



Planning Proposal

Proposed amendment to Port Stephens Local Environmental Plan 2013

Rezone land at Lot 20 & Lot 21 DP 579653, 290 & 308 Tarean Road, Karuah

Version – Post Exhibition & Council Meeting – 13 December 2016

Further Information:

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PORT STEPHENS
COUNCIL

FILE NUMBERS

Council: PSC2006-0815
Department: PP_2014_PORTS_005_00

SUMMARY

Subject land in Karuah: 290 and 308 Tarean Road,
(Lot 20 and Lot 21 DP 579653)
(as shown on Figure 1)(p.4 and p.5)

Proponent: HDB Town Planning and Design (on behalf of landowners)

Total Area: 30.4 Hectares

Existing Zoning: RU2 Rural Landscape

Proposed Changes:

1. Rezone 290 Tarean Road and part 308 Tarean Road from RU2 Rural Landscape to R2 Low Density Residential,
2. Rezone part 308 Tarean Road from RU2 Rural Landscape to part E2 Environmental Conservation,
3. Consequential amendments to the lot size map, height of building map and urban release area map.

Potential Lot Yield: 155 lots. Approximately 11.37ha for residential purposes.
Preliminary concept plan shows approximately 72 lots.

Delegation: Council has delegation to make this plan

Supporting Studies:

- HDB Town Planning and Design Pty Ltd, 2016, 'Bushfire Threat Assessment'
- Better Transport Futures Mark Waugh, 2016, 'Transport Access and Mobility Report'
- Engeny, 2016, 'Preliminary Stormwater Assessment'
- Engeny, 2016, 'Water and Wastewater Preliminary Servicing Advice'
- HDB Town Planning and Design Pty Ltd, 2014, 'Preliminary Contamination Assessment'
- Joy Hafey Environmental Consultant, 2015, 'Fauna and Flora Assessment – Assessments of Significance'
- RPS Australia East Pty Ltd, 2013, 'Flora and Fauna Assessment for a proposed Rezoning and Subdivision'
- Myall Coast Archaeological Services, 2012, 'Aboriginal Heritage Due Diligence Assessment'
- Better Transport Futures, Mark Waugh, 2013, 'Access and Mobility Study'
- HDB Town Planning and Design Pty Ltd, 2014, 'Social and Economic Impact Assessment'

- WorleyParsons, 2013, 'Revised Water and Wastewater Preliminary Servicing Advice'
- WorleyParsons, 2013, 'Revised Stormwater and Flooding Advice'
- Coffey, 2005, 'Geotechnical Investigation'
- Hunter Development Brokerage Pty Ltd, 2005, 'Bushfire Threat Assessment'
- Hunter Development Brokerage Pty Ltd, 2005, 'Traffic and Access Assessment Report'
- HDB Town Planning and Design Pty Ltd, August 2016, 'Meat Chicken (Broiler) Farm Level 1 Odour Assessment, based from Technical Notes: Assessment and Management of Odour from Stationary Sources in NSW'

BACKGROUND

In May 2005, Council received a request to amend the *Port Stephens Local Environmental Plan 2000 (NSW)* at 290, 308 Tarean Road Karuah (the site). The request was to amend the zoning from 1(a) Rural Agriculture to 2(a) Residential.

An initial review of the Port Stephens Council, 2007, Community Settlement and Infrastructure Strategy identified that the site had potential for urban development. The proposal at the time considered minimising environmental impacts with a focus of urban development on the northern parts of the site. Council resolved to support this rezoning request on the 18 December 2007.

In April 2008, the then Department of Planning (former title) (the Department) did not support the proposal as the site was not identified in any strategic study and was considered inconsistent due the subject sites location within the NSW Department of Planning and Environment, 2006, Lower Hunter Regional Strategy Watagans to Stockton Green Corridor.

Council adopted the Port Stephens Council, 2011, Karuah Growth Strategy on the 20 December 2011, which identifies the site as part of the second stage urban release area.

The proponent revised and updated site investigations and subsequently lodged a new planning proposal on the 28 January 2014 for 290 Tarean Road. At Councils request this proposal was revised to include the northern portion of 308 Tarean Road to ensure connectivity with the existing residential to the east. This proposal requested an amendment of the zoning from RU2 Rural Landscape to R2 Low Density Residential. The southern portion of 308 Tarean Road was proposed to remain RU2 Rural Landscape.

At its meeting on 12 August 2014, Council resolved to prepare the planning proposal and forward to the Department of Planning and Environment to seek a Gateway Determination. A Gateway Determination was received from the Department on the 18 September 2014 (**ATTACHMENT 1**). Part of the Gateway Determination required the southern portion of 308 Tarean Road,

which forms part of the green corridor, under the NSW Department of Planning and Environment, 2006, Lower Hunter Regional Strategy, to be included in the planning proposal with an appropriate environmental zone. Council proposed the zone E2 Environmental Conversation. Additional information was requested during consultation with Public Authorities. A summary of Public Authority submissions is detailed in Section D of this report.

The proposal was placed on public exhibition from 8 October to 5 November 2015. One submission was received during the public exhibition period. This submission is outlined in Part 5 of this report.

Additional information was submitted post-consultation in August 2016 to finalise the plan and provide consistency between the reports that support this planning proposal.

SITE

The site is approximately 30.4 hectares and is located on the southern side of the Old Pacific Highway and is approximately 1km to the west of the existing Karuah township. The lots are legally described as Lot 20 & Lot 21 DP 579653.

Lot 20 DP 579653 is currently occupied by a brick residence, galvanised iron sheds, small sheds, fences and gravel and bitumen driveways. The northern side of Lot 20 DP 579653 is largely undeveloped. Lot 21 DP 579653 is currently occupied by two fibro residences and small sheds made of corrugated iron, wood and fibro construction. The southern side of Lot 21 DP 579653 is heavily vegetated. Both developed sites have been used for low intensity grazing and limited agricultural pursuits with an agricultural dam located through the eastern portion of the sites.

The Port Stephens Council, 2011, Karuah Growth Strategy identifies a staging plan for the release of new urban land in Karuah. The site is identified as a second stage urban release area. The Strategy states there is merit in Stage 1 and Stage 2 of the land release program progressing.

Figure 1 – Aerial Map (p. 6), **Figure 2 – Cadastral Map** (p.7) provide contextual illustrations of the sites. **Figure 3 - Staging Identification** (p. 8) is an insert from the Port Stephens Council, 2011, Karuah Growth Strategy which illustrates the staging of urban release areas for Karuah.

PART 1 – Objective of the proposed Local Environmental Plan

The objective of this proposal is to enable the development of 290 & 308 Tarean Road, Karuah for residential purposes and provision of an appropriate environmental zone to protect part of the Watagans to Stockton Green Corridor, under the Department of Planning and Environment, 2006, Lower Hunter Regional Strategy and in accordance with the Port Stephens Council, 2011, Karuah Growth Strategy.

PART 2 – Explanation of Provisions to be included in proposed LEP

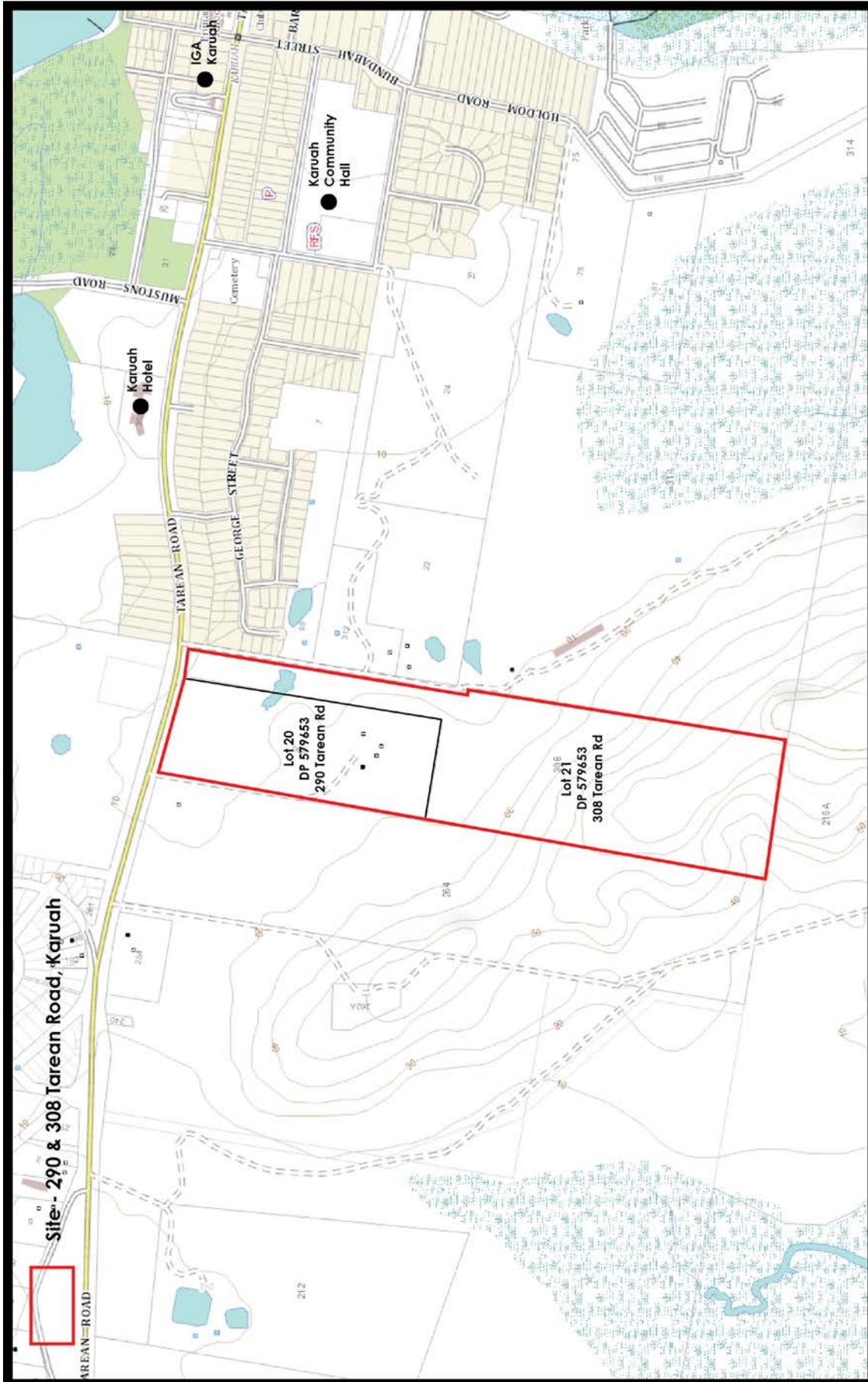
The objective of the proposal will be achieved by:

- Amending the land zoning map relating to Lot 20 & Lot 21 DP 579653, 290 & 308 Tarean Road Karuah. The proposal seeks to rezone the lots from RU2 Rural Landscape to part R2 Low Density Residential and part E2 Environmental Conservation (**Attachments 3 & 4**);
- Amending the lot size map relating to Lot 20 & Lot 21 DP 579653, 290 & 308 Tarean Road Karuah. The proposal seeks to amend the lot size map to provide a minimum lot size of 500sq.m for all land proposed to be rezoned to R2 Low Density Residential and a lot size of 40ha for all land proposed to be rezoned to E2 Environmental Conservation (**Attachments 5 & 6**);
- Amending the height of building map relating to Lot 20 DP 579653 and part Lot 21 DP 579853, 290 Tarean Road and part 308 Tarean Road Karuah. The proposal seeks to amend the height of building map to provide a maximum height of 9m for all buildings on land proposed to be rezoned to R2 Low Density Residential (**Attachments 7 & 8**); and
- Amending the Urban Release Area Map (URA_003) by adopting an Urban Release Area for all land proposed to be rezoned to R2 Low Density Residential (**Attachments 9 & 10**).

FIGURE 1 – AERIAL MAP



FIGURE 2 – CADASTERAL MAP



PART 3 – Justification for the Planning Proposal

SECTION A – Need for the Planning Proposal

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

The subject lands are identified in the Port Stephens Council, 2011, Karuah Growth Strategy. The purpose of the Strategy is to provide strategic level guidance for the future development of Karuah. The Strategy identifies the subject lands sited on the road frontage and within the Potential Second Stage Urban Release Area. Lands within the Potential Second Stage Urban Release Area have been identified as suitable for residential development as part of the Strategy.

The subject land to the south is identified in the Strategy as a primary biodiversity corridor; the proposed rezoning is consistent as it seeks to provide an environmental protection zone over an identified biodiversity corridor.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The proposal can only be achieved through an amendment to the Port Stephens Local Environmental Plan 2013.

SECTION B – Relationship to Strategic Planning Framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Hunter Regional Plan

Department of Planning and Environment, 2016, Hunter Regional Plan outlines the vision, goals and actions for sustainable growth in the Hunter region between now and 2036. The Planning Proposal is considered consistent and relevant with the following goals, directions and actions:

Goal 2: Protect and connect natural areas

Action 14.4: Protect biodiversity by maintaining and, where possible, enhancing the existing protection of high environmental value areas; implementing appropriate measures to conserve validated high environmental value areas; developing local strategies to avoid and minimise the impacts of development on areas of high environmental value and biodiversity corridors; and identifying offsets or other mitigation measures for unavoidable impacts.

The proposal seeks to protect biodiversity by maintaining and conserving habitat connectivity and local habitat corridors. Part of the Planning Proposal area is identified as high environmental value because it is identified in the Watagans to Stockton link.

Goal 4: Greater housing choice and jobs

Direction 21 Create a compact settlement

Action 21.2 focuses development in locations with established services and infrastructure including sites identified in an endorsed local strategy.

The proposal is identified as suitable for development with the Port Stephens, 2011, Karuah Growth Strategy therefore consistent with Action 21.2. The Planning Proposal makes efficient use of existing infrastructure networks and capacity by seeking to develop adjacent to the existing urban footprint. It will support increased use of existing local facilities and will help services remain viable.

4. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

Council's Community Strategic Plan

The relevant direction in the Port Stephens Integrated Planning Framework is Direction: 3.3.1.9 Review and prepare statutory plans (Local Environmental Plan and planning proposals).

Port Stephens Planning Strategy 2011-2036

The proposal is consistent with the Port Stephens Council, 2011, Planning Strategy. The Strategy states there is considerable potential in expanding residential development at Karuah and that the Karuah Growth Strategy will direct development. The Planning Strategy identifies future growth areas and part of the site is identified as "potential future residential development".

Karuah Growth Strategy 2011

The Port Stephens Council, 2011, Karuah Growth Strategy identifies land adjacent to the Karuah town centre and south of Tarean Road as suitable for development. The Strategy identifies three stages for land release. The subject site is identified as a "Potential Second Stage Urban Release Area".

Stage One of the Urban Release Area has completed the rezoning process and includes the Port Stephens Local Environmental Plan, 2013, Amendment 5 (NSW), which was gazetted on the 27 June 2014. The Strategy states the staging should be done to respond to market demand. The planning proposal is considered consistent with the aims of this Strategy (see p. 8).

The Strategy also identifies part of the site as within the Lower Hunter Regional Strategy Watagans to Stockton Green Corridor as a "Primary Biodiversity Corridor". The Planning Proposal is considered consistent with this corridor as it proposes to enable an environmental protection zone (part E2 Environmental Conservation).

5. Is the planning proposal consistent with applicable state environmental planning policies?

An assessment of relevant State Environmental Planning Policies against the Planning Proposal is provided in the table below.

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP 44 – Koala Habitat Protection	Provides consideration to the protection of	Consistent. Under the Koala Habitat Planning Map (2007) the subject sites are identified as "Mainly Cleared" with "Marginal Koala Habitat"

	koalas.	<p>occurring within the southern and western boundaries.</p> <p>A revised Flora and Fauna Assessment was carried out in February 2013 by RPS Australia for 290 Tarean Road (Lot 20 DP 579653). The assessment showed the site contains preferred feed trees, however investigations have been undertaken and given the disturbed nature of the site it would be possible for future development to meet the Comprehensive Koala Plan of Management provided that the layout (including roads, open space and building envelopes) considers the existing trees. Further investigations to be conducted at development application stage.</p> <p>A subsequent Flora and Fauna Assessment was carried out in July 2015 by Joy Hafey Environmental Consultants for 308 Tarean Road (Lot 21 DP 579653). The report made an assessment against SEPP44, however does not mention the Port Stephens Council, 2002, Comprehensive Koala Plan of Management. The report concluded the rezoning of the northern section from RU2 Rural Landscape to R2 Low Density Residential would not impact significantly on the site as the northern portion is considered substantially ecologically degraded with low conservation value. The assessment proposes a range of mitigation and protective measures outlined in Section C of this report.</p>
SEPP 55 – Remediation of Land	Provides consideration to the suitability based on contamination.	<p>Consistent.</p> <p>A preliminary Contamination Assessment (December 2014) has been undertaken as per clause 6 of SEPP55 for both Lot 20 and Lot 21 DP 579653. The preliminary Contamination Assessment concludes that the site is rendered suitable, from a contamination point of view, for future residential development. The assessment lists recommendations that need to be satisfied and implemented during the development application stage and construction phase. These recommendations are outlined in Section C.</p>
SEPP 71 – Coastal Protection	Provides consideration to development	<p>Consistent.</p> <p>The proposal does not have a frontage to coastal foreshore land, nor does it contain existing access or potential access to coastal</p>

	<p>in the NSW coastal zone.</p>	<p>foreshore land; therefore this matter is not applicable to this application. As such future development is unlikely to have any potential to conflict between land-based and water-based coastal activities.</p> <p>The proposal to rezone the northern portion of the site fronting Tarean Road to R2 Low Density Residential Zone represents development that is consistent with the PSLEP 2013 for adjacent R2 Low Density Residential Zone land immediately to the east of the site and is in accordance with the Port Stephens Council, 2011, Karuah Growth Strategy.</p> <p>No threatened flora or fauna were recorded on site. However, all of the threatened species that were considered are thought to have potential habitat resources of varying quality available within the site, as it is proposed that the rear (southern portion) of the site will be rezoned to E2 Environmental Conservation (PSLEP 2013), as this area contains dense vegetation and is not suitable for development.</p> <p>The Aboriginal Heritage Due Diligence Assessment (Myall Coast Archaeological Services 2012) recommends, the lot layout excludes all identified objects locations.</p> <p>Stormwater quality controls will be requested as part of the development application to ensure the future development meets the requirements set by Port Stephens Council for residential development and that the development does not have an impact on downstream receiving waters.</p>
<p>SEPP (Rural Lands) 2008</p>	<p>Provides consideration to the protection of rural lands for rural purposes.</p>	<p>Consistent.</p> <p>The proposal seeks to rezone lands from a rural zone to a residential zone. However is of minor significance as the land is currently underutilised for agricultural uses and has been identified within the Port Stephens, 2011, Karuah Growth Strategy as being suitable for residential purposes.</p> <p>Department of Primary Industries (Agriculture) reviewed the planning proposal (February 2015) and did not object to the proposal. The Department noted a turkey</p>

		<p>farm on 312 Tarean Road which is currently not operating and a timber business, currently operating, on 312 Tarean Road. As such, the Department of Primary Industries proposed the lot layout should consider boundary interactions alongside Lot 21 DP 579653 to avoid land use conflicts.</p> <p>The Department suggested the best means of mitigation can be from screening and setbacks such as boundary separation and landscaping for conflict avoidance. These issues can be addressed at development application stage, prior to residential development occurring. It is acknowledged that compliance will be required for the relevant controls within the Port Stephens Development Control Plan (such as appropriate agricultural buffers).</p> <p>The Department of Primary Industries also referenced the Department of Environment and Conservation NSW, 2006, Assessment and management of odour from stationary sources in NSW to determine odour buffers for poultry; however, these setbacks are for operational industries. Nonetheless a Level 1 Odour Assessment was conducted on the site derived from the EPA Odour Calculator as discussed in the Department of Environment and Conservation NSW, 2006, Assessment and management of odour from stationary sources in NSW. The assessment made assumptions based on the size of the shed and demonstrate that the proposed development will not be impacted on by the existing sheds. The assessment concluded the required separation distance between the shed and would be 212.8sq.m (see assessment calculator under additional information: post-gateway studies). Based on this calculation there is no impact on the proposed residential component of the planning proposal.</p> <p>Surrounding landowners were contacted during the public exhibition stage of the planning proposal. One submission was received and is addressed in Part 5 of this report.</p> <p>The additional information and consultation</p>
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		identified a minor inconsistency with SEPP (Rural Lands) 2008 however are of minor significance and that no further approval is required.
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Section 117 Ministerial Directions

6. Is the planning proposal consistent with applicable Ministerial Directions?

An assessment of relevant s.117 Directions against the planning proposal is provided in the table below.

Table 2: Relevant s.117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implications
1. EMPLOYMENT AND RESOURCES		
1.2 Rural Zones	The Direction applies when a proposal will affect land within an existing rural zone.	<p>Consistent.</p> <p>The proposal seeks to rezone lands from a rural zone to a residential zone.</p> <p>As per Clause 5, the planning proposal may be inconsistent if satisfied by an officer of the Department nominated by the Director-General. The Department of Primary Industries reviewed the planning proposal (February 2015) and has not objected to the proposal. Comment is provided in SEPP (Rural Lands) 2008 and can be addressed at development application stage.</p> <p>This inconsistency is also justified as the land is identified within the Port Stephens Council, 2011, Karuah Growth Strategy as suitable for residential development.</p> <p>The Department of Planning and Environment determined (25 October 2016) the inconsistency as of minor significance.</p>
1.3 Mining, Petroleum Production and Extractive Industries	The Direction applies when a proposal will affect land that will impact on the future extraction of State or regionally significant reserves	<p>Consistent.</p> <p>As per Clause 6, the planning proposal may be inconsistent if satisfied by an officer of the Department nominated by the Director-General. The Trade and Investment (Minerals and Resources Division) were</p>

	of coal, other minerals, petroleum and extractive materials.	consulted and raised no issues with the proposal (see Section D). The proposals inconsistency is considered of minor significance.
1.5 Rural Lands	This Direction applies when the proposal will affect land within an existing rural zone.	<p>Consistent.</p> <p>As per Clause 6, the planning proposal may be inconsistent if satisfied by an officer of the Department nominated by the Director-General. The Department of Primary Industries reviewed the planning proposal (February 2015) and has not objected to the proposal. The Department of Planning and Environment determined (25 October 2016) the inconsistency as of minor significance.</p> <p>This inconsistency is justified as the planning proposal is considered of minor significance as the land is currently underutilised for agricultural uses and has been identified within the Port Stephens, 2011, Karuah Growth Strategy as being suitable for residential purposes.</p> <p>Department of Primary Industries (Agriculture) reviewed the planning proposal (February 2015) and did not object to the proposal. The Department noted a turkey farm on 312 Tarean Road which is currently not operating and a timber business, currently operating, on 312 Tarean Road. As such, the Department of Primary Industries proposed the lot layout should consider boundary interactions alongside Lot 21 DP 579653 to avoid land use conflicts.</p> <p>The Department suggested the best means of mitigation can be from screening and setbacks such as boundary separation and landscaping for conflict avoidance. These issues can be addressed at development application stage, prior to residential development</p>

		<p>occurring. It is acknowledged that compliance will be required for the relevant controls within the Port Stephens Development Control Plan (such as appropriate agricultural buffers).</p> <p>The Department of Primary Industries also referenced the Department of Environment and Conservation NSW, 2006, Assessment and management of odour from stationary sources in NSW to determine odour buffers for poultry; however, these setbacks are for operational industries. Nonetheless a Level 1 Odour Assessment was conducted on the site derived from the EPA Odour Calculator as discussed in the Department of Environment and Conservation NSW, 2006, Assessment and management of odour from stationary sources in NSW. The assessment made assumptions based on the size of the shed and demonstrate that the proposed development will not be impacted on by the existing sheds. The assessment concluded the required separation distance between the shed and would be 212.8sq.m (see assessment calculator under additional information: post-gateway studies). Based on this calculation there is no impact on the proposed residential component of the planning proposal.</p> <p>Surrounding landowners were contacted during the public exhibition stage of the planning proposal. One submission was received and is addressed in Part 5 of this report.</p>
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	This direction applies when a relevant planning authority prepares a planning proposal.	<p>Consistent.</p> <p>The proposal includes provisions that facilitate the protection of environmentally sensitive areas. The proposal seeks to rezone part</p>

		<p>of the subject site as E2 Environmental Conservation to reflect its green corridor status.</p> <p>Flora and Fauna assessments have been undertaken on Lot 20 DP 579653 and on Lot 21 DP 579653. No threatened flora or fauna was identified on the land proposed for residential purposes. The assessments both state due to presence of cleared rural land, the site does not provide linkages or corridors between proximate areas of habitat.</p> <p>Recommendations from both of these reports are outlined in Section C. The recommendations and further assessment can be undertaken and implemented at the development application stage.</p>
2.2 Coastal Protection	This Direction applies when the proposal will affect land within the coastal zone, as defined in the Coastal Protection Act 1979.	<p>Consistent.</p> <p>The proposal is consistent with this direction and principles in the NSW Coastal Policy. In addition, further justification is provided by way of the proposals accordance with the Port Stephens Council, 2011, Karuah Growth Strategy, which gives consideration to the objective of this direction.</p>
2.3 Heritage Conservation	This direction applies when a relevant planning authority prepares a planning proposal.	<p>Consistent.</p> <p>An Aboriginal Archaeological assessment was undertaken for Lot 20 DP 579653. The assessment identified 3 Aboriginal objects; 2 isolated artefacts and a potential scarred tree.</p> <p>Consultation was undertaken with the Worimi Local Aboriginal Land Council, the Karuah Local Aboriginal Land Council and the Office of Environment and Heritage.</p> <p>Worimi Local Aboriginal Land Council confirmed strong willingness to ensure that these identified actions within Section 9 of this report are adhered to and items</p>

		<p>remain undisturbed.</p> <p>Office of Environment and Heritage has no objections to the proposed rezoning proceeding with respect to Aboriginal cultural heritage.</p> <p>Further investigations and an Aboriginal Heritage Impact Permit will need to be sought at the development application stage which should include the involvement of the Local Aboriginal Land Councils.</p>
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	This Direction applies as the part of the land is proposed residential.	<p>Consistent.</p> <p>The planning proposal is consistent with 3.1 Residential zones as it will make more efficient use of existing infrastructure and services and broaden the choice of locations available in the housing market.</p> <p>Further justification is also provided by way of the proposal's accordance with the Port Stephens Council, 2011, Karuah Growth Strategy, which gives consideration to the objective of this direction.</p>
4. HAZARD AND RISK		
4.4 Planning for Bushfire Protection	This Direction applies as the land is identified as bushfire prone.	<p>Consistent.</p> <p>A bushfire assessment was undertaken for Lot 20 DP 579653, the recommendation of which was the subject site could accommodate buildings on site once active safe guards were adopted in accordance with AS3959-1999.</p> <p>NSW Rural Fire Service raised some concerns, however were satisfied the proposed rezoning is capable of meeting the requirements of this direction. NSW Rural Fire Service expects further investigations and detail be given at the development application stage to demonstrate compliance (see Section D).</p>

		To satisfy the comments raised in the Rural Fire Service submission an additional addendum was submitted in August 2016 which provided an update on the bushfire assessment for Lot 20 DP 579653 and part of Lot 21 DP 579653 the supporting addendum shows the development is capable of accommodating the required APZ and capable of providing a secondary point of access.
5. REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	This direction applies when a relevant planning authority prepares a planning proposal.	Consistent. The proposal is consistent with the objectives contained within the Department of Planning and Environment, 2016, Hunter Regional Plan.

SECTION C – Environmental, Social and Economic Impact

7. 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?

Flora and Fauna assessments have been undertaken on the proposed residential portion of Lot 20 DP 579653, the most recent being dated February 2013 (RPS Australia), and Lot 21 DP 579653 (July 2015, Joy Hafey Environmental Consultants). Both reports identified no threatened flora or fauna on the site proposed to be rezoned for residential purposes. Due to presence of cleared rural land, the areas do not provide linkages or corridors between proximate areas of habitat and is considered substantially ecologically degraded with low conservation values.

The southern side of the subject sites (part 308 Tarean Road) is proposed to be rezoned to an environmental protection zone to protect the native vegetation of high conservation value. This is consistent with the Port Stephens Council, 2011, Karuah Growth Strategy and Office of Environment and Heritage, 2009, Lower Hunter Regional Conservation Plan as this southern site is identified a primary biodiversity corridor.

Under the Koala Habitat Planning Map (2007) the subject sites are identified as "Mainly Cleared" with "Marginal Koala Habitat" occurring within the southern and western boundaries. The Flora and Fauna assessment undertaken assessed Lot 20 DP 579653 against the Port Stephens Comprehensive Koala Plan of Management. The Flora and Fauna Report for Lot 21 DP 579653 makes an assessment against SEPP44, however does not mention the Port Stephens Council, 2002, Comprehensive Koala Plan of Management. Natural Resources reviewed the Flora and Fauna Report for Lot 21 DP 579653 and were satisfied with the planning proposals overall outcome. This advice was based on the Office of Environment and Heritage's

submission (detailed in Section D of this report) and the fact that the majority of Lot 21 DP 579653 will be protected by an environmental zone.

Overall, given the disturbed nature of the site it would be possible for future development to meet the Comprehensive Koala Plan of Management provided that the layout including roads, open space and building envelopes consider the existing trees on site.

Recommendations were made within both Flora and Fauna assessments to enhance ecological attributes of the site, it was encourage that these be considered during the development design phase. These were outlined as:

- Adequate controls to protect creek line and vegetation outside of the development footprint including fencing, sediment control devices and oil traps during construction and operational phases of the development;
- Adequate measures should be taken to discourage the dumping of rubbish on site to prevent degradation to the creek line;
- Native trees should be retained on site where possible;
- Landscaping of this site should aim to utilise locally occurring flowering/fruited native shrubs that would provide potential foraging resources for threatened species and other protected native species. Tree planting should consider the use of preferred koala food trees, such as *Eucalyptus tereticornis* (Forest Red Gum), *Eucalyptus parramattensis* (Parramatta Red Gum) and *Eucalyptus robusta* (Swamp Mahogany);
- Removal of noxious weeds and environmental weeds with the rehabilitation and regeneration of vegetation in the environmental protection zone.

The above recommendations and further assessment can be undertaken and implemented at the development application stage.

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

The Aboriginal Heritage Assessment was conducted on Lot 20 DP 579653 and identified two isolated artefacts and a scarred tree on the subject sites, the isolated artefacts being two Stone Flakes. The investigation identified the need to protect the items via buffer zones in the development of the subdivision layout. The Aboriginal Due Diligence Assessment recommends the lot layout be amended to ensure all identified objects are not harmed and to advise all of a person's obligations under the *National Parks and Wildlife Act 1974*. The concept layout plan in its current form will likely disturb a stone flake artefact as a result of the road access construction. If this is the case, appropriate permits will need to be obtained before any development assessment investigation.

Consultation was undertaken with the Worimi Local Aboriginal Land Council and the Karuah Local Aboriginal Land Council. Worimi Local Aboriginal Land Council confirmed strong willingness to ensure that recommendations made within the Aboriginal Due Diligence Assessment are adhered to and items remain undisturbed.

Office of Environment and Heritage had no objections to the proposed rezoning proceeding with respect to Aboriginal cultural heritage but requested an Aboriginal Heritage Impact Permit be sought by the proponent at the development application stage which should include the involvement of the Local Aboriginal Land Councils.

The NSW Rural Fire Service identified some issues but was satisfied these can be addressed in further detail at the development application stage. The proposed rezoning is capable of meeting the requirements of the Section 117 Ministerial Directions. The additional information includes the treatment of the creek line and proposed water sensitive urban design, the proposed planting densities, types and maintenance program for the water sensitive urban design area.

An additional addendum was submitted in August 2016 to satisfy some of the issues raised in the Rural Fire Service submission. The addendum was an update on the bushfire assessment for Lot 20 DP 579653 and part of Lot 21 DP 579653. The supporting addendum shows the development is capable of accommodating the required APZ and capable of providing a secondary point of access.

Contamination

A preliminary Contamination Assessment (2014) was undertaken on both sites that lists the following recommendations:

- The site should be kept secure to minimise the potential for illegal dumping. This is currently the case and will remain secure.
- A Phase 2 Contamination Assessment, including sampling and laboratory analysis, is carried out to quantify the risks posed by the complete and potentially complete exposure pathways. This will be completed during the development application stage.
- An Environmental Management Plan is implemented during construction of the building envelopes in order to manage on site fill and to account for unexpected finds.

The report states there is a low risk for contaminated soil and surface water to be present in the southern portion of the site and the report concludes no further investigations are required across this area of the site at this stage.

9. Has the planning proposal adequately addressed any social and economic effects?

Yes, the proposals could result in an addition of up to 155 lots. The preliminary concept plan shows approximately 72 lots.

The social impacts of the proposal include a potential increase in the supply of housing and possible community reaction to the rezoning. One submission was received during the public exhibition process which is outlined in Part 5 of this report.

A revised transport access and mobility report was provided in August 2016 to update based on new data available, an updated development footprint and combined the previous supporting studies (such as the traffic assessment and access and mobility study). The report concluded the traffic and parking arrangements for the proposal are satisfactory. The report recommended the following:

- Vehicular access to the site is proposed direct from the Old Pacific Highway via a single intersection that will replace the current driveway that serves the subject development site. Access to the land will be available via a single Give Way controlled intersection on the Old Pacific Highway;
- It is recommended that the 60 km/h urban speed limit be extended south beyond the subject site's proposed access intersection to reflect the amended urban boundary of the town of Karuah;
- Require connectivity to the town centre via suitable pedestrian and cycling links;
- An off road link between the subject site and George Street should be considered to provide an alternative route for cyclists and pedestrians to centre of Karuah to the east of the site;
- Suitable bus infrastructure will be provided to meet the needs of school students and will be reviewed as part of the detailed design stage subject to actual growth and demand for services in the village.

These recommendations should be addressed in any subsequent development application. Additionally, it is recommended access to individual lots via internal roads and further investigation for a future pedestrian and cycleway link directly to the east into the adjoining residential subdivision be considered as part of the development application process.

The economic effects are:

- Potential employment creation associated with the construction and ongoing occupation of any dwelling on the site.
- Additional land supply may increase market competition.
- New residents would likely lead to an increase in demand for local goods and services. This would be a positive for local businesses.

Great Lakes Council was consulted as Karuah is split between Port Stephens Council and Great Lakes Council. Great Lakes Council raised no matters of concern or objection to the planning proposal.

SECTION D – State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

The Karuah Growth Strategy states Karuah currently has adequate infrastructure for housing delivery in the short to medium term.

Ausgrid has been consulted as both subject lots have an Ausgrid overhead power line. Ausgrid advised that the easements protecting this asset should be retained and that in the event of any future development on the newly created subdivision, that no structure be erected within the easement without

the prior approval of Ausgrid. All rights associated with that easement would also be required to be retained in its notation of the title of the new lots.

A Water and Wastewater Assessment concluded that there is sufficient capacity within Port Stephens Water Supply System to meet the proposed additional demand of 72 lots. The wastewater assessment concluded site is located in the Karuah 5 WWPS catchment area an upgrade is required to meet the entire wastewater flows from the proposed development. The Karuah 5 WWPS currently has some spare capacity to cater for approximately 55 lots of the 71 proposed. The assessment concludes a developer-funded wastewater servicing strategy will be required to determine the level of upgrades required for Karuah 5 WWPS.

Hunter Water was consulted and advised that there is currently sufficient capacity available in the water network to serve the proposed development, however, capacity availability and system performance varies over time. A detailed analysis will be undertaken upon lodgement of an application for a Notice of Formal Requirements.

Hunter Water was also consulted on the sewer network and advised there is some spare capacity to cater for approximately 55 lots of the 71 proposed. An upgrade will be required to connect the balance of the lots. A developer-funded servicing strategy will be required to determine the upgrades necessary to Karuah 5 WWPS to service the additional lots.

A Preliminary Stormwater Assessment concluded that stormwater infrastructure will be required on both sides of the drainage channel. This will include a collocated bio-retention and detention basin on both sides of the channel servicing the northern and southern developed catchments that discharge into the drainage channel. The configuration and viability of this strategy is subject to finished surface levels and detailed design. The stormwater assessment provides an indication of the stormwater management requirements for the site and proposes further details and design at the development application stage.

Flooding and Drainage

Council's IFM map shows that a natural valley (creek) runs through the site and identifies the valley as a flood prone land for further investigation. Council's Flooding and Drainage team has no objections to the planning proposal, however the following information be addressed in any subsequent development application:

- Flood levels and extend of the flooding for various frequencies of storm events including PMF;
- A 2-D hydraulic modelling is necessary to determine the hydraulic categories and extend of the flooding;
- Detailed hydrological and hydraulic analysis of external and internal catchment contribute runoff through this development area is required for pre and post development conditions;
- Altering the creek or valley with manmade channel may require easement through downstream properties. At present, there is no legal discharge point to discharge the developed and concentrated stormwater onto

downstream property/ies. Therefore, an appropriate easement is required through the downstream property to discharge the developed stormwater. Alternatively, predevelopment conditions of the natural valley area could be maintained and the stormwater discharge point/s for the development could be located within the proposed land for rezoning.

Connectivity to the adjacent existing subdivision can be achieved to encourage the walkability of future residential development. The proposed future development will be able to connect to existing public transport via provision of bus shelters or the like. The proposed future development will be able to implement pedestrian and cycling links to facilitate connectivity to the Karuah Town Centre in accordance with the recommendations of the Transport Access and Mobility Report (and previous supporting studies) completed for the sites.

11. What are the views of the State and Commonwealth public authorities consulted in accordance with the gateway determination?

The following is an overview of the consultation that has been undertaken, in February 2015, in accordance with the Gateway Determination:

Public Authority	Summary of Advice Received
Hunter Water	<p>Hunter Water originally provided advice on the 5 March 2015 based on the development estimate of an additional 33 lots.</p> <p>Because of the inconsistency between the additional information submitted on the proposed additional lots; a request was sent to Hunter Water to provide advice based on the development estimate of an additional 71 lots on the site. Advice was received on the 29 August 2016 which is summarised below.</p> <p>Water Supply The site of the proposed subdivision is located in the Port Stephens Water Supply System, and is supplied from the Karuah 2 Reservoir. The property has frontage to a DN150 AC water main along Tarean Road.</p> <p>There is currently sufficient capacity available in the water network to serve the proposed development, however, capacity availability and system performance varies over time. A detailed analysis will be undertaken upon lodgement of an application for a Notice of Formal Requirements.</p> <p>Wastewater Transportation The site of the proposed subdivision is located in the Karuah 5 Wastewater Pumping Station WWPS catchment area, which pumps into the Karuah 1 WWPS and is within the Karuah Wastewater Treatment Works (WWTW) catchment. The nearest sewer connection point to service</p>

	<p>this development is Manhole H94016, located adjacent to Karuah 5 WWPS. It appears that flows from the development may gravitate to this point; this should be confirmed by a field survey.</p> <p>The sewer network has some spare capacity to cater for approximately 55 lots of the 71 proposed in this application. An upgrade will be required to connect the balance of the lots. A developer-funded servicing strategy will be required to determine the upgrades necessary to Karuah 5 WWPS to service the additional lots.</p> <p>Water supply and wastewater transportation will only be confirmed upon submission of an application with Hunter Water to determine the formal requirements that shall apply.</p>
Office of Environment and Heritage (OEH)	<p>An Aboriginal Heritage Impact Permit was requested which should include full consultation with the Aboriginal community prior to works occurring. This can be conducted during the development application stage.</p> <p>The original advice from OEH on the 6 of March 2015 requested an addendum to the flora and fauna report to include an assessment of Lot 21 proposed to be rezoned R2 Low Density Residential and suggested an in perpetuity conservation outcome by committing to BioBanking for the proposed E2 zoning within Lot 21 DP 579653 to align with the intent of the Lower Hunter Regional Strategy Green Corridor and the goals of the Lower Hunter Regional Conservation Plan.</p> <p>Subsequently, a Flora and Fauna Assessment was carried out in July 2015 by Joy Hafey Environmental Consultants for 308 Tarean Road (Lot 21 DP 5796530). OEH reviewed this addendum on the 21 September 2015 and considered it to be satisfactory for the purposes of a planning proposal.</p> <p>Overall OEH has no objections to the proposed rezoning proceeding.</p>
Department of Primary Industries	<p>Department of Primary Industries (Agriculture) reviewed the planning proposal (February 2015) and did not object to the proposal. The Department noted a turkey farm on 314 Tarean Road which is currently not operating and a timber business, currently operating, on 312 Tarean Road. As such, the Department of Primary Industries proposed the lot layout should consider boundary interactions alongside Lot 21 DP 579653 to avoid land use conflicts.</p> <p>The Department suggested the best means of mitigation can be from screening and setbacks such as boundary separation and landscaping for conflict avoidance. These</p>

	<p>issues can be addressed at development application stage, prior to residential development occurring. It is acknowledged that compliance will be required for the relevant controls within the Port Stephens Development Control Plan (such as appropriate agricultural buffers).</p> <p>The Department of Primary Industries also referenced the Department of Environment and Conservation NSW, 2006, Assessment and management of odour from stationary sources in NSW to determine odour buffers for poultry; however, these setbacks are for operational industries. Nonetheless a Level 1 Odour Assessment was conducted on the site derived from the EPA Odour Calculator as discussed in the Department of Environment and Conservation NSW, 2006, Assessment and management of odour from stationary sources in NSW. The assessment made assumptions based on the size of the shed and demonstrate that the proposed development will not be impacted on by the existing sheds. The assessment concluded the required separation distance between the shed and would be 212.8sq.m (see assessment calculator under additional information: post-gateway studies). Based on this calculation there is no impact on the proposed residential component of the planning proposal.</p> <p>Consideration should be given to the design of the houses and boundary interactions with adjoining properties and businesses. It should include noise and odour considerations. Screening, setbacks, separation and landscaping may be required to mitigate and avoid landuse conflicts. This should occur before development occurs.</p>
Trade & Investment (Resources & Energy Division)	No issues with the proposal. It was noted Petroleum Exploration License (PEL) 2 held by Dart Energy (Apollo) Pty Ltd exists over a broad regional area including the subject site.
Worimi Local Aboriginal Land Council	Strongly requests an invitation to participate in all future site assessments, investigations and reports relating to (but not limited to) the Heritage listed items within the proposal at both sections 7 and 9. The Land Council requested the identified items to remain undisturbed (provided with a buffer zone) or otherwise negatively impacted (e.g. stone flakes are relocated and housed securely (subsurface) within the site). The scar tree is to remain undisturbed in its entirety.
Karuah Local Aboriginal Land Council	Requested further information regarding stormwater runoff from the site and the proposal be withheld until further advice was given. The Land Council was informed the Stormwater and Flooding Assessment includes stormwater quality controls to ensure that the water quality leaving the site meets the guidelines set by Port Stephens

	<p>Council for residential development and that the development is unlikely to impact on downstream receiving waters.</p> <p>Council's Flooding and Drainage Officer is satisfied the drainage information supplied is sufficient to use for rezoning as it demonstrates a solution can be achieved on the site and can be satisfied at development application stage.</p> <p>It is considered the additional advice given to the Karuah Local Aboriginal Land Council satisfactory addressed the concerns raised. No further issues were raised. Further consultation will be conducted at development application stage.</p>
Great Lakes Council	No matters of concern and therefore have no objection.
NSW Rural Fire Service	<p>Identified some issues, but were satisfied these issues can be addressed in further detail at the development application stage. The proposed rezoning is capable of meeting the requirements of the 117 Ministerial Directions.</p> <p>Additional information will be required at development application stage which includes:</p> <ul style="list-style-type: none"> • Further information in relation to the treatment of the creek line and proposed water sensitive urban design. If the creek line is proposed to be a vegetated riparian zone it may provide a sufficient future hazard for there to be consideration of Asset Protection Zone requirements. The proposed planting densities, types and maintenance programme for the water sensitive urban design area could pose a hazard typical of a grassland or freshwater wetland. • Further information to demonstrate the subdivision satisfies the Rural Fires Act 1997 and the Rural Fires Regulation 2013. • Further information to demonstrate a secondary point of access for the site. <p>An updated bushfire assessment was submitted in August 2016 to satisfy some of the issues raised in the Rural Fire Service submission. The addendum was an update on the bushfire assessment for Lot 20 DP 579653 and part of Lot 21 DP 579653. The supporting addendum shows the development is capable of accommodating the required APZ and capable of providing a secondary point of access.</p>
Ausgrid	Both affected lots are traversed by 132kV overhead power lines. Easements protect the asset and should be retained after any rezoning and any future development. No structure can be erected within the easement with prior

	<p>approval of Ausgrid.</p> <p>All rights associated with that easement would also be required to be retained in its notation of the title of the new lots.</p> <p>Ausgrid has no objection, provided easement terms and conditions are respected and noted on title for the newly created lots. Further consideration of this will be given at development application stage.</p>
Office of Water	<p>Was consulted in relation to the waterbody, which determined the waterbody as a dam, downstream end of the drainage feature. The planning proposal proposes a drainage line and if the dam was to be retained it would be for stormwater management purposes, however the exact detail of flooding and drainage would need to be addressed at the development application stage, including hydrological and hydraulic modelling and MUSIC water quality modelling of the proposal.</p> <p>If the dam is to be retained for stormwater management purposes, it may fit the definition of an Excluded Work pursuant to Schedule 1 of the Water Management (General) Regulation 2011; therefore a Water Access License will not be required.</p>

Part 4 – Mapping

The relevant mapping is listed under Part 2 – Explanation of the Provisions and included under Attachments.

Part 5 – Community Consultation

The planning proposal was exhibited from Thursday, 8 October to Thursday, 5 November 2015 (28 days) during normal business hours at the following locations:

- Council's Administration Building, 116 Adelaide St, Raymond Terrace
- Karuah Post Office, 404 Tarean Road, Karuah
- Port Stephens Council Website <www.portstephens.nsw.gov.au>

One submission was received during the exhibition period. The key concerns and responses to these comments are summarised below:

Comments	Planning Response
<p>The planning proposal proposes a pedestrian and cycle link to facilitate connectivity to the existing residential land on the eastern side of the site. This would mean accessing through a private carriageway. The proponent does not have a right of access over this carriageway to implement this connection.</p>	<p>Part of the original intention of the planning proposal was the creation of a connection to the existing residential area to the east. Acknowledge the concern raised in the submission, however it is not considered critical to the planning proposal given pedestrian connectivity can be provided by an extension to the existing pathway on Tarean Road. The connection point</p>

	<p>can be provided in the future if circumstances change.</p> <p>A connection from the proposed development to the town centre through the provision of pedestrian and cycling links is recommended and discussed in Section C of this report. It is proposed that these issues will be addressed at the development application stage.</p>
Site information states errors on what is currently sited on Lot 21 DP 579653.	The planning proposal (post-exhibition version) has been amended to correct these errors. This has no implications to the proposal.
Concerns regarding fencing. Requests clarification on who has responsibility to construct the fence around the site boundaries.	This is outside the scope of the planning proposal. Typically Council requires new development to provide fencing. This will be considered and satisfied at the development application stage.
The land proposed to be rezoned E2 Environmental Conservation also is proposed to have a minimum lot size of 40Ha. This is contrary to the actual total size of the lot being 30.4Ha.	Under the Port Stephens Local Environmental Plan 2013 the E2 Environmental Conservation Zone has a minimum lot size of 40ha. The minimum lot size map ensures the size of any lot resulting from subdivision of land is no less than 40Ha. Whilst no subdivision entitlement will be created as a result of the minimum lot size, this ensures the lot is consistent with the E2 Environmental Conservation Zone objectives by preventing fragmentation of the land.

Part 6 – Project Timeline

Pending Council's resolution to exercise its delegation and make the Plan the proposal will be forwarded to the Parliamentary Counsel to make the plan.

The proposal is following this timetable:

	Task Description	Timeline
1.	Council Report	August 2014
2.	Gateway Determination	September 2014
3.	Completion of required technical information	September 2015
4.	Public authorities consultation	September 2015
5.	Community consultation period	October – November 2015
6.	Consideration of submissions and finalise the draft plan	August 2016

7.	Report back to Council	December 2016
8.	Submission to Parliamentary Counsel with request to make the plan.	February 2017

Attachments

The following attachments are supplementary to this planning proposal:

- ATTACHMENT 1: Gateway Determination, Delegation & Extensions
- ATTACHMENT 2: Public Authority Responses
- ATTACHMENT 3: Existing Land Zoning Map
- ATTACHMENT 4: Proposed Land Zoning Map
- ATTACHMENT 5: Existing Lot Size Map
- ATTACHMENT 6: Proposed Lot Size Map
- ATTACHMENT 7: Existing Height of Building Map
- ATTACHMENT 8: Proposed Height of Building Map
- ATTACHMENT 9: Existing Urban Release Area Map
- ATTACHMENT 10: Proposed Urban Release Area Map
- ATTACHMENT 11: Council Minutes – 12 August 2014
- ATTACHMENT 12: Additional Information – Post-Gateway (supporting studies):

ATTACHMENT 1 - Gateway Determination, Delegation & Extensions

Gateway Determination

Planning Proposal (Department Ref: PP_2014_PORTS_005_00): to rezone lot 20 and part lot 21 DP 579653 from RU2 Rural Landscape to R2 Low Density Residential.

I, the General Manager, Hunter and Central Coast Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Port Stephens Local Environmental Plan (LEP) 2013 to rezone lot 20 and part lot 21 DP 579653 from RU2 Rural Landscape to R2 Low Density Residential should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to:
 - (a) ensure lot and DP references reflect the correct lot and DP, ie lot 20 DP 579653 and lot 21 DP 579653;
 - (b) amend the planning proposal to include all of lot 21 DP 579653;
 - (c) amend the Objectives to state the desired strategic planning outcomes the planning proposal intends to achieve for the site, including the protection of the green corridor;
 - (d) amend the Explanation of Provisions to include an appropriate environmental zone to the part of lot 21 which forms part of the green corridor;
 - (e) amend the Explanation of Provisions to note that the residential zoned part of the site will be mapped as an Urban Release Area and prepare a map accordingly;
 - (f) include in the planning proposal an assessment against the matters listed in clause 8 of SEPP 71 Coastal Protection and s117 direction 2.2 Coastal Protection;
 - (g) undertake a preliminary investigation into contamination as required by clause 6 of SEPP 55 Remediation of Land and update the planning proposal accordingly; and
 - (h) include in the planning proposal maps showing the existing zone, lot size and height controls that apply to the site.

2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Planning & Infrastructure 2013)*.

3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - Hunter Water Corporation
 - Office of Environment & Heritage (green corridor, s117 direction 2.1, direction 2.3, direction 5.1 as well as SEPP 44 - Koala Habitat Protection)
 - Department of Primary Industries (Agriculture) (s117 direction 1.2, direction 1.5 as well as SEPP (Rural Lands) 2008)
 - Trade & Investment (Resources & Energy Division) (s117 direction 1.3)
 - Local Aboriginal Land Council
 - Great Lakes Council
 - NSW Rural Fire Service (s117 direction 4.4)
 - Energy Australia (transmission line)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. Once the consultation is undertaken with the public authorities, and information is provided, Council is to update its consideration of s117 Directions.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 18th day of September 2014.

David Rowland
General Manager
Hunter and Central Coast Region
Housing, Growth and Economics
Department of Planning and Environment

Delegate of the Minister for Planning



Mr Wayne Wallace
General Manager
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

PORT STEPHENS COUNCIL Information Services	
18 SEP 2015	
File No.	PSC2006-0815
Action by	JESSICA FRANKLIN
<input type="checkbox"/> R.H.C	

Our ref: 14/14759
Your ref: PSC 2015-00671

Dear Mr Wallace

Planning Proposal PP_2014_PORTS_005_00 Alteration of Gateway Determination

I refer to your letter of 9 September 2015 in relation to seeking an extension of time to complete Planning Proposal PP_2014_PORTS_005_00 for to rezone land from RU2 Rural Landscape to R2 Low Density Residential at 290 and 308 Tarean Road, Karuah.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the Environmental Planning and Assessment Act, 1979, to alter the Gateway determination dated 18 September 2014 for PP_2014_PORTS_005_00.

The Gateway Determination has been altered to extend the time to complete the proposal.

The Proposal is now due for completion by 25 March 2016.

If you have any questions in relation to this matter, I have arranged for Mr Ken Phelan to assist you. Mr Phelan can be contacted on (02) 4904 2705.

Yours sincerely

16 September 2015

**David Rowland
General Manager
Hunter and Central Coast Region
Planning Services**



Mr Wayne Wallis
General Manager
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

Our ref: 14/14759
Your ref: PSC 2015-00671

Dear Mr Wallis

Planning Proposal PP_2014_PORTS_005_00: Alteration of Gateway Determination

I refer to your letter of 21 March 2016 requesting revisions to Planning Proposal PP_2014_PORTS_005_00 including an extension of time to complete the Planning Proposal at 290 and 308 Tarean Road, Karuah.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the *Environmental Planning and Assessment Act 1979*, to alter the Gateway determination dated 18 September 2014 for PP_2014_PORTS_005_00. The Alteration of the Gateway determination and amended Written Authorisation to Exercise Delegations are enclosed.

The Gateway determination has been altered to extend the time to complete the proposal and include reference to the proposed E2 Environmental Conservation Zone.

The Proposal is now due for completion on 25 December 2016.

If you have any questions in relation to this matter, I have arranged for Mr Ken Phelan to assist you. Mr Phelan can be contacted on (02) 4904 2705.

Yours sincerely

22/4/2016
Monica Gibson
Director Regions, Hunter and Central Coast
Planning Services

Encl:
Alteration to Gateway Determination
Written Authorisation to Exercise Delegation



Alteration of Gateway Determination

Planning Proposal (Department Ref: PP_2014_PORTS_005_00)

I, Director Regions, Hunter and Central Coast at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(7) of the *Environmental Planning and Assessment Act 1979* ("EP&A Act") to alter the Gateway determination dated 18 September 2014 (as since altered) for the proposed amendment to the Port Stephens Local Environmental Plan 2013 as follows:

1. Change the description of the Planning Proposal
from 'Rezone 290 and part 308 Tarean Road, Karuah to residential'
to 'Rezone 290 and 308 Tarean Road, Karuah to R2 Low Density Residential and E2 Environmental Conservation'
2. Delete: condition [5] and replace with a new condition [5]:
'The timeframe for completing the LEP is by 24 December 2016'
3. Include the E2 Environmental Conservation zone in the delegation to Council.

Dated 22 day of April 2016.

Monica Gibson
Director Regions, Hunter and Central Coast
Planning Services

Delegate of the Minister for Planning



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Port Stephens Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2014_PORTS_005_00	Planning proposal to rezone 290 and 308 Tarean Road, Karuah to R2 Low Density Residential and E2 Environmental Conservation

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guideline for the preparation of local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 22 April 2016

Monica Gibson
Director Regions, Hunter and Central Coast
Planning Services



PORT STEPHENS COUNCIL Information Services	
23 DEC 2016	
File No.
Action by
<input type="checkbox"/> R.H.C

Our ref: PP_2014_PORTS_005 (14/14759)
Your ref: PSC 2015-00671

Mr Wayne Wallis
General Manager
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

Att: Jessica Franklin

Dear Mr Wallis

Planning Proposal PP_2014_PORTS_005_00 – Alteration of Gateway Determination

I refer to your letter of 15 December 2016 in relation to seeking an extension of time to complete Planning Proposal PP_2014_PORTS_005_00 for the rezoning and amendment of associated development controls of land at 290 and 308 Tarean Road, Karuah.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the Environmental Planning and Assessment Act, 1979, to alter the Gateway determination dated 18 September 2014 for PP_2014_PORTS_005_00.

The Gateway Determination has been altered to extend the time to complete the proposal.

The Proposal is now due for completion on 25 March 2017.

If you have any questions in relation to this matter, I have arranged for Ms Claire Brooks to assist you. Ms Brooks can be contacted on (02) 4927 3177.

Yours sincerely

Robert Hodgkins
A/Director Regions, Hunter and Central Coast
Planning Services
21/12/16

ATTACHMENT 2 – Public Authority Responses



145 Newcastle Road
Wallsend NSW 2287
All mail to PO Box 487
Newcastle NSW 2300
T +61 2 131 365
www.ausgrid.com.au

10 March 2015

Ms Jessica Franklin
Strategic Planner
Port Stephens Council
PO Box 42 Raymond Terrace, NSW, 2324

By email: Jessica Franklin (Jessica.Franklin@portstephens.nsw.gov.au)

Re: PSC 2006 – 0815: Planning Proposal – Lot 20 & 21 / DP 579653 - 290 & 308 Tarean Road, Karuah – response to notification under Section 56

Dear Jessica

Ausgrid has considered Council's proposed LEP amendment and rezoning of the above noted properties for the purpose of development.

Both affected lots are traversed by one of Ausgrid's 132kV overhead power lines.

We note that the easements protecting this asset should be retained after any rezoning, and that in the event of any future development on the newly created subdivision, that no structure can be erected within the easement without the prior approval of Ausgrid.

All rights associated with that easement would also be required to be retained in its notation of the title of the new lots.

The plan document attached to your notification shows that proposed Lots 1, 2, 3, 5, 7 and Lot 21/ DP 579653 on the diagram titled *Figure2, Concept Layout Plan from Proponents Planning Proposal*, would be encumbered by the easement and subject to the above-noted considerations.

As long as these conditions are met, Ausgrid has no objection to the proposed rezoning of the properties.

Yours sincerely

Senior Area Development Manager

From: Andrew Helman <andrew.helman@trade.nsw.gov.au>
Sent: Friday, 27 February 2015 9:58 AM
To: Jessica Franklin
Subject: TRIM: Proposed Rezoning 290 and 308 Tarean Road Karuah - Geological Survey of NSW

Good afternoon Jessica,

Thank you for the opportunity to comment on the above planning proposal.

NSW Trade & Investment - Geological Survey of NSW (GSNSW) has no issues to raise with the proposal.

GSNSW notes Petroleum Exploration License (PEL) 2 held by Dart Energy (Apollo) Pty Ltd exists over a broad regional area including the subject site.

Regards,

Andrew Helman | Geoscientist - Minerals and Land Use Assessment
NSW Trade & Investment | Division of Resources and Energy | Geological Survey of NSW
516 High Street | Maitland NSW 2320 | PO Box 344 | Hunter Region Mail Centre NSW 2310
T: 02 49 31 6572 | E: andrew.helman@trade.nsw.gov.au
W: www.trade.nsw.gov.au | www.resourcesandenergy.nsw.gov.au



This message is intended for the addressee named and may contain confidential information. If you are not the intended recipient, please delete it and notify the sender. Views expressed in this message are those of the individual sender, and are not necessarily the views of their organisation.



TRIM: OUT15/4176

Jessica Franklin
Strategic Planner
Port Stephens Council
jessica.franklin@portstephens.nsw.gov.au

Dear Ms Franklin

S56 Public Authorities Consultation - Rezone 290 and 308 Tarean Road Karuah

Thank you for your correspondence of the 13 February 2015, NSW Primary Industries – Agriculture NSW has reviewed the planning proposal and provides the following advice.

The design for housing will need to consider the boundary interactions along the access to the properties alongside Lot 21 DP 579653. Number 312 Tarean Road appears to be a timber business and 314 Tarean Road also has a poultry shed (Attachment 1).

Truck movements along this access could cause noise complaints and if the poultry shed is operating these would include late night truck movements and a potential odour source. Council will need to ensure that these businesses, if still operating, are not jeopardised through restricting standard practices, screening and setbacks may be required to mitigate. The EPAs odour technical notes can assist to determine setbacks to poultry for residential housing
<http://www.epa.nsw.gov.au/resources/air/20060441notes.pdf>

The best means of avoiding conflict along boundaries is separation and / or landscaping (Attachment 2). The above issues should be addressed before residential development occurs.

Thank you for providing the opportunity to comment on the planning proposal.

Yours sincerely

Andrew Docking
Resource Management Officer
Department of Primary Industries
Agriculture NSW
23 February 2015

Attachment 1: Poultry shed near planning proposal.



Attachment 2: Example of buffers between agriculture and residential development. British Columbia Guide to Edge Planning, http://www.aqf.gov.bc.ca/resmgmt/sf/publications/823100-2_Guide_to_Edge_Planning.pdf





General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE, NSW 2324

Contact Alison Collaros
Phone 02 4904 2527
Fax 02 4904 2503
Email alison.collaros@dpi.nsw.gov.au
Our ref ER23459

Attn: Jessica Franklin

Dear Ms Franklin

Comment on Planning Proposal – Rezoning Lots 20 and 21, DP 579653, 290 and 308 Tarean Road, Karuah

Thank you for providing the Office of Water an opportunity to comment on the Planning Proposal for rezoning of Lots 20 and 21, DP 579653. Office of Water has reviewed the Planning Proposal and supporting documentation and has undertaken a desktop assessment to determine whether waterfront land is present onsite.

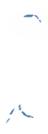
Based on assessment of the information provided, Office of Water has determined that the drainage feature traversing the north-eastern portion of Lot 20 is not considered to be a river for the purposes of the Water Management Act 2000 (WM Act), therefore the site is not considered to be waterfront land. Controlled Activity Provisions under Section 91 of the WM Act are therefore not applicable.

It is noted that a dam is present adjacent the eastern boundary of the site at the downstream end of the drainage feature. The dam is not currently licensed under the WM Act. If the dam is to be retained for water supply purposes the proponent will be required to obtain a Work Approval and Water Access Licence (WAL) pursuant to the WM Act.

If the dam is to be retained for stormwater management purposes, it may fit the definition of an Excluded Work pursuant to Schedule 1 of the Water Management (General) Regulation 2011. Excluded works do not require approval under the WM Act, and a WAL will not be required.

If you require further information please contact Alison Collaros, Senior Water Regulation Officer on (02) 4904 2527.

Yours sincerely


Mitchnell Isaacs
Manager, Strategic Stakeholder Liaison
16 April 2015

From: Roger Busby <Roger.Busby@greatlakes.nsw.gov.au>
Sent: Monday, 23 February 2015 2:05 PM
To: Jessica Franklin
Subject: TRIM: RE: S56 Public Authorities Consultation - Rezone 290 and 308 Tarean Road Karuah - GLC - Part 1

Dear Jessica,

Thank you for inviting Council to comment on the planning proposal.

There are no matters of concern to Council and we therefore have no objection.

Regards

Roger Busby
Manager Strategic Planning
Planning and Environmental Services
Great Lakes Council
Ph: 02 65917254

From: Jessica Franklin [<mailto:Jessica.Franklin@portstephens.nsw.gov.au>]
Sent: Friday, 13 February 2015 2:13 PM
To: Alexandra Macvean
Subject: S56 Public Authorities Consultation - Rezone 290 and 308 Tarean Road Karuah - GLC - Part 1

Afternoon Alexandra,

In accordance with Section 56(2)(d) of the Environmental Planning and Assessment Act 1979, you are invited to comment on this proposal. A copy of the relevant material is attached for your information (sent in 2 parts due to mail size restrictions).

The proposal seeks to rezone the lots from RU2 Rural Landscape to part R2 Low Density Residential and part E2 Environmental Conservation.

It would be appreciated if any written comments could be sent to Council by **Friday 6 March 2015**. Please notify Council should you require additional time. Should no response be received during this time it will be assumed that no objection is raised.

Please contact me if you require any additional information.

Kind Regards,

Jessica Franklin
Strategic Planner



Phone: 4980 0141 Fax: 4987 3612
Email: jessica.franklin@portstephens.nsw.gov.au
Web: www.portstephens.nsw.gov.au



Hunter Water Corporation
ABN 46 228 513 446

PO Box 5171
HRMC NSW 2310
36 Honeysuckle Drive
NEWCASTLE NSW 2300
1300 657 657 (T)
(02) 4979 9468 (F)
enquiries@hunterwater.com.au
hunterwater.com.au

5 March 2015

Ref: 2015-151/2.003

The General Manager
Port Stephens Council
PO Box 42
Raymond Terrace 2324

Attention: Jessica Franklin

Dear Jessica

PLANNING PROPOSAL – 290 AND 308 TAUREAN ROAD, KARUAH

Thank you for your letter of 13 February 2015 seeking Hunter Water's comments on a Planning Proposal for 290 and 308 Taurean Road, Karuah, to enable rezoning of the site for residential purposes and environmental protection. Hunter Water values the opportunity to comment on the draft amendment and accordingly offers the following comments.

General information on water and sewer issues relevant to the proposal is included in this correspondence. This information is based on Hunter Water's knowledge of its system performance and other potential development in the area at the present time.

This advice is not a commitment by Hunter Water and may be subject to significant change prior to the development proceeding. General information on the provision of Hunter Water funded and delivered infrastructure may also be provided. This advice may also change substantially due to a range of factors. In particular, you should note that water and sewer systems are dynamic by nature and, as such, capacity availability and system performance varies over time. As a consequence, the advice provided herein regarding servicing availability is indicative only. A detailed analysis of available capacity will be undertaken upon lodgement of a Notice of Formal Requirements.

If the rezoning is approved and you proceed with a development application, you will need to lodge a further application with Hunter Water to then determine the formal requirements that shall apply. Hunter Water will then issue a **Notice of Formal Requirements**. You will need to comply with each of the requirements in this Notice for the issue of a Section 50 Compliance Certificate for the specific development.

The development is estimated to place an additional 33 Equivalent Tenements on the water supply and wastewater systems. As a result of this analysis, the following information is offered.

Water Supply

The site of the proposed subdivision is located in the Port Stephens Water Supply System, and is supplied from the Karuah 2 Reservoir.

The property has frontage to a DN150 AC watermain along Tarean Road. The maximum height within the development is at approximately RL 18m AHD. A location of the watermain is shown in **Attachment 1**.

Currently there appears to be sufficient capacity in the water supply network system for the proposed rezoning and subsequent development, although this will only be confirmed upon submission of an application with Hunter Water to determine the formal requirements that shall apply.

Wastewater Transportation

The site of the proposed subdivision is located in the Karuah 5 Wastewater Pumping Station WWPS catchment area, which pumps into the Karuah 1 WWPS and is within the Karuah Wastewater Treatment Works (WWTW) catchment.

The nearest sewer connection point to service this development is Manhole H94016, located adjacent to Karuah 5 WWPS. It appears that flows from the development may gravitate to this point. A location of the sewer connection point is shown in **Attachment 2**.

There appears to be sufficient capacity within the sewer network for the proposed rezoning and subsequent development although, once again, this will only be confirmed upon submission of an application with Hunter Water to determine the formal requirements that shall apply.

Hunter Water has no objections to the rezoning proposal, but the developer will have to continue to liaise with Hunter Water to ensure that the site is effectively serviced.

Should you require further clarification or assistance please do not hesitate to contact me on (02) 4979 9545.

Yours faithfully

Malcolm Withers
Senior Developer Services Engineer



Attachment 1: Water Supply Connection Point



Attachment 2: Wastewater Connection Point

From: karuah LALC <karuahaboriginal@bigpond.com>
Sent: Wednesday, 4 March 2015 2:21 PM
To: Jessica Franklin
Subject: TRIM: RE: Friendly Reminder - Section 56 Public Authorities Consultation - Rezone 290 & 308 Tarean Road Karuah

Dear Jessica,

The Land in question is before our board for consideration, one of the questions presented is, what happens to the runoff? If these things are to be a part of the natural drainage then this enters our Land Holdings therefore we are deeply concerned for as you are probably aware we have endured previous problems through the mission and the Heritage area of the Dam. I do therefore suggest until further advice that, until we view further schematic plans that it be withheld from approval.

Lennie Anderson
CEO
Karuah LALC

From: Jessica Franklin [<mailto:Jessica.Franklin@portstephens.nsw.gov.au>]
Sent: Wednesday, 4 March 2015 9:14 AM
To: karuahaboriginal@bigpond.com
Subject: Friendly Reminder - Section 56 Public Authorities Consultation - Rezone 290 & 308 Tarean Road Karuah

Hi Mr Anderson,

Please be advised, as per previous correspondence sent on the 13 February, submissions to comment on the rezoning at 290 and 308 Tarean Road Karuah are due by Friday the 6 March. Should no response be received during this time it will be assumed no objection is raised. Please let me know if you require additional time.

Kind Regards,

Jessica Franklin
Strategic Planner



Phone: 4980 0141 Fax: 4987 3612
Email: jessica.franklin@portstephens.nsw.gov.au
Web: www.portstephens.nsw.gov.au

From: Jessica Franklin
Sent: Friday, 13 February 2015 1:19 PM
To: David Feeney (karuahaboriginal@bigpond.com)
Subject: TRIM: S56 Public Authorities Consultation - Rezone 290 and 308 Tarean Road Karuah - KLALC - Part 1

To Mr Anderson,

In accordance with Section 56(2)(d) of the Environmental Planning and Assessment Act 1979, you are invited to comment on this proposal. A copy of the relevant material is attached for your information (sent in 2 parts due to mail size restrictions).

The proposal seeks to rezone the lots from RU2 Rural Landscape to part R2 Low Density Residential and part E2 Environmental Conservation.

It would be appreciated if any written comments could be sent to Council by **Friday 6 March 2015**. Please notify Council should you require additional time. Should no response be received during this time it will be assumed that no objection is raised.

Please contact me if you require any additional information.

Kind Regards,

Jessica Franklin
Strategic Planner



Phone: 4980 0141 Fax: 4987 3612

Email: jessica.franklin@portstephens.nsw.gov.au

Web: www.portstephens.nsw.gov.au

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NSW RURAL FIRE SERVICE



The General Manager
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

Your reference:
Our reference: LEP/0102

17/03/2015

Attention: Jessica Franklin

Dear Sir / Madam

Planning Instrument for Section 56 Public Authorities Consultation – Rezone 290-308 Tarean Road Karuah

Reference is made to Council's letter dated 16 February 2015 seeking advice for the above Planning Instrument in accordance with the *Environmental Planning and Assessment Act 1979*.

In accordance with section 56(2) of the *Environmental Planning & Assessment Act 1979*, the NSW Rural Fire Service (RFS) provides the following comments:

- The proposal is for the rezoning of lands from RU2 Rural Landscape to R2 Low Density Residential and E2 Environmental Conservation. The review has been applied to consider the proposals ability to meet with the requirements of Direction No. 19 of Section 117 of the *Environmental Planning and Assessment Act 1979*. It is assumed that the proposed rezoning will be limited to residential development and there will be no components which are considered special fire protection purposes (for example schools, child-care or short term accommodation).
- The proposed rezoning is capable of meeting the requirements of Direction No. 19, however, the information provided does not adequately demonstrate how it is proposed to. The following areas were found to be of concern or lacking in sufficient detail to be sure of their compliance when reviewed under Section 100B of the *Rural Fires Act 1997* and Reg 44 of the *Rural Fires Regulation 2013*.
- The vegetation assessment is not against the accepted methods in the NSW Rural Fire Service document *Planning for Bush Fire Protection 2006* (Keith or Specht). There is insufficient information relating to the treatment of the creek line and proposed water sensitive urban design (WSUD). If the creek line is a water course which will be a vegetated riparian zones providing a sufficient future hazard for there to be consideration of Asset Protection Zone (APZ) requirements. Similarly the proposed planting densities, types and maintenance programme for the WSUD area could pose a hazard typical of a grassland or freshwater wetland.
- While the access and egress can comply there is currently only one way in and out which forms a pinch point between the main hazard along the western boundary and the potential hazard from the WSUD or remediated riparian corridor. It would be advisable for the safe evacuation of future occupants and access and egress of emergency service vehicles that there be exploration into provision of a secondary point of access.
- There is sufficient space to provide APZs as currently required in *Planning for Bush Fire Protection 2006*. However, consideration will need to be given to the provision of APZs which comply with the requirements of *Planning for Bush Fire Protection 2006* which are provided wholly within the lot boundaries when applying for a Bush Fire Safety Authority at the subdivision stage.

Postal address

NSW Rural Fire Service
Records Management
Locked Bag 17
GRANVILLE NSW 2141

Street address

NSW Rural Fire Service
Glendenning Customer Service Centre
42 Lamb Street
GLENDENNING NSW 2761

T 1300 NSW RFS
F (02) 8867 7983

www.rfs.nsw.gov.au

Email: csc@rfs.nsw.gov.au

For any queries regarding this correspondence, please contact Joshua Calandra on 1300 679 737.

Yours sincerely

A/Team Leader Development Assessment and Planning
Customer service Centre (East)

From: Andrew Smith <andrew@worimi.org.au>
Sent: Friday, 13 February 2015 7:55 PM
To: Jessica Franklin
Subject: RE: S56 Public Authorities Consultation - Rezone 290 and 308 Tarean Road Karuah - WLALC - Part 1

Dear Jessica,

Thank you for your email.

Please accept this email as first correspondence in response to the Proposal as requested.

NOTE: A copy of the Tarean Rd Proposal (as provided) has been passed onto the WLALC Board for their review and comment.

I bring your attention to Table 2 and Section 9 of the proposal and confirm our strong willingness to ensure that these identified actions are adhered to and items remain undisturbed (provided with a buffer zone) or otherwise negatively impacted e.g. stone flakes are relocated and housed securely (subsurface) within the site. The scar tree is to remain undisturbed in it's entirety.

PROPOSAL EXTRACT:

Table 2: Relevant s.117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implications
2. ENVIRONMENT AND HERITAGE		
2.3 Heritage Conservation	<i>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</i>	<i>An Aboriginal Archaeological assessment was undertaken for the site. The assessment identified 3 Aboriginal objects; 2 isolated artefacts and a potential scarred tree. Further consultation with the Office of Environment and Heritage be undertaken post Gateway determination to ensure the protection of these artefacts. Further investigations and consideration to also be given at the development application stage.</i>

Section 9.

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

The Aboriginal Heritage Assessment identified two isolated artefacts and a scarred tree on the subject sites, the isolated artefacts being two Stone Fakes. The investigation identified the need to protect the items via buffer zones in the development of the subdivision layout. The Aboriginal Due Diligence Assessment recommends the lot layout be amended to ensure all identified objects are not harmed and to advise all of a person's obligations under the National Parks and Wildlife Act 1974. The concept layout plan in its current form will likely disturb a stone flake artefact as a result of the road access construction. If this is the case, appropriate permits will need to be obtained before any development assessment investigation. It is suggested that further consultation with the Office of Environment and Heritage be undertaken post Gateway determination to ensure the protection of these artefacts. Further investigations and consideration will also be given at the development application stage.

RESPONSE: The WLALC strongly requests an invitation to participate in all future site assessments, investigations and reports relating to (but not limited to) the Heritage listed items within the proposal at both sections 2.3 and Section 9.

Please contact me if you have any further questions in relation to this request.

Regards,

Andrew Smith

Chief Executive Officer

Worimi Local Aboriginal Land Council

2163 Nelson Bay Rd Williamstown NSW 2318

PO Box 56 Tanilba Bay NSW 2319 Ph | 02 40338812 Fx | 02 4033 8899 | andrew@worimi.org.au



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PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL



Office of
Environment
& Heritage

Your reference: PSC2006-0815
Our reference: DOC15/47960-08
Contact: Ziggy Andersons, 4908 6820

Mr Wayne Wallis
General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324

Attention: Jessica Franklin

Dear Mr Wallis

RE: PLANNING PROPOSAL – 290 AND 308 TAREAN ROAD KARUAH – PORT STEPHENS LGA

I refer to your letter dated 13 February 2015 seeking comment from the Office of Environment and Heritage (OEH) regarding the above planning proposal. OEH understands that the proposal is to amend the zoning of Lot 20 DP579653 and Lot 21 DP579653 from RU2 Rural Landscape to a combination of R2 Low Density Residential and E2 Environmental Conservation for the above lots. OEH has reviewed the planning proposal and has provided comments relating to biodiversity, and Aboriginal cultural heritage below.

Biodiversity

The site occurs within the Lower Hunter Regional Strategy 2006 (LHRS) Watagans to Stockton Green Corridor where rezoning for residential development is excluded. However, OEH understands that Council is justifying this proposal under the Karuah Growth Strategy (2011) as per the Department of Planning and Environment's recommendations.

OEH notes that no ecological (or Aboriginal cultural heritage) assessments have been conducted within Lot 21. OEH suggests that these investigations are conducted within Lot 21 as the large waterbody within the lot is potential habitat for a number of wetland birds and amphibians, in addition there is the potential that *Callistemon linearifolius* could occur within the lot due to the proximity of existing records.

OEH notes that the majority of Lot 20 is in a disturbed state, however, at the time of the survey there was 0.74 hectares of native vegetation and potential habitat in addition to what occurs within Lot 20. As outlined in 'NSW 2021: A plan to make NSW number one', the overarching goal for conservation in NSW is to protect our natural environment through protecting and conserving land, biodiversity and native vegetation. Within the relevant legislation and policy (*Threatened Species Conservation Act 1995*, *Native Vegetation Act 2003*, Regional Strategies and Regional Conservation Plans), this means that biodiversity and other environmental values must be 'improved or maintained'. That is, gains in biodiversity and other environmental values must be greater than or equal to any losses resulting from land clearing and / or other forms of environmental degradation, this is particularly relevant for this site as it occurs within the LHRS Green Corridor. Where impacts cannot be avoided, a reasonable attempt should be made to minimise the impact as much as possible. After all feasible measures have been taken to avoid or mitigate impacts to biodiversity, offsets should be used to compensate for any remaining impacts in order to achieve an 'improve or maintain' outcome for the proposal.

OEH's preference is to deal with all matters of significance at the land rezoning stage with the intent of simplifying and streamlining any subsequent development application process. As this proposal occurs within the LHRS Green Corridor OEH's expectation is that any proposed offsets will result in a conservation outcome within the Green Corridor and that they will be conserved in perpetuity.

To quantify the offset requirements for a development, OEH suggests that a proponent use the BioBanking Assessment Methodology (BBAM) under the NSW Government's Biodiversity Banking and Offsets Scheme, as outlined in the 'BioBanking Assessment Methodology' (OEH 2014). This would provide a quantitative assessment of the required ecosystem and species credits that need to be retired to offset the impacts of the development. Further information on the BioBanking Assessment Methodology is available at: www.environment.nsw.gov.au/biobanking/index.htm.

OEH understands through informal discussions with Council that the owner of Lot 21 is considering BioBanking the remainder of the southern portion of this lot. OEH supports this, however, no commitment has been given by the landholder to undertake this action. As such, considering that the proposal constitutes a rezoning within the Green Corridor, OEH suggests that by committing to BioBanking the proposed E2 zoning within Lot 21 the proposal is more in line with the intent of the LHRS Green Corridor and the goals of the Lower Hunter Regional Conservation Plan. It should be noted that OEH has no expectation regarding the retirement and or sale of the credits generated but it would like to see an in perpetuity conservation outcome on the remainder of the Lot.

Aboriginal Cultural Heritage

OEH has reviewed the '*Aboriginal Heritage Due Diligence Assessment for a proposed residential development at Lot 20 DP579673 Old Pacific Highway, Karuah NSW, report to Hunter Development Brokerage, Maitland NSW, November 2012, prepared by Myall Coast Archaeological Services*'. OEH concurs with the basic recommendations that the development where possible should be designed to avoid impacting the AHIMS Registered Aboriginal object and sites. However, given the nature of the proposed development, OEH recommends that an Aboriginal Heritage Impact Permit (AHIP) be sought by the proponent to manage the proposed impacts to Aboriginal cultural heritage located within the development footprint.

Due to the type and number of Aboriginal objects and sites that have been recorded within Lot 20 a due diligence assessment would be considered appropriate. OEH has no objections to the proposed rezoning proceeding with respect to Aboriginal cultural heritage, however, it should be noted that an AHIP will need to be sought from OEH including full consultation with the Aboriginal community prior to any development works occurring.

If you have any enquiries concerning this advice, please contact Ziggy Andersons, Conservation Planning Officer, on 4908 6820.

Yours sincerely

6 MAR 2015

Senior Team Leader Planning, Hunter Central Coast Region
Regional Operations

From: [Ziggy Andersons](#)
To: [Jessica Franklin](#)
Subject: TRIM: RE: TRIM: RE: Planning Proposal - 290 to 308 Taurean Road Karuah
Date: Monday, 21 September 2015 10:48:00 AM
Attachments: [image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)

Heya Jessica,

Overall I am satisfied with the adequacy of the report titled 'Fauna & Flora Assessment Assessments of Significance Lot 21, DP 579653 Tarean Road, Karuah' prepared by Joy Hafey Environmental Consultant for Mr T. Potter of Hunter Development Brokerage Pty Ltd. In addition I am satisfied that the vegetation and associated habitat within the proposed R2 zoned portion of Lot 21 will not need to be offset to achieve an improve or maintain outcome.

My key concerns with the site were whether *Callistemon linearifolius* and other threatened species were present within the portion of Lot 21 that is proposed to be rezoned R2. I have assumed that Joy Hafey is familiar with this species and would have identified it if it was present within the site. In regards to *C. linearifolius* it would have been more appropriate to include it in the 7-part test rather than *Grevillea parviflora* ssp. *parviflora*, however as this is a rezoning proposal the 7-part test isn't relevant anyway.

In regards to the description of the vegetation on the site, it should be noted that contrary to what was determined in the flora and fauna report the vegetation on the site does not qualify as Lower Hunter Spotted Gum Ironbark Forest. This is due to the site not falling within the Sydney Basin IBRA Region as per the determination for this community.

Regards,

Ziggy

Ziggy Andersons
Conservation Planning Officer
Hunter Central Coast Region
Regional Operations Group
Office of Environment and Heritage
Locked bag 1002 Dangar NSW 2309
T: 4927 3151
M: 0409 707 492
W: www.environment.nsw.gov.au

Please note new landline number

From: Jessica Franklin [mailto:Jessica.Franklin@portstephens.nsw.gov.au]
Sent: Friday, 18 September 2015 3:01 PM
To: Bath Richard

Cc: Andersons Ziggy

Subject: TRIM: RE: Planning Proposal - 290 to 308 Taurean Road Karuah

Hi Richard and Ziggy,

Please see attached the Flora and Fauna report for Lot 21 DP579653, as requested from your correspondence dated 6 March 2015.

Give me a call if you have any questions.

Regards,

Jessica Franklin | Strategic Planner

p (02) 4980 0141

w www.portstephens.nsw.gov.au



From: Richard Bath [<mailto:Richard.Bath@environment.nsw.gov.au>]

Sent: Thursday, 5 March 2015 5:32 PM

To: Jessica Franklin

Cc: Ziggy Andersons

Subject: TRIM: Planning Proposal - 290 to 308 Taurean Road Karuah

Hi Jessica

Please find attached OEH's comments on the above planning proposal. The original letter will be sent by post.

Regards

Richard Bath

Senior Team Leader Planning

Hunter Central Coast Region

Regional Operations Group

Office of Environment and Heritage

PO Box 488G Newcastle NSW 2300

T: 4908 6805

W: www.environment.nsw.gov.au

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From: [Malcolm Withers](#)
To: [Jessica Franklin](#)
Subject: RE: Hunter Water's comments on Planning Proposal for 290 and 308 Tarean Road, Karuah
Date: Monday, 29 August 2016 2:18:15 PM
Attachments: [image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[Letter - 2016-386 - Preliminary Servicing Advice - Karuah.pdf](#)

Good afternoon Jessica,

We have already considered a proposal for an additional 71 lots on this site (refer to Preliminary Servicing Advice to the applicant attached). In summary:

- There is currently sufficient capacity available in the water network to serve the proposed development, however, capacity availability and system performance varies over time. A detailed analysis will be undertaken upon lodgement of an application for a **Notice of Formal Requirements**.
- The sewer network has some spare capacity to cater for approximately 55 lots of the 71 proposed in this application. An upgrade will be required to connect the balance of the lots. A developer-funded servicing strategy will be required to determine the upgrades necessary to Karuah 5 WWPS to service the additional lots.

Regards

Malcolm Withers
Senior Developer Services Engineer | Hunter Water Corporation
36 Honeysuckle Drive Newcastle NSW 2300 | PO BOX 5171 HRMC NSW 2310
T 02 4979 9545 | M 0429 372 449 | Twitter: [@hunterwater](#)
malcolm.withers@hunterwater.com.au | hunterwater.com.au
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From: Jessica Franklin [mailto:Jessica.Franklin@portstephens.nsw.gov.au]
Sent: Monday, 29 August 2016 12:03 PM
To: Malcolm Withers <malcolm.withers@hunterwater.com.au>
Subject: RE: Hunter Water's comments on Planning Proposal for 290 and 308 Tarean Road, Karuah

Hi Malcolm,

We have a revision to planning proposal 290 and 308 Tarean Road, Karuah (RU2 Rural Landscape to part R2 Low Density Residential and part E2 Environmental Conservation).

Hunter Water's original advice dated 5 March 2015 (attached) was based on 33 lots. The concept plan has now been revised and proposes 72 lots. As such I will require a revised comment from Hunter Water based on this updated information and to confirm Hunter Water's advice given on the 5 May 2016 to the proponent.

I have attached the revised planning proposal, however because of email size limits I have included a link to dropbox for some of the attachments to the planning proposal:

<https://www.dropbox.com/sh/n4ude9n6uj3ycf4/AADBCByctychQ9I9OTEdYsIa?dl=0>.

Most relevant document aside from the planning proposal would be from page 190 under 'Additional Information-Post-Gateway', 'water and wastewater preliminary servicing advice, DGP, 15 August 2015'.

It would be appreciated if you could provide comment by 19 September 2016.

Please give me a call if you have any questions.

Kind Regards,

Jessica Franklin | Strategic Planner
p (02) 4980 0141
w www.portstephens.nsw.gov.au



From: Malcolm Withers [mailto:malcolm.withers@hunterwater.com.au]

Sent: Thursday, 5 March 2015 5:20 PM
To: Jessica Franklin
Subject: TRIM: Hunter Water's comments on Planning Proposal for 290 and 308 Taurean Road, Karuah

Good afternoon Jessica,

Please find attached Hunter Water's comments on Planning Proposal for 290 and 308 Taurean Road, Karuah.

Regards



Malcolm Withers
Senior Developer Services Engineer | Hunter Water Corporation
36 Honeysuckle Drive Newcastle NSW 2300 | PO Box 5171 HRMC NSW 2310
T 02 4979 9545 | F 02 4979 9711 | M 0429 372 449 malcolm.withers@hunterwater.com.au
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Hunter Water Corporation
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hunterwater.com.au

5 May 2016

Our Ref: 2016-386/2.002

Endurance Custodians P/L
C/- David Powell
PO Box 2398
Greenhills NSW 2323

Attention: David Powell

Dear David

PRELIMINARY SERVICING ADVICE FOR PROPOSED DEVELOPMENT - KARUAH

Thank you for your request for Hunter Water's preliminary servicing advice for the provision of water and sewer services to the proposed subdivision of 1 into 72 residential lots at Lot 20 and Lot 21 in DP 579653, 290 Tarean Road, Karuah.

General information on water and sewer issues relevant to the proposal is included in this correspondence. This information is based on Hunter Water's knowledge of its system performance and other potential development in the area at the present time.

Preliminary servicing advice is not a commitment by Hunter Water and may be subject to significant change prior to the development proceeding. General information on the provision of Hunter Water funded and delivered infrastructure may also be provided. This advice may also change substantially due to a range of factors. In particular, you should note that water and sewer systems are dynamic by nature and, as such, capacity availability and system performance varies over time. As a consequence, the advice provided herein regarding servicing availability is indicative only. A detailed analysis of available capacity will be undertaken upon lodgement of an application for a Notice of Formal Requirements.

If you proceed with a development application you will need to lodge a further application with Hunter Water to then determine the formal requirements that shall apply. Hunter Water will then issue a **Notice of Formal Requirements**. You will need to comply with each of the requirements in this Notice for the issue of a Section 50 Compliance Certificate for the specific development.

Hunter Water anticipates that the development will place an additional demand of approximately 72 Equivalent Tenements (ET) on the water supply and wastewater systems and has reviewed system capacity and performance on this basis. As a result, Hunter Water's preliminary advice is as follows:

Water Supply

The site of the proposed subdivision is located in the Port Stephens Water Supply System, and is supplied from the Karuah 2 Reservoir.

The property has frontage to a DN150 AC water main along Tarean Road. The location of the modelled connection point is shown in **Figure 1**.

There is currently sufficient capacity available in these mains to serve the proposed development, however, you should note that capacity availability and system performance varies over time. A detailed analysis will be undertaken upon lodgement of an application for a **Notice of Formal Requirements**.

Wastewater Transportation

The site of the proposed subdivision is located in the Karuah 5 WWPS catchment area, which pumps into the Karuah 1 WWPS and is within the Karuah WWTW catchment. The nearest sewer connection point to service this development is at access chamber H9416, located near Karuah 5 WWPS, and it appears that flows from the development may gravitate to this point, although you should confirm this by field survey. The location of this connection point is shown in **Figure 1**. Karuah 5 WWPS currently has some spare capacity to cater for approximately 55 lots of the 71 proposed in this application. An upgrade will be required to connect the balance of the lots. A developer-funded servicing strategy will be required to determine the upgrades necessary to Karuah 5 WWPS to service the additional lots.

As noted elsewhere in this correspondence, capacity availability and system performance varies over time. A detailed analysis will be undertaken upon lodgement of a **Notice of Formal Requirements**.

Wastewater Treatment

The proposed development falls within the Karuah Wastewater Treatment Works (WWTW) catchment. Whilst this development was not included in growth projections for this WWTW, Hunter Water's treatment facilities are continually reviewed and upgraded over time to meet demand from growth, and future capacity upgrades may be brought forward if required.

Financial Contribution

Dependent on the final connections and utilisation of capacity in Karuah 5 WWPS, it will be necessary to pay a reimbursement towards capacity uptake in this asset (and downstream rising main) which was constructed by another developer.

It is not possible to calculate reimbursement values at this time due to the tentative nature of information, connection points etc, and accordingly such calculations are usually deferred until definitive information is available. Please note that Hunter Water administers reimbursements for a maximum period of 15 years following hand over to Hunter Water.

Environmental Assessment

Please note that a Review of Environmental Factors will be required for any works external to a particular development site, or where the service design includes infrastructure or activities that may have environmental impacts that would not have been specifically addressed in the consent authorities assessment and determination of the proposed development. Examples may be the construction of new or augmented water and sewer pump stations, sewer vents, trunk mains, reservoirs, development in a Wastewater Treatment Plant buffer zone, or development in a water reserve. Furthermore, a Controlled Activity Approval will be required from the NSW Office of Water for any excavation within 40m of a water body or should groundwater be present.

Prior to commencement of environmental assessment please contact the Hunter Water Developer Services Group to confirm the scope and need for such an assessment. It is recommended to meet and agree these matters prior to the developer engaging the services of a design or environmental consultant. In addition, please refer to the Hunter Water Review of Environmental Factors Guidance Notes, located in the Building & Development section of the Hunter Water website. The document provides the minimum requirements and an example template for the preparation of a REF.

Entry onto another property to construct works

The extension of sewer to the development site will require entry to another property. In this case, you will need to arrange for entry and have evidence of consent by way of a signed Entry Permit with the affected landowner(s). Please refer to the attached 'Developer Works – Entry Onto Third Party Property Policy'.

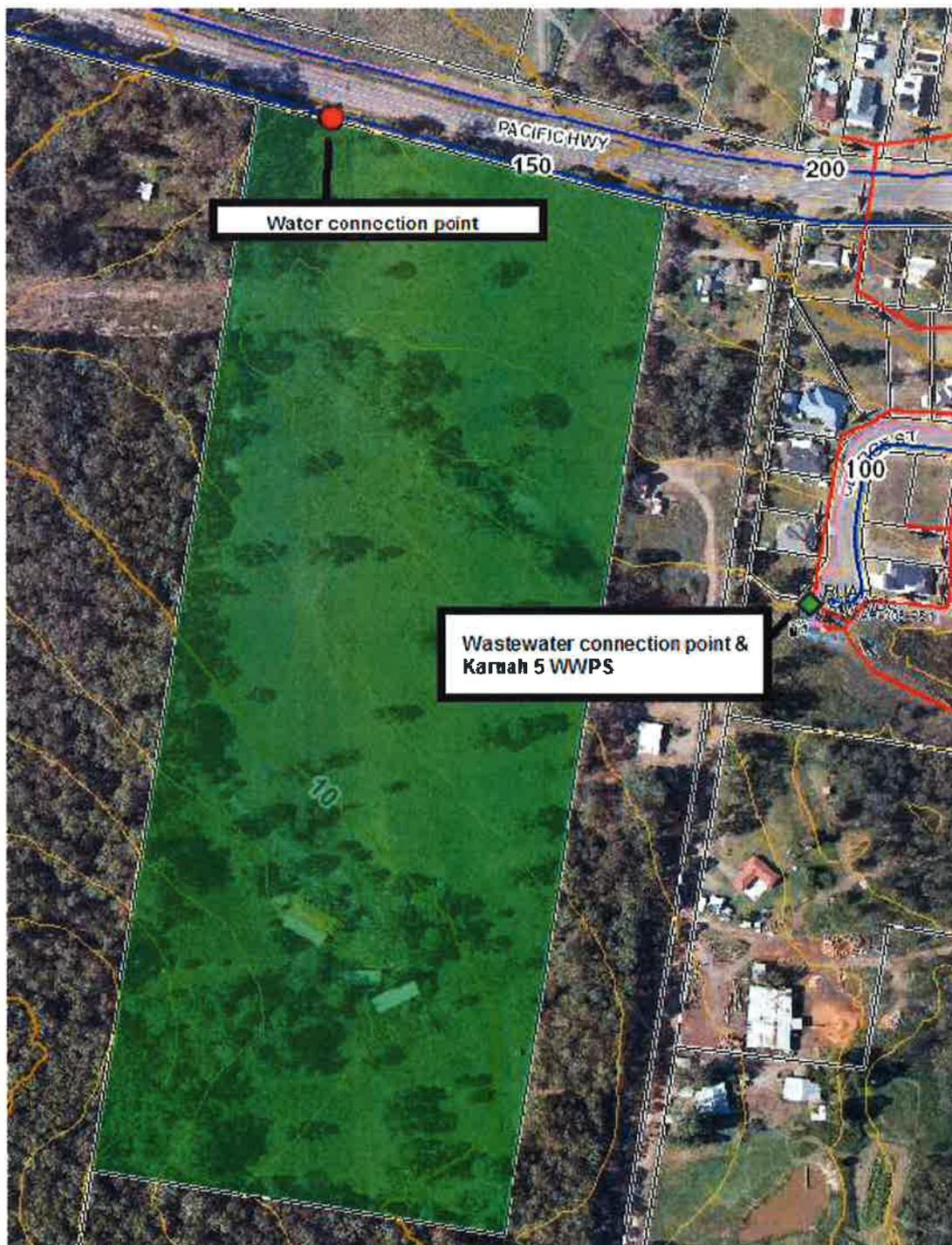
Should you require further clarification or assistance please do not hesitate to contact me on 4979 9545.

Yours Sincerely

Malcolm Withers
Senior Developer Services Engineer

Attached: Developer Works – Entry Onto Third Party Property Policy

Figure 1 – Water and Wastewater Points of Connection





DEVELOPER WORKS – ENTRY ONTO THIRD PARTY PROPERTY POLICY

PURPOSE

The purpose of this policy is to help achieve a balance between:

- a) A developer's commercial objectives; and
- b) The rights of Hunter Water's existing customers whose property is affected by the provision of water and sewer infrastructure to a development.

SCOPE

This policy applies to all developers who are proposing to alter, extend, or complete new infrastructure that will connect to Hunter Water's network and who need to enter someone else's property to complete these works.

POLICY STATEMENT

The developer is required to negotiate land entry with all impacted land owners, occupiers or other stakeholders in the land.

The developer must select a design that minimises any residual impacts over the land that they are seeking entry permission for, seek out the views of the impacted property owners, documenting that feedback, any objections and issues raised and modify the design of works to mitigate such impacts.

The developer must seek the views of Hunter Water as to the preferred network design and undertake all negotiations and complete any commercial negotiations as necessary.

Design Alternatives

The lowest capital cost network design and construction methodology may not represent an appropriate design solution to an impacted land owner. It may become necessary for the developer to consider various construction methods, alternative alignments, operational or maintenance methods that may necessitate modifying the network design to minimise or eliminate any residual impacts to the impacted property owner(s). In such circumstances the developer should inform Hunter Water of the proposed design amendments prior to offering any commitment to an impacted property owner of a particular design outcome.

Designs must comply with the WSAA Water and Sewer Design Standards Hunter Water Edition, as amended from time to time.

The role of the Developer

The developer is required to undertake all negotiations and where necessary enter commercial agreements, pay compensation, or provide in kind works on whatever basis is to the mutual satisfaction of the parties. Any commercial settlement offered by the developer is a matter for the developer to consider balancing their need to progress development with the needs of the land owner. Developers shall minimise disturbance and mitigate all adverse impacts where ever practical to do so. The developer must furnish to Hunter Water completed land entry permits executed by the impacted land owners as evidence of satisfactory conclusion being reached between the parties.

Generally compensation may be offered by the developer in the form of reinstatement, repair, construction of works, or monetary payment.

The role of Hunter Water

Hunter Water will not take part in, or be a party to, developer's commercial negotiations with impacted land owners and will not comment on the appropriateness of any commercial arrangement entered into by a developer.

Dispute Resolution

The impacted parties may dispute a compensation offer made by a developer necessitating further actions to resolve the dispute:

- a) The developer needs to obtain a registered valuer's valuation report that they used as the basis of the offer of compensation and offer it to the affected property owner or occupier;
- b) If the affected property owner or occupier wants to dispute this valuation then they will need to produce their own registered valuer's report and furnish it to the developer; and
- c) If the two parties still cannot resolve the dispute then it will be necessary for the parties to enter formal mediation or arbitration to resolve the matter.

Timing of Resolution

Compensation issues must be resolved before:

- a) Entry; or
- b) The work is accepted; or
- c) A Section 50 Compliance Certificate is issued or a bond is released.

APPLICATION OF POLICY

This policy applies to all developer funded network modifications on land other than that wholly owned by the developer.

POLICY ADMINISTRATION

Effective from	30 April 2014
Approved by	Managing Director
Policy Owner	Chief Customer Service Officer
Policy Administrator	Manager Developer Services
Last review date	30 April 2014
Next review date	30 April 2016
Version	2.0
File reference	HW2007-2963/1.002
Published externally	Yes'
Approval Signature	Managing Director

RELATED DOCUMENTS

Hunter Water Act 1991

Hunter Water Operating Licence

Hunter Water Customer Contract

Independent Pricing and Regulatory Tribunal Act 1992

Environmental Planning & Assessment Act 1979

ASSOCIATED REGULATIONS AND STANDARDS

None

DEFINITIONS, ACRONYMS AND ABBREVIATIONS

Term	Definition
Name	Details
Act	Hunter Water Act 1991 and any regulations in force under it (the Act)
Bond	An Agreement entered into between Hunter Water and a developer allowing for the early release of the Section 50 Compliance Certificate for a specific development in return for satisfactory security being lodged with Hunter Water.
Certificate (also Section 50 Compliance Certificate)	A certificate referred to in Section 50 of the Act
Development	Any activity relating to land that needs approval as specified in Section 50 of the Act
Guideline	A Hunter Water document that sets out how a Hunter Water policy is applied
Maintenance Structure	A structure on a sewer main that allows access to the sewer for maintenance, for example access chambers, ventilator (vent shaft) or maintenance shaft.
Entry Permit	A form that needs to be completed when a developer wants to go on to another person's property to construct works. Requires the land owners' signature as evidence of consent.



Mr Wayne Wallis
General Manager
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

Our ref: 14/ 14759
Your ref: PSC2006-0815

Attention: Ms Jessica Franklin

Dear Mr Wallis

Planning Proposal PP_2014_PORTS_005_00 – s.117 Direction consistency

I refer to your Council's correspondence regarding the Planning Proposal for 290 and 308 Tarean Road, Karuah (PP_2014_PORTS_005_00) and consistency with s.117 Directions 1.2 Rural Zones and 1.5 Rural Lands.

I have determined as delegate of the Secretary that the Planning Proposal's inconsistency with s.117 Directions 1.2 Rural Zones and 1.5 Rural Lands are of minor significance.

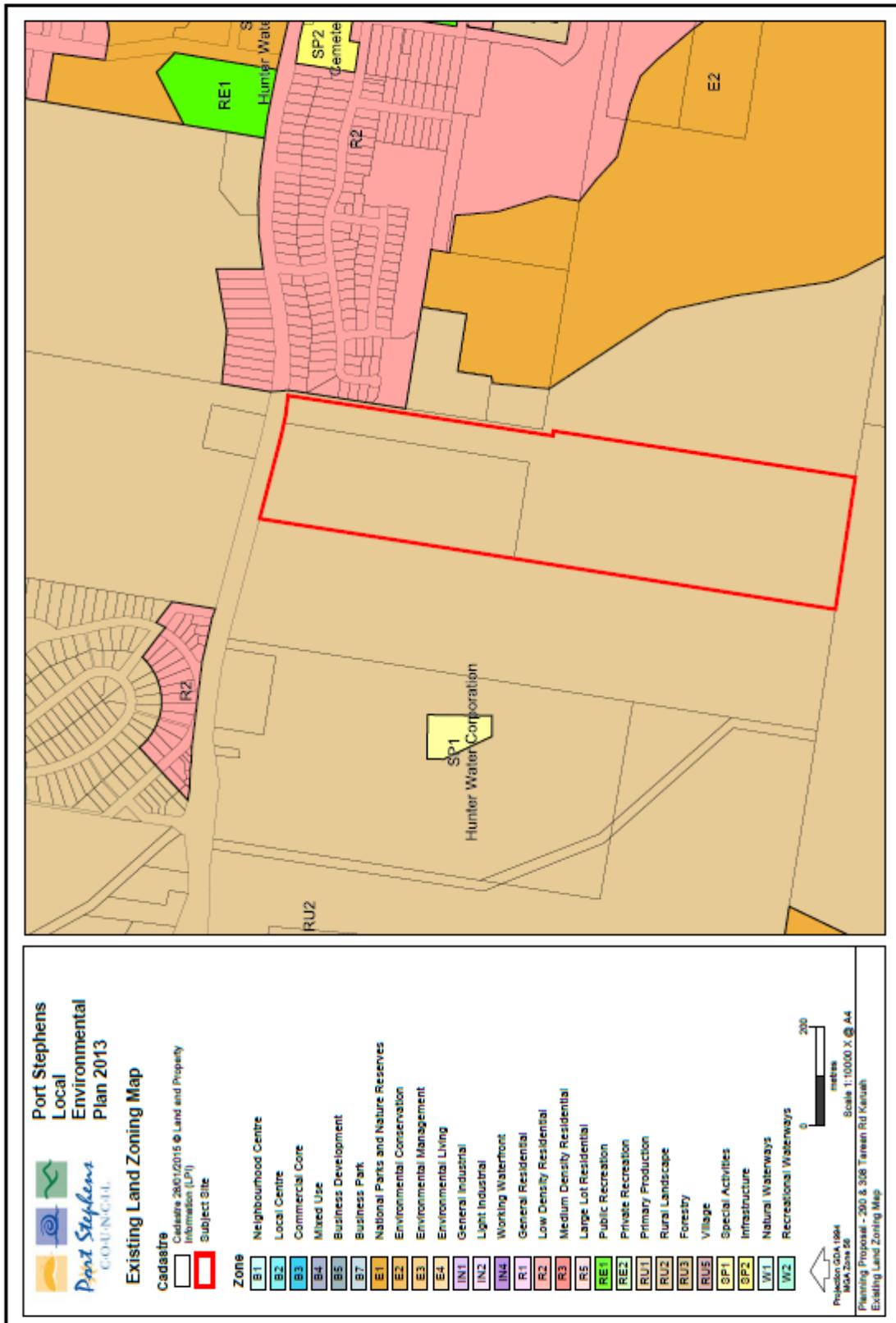
Should you have any questions regarding this matter, please contact Mr Ben Holmes of the Department's Hunter office on 4904 2709.

Yours sincerely

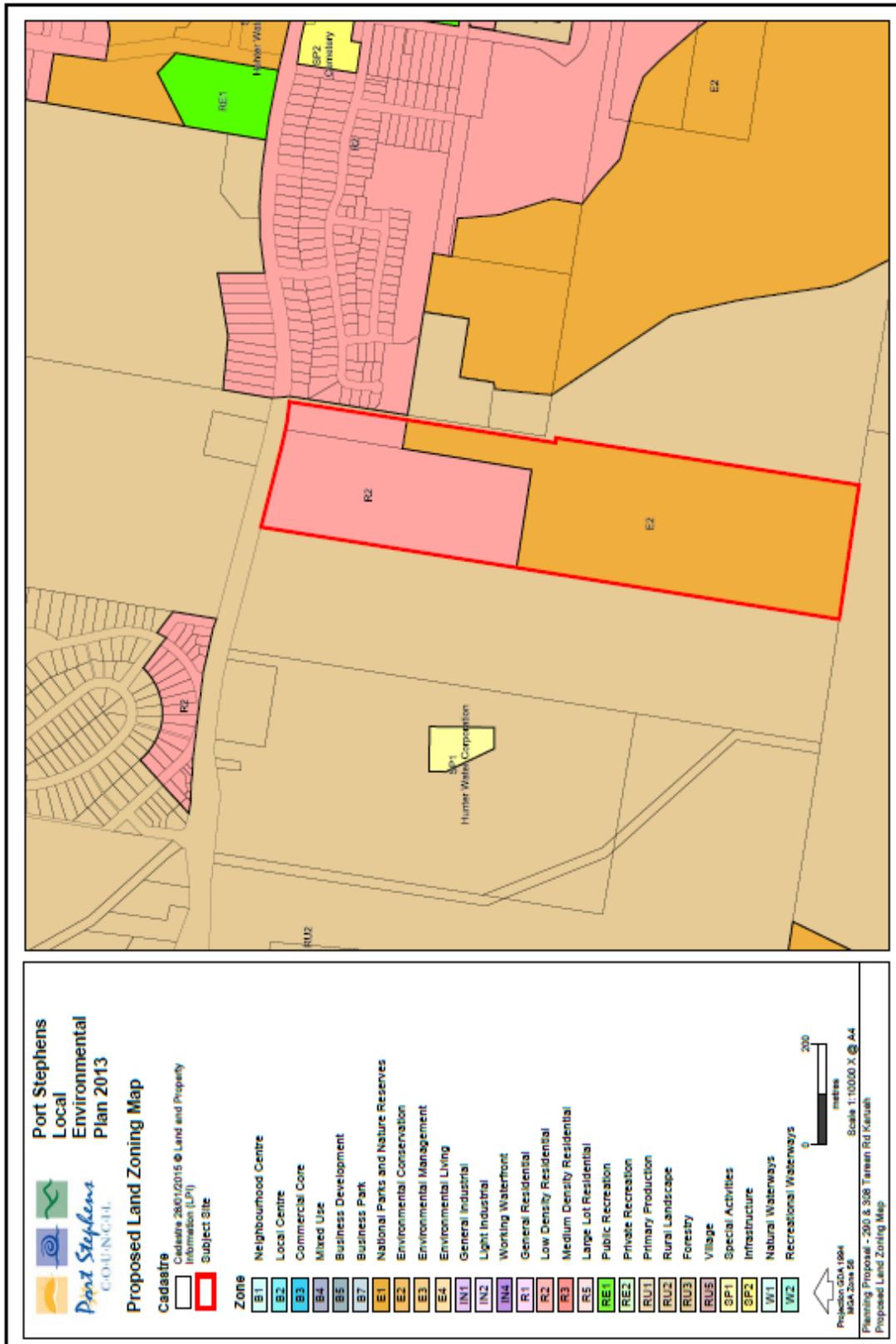
25/10/2016

Monica Gibson
Director Regions, Hunter and Central Coast
Planning Services

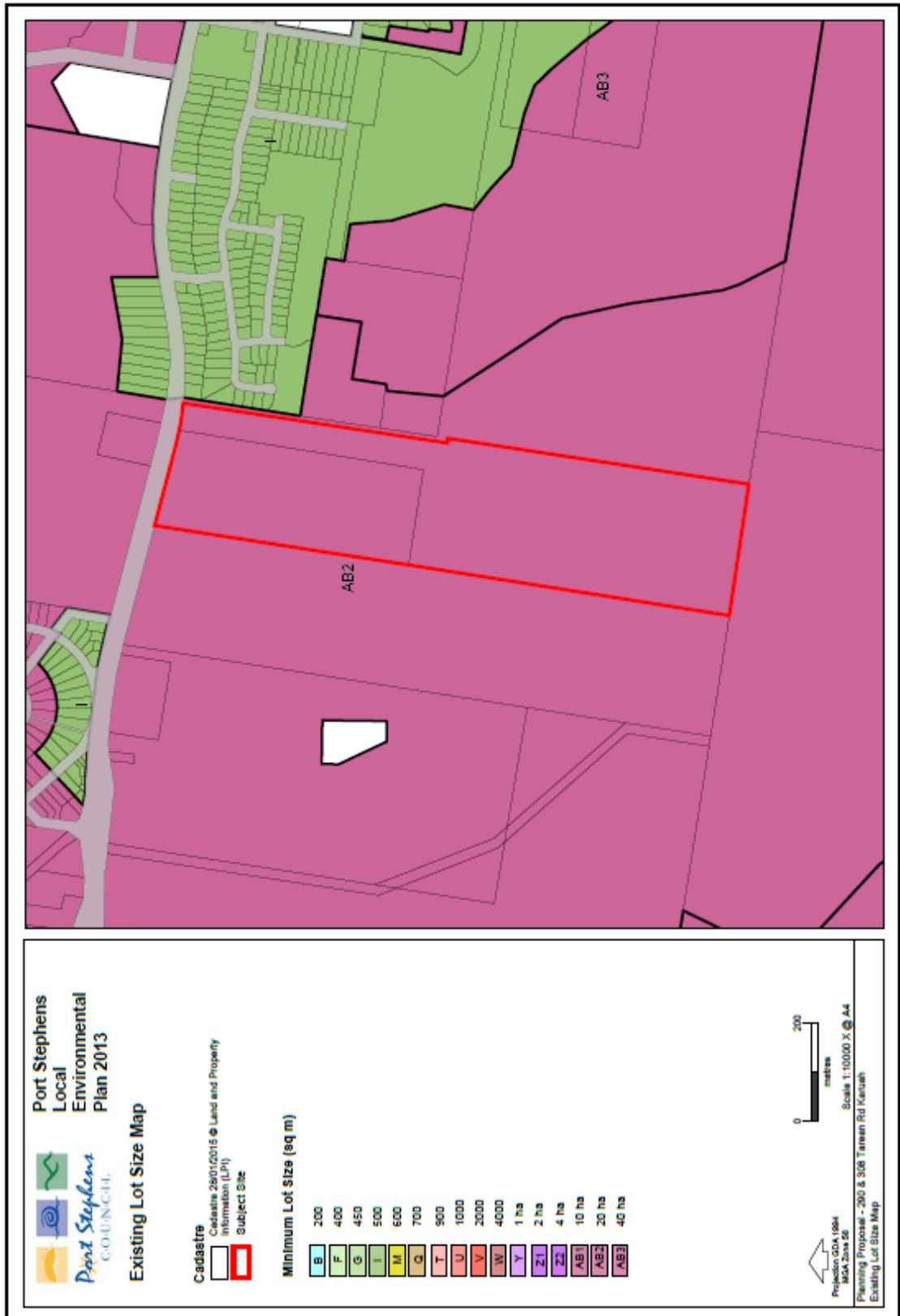
ATTACHMENT 3 - Existing Land Zoning Map



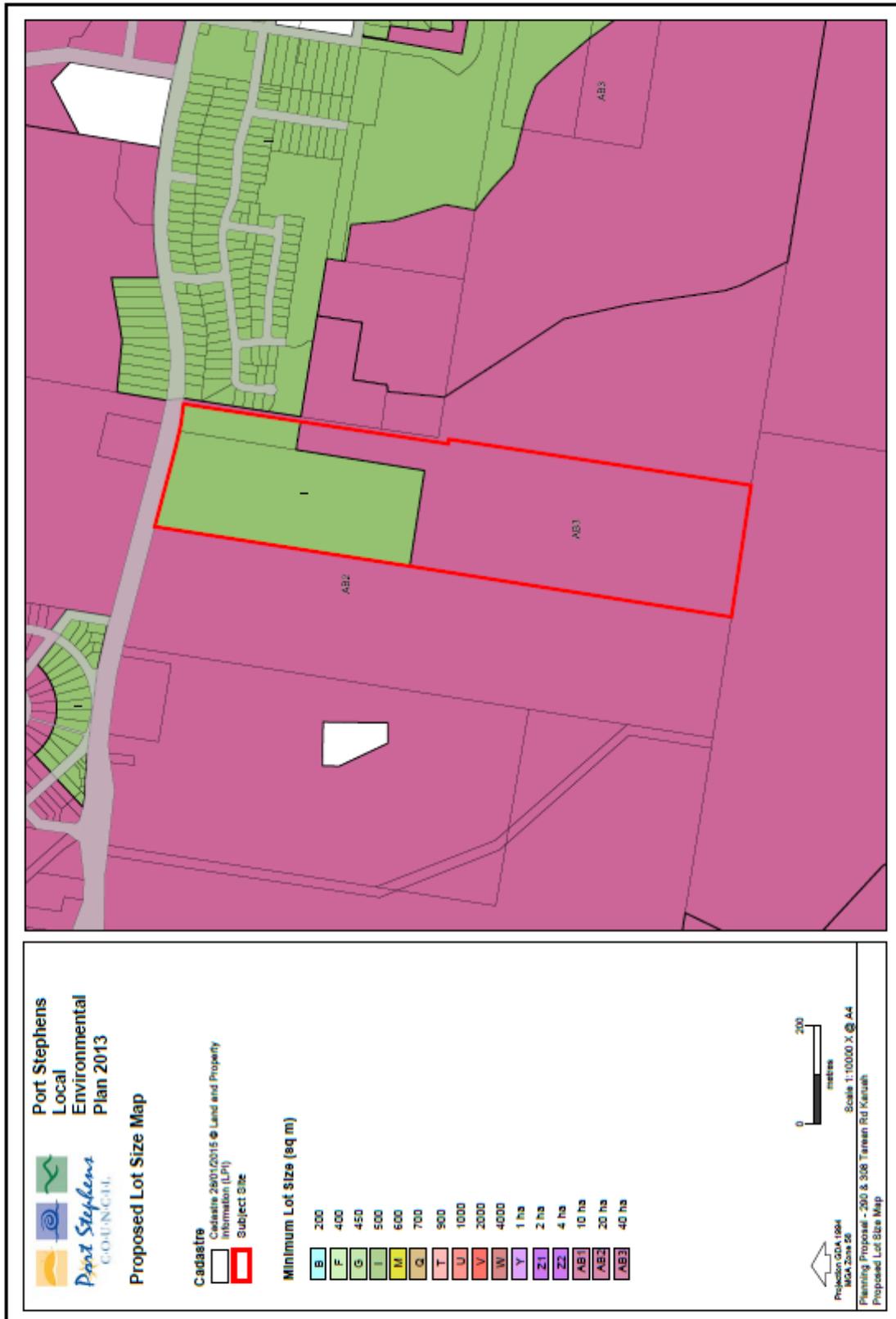
ATTACHMENT 4 - Proposed Land Zoning Map



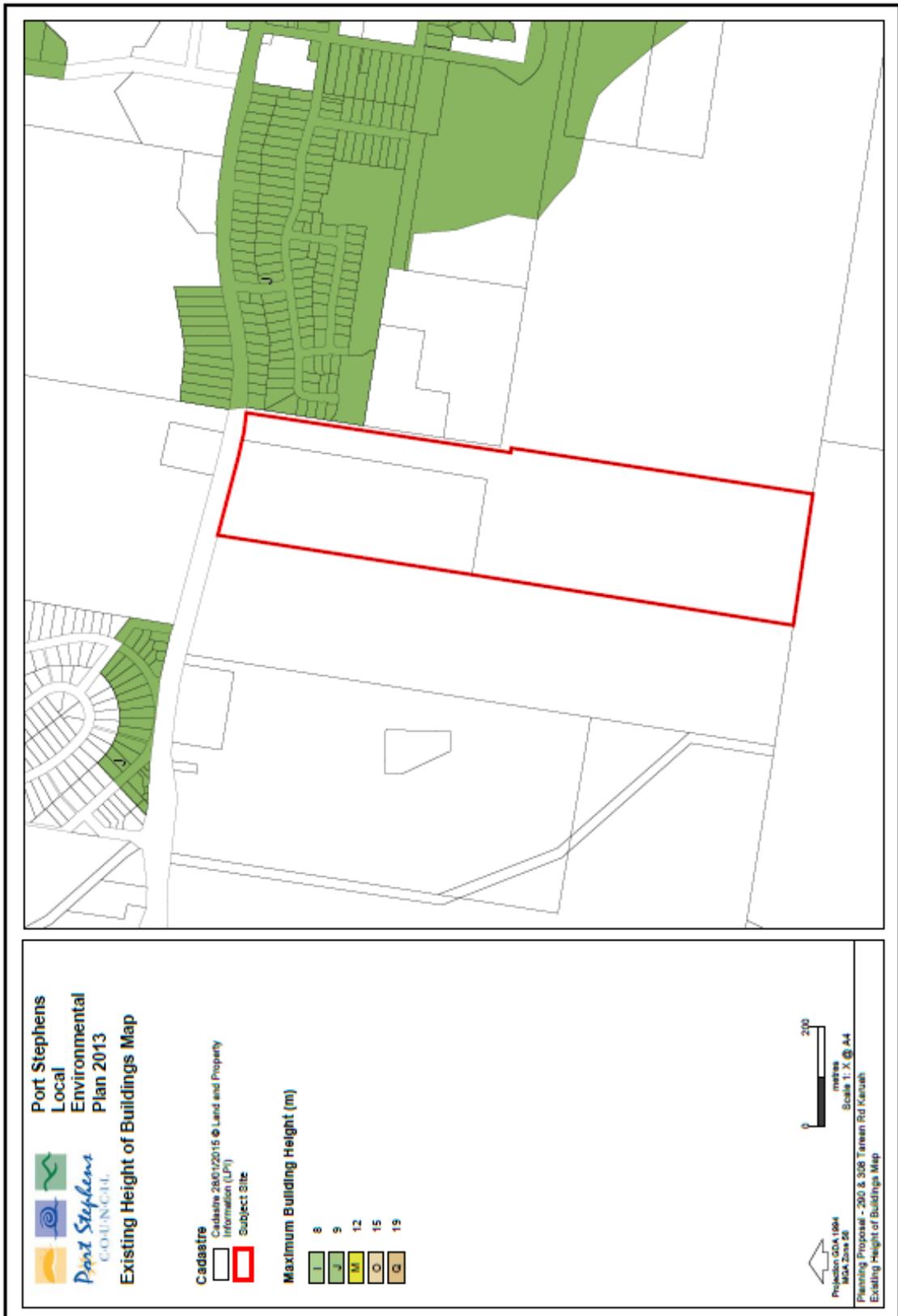
ATTACHMENT 5 - Existing Lot Size Map



ATTACHMENT 6 - Proposed Lot Size Map



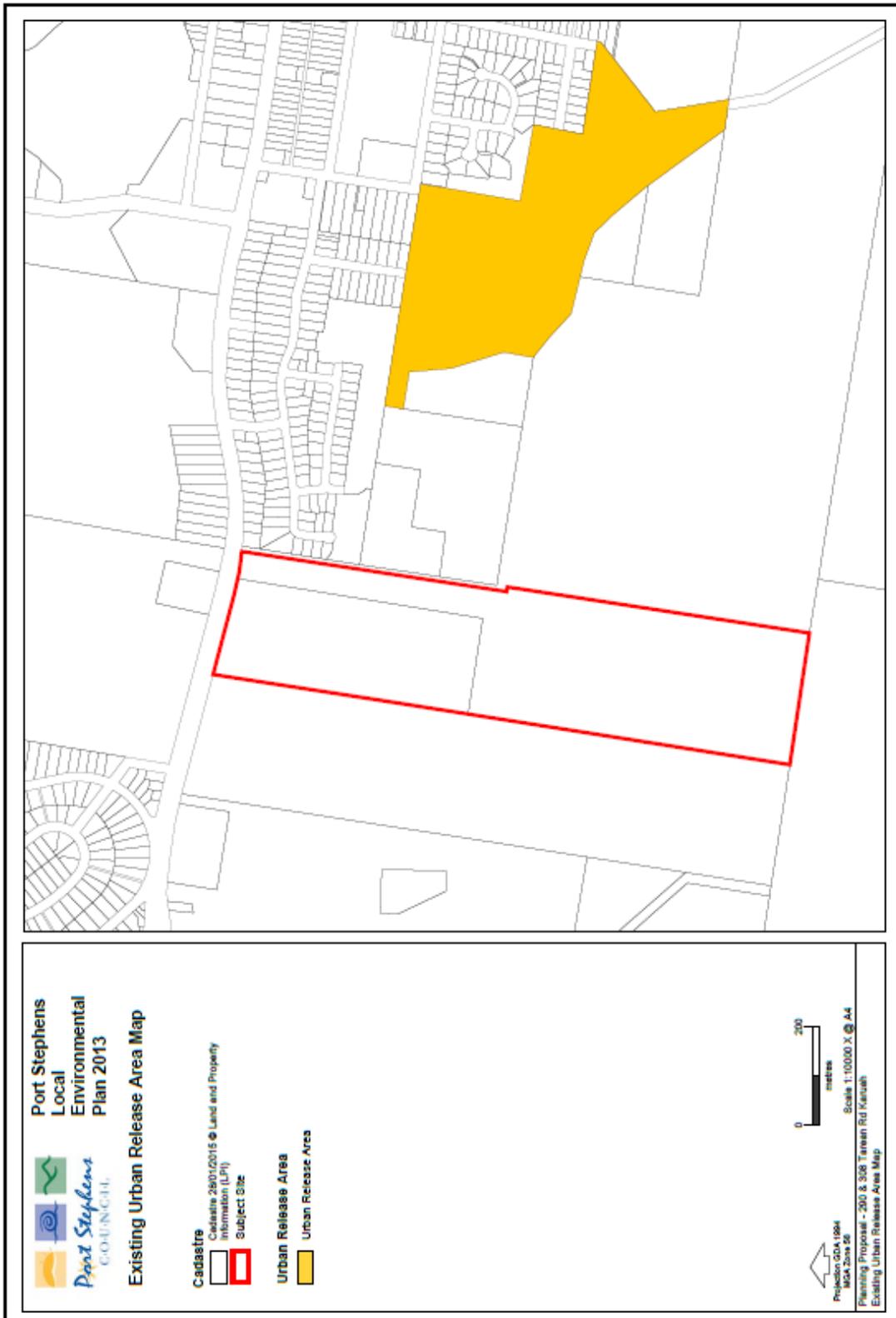
ATTACHMENT 7 - Existing Height of Building Map



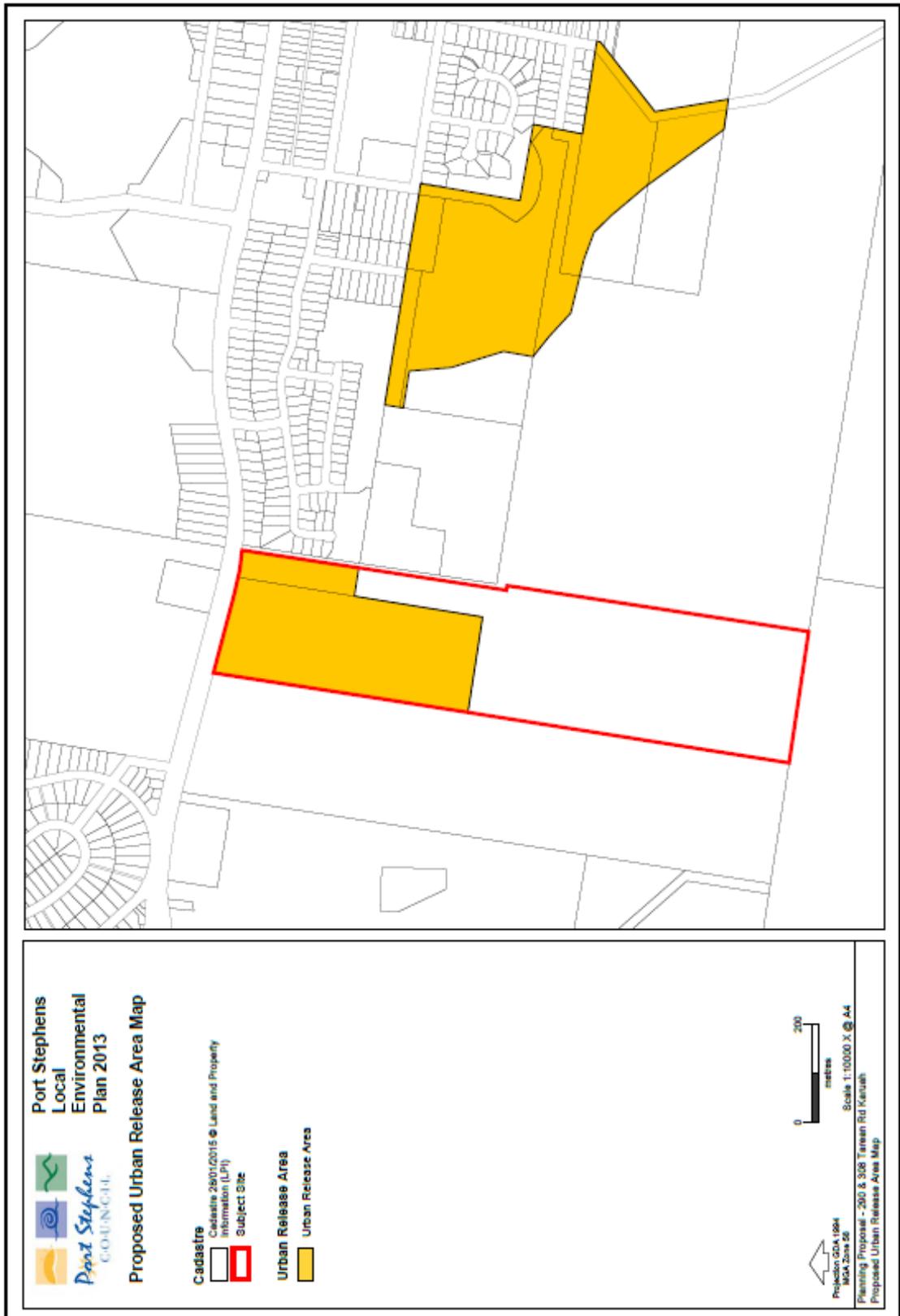
ATTACHMENT 8 - Proposed Height of Building Map



ATTACHMENT 9 - Existing Urban Release Area Map



ATTACHMENT 10 - Proposed Urban Release Area Map




**Port Stephens
Local
Environmental
Plan 2013**
Proposed Urban Release Area Map

Cadastral
 Cadastral 28/01/2015 © Land and Property
 Information (LPI)
 Subject Site

Urban Release Area
 Urban Release Area



Projection GDA 1984
 MGA Zone 58
 Scale 1:10000 X @ A4
 Planning Proposal - 200 & 308 Tarean Rd Karuah
 Proposed Urban Release Area Map

ATTACHMENT 11: Council Minutes – 12 August 2014

ATTACHMENT 12: Additional Information – Post-Gateway