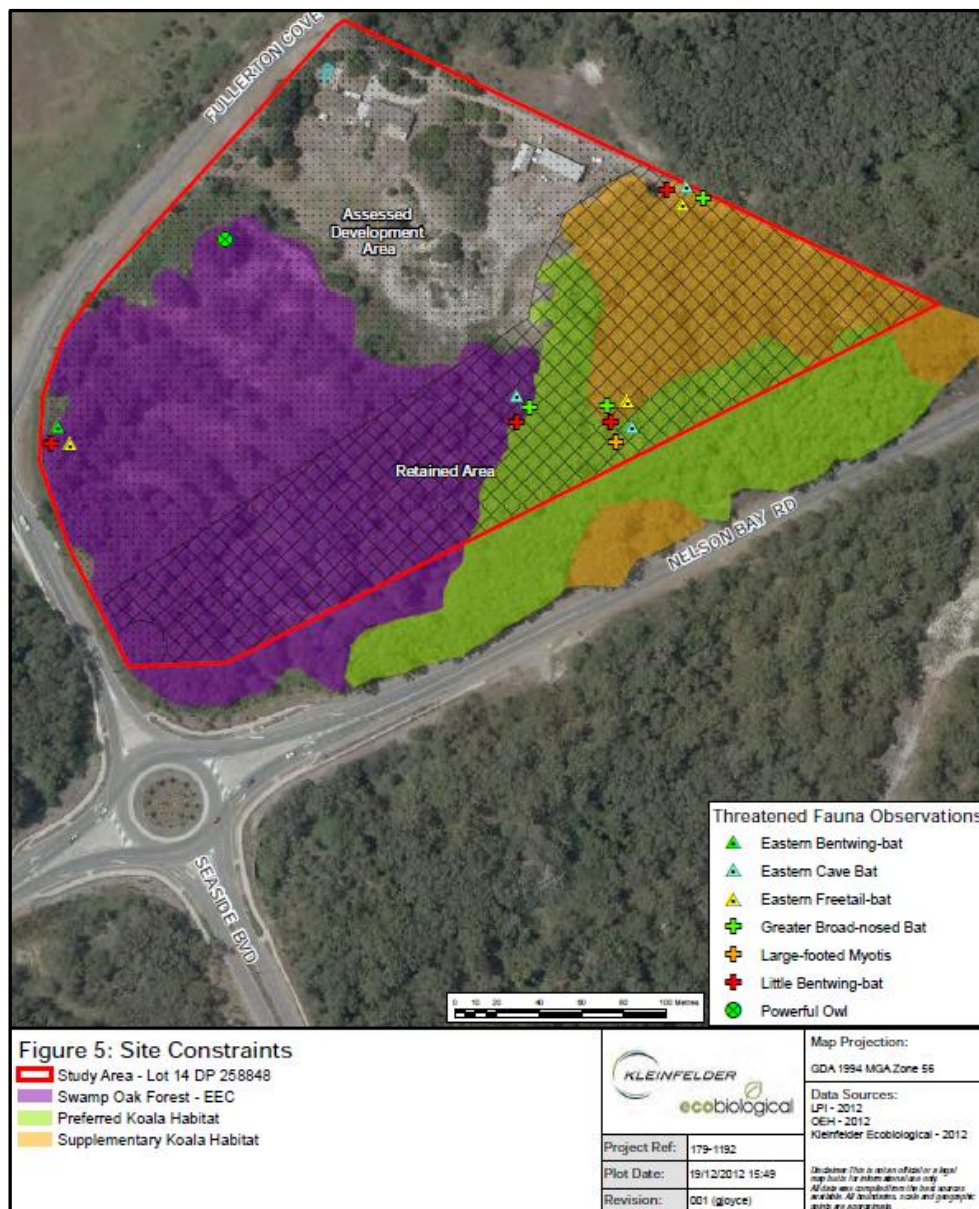
The Ecological Assessment found the planning proposal will not adversely impact on threatened flora or fauna populations or matters of national environmental significance, however it is anticipated to have the following ecological impacts:

- Direct removal of Swamp Oak Floodplain Forest; and
- Indirect impacts to retained vegetation including two EEC's



The potential environmental impacts of the rezoning require further investigation through a Biodiversity Development Assessment Report (BDAR) should the proposal receive a Gateway determination to proceed. The BDAR will be used to determine required offsetting, if any serious and irreversible impacts (SAIL) are likely and to inform the proposed B1 Neighbourhood Centre zone boundary.

**Figure 16 - Environmental Constraints mapping from the Ecological Assessment (ATTACHMENT 10, page 32)**



**Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

The subject site is identified as flood prone, however it is not susceptible to inundation from a flood event. A preliminary Flooding and Stormwater

Management Study (**ATTACHMENT 11**) was undertaken to determine the feasibility of developing the site so as to comply with Council policies.

The preliminary assessment found that Council policies regarding water quality and detention for the hypothetical development can be achieved. It is expected the proposed filling for development of approximately 2ha will not have a significant impact on flood levels. Riparian corridors are not expected to be a constraint for the proposed development, however liaison with the Department of Primary Industry - Water during the development application phase should be undertaken to confirm this.

As the Stormwater Management Study was preliminary, further modelling and detailed assessment will be undertaken should the planning proposal receive a Gateway determination to proceed.

### **Q9. Has the planning proposal adequately addressed any social and economic effects?**

The proposal will result in significant positive social and economic effects including:

- Increased employment opportunities in the Port Stephens LGA and Hunter Region through construction jobs to carry out building works, as well as ongoing employment through retail and transport jobs to service the future commercial development;
- Increased commercial opportunities for businesses within the Port Stephens LGA;
- Increased expenditure within the Port Stephens LGA;
- Increased provision of day to day retail services including a supermarket and specialty retail; and
- Reduced travel times for Fern Bay and Fullerton Cove residents to access everyday essentials such as groceries and in turn reduced carbon emissions and air pollution.
- A place for the community to come together

In response to the exhibition of the FBNSS, submissions were received that supported the outcomes of the Fullerton Cove Proposal and a neighbourhood supermarket in the area. Additionally, a petition (**ATTACHMENT 9**) of 634 signatures in support of the Fullerton Cove Proposal was provided to Council during public access on the 26 November 2019. Given the number of community submissions received, the proposal is considered to have an overall positive impact on the community.

Currently the area has limited supermarket options with large travel distances. The nearest supermarket is an IGA (8km) that provides local convenience for the Stockton Area. The nearest large supermarkets for Fern Bay and Fullerton Cove residents are Mayfield Aldi (13km), Mayfield Woolworths (13.2km), or Warabrook Woolworths (13.5km). These supermarkets each take over 15 minutes to reach by car, or up to 45 minutes by bus. A neighbourhood



supermarket, which is limited to a GFA of 1,000sqm by the LEP, would provide a significantly more convenient option for the areas approximate 3,500 residents.

The planning proposal is intended to complement the existing retail centre. As development will be limited to a GFA of 1,500sqm, it is unlikely that the proposal will impact on the economic viability of the existing Stockton centre or a future town centre at the Stockton Residential Centre.

The residents of the local area have demonstrated a desire for this site to be developed into a supermarket, and rezoning to B1 Neighbourhood Centre would facilitate this need. A neighbourhood centre would create a public space for people as well as deliver necessary retail services to support the community. It will provide a convenient and accessible location for residents to buy their food and groceries as well as provide additional business and employment opportunities. The liveability of the Fullerton Cove and Fern Bay residents will be significantly improved through the provision of a neighbourhood centre, with a neighbourhood supermarket, at this location.

## **Section D – State and Commonwealth interests**

### **Q10. Is there adequate public infrastructure for the planning proposal?**

All relevant infrastructure and services are available within the area and will be connected as part of the future development of the land.

It is considered that there is sufficient infrastructure capacity in the existing road networks to support the proposal. A traffic impact study will be prepared to consider the impact of development on the local road network should the planning proposal receive a Gateway determination to proceed.

Local augmentation of sewer, water, drainage and other infrastructure services can be undertaken as the site adjoins an existing urban area

### **Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Consultation with relevant State and Commonwealth agencies can be undertaken following a Gateway determination to proceed. The following agencies will be consulted with:

- NSW Rural Fire Service
- Department of Primary Industries – Agriculture
- Department of Primary Industries – Water
- Commonwealth Department of Defence
- Transport for NSW
- Department of Planning, Industry and Environment - Environment, Energy and Science Group
- Worimi Aboriginal Land Council

## **PART 4 – Mapping**

---

The proposed map layer amendments are included as attachments to the planning proposal as follows:

**ATTACHMENT 1** – Current Zoning Map LZN\_004A

**ATTACHMENT 2** – Proposed Zoning Map – Map Amendment to Land Zoning Map – Sheet LZN\_004A from RU2 Rural Landscape to part B1 Neighbourhood Centre and part E2 Environmental Conservation Zone

**ATTACHMENT 3** – Current Lot Size Map LSZ\_004A

**ATTACHMENT 4** – Proposed Lot Size Plan – Map Amendment to Lot Size Map – Sheet LSZ\_004A from AB2 20 hectares to part AB2 20 hectares and part no specified minimum lot size

**ATTACHMENT 5** – Current Height of Building Map Sheet HOB\_004A

**ATTACHMENT 6** – Proposed Height of Buildings Map – Map amendment to Height of Buildings Map – Sheet HOB\_004A from no specified height to part no specified height and part J 9 metres

## **PART 5 – Community consultation**

---

External consultation has been undertaken during the preparation of the Fern Bay and North Stockton Strategy. During the exhibition period, a petition in support of this proposal was provided to Council. After consideration of the petition and submissions received, the FBNSS was amended to address the community desire for a neighbourhood centre with a neighbourhood supermarket to be located within the Fern Bay area.

Community consultation for the planning proposal will be undertaken in accordance with the Gateway determination.

Notice of the public exhibition period will be placed in the local newspaper, The Examiner. The exhibition material will be on display at the following locations during normal business hours:

- Council's Administration Building, 116 Adelaide Street, Raymond Terrace
- Raymond Terrace Library, Port Stephens Street, Raymond Terrace

The planning proposal will also be available on Council's website.

## PART 6 – Project timeline

The additional technical information, studies and investigations identified in the planning proposal will be completed within the timeframes listed below, should the planning proposal receive a Gateway determination:

- Biodiversity Development Assessment Report
- Traffic Impact Study
- Stage 1 Contamination Report
- Flood and Drainage Study
- Bushfire Risk Assessment

The planning proposal is expected to be reported to Council following the completion of the public exhibition period. The following timetable is proposed:

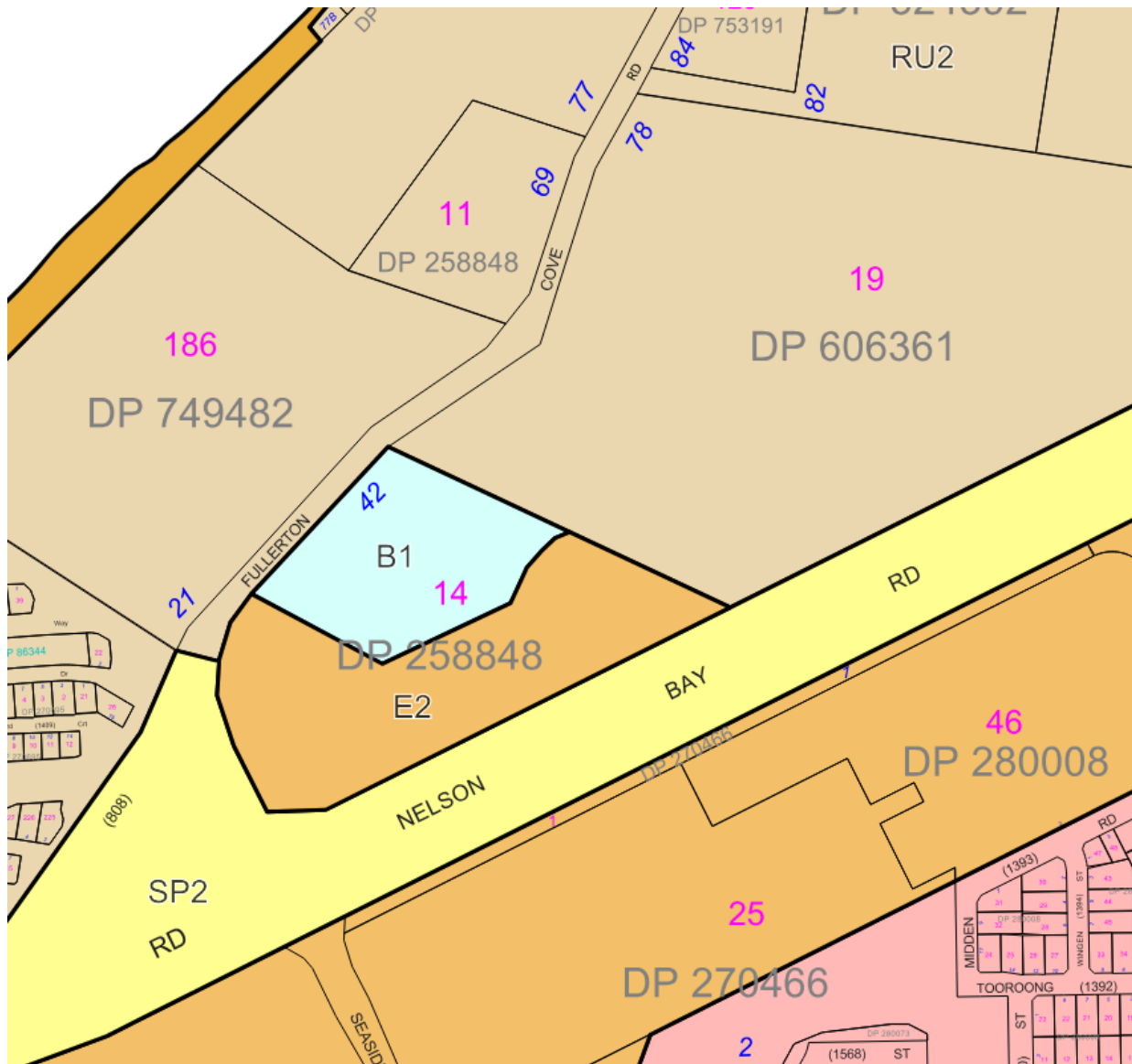
	Apr '20	May '20	Jun '20	Jul '20	Aug '20	Sep '20	Oct '20	Nov '20	Dec '20	Jan '21	Feb '21	Mar '21	Apr '21	May '21
<b>Gateway Determination</b>														
<b>Agency Consultation</b>														
<b>Further Studies</b>					X									
<b>Public Exhibition</b>														
<b>Review of Submissions</b>														
<b>Council Report</b>														
<b>Parliamentary Counsel</b>														

**X** – Window for targeted orchid surveys to be undertaken as part of a BDAR, should the planning proposal receive a Gateway determination to proceed.



## ATTACHMENT 2 – Proposed Land Zoning Map

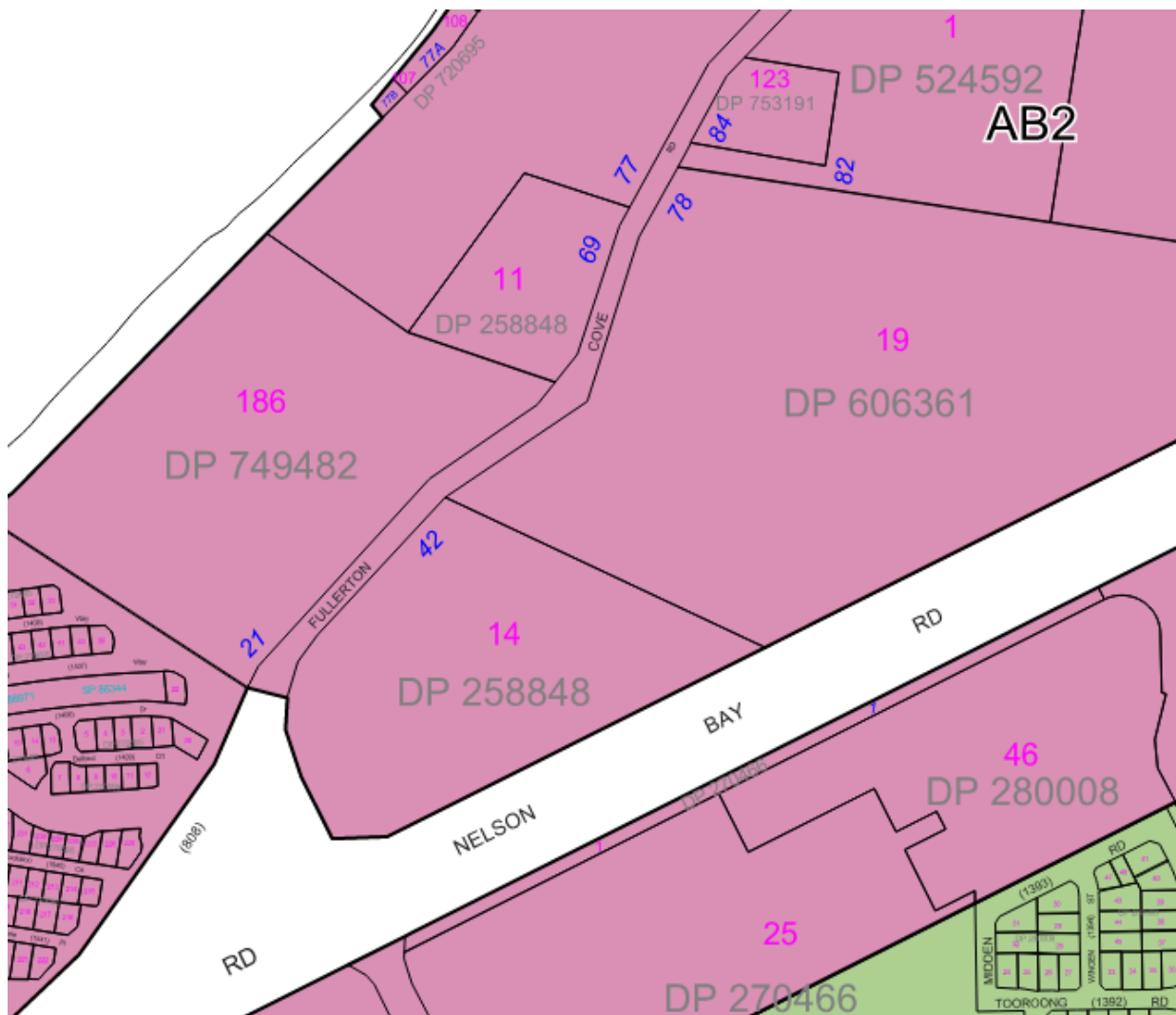
---





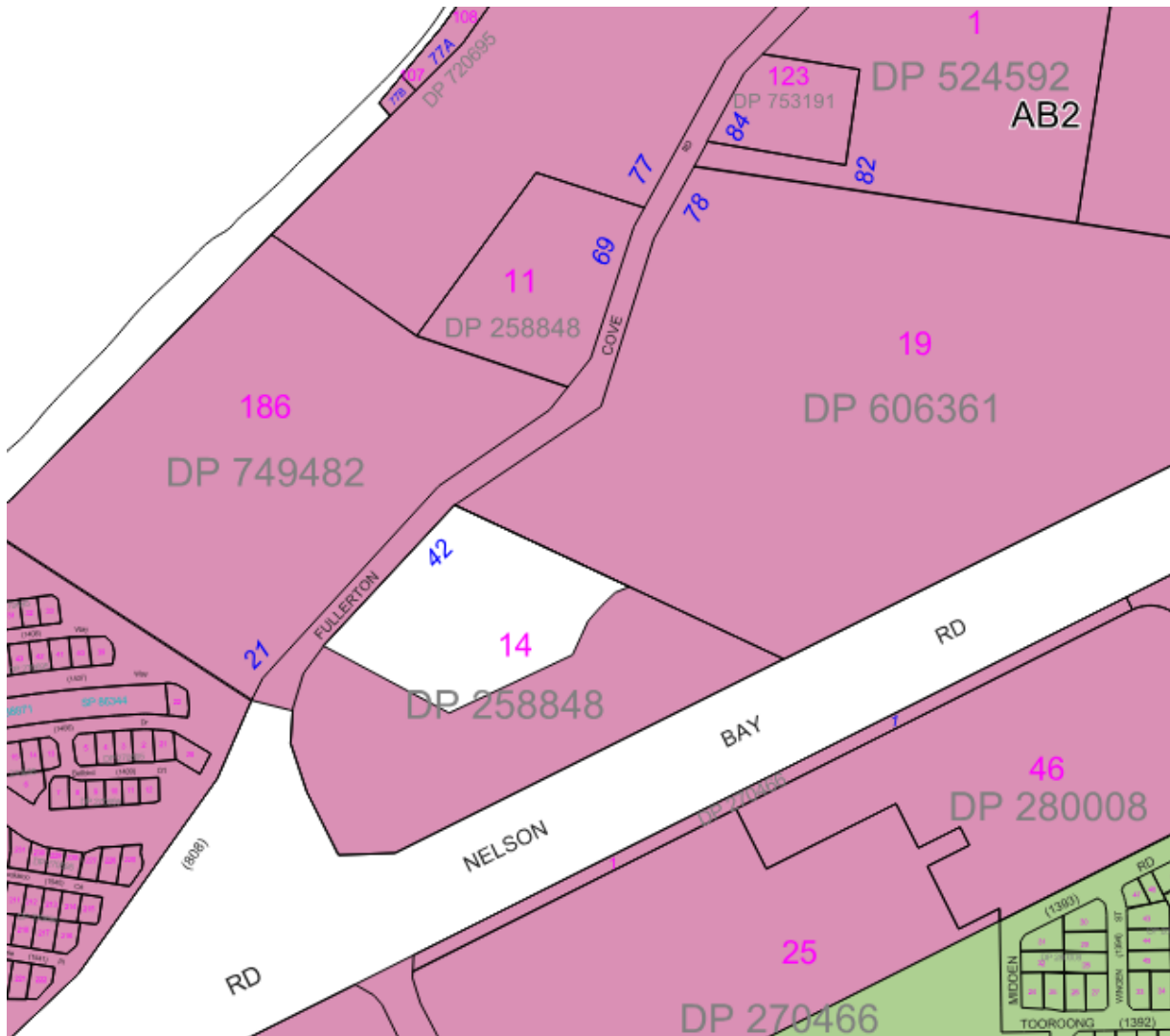
### ATTACHMENT 3 – Current Lot Size Map

---



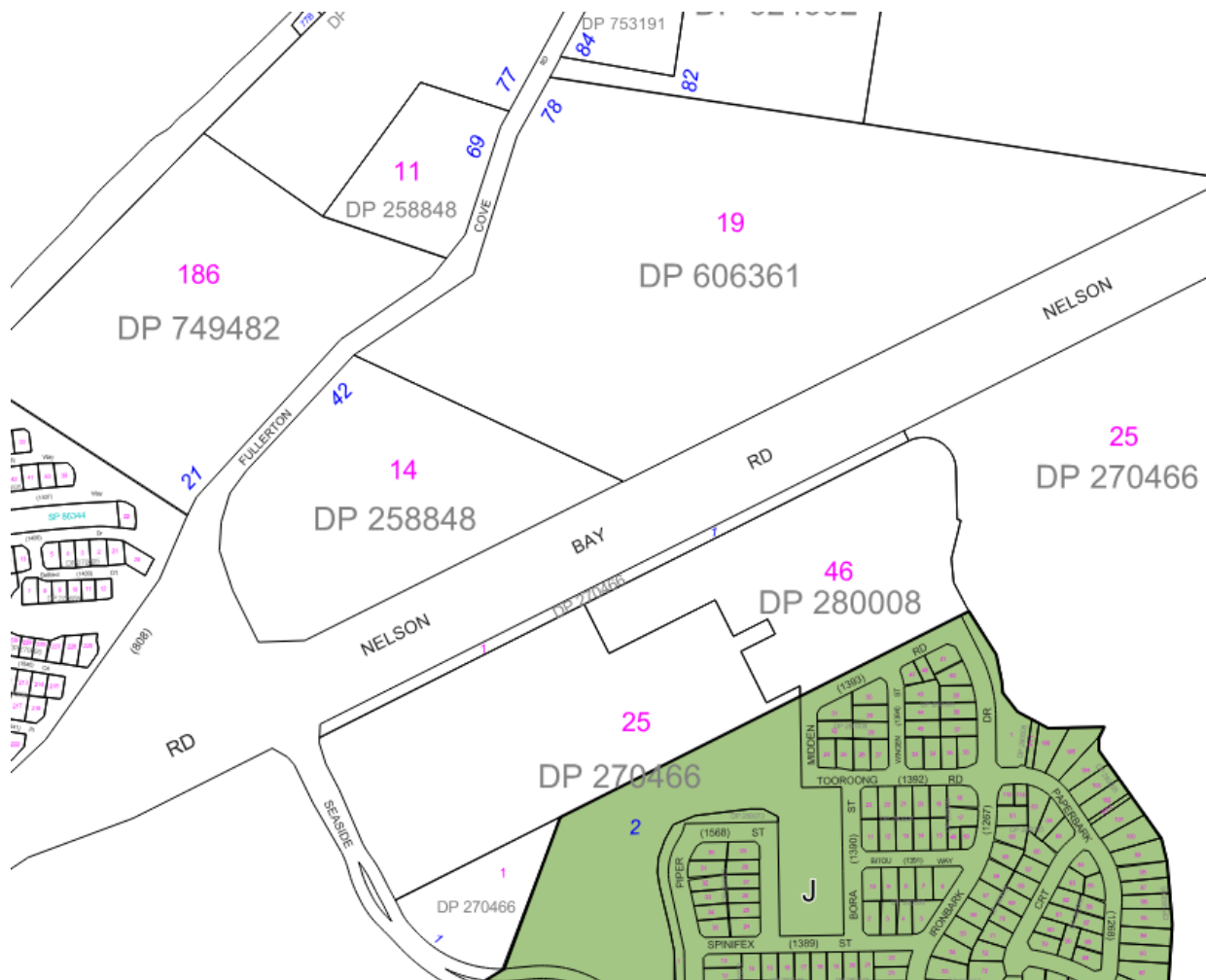
## ATTACHMENT 4 – Proposed Lot Size Map

---



## ATTACHMENT 5 – Current Height of Building Map

---





## **ATTACHMENT 7 – Fern Bay and North Stockton Commercial Lands Study**

Information referenced in this report can be inspected upon request.



## **ATTACHMENT 8 – Fern Bay and North Stockton Strategy**

---

Information referenced in this report can be inspected upon request.

## **ATTACHMENT 9 – Petition to Support and Complete Planning Proposal**

Information referenced in this report can be inspected upon request.

## **ATTACHMENT 10 – Ecological Assessment**

---

Information referenced in this report can be inspected upon request.

## **ATTACHMENT 11 – Flooding and Stormwater Management Study**

Information referenced in this report can be inspected upon request.