

## Planning Services

### Gateway determination report

<b>LGA</b>	Port Stephens
<b>PPA</b>	Port Stephens Council
<b>NAME</b>	Planning Proposal – George Street and Coxs Lane Fullerton Cove
<b>NUMBER</b>	PP_2018_PORTS_002_00
<b>LEP TO BE AMENDED</b>	Port Stephens Local Environmental Plan 2013
<b>ADDRESS</b>	16 and 16A George St, 3 and 3A Zircon Ln, 10-12 Road 530 and 21 Coxs Ln, Fullerton Cove
<b>DESCRIPTION</b>	Lot 991 DP 627179 Lot 201 DP 39968 Lot 1910 DP 557701 Lot 1 DP 1142113 Lot 1 DP 794575 Lot 3 DP 111519 Lot 1 DP 1006307
<b>RECEIVED</b>	4 December 2017 (additional information received 18 October 2018)
<b>FILE NO.</b>	EF17/13690
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

### INTRODUCTION

#### Description of planning proposal

The planning proposal (**Attachment A**) seeks to amend Port Stephens Local Environmental Plan 2013 to permit rural residential development by:

- rezoning land from RU2 Rural Landscape to part R5 Large Lot Residential and part E2 Environmental Conservation; and
- amending the minimum lot size map from 20 ha to part 4,000m<sup>2</sup> (proposed R5) and 40ha (proposed E2).

Council advises that the proposal would provide for an additional 33 dwellings.

#### Site description

The site is located on the eastern periphery of the Fullerton Cove locality and is approximately 26ha in area (Figure 1).

The site comprises of seven lots in Fullerton Cove:

- 16 George Street (Lot 991 DP 627179);
- 16A George Street (Lot 201 DP 39968);

- 3 Zircon Lane (Lot 1910 DP 557701);
- 3A Zircon Lane (Lot 1 DP 1142113);
- 10 Road 530 (Lot 1 DP 794575);
- 12 Road 530 (Lot 3 DP 111519); and
- 21 Coxs Lane (Lot 1 DP 1006307).

An extractive industry (sand quarry) is currently operating on most of the site with remnant native vegetation and cleared land taking up the remaining portions. The Department's Resources and Geoscience team has advised that the resource is close to being exhausted.

The site is bound to the east by Nelson Bay Road, to the south by Coxs Lane, to the west by houses along Fullerton Cove Road and to the north by rural lands.

Access to the site is gained via Coxs Lane to the south and George Street to the north.

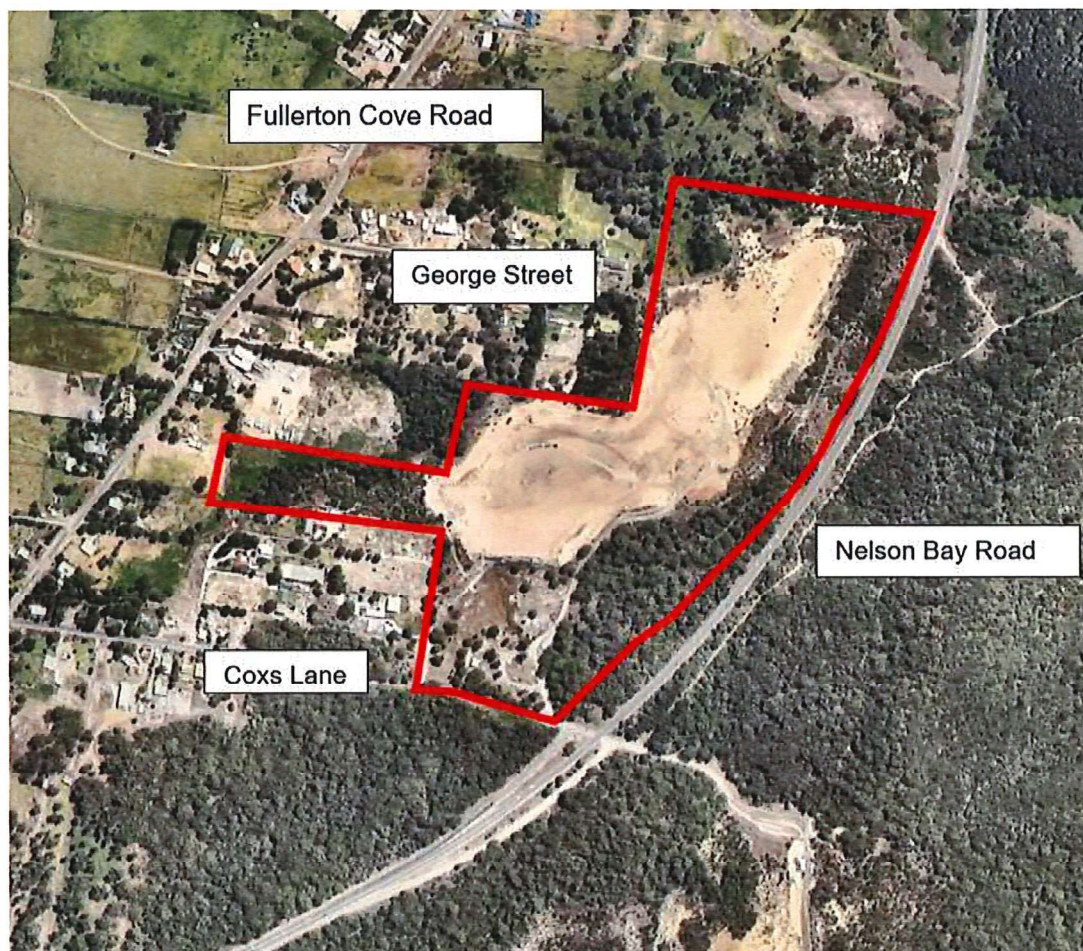


Figure 1: Site Plan (source Nearmap)

### Existing planning controls

The site is zoned RU2 Rural Landscape zone under Port Stephens LEP 2013 (Figure 2) and is subject to a 20ha minimum lot size (Figure 3).





**Figure 2:** Existing Zoning (RU2) and **Figure 3:** Minimum Lot Size (AB2 = 20 ha) (source Port Stephens LEP 2013)

### Surrounding area

The site is in Fullerton Cove which is situated between Fern Bay, a low density residential suburb 5.5 km south, and Williamtown including the RAAF and Newcastle Airport 4.5km north (Figure 4). An additional 2,000 jobs are targeted for Williamtown by year 2036 as part of a catalyst area that will facilitate the expansion of existing aerospace and defence-related employment. This growth is expected to be supported by improvements to public transport connections to Newcastle City Centre. This influences the site's suitability to provide housing given its close proximity when compared to other residential areas.

The nearest shops are located at Stockton, approximately 11 km to the south, with community facilities, primary school and café at Fern Bay 5 km to the south. Fullerton Cove is serviced by public transport every 40 minutes on weekdays.



**Figure 4:** Wider Site Context (source Nearmap)



Closer to the site, the area consists of the Fullerton Cove, rural lands (cattle, rural residential), vegetated lands (private, national park, conservation areas) and sand dunes (Figure 5). Rural residential dwellings front Fullerton Cove Road and are located around its junction with Coxs Lane and George Street. There are approximately 50 dwellings around the junction with lot sizes ranging between 1 to 3 hectares. These sites have limited capacity to provide additional housing due to the RU2 Rural Landscape zone, the 20ha minimum lot size that applies, and flooding constraints. The rural lands in Fullerton Cove are generally low lying and subject to inundation.

Council advises that the proposal would rely on existing infrastructure, except for effluent management where on-site disposal would need to occur.

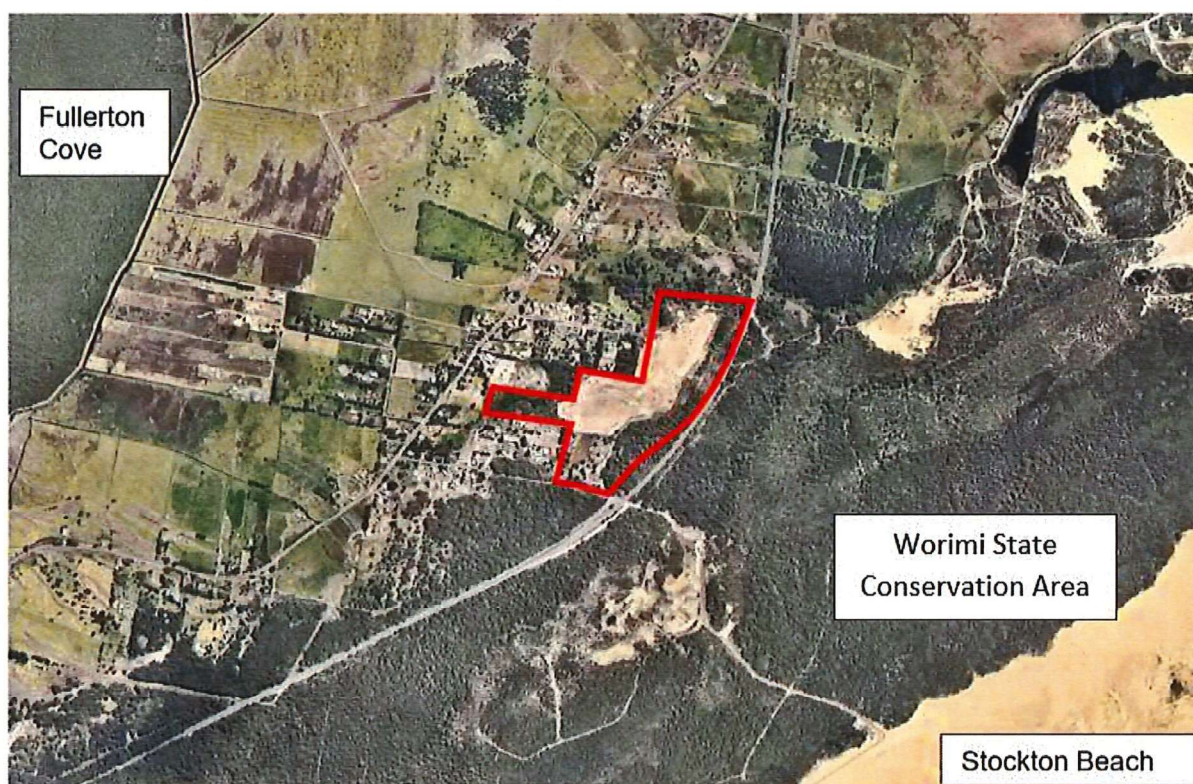


Figure 5: Surrounding Locality (source Nearmap)

### Summary of recommendation

It is recommended that the planning proposal proceed subject to conditions.

The quarry on the site is approaching the end of the resource and it is appropriate to consider alternative uses on this soon-to-be brownfield site. The proposal's intention to rezone the site to R5 Large Lot Residential is consistent with the existing rural residential settlement pattern. This pattern has evolved without a local development control plan or strategy and therefore the Fullerton Cove locality would benefit from strategic planning to ensure the orderly and efficient use of land.

There are several matters which need to be resolved before the planning controls could be finalised. This includes addressing potential flooding constraints, site contamination (including potential per- and poly-fluoroalkyl substances (PFAS)), bushfire impacts and the potential for land use conflict due to the site's proximity to the nearby Stockton Sand Quarry. Resolution of these issues would require



additional studies and engagement with the relevant agencies. Conditions are proposed in the Gateway determination.

The proposal is inconsistent with the strategic direction for rural residential housing in the Greater Newcastle Metropolitan Plan 2036. The plan requires that the site be identified in a local strategy endorsed by the Department and this has not occurred.

A condition is recommended to require Council to prepare a precinct plan for the locality and site, so that matters such as settlement pattern, developable and infill areas, connectivity and access to local services can be addressed. This will ensure that the underlying objective of the plan, to deliver well-planned rural residential housing, will be achieved. See Figure 6 Precinct Plan Study Area below.

Similarly, a condition is proposed to ensure consistency with the biodiversity objectives of the Hunter Regional Plan 2036. The site is located within the regionally significant Stockton to Watagans biodiversity corridor and so the proposal will need to demonstrate how it improves connectivity between habitats.

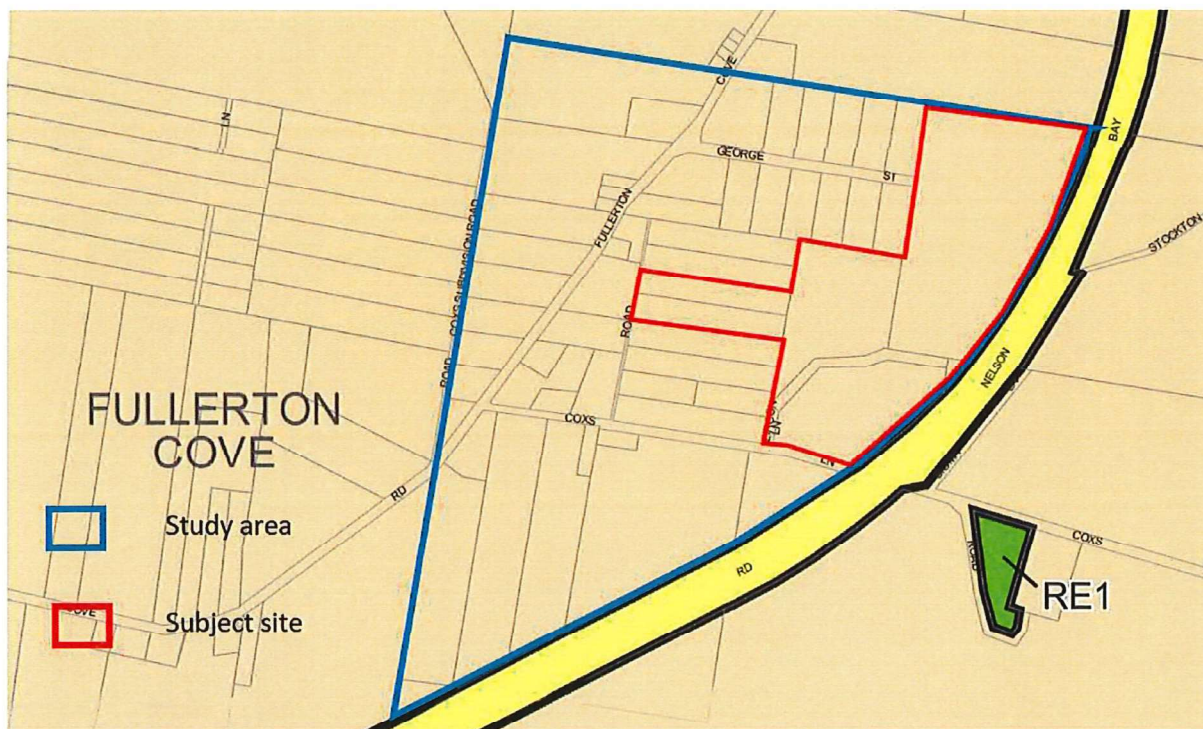


Figure 6: Proposed Precinct Plan Study Area

The following report discusses these matters in further detail.

## PROPOSAL

### Objectives or intended outcomes

The objectives and intended outcomes of the planning proposal are as follows;

- rezone land for rural residential purposes; and
- protect and conserve the areas within the site that have high ecological value.

### Explanation of provisions

The objectives of the planning proposal are intended to be achieved through the rezoning of the site from RU2 Rural Landscape to part R5 Large Lot Residential and part E2 Environmental Conservation. To allow for orderly development of the site,



the minimum lot size is also proposed to be amended from 40ha to 4000m<sup>2</sup> for R5 zoned land and apply a 40ha minimum for E2 zoned land.

## Mapping

The proposal includes amendments to the Port Stephens LEP 2013 maps as follows:

- Land Use Zoning Map Sheet LZN\_004; and
- Lot Size Map Sheet LSZ\_004.

The maps included in the planning proposal show the current and proposed controls. The proposed map amendments are included below and considered to be suitable for exhibition purposes (refer to Figures 7 and 8).

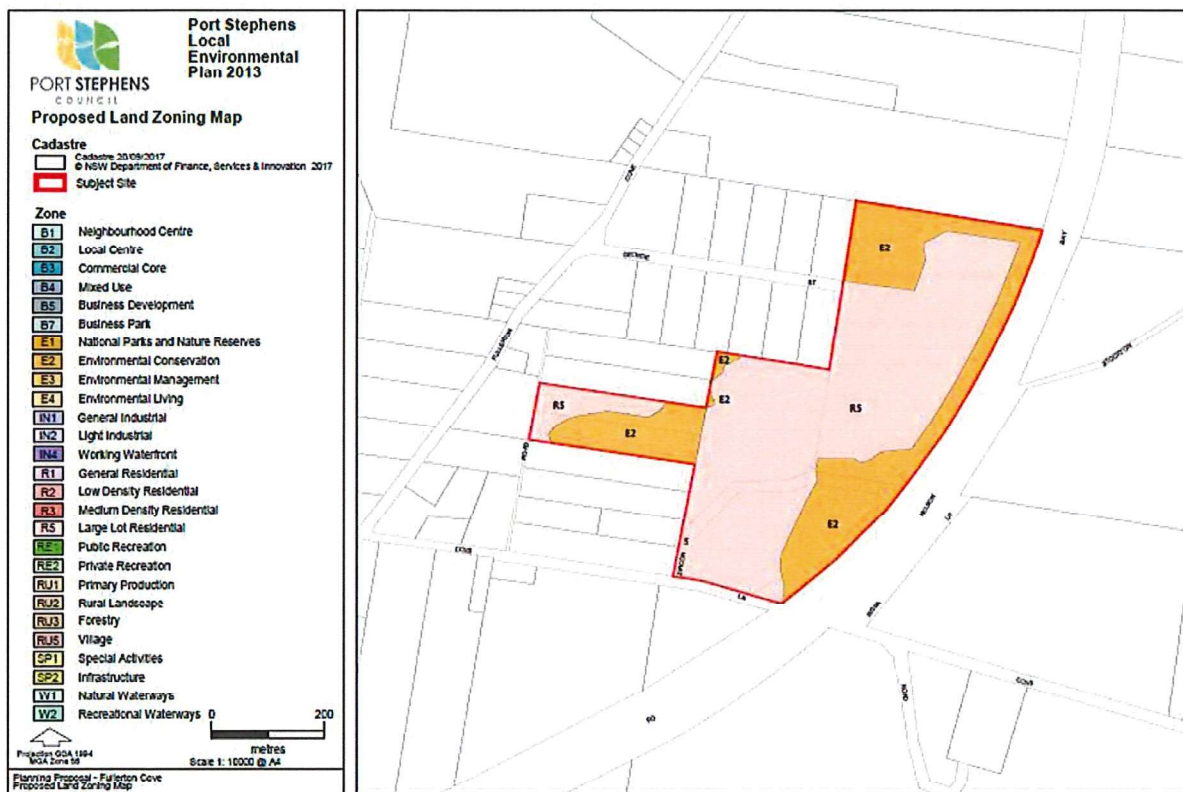


Figure 7: Proposed Land Use Zone map (source planning proposal)



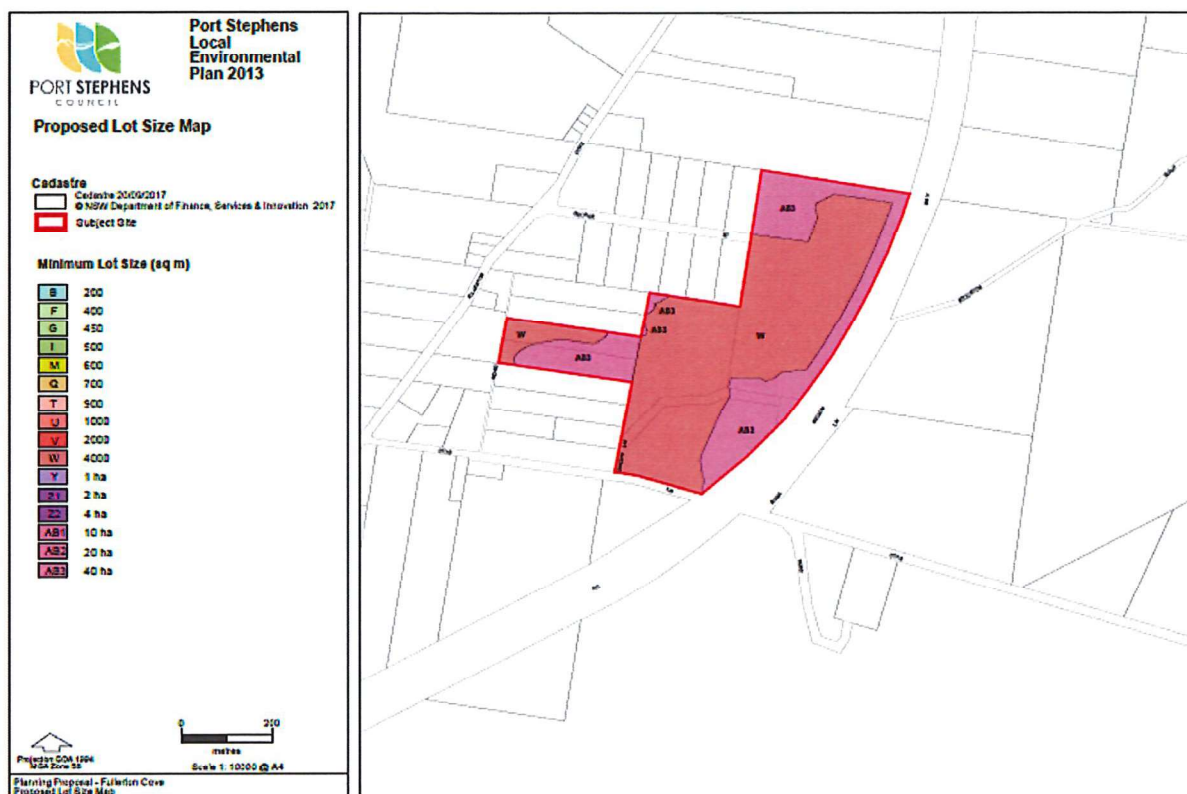


Figure 8: Proposed Minimum Lot Size map (source planning proposal)

## NEED FOR THE PLANNING PROPOSAL

The need for the planning proposal has arisen due to a request from the landowner. Council states that as the sand quarry is reaching the end of its life, it is appropriate to develop the site for rural residential consistent with the use of adjoining land.

It is agreed that as the resource is close to being extinguished, the future use of the site should be reviewed. As a brownfield site that has been extensively quarried, the value of the site for future rural use is diminished. This, coupled with the location of the site (adjoins existing residential, proximity to Williamstown employment area), support the need to review the site's planning controls.

While Council has not provided advice regarding what alternative development options it has considered, the site's limited services, the existing settlement pattern and infrastructure constraint (effluent), suggest that rezoning the site to R5 Large Lot Residential is a suitable outcome. The need for the proposal is therefore supported.

## STRATEGIC ASSESSMENT

### State

There are no State strategic plans which are relevant to the planning proposal.

### Regional / District

The site is located on land subject to both the Greater Newcastle Metropolitan Plan 2036 (GNMP) and the Hunter Regional Plan 2036 (HRP). Where the plans refer to similar matters, the guidance provided in the GNMP has been considered as it provides more detailed guidance regarding the outcomes that are to be achieved.



## Greater Newcastle Metropolitan Plan

Strategy 18 of the GNMP seeks to deliver well-planned rural residential housing areas.

Action 18.1 requires:

*Greater Newcastle councils to enable rural residential housing where the need is demonstrated through a local planning strategy endorsed by the Department of Planning and Environment, and it is in locations where:*

- *the land is unlikely to be required for more intensive urban purposes due to physical constraints such as slope, environmental characteristics or natural hazards;*
- *less intensive development will result in better management of the land;*
- *the delivery of infrastructure required to service development is physically and economically feasible.*

The need for rural residential housing in Fullerton Cove has not been demonstrated through a local planning strategy endorsed by the Department. Notwithstanding, Council considers the subject site to be consistent with the locational criterion of GNMP Action 18.1. This conclusion is supported. The site is physically constrained by flood isolation, its proximity to a nearby sand resource suggests rural residential would result in better land management, and while the site can be serviced, the need for on-site effluent disposal limits the ability for the site to be developed for low density residential.

While the proposal is supported, further work is required to ensure that well-planned rural residential housing will result. At present Fullerton Cove is a collection of dwellings oriented around Fullerton Cove Road. New residential development is precluded under the current planning controls, and the community has no facilities and limited services.

A precinct plan which considers the site and its surrounds would address these matters. It would need to be prepared by Council in consultation with the community, and provide guidance regarding settlement pattern, infill opportunities, open space, connectivity and facilities. This approach alleviates the GNMP requirement for the site to have been considered through an endorsed local strategy because it will produce a similar outcome for the Fullerton Cove community.

The area to be precinct planned is outlined in Figure 6 and the Gateway determination has been conditioned accordingly. The precinct boundary has been informed by proximity to the planning proposal site, road network and flood affectation.

## Hunter Regional Plan 2036 (HRP)

The following Directions and Actions are relevant to the proposal:

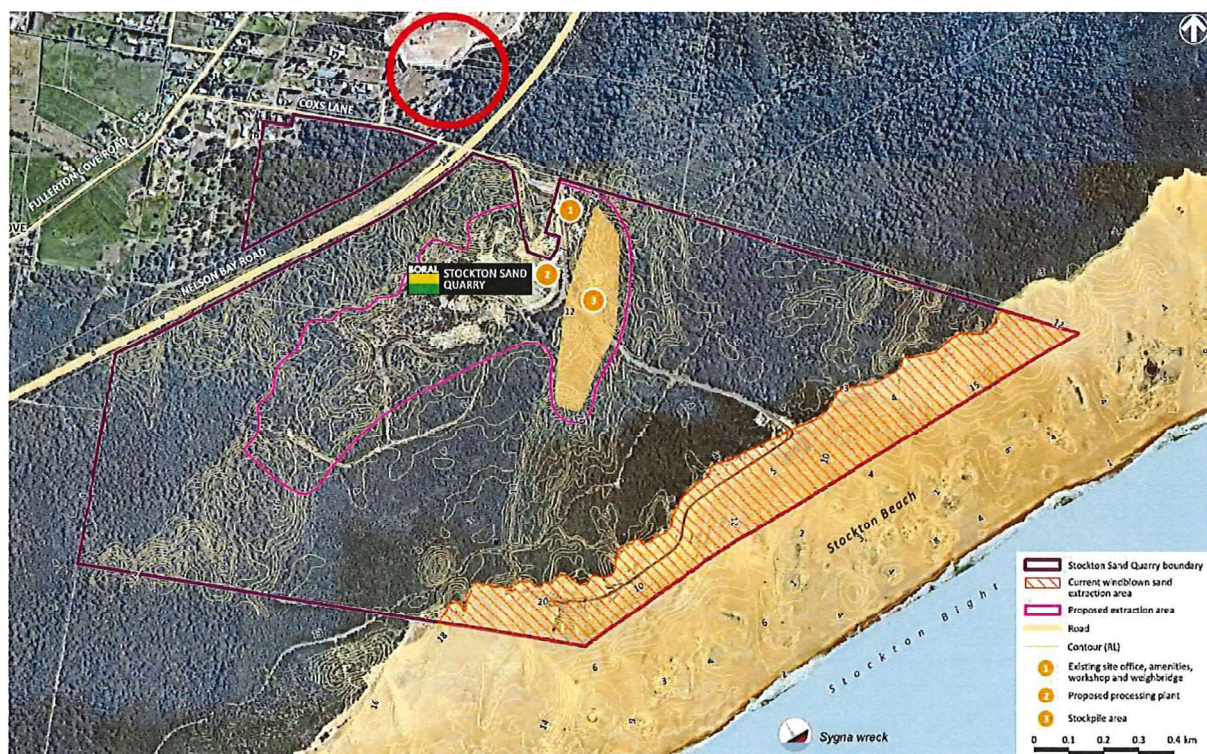
*Direction 11: Manage the ongoing use of natural resources*



*Action 11.1 Work with relevant stakeholders, including councils, communities and industry, to prepare land use plans that respond to the lifecycle of resource activity for active and emerging mining areas.*

Managing the ongoing use of natural resources is relevant to the planning proposal. While alternative uses for the site may be considered because the resource is exhausted, the site adjoins the Stockton Sand Quarry which continues to operate and has plans to expand (Figure 9).

Secretary's Environmental Assessment Requirements have been issued for a development application for the site. The proposal would expand sand extraction activities such that operations occur close to the site over the next 25 years.



**Figure 9:** Existing and proposed extraction areas for Stockton Sand Quarry (source Preliminary Environmental Assessment (SSD 18\_9490))

Consultation with Resources and Geoscience would assist in evaluating the suitability of the proposal given its proximity to the nearby sand resource. Preliminary consultation has occurred, with Resources and Geoscience noting that further investigation into the potential for land use conflicts may occur post Gateway. A condition has been proposed in the determination accordingly. It requires Council to consider potential conflict due to possible expanded operations on the Stockton Sand Quarry site.

#### *Direction 14: Protect and connect natural areas*

*Action 14.4 seeks to 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 includes a flora and fauna assessment which identifies the site as containing 2.47 hectares of remnant bush land. Preferred and supplementary koala habitat, an endangered ecological community and potential habitat for threatened species have been identified. This land is to be zoned E2 Environmental Conservation with a 20ha minimum lot size applied. The ongoing management of this land requires further consideration post-Gateway. Council intends to consult with OEH about the adequacy of the management measures proposed and this is supported.

*Action 14.5 seeks to secure the long-term protection of regionally significant biodiversity corridors.*

The site is in the regionally significant Stockton to Watagans biodiversity corridor (Figure 10). For these corridors, the HRP notes that a holistic approach across both public and private lands will protect and manage natural ecosystems and ensure connectivity between habitats. Further, that planning, and management tools can identify and establish corridors.



Figure 10: Watagan to Stockton Link (source Hunter Regional Plan 2036)

The proposal states that it achieves these outcomes by seeking to protect biodiversity by maintaining and conserving habitat connectivity and local habitat corridors. No evidence is provided to demonstrate how this is proposed to be achieved.

Habitat connectivity should be examined as part of the proposed precinct planning and consideration given to how this site may contribute. In doing this, Council would be able to demonstrate how the proposal complies with the HRP action. This work should occur in consultation with OEH. A Gateway determination condition to address this matter is proposed.

*Direction 16: Increase resilience to hazards and climate change*

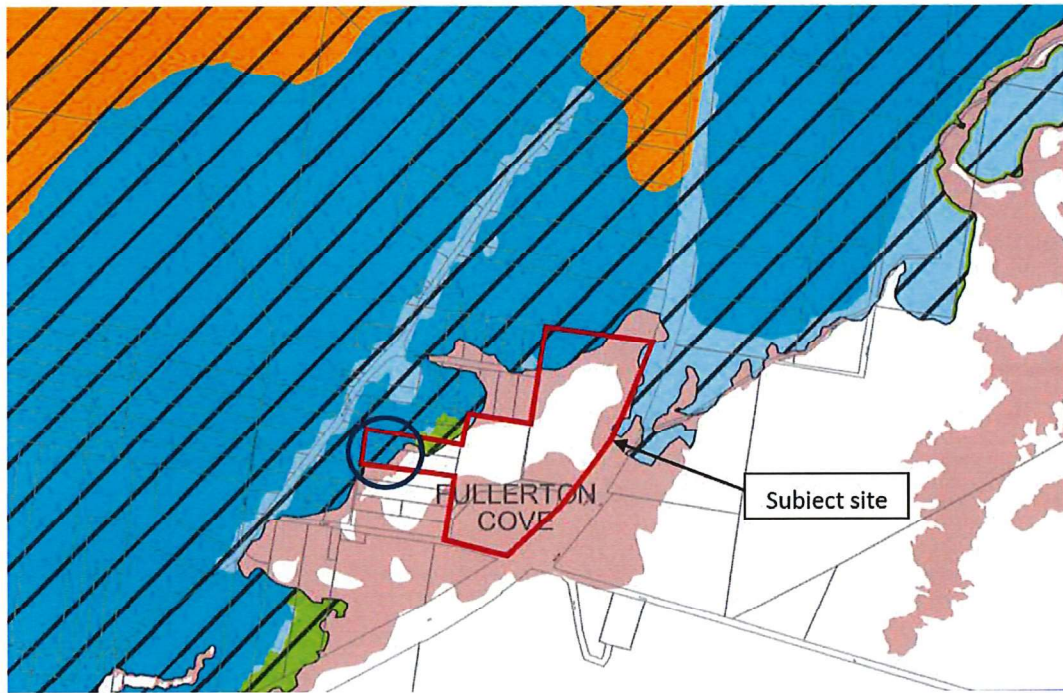
*Action 16.1 Manage the risks of climate change and improve the region's resilience to flooding, sea level rise, bushfire, mine subsidence, and land contamination.*

Flooding, bushfire and land contamination are all hazards that Council has identified as being relevant to the planning proposal.

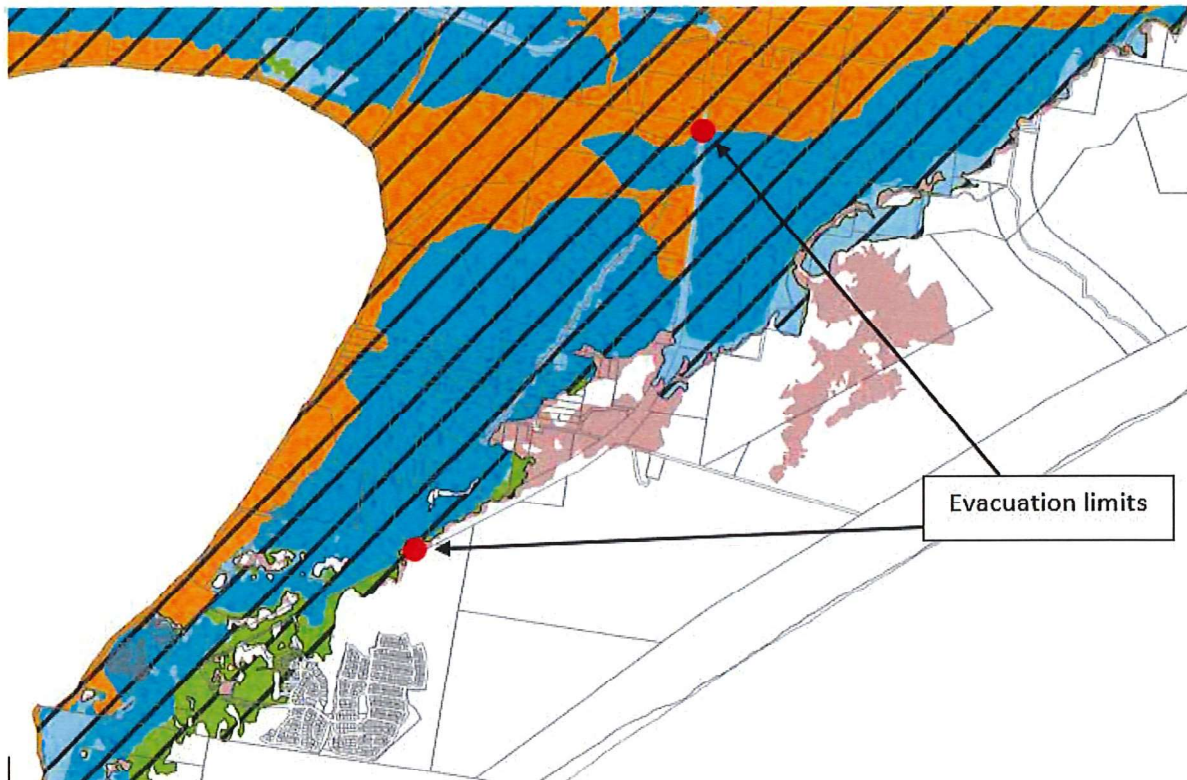


## Flooding

A portion of the site proposed for residential is identified as flood affected on Council's flood planning maps (Figure 11). Further, the site and the existing Fullerton Cove community are also potentially at risk of isolation should flood evacuation be required. While access to Nelson Bay Road is possible, Council's flood maps suggest that the road would be cut to the north and south of the site by high hazard flood storage/ floodway waters (Figure 11). The flood study undertaken in support of the proposal concludes that flooding impacts are manageable.



**Figure 11:** 1% ARI flood impacts on the site, area circled is proposed for R5 (source Port Stephens Flood Hazard Map 2016)



**Figure 12:** 1% ARI flood impacts for the locality with indicative evacuation limits shown (source Port Stephens Flood Hazard Map 2016)

Further consideration of flooding risks needs to occur before consistency with this action from the HRP can be determined. This should happen in consultation with OEH and the State Emergency Service (SES), and be informed by the guidance provided in Council's Williamstown Salt Ash Floodplain Risk Management Plan (2017).

### Bushfire

The site is bushfire prone and a study has been undertaken to evaluate bushfire risks and management measures. Council notes that the location of asset protection zones requires further analysis. Consultation with the Rural Fire Service would need to occur to evaluate the suitability of the measures proposed.

### Land contamination

The site is potentially contaminated due to past quarrying activities and the site's proximity to the RAAF Base Williamstown. RAAF Base Williamstown is a source of PFAS contamination and this contamination has spread to lands outside the base.

The site has been mapped by the Environment Protection Authority (EPA) as being within the PFAS Broader Management Zone (Figure 13) which means that while the land may not be contaminated now it could be in the future due to the movement of ground and surface waters.



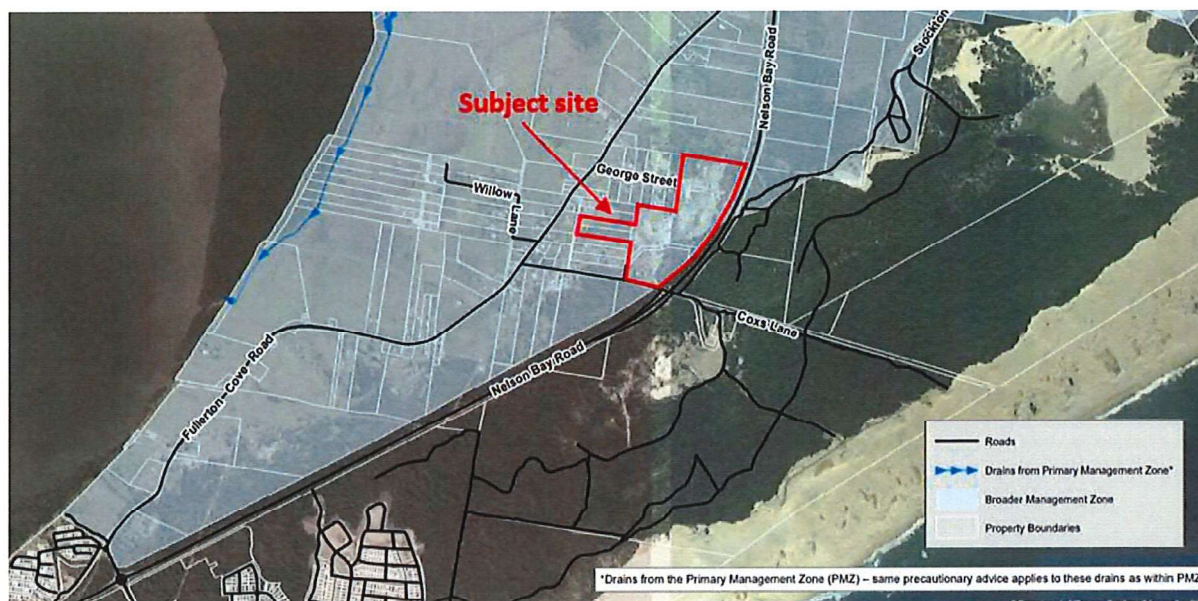


Figure 13: Williamstown Management Area: Fullerton Cove (source EPA website, accessed 23/12/18)

Residents in the Broader Management Zone area are encouraged to take precautions regarding the use and interaction with ground, bore and surface waters, and to avoid eating homegrown foods. A Federal Parliamentary Inquiry into PFAS management around Defence bases is ongoing.

Preliminary site studies (Phase 1 Environmental Assessment Study, groundwater monitoring) undertaken by the landowner suggest the need for further investigation into contaminants, with the groundwater study noting that PFAS was not detected on the site. This work has been reviewed by the EPA and shortcomings identified in the analysis. The EPA recommends that further detailed analysis be undertaken.

The Department of Defence is currently removing PFAS at the source of the contamination (airbase). A PFAS Management Area Plan (PMAP) is being prepared by Defence which will guide Defence on how to manage and reduce PFAS, manage exposure to the community, and prioritise solutions to prevent or minimise PFAS from migrating from the base. It will also include an Ongoing Monitoring Plan to monitor and track contamination over the coming years. The EPA will be involved as part of this process.

Given the PMAP is underway and will set out how PFAS contamination is to be managed and reduced, the proposal may be able to demonstrate how potential contamination risks can be managed and thereby satisfy the requirements of the HRP and SEPP 55 Remediation of Land.

However, further investigation would be required, and this would need to be completed in consultation with the EPA and NSW Health. This work needs to occur before consistency with Action 16.1 of the HRP could be determined. A Gateway determination condition has been proposed accordingly.

## Local

Port Stephens Rural Residential Policy 2017 (not endorsed by DPE)

Council's Rural Residential Policy sets out over 30 site selection criteria and forms the basis of Council's strategic justification for the proposal. The proposal does not

satisfy all exclusionary and management criteria, however Council states that these inconsistencies are minor:

#### *Exclusionary criteria*

- *the proposal site must be located within 800m of land zoned R5, RU5 or R2.*

The site is not within 800m of any of these zones however Council advises nearby lots are of similar size to land with these zones.

- *the proposal site should not contain Class 2 ASS (Council advises that only small portion is identified, and it is to be zoned E2.*

Class 2 ASS applies to part of the proposed R5 area (refer Figure 17 in the Section 9.1 Ministerial Directions section)

- *the proposal site should not include land below the flood planning level (FPL)*

Council notes that the majority of the site is above the FPL.

- *the proposal site should not be located on, or within 500m of a known extractive industry or identified as having a mineral resource*

Council notes that Resources and Geoscience has advised that the resource is close to exhaustion. No advice is provided regarding the Stockton Sand Quarry located within 500 m of the site.

#### *Management criteria*

- *development that has the potential to be isolated in flood events, must demonstrate access to evacuation facilities via a public road that is given 24 hours warning*

Council notes partial consistency and advises that emergency access to Nelson Bay Rd will be provided to avoid isolation. No advice is provided regarding whether residents may then be able to access evacuation facilities.

Council has been previously advised that the policy should not be used to justify planning proposals for Gateway. This is because the policy identifies large parts of the LGA as potentially being suitable for rural residential without identifying preferred areas so that the orderly development of well-planned rural residential areas may result (Figure 14).

However, this proposal is supported because it enables the reuse of a former quarry site that adjoins existing rural residential housing. It is well located, having good access to the Williamstown employment area and the Nelson Bay Road transport corridor, and can be serviced. The precinct planning that is proposed for the site and surrounds would benefit the existing and future community.



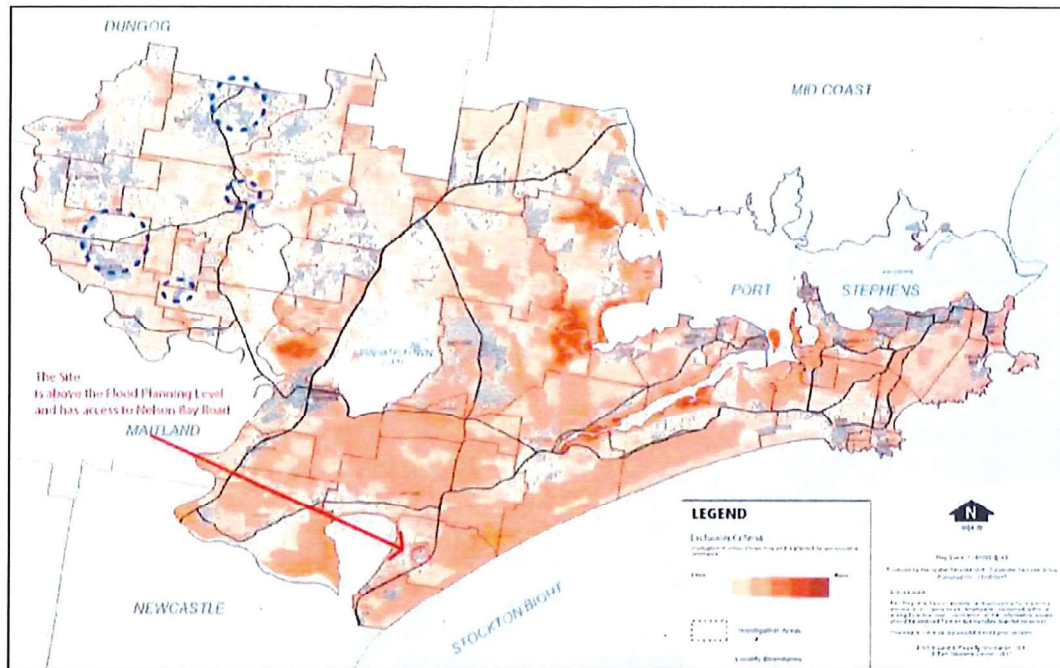


Figure 14: Rural residential exclusion criteria map where red shaded areas are less suitable land (source Port Stephens Council)

#### Port Stephens Planning Strategy (PSPS – not endorsed by DPE)

Council's Port Stephens Planning Strategy identifies the junction of Fullerton Cove Road with Coxs Lane and George Street as a "smaller village centre (other neighbourhoods)". The strategy notes that this is because the locality has no local services, limited intensification options and is generally isolated from other settlements.

The PSPS does not identify additional dwellings for Fullerton Cove. The nearest growth area is Fern Bay with up to 1,396 greenfield dwellings and 42 infill dwellings targeted (Figure 15). It does however state that limited minor extensions to existing rural residential developments may be supported where no adverse impacts would result.

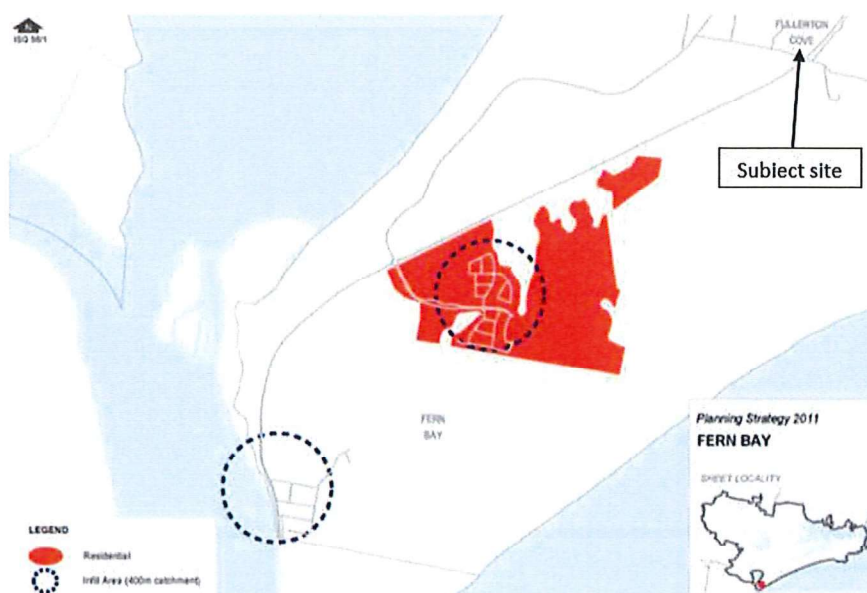


Figure 15: Fern Bay-Fullerton Cove Future Growth Area (source PSPS 2011)

Notwithstanding the above, Fern Bay-Fullerton Cove is included in Council's Eastern Growth Corridor. This corridor extends from Fern Bay (to the south) to Medowie (to the north) and includes Fullerton Cove and Williamtown RAAF Base/ Newcastle Airport (Figure 16). The corridor is identified for further strategic analysis to determine how it can support further residential growth given its contains employment areas, transport routes and local centres. The proposed condition, to require the site and its surrounds to be precinct planned, would achieve this outcome for the Fullerton Cove locality.

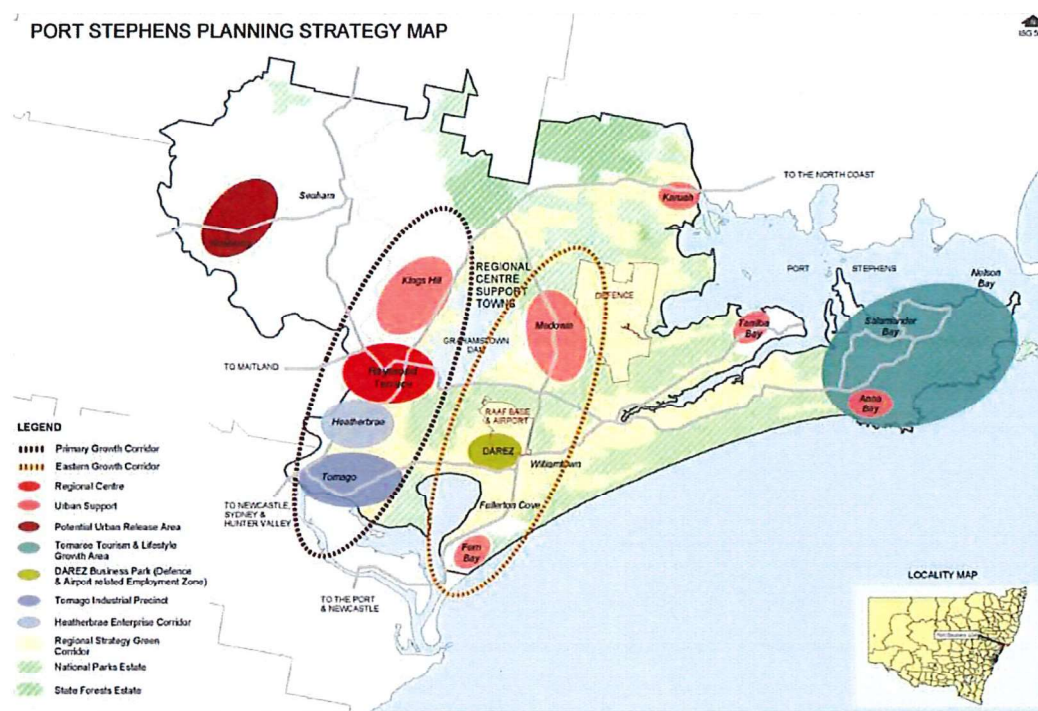


Figure 16: Eastern Growth Corridor (source PSPS 2011)

## Section 9.1 Ministerial Directions

The planning proposal is either inconsistent or further work is required before consistency can be determined with the following Section 9.1 Directions:

**1.2 Rural Zones** – the planning proposal is inconsistent with Direction 1.2 because it would rezone rural land to residential. The inconsistency is of minor significance as the agricultural production value of the land is diminished due to sand mining activities and residential (R5) may be supported given the adjoining residential settlement. It is recommended that the Secretary agree that the inconsistency is of minor significance.

**1.3 Mining Petroleum Production and Extractive Industries** – while Resources and Geoscience has confirmed that the resource on the site is near extinguished, the site is within proximity to the Stockton Sand Quarry and it may be affected by the planning proposal. Consultation with Resources and Geoscience regarding potential impacts on the adjoining quarry is required before consistency with this direction can be determined.



1.5 Rural Lands – the proposal is inconsistent with the direction because it does not promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities.

The inconsistency is of minor significance because the agricultural production value of the land is diminished due to sand mining activities and residential zoning can be supported given the adjoining residential settlement. It is recommended that the Secretary agree that the inconsistency is of minor significance.

2.1 Environmental Protection Zones – the planning proposal includes provisions which facilitate the protection and conservation of the environmentally sensitive land located on site. Consultation with OEH should occur, as previously discussed, to confirm the suitability of the measures proposed. Consistency with this direction may then be determined.

2.3 Heritage Conservation – Council advises that due to past sand quarrying activities it is unlikely that the site contains any aboriginal cultural heritage. It is recommended that consultation with the Worimi Local Aboriginal Land Council and OEH occur. Consistency with this direction may then be determined.

4.1 Acid Sulfate Soils (ASS) – part of the site is identified as having Classes 2 and 4 ASS which the planning proposal indicates will be zoned E2 Environmental Management. However, an area of Class 2 ASS is proposed to be zoned R5 (Figure 17).

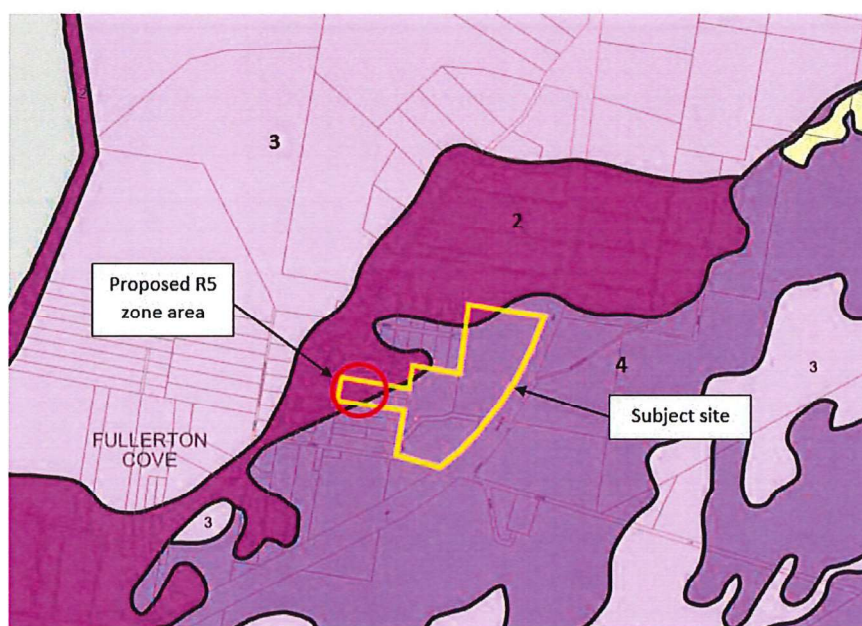


Figure 17: Acid Sulfate Soils (source Port Stephens LEP 2013)

The Direction requires an ASS study to be undertaken as land use intensification would occur. Council does not intend to undertake a study and so the proposal is inconsistent. Given the ASS provisions in the LEP it is considered that a study is unnecessary and that the matter can be resolved at the development application stage. It is recommended that the Secretary agree that the inconsistency is of minor significance.

4.3 Flood Prone Land – the planning proposal is inconsistent with this Direction because the proposal will rezone land in a flood planning area from a rural zone to a residential zone. Filling is proposed to address this. Consultation with OEH is

required to assess this approach, as well as risks associated with flood isolation and consistency with Council's FRMP. Consultation with SES should also occur before consistency with this direction can be determined.

4.4 Planning for Bushfire Protection - The planning proposal affects land mapped as bushfire prone and consultation with NSW RFS need to occur before consistency with this direction can be determined.

5.10 Implementation of Regional Plans – the planning proposal is inconsistent with Direction 5.10 as it is contrary to the Hunter Regional Plan 2036 and Greater Newcastle Metropolitan Plan 2036 as discussed previously. Conditions are recommended to address these matters.

## **State Environmental Planning Policies**

### SEPP 55 Remediation of Land

Clause 6 of SEPP 55 requires a preliminary contamination assessment to be undertaken where a use listed in Table 1 of the contaminated land planning guidelines is known to have occurred. As the site has been used for extractive industries, a preliminary assessment needs to occur. Further, the potential for PFAS contamination due to RAAF Base Williamstown also needs to be investigated.

Council advises that a Phase 1 contamination assessment was considered when preparing the planning proposal and that it identified the need for a Phase 2 assessment to occur. Council states that this assessment would occur post-Gateway, after which Council would determine the proposal's consistency with subclause 6(1) of the SEPP.

As discussed, more detailed analysis in consultation with EPA and NSW Health is required before consistency with the SEPP can be determined.

### SEPP 44 Koala habitat Protection

Port Stephens Comprehensive Koala Plan of Management (CKPOM) applies for the purposes of implementing SEPP 44 (Figure 18). Council's data indicates that the site contains "Preferred habitat", "Supplementary habitat" and "50 metre buffer over cleared land" are on the site. The CKPOM seeks to ensure no impacts on preferred habitat, low impact on supplementary habitat, and to not sever koala movement. Council's assessment indicates that the proposal complies with the requirements of the CKPOM, notwithstanding the proposal intends to restore habitat in some areas to provide additional links.

Consultation with OEH as part of the precinct planning proposed would inform this work. Following this, consistency with the SEPP may be evaluated.



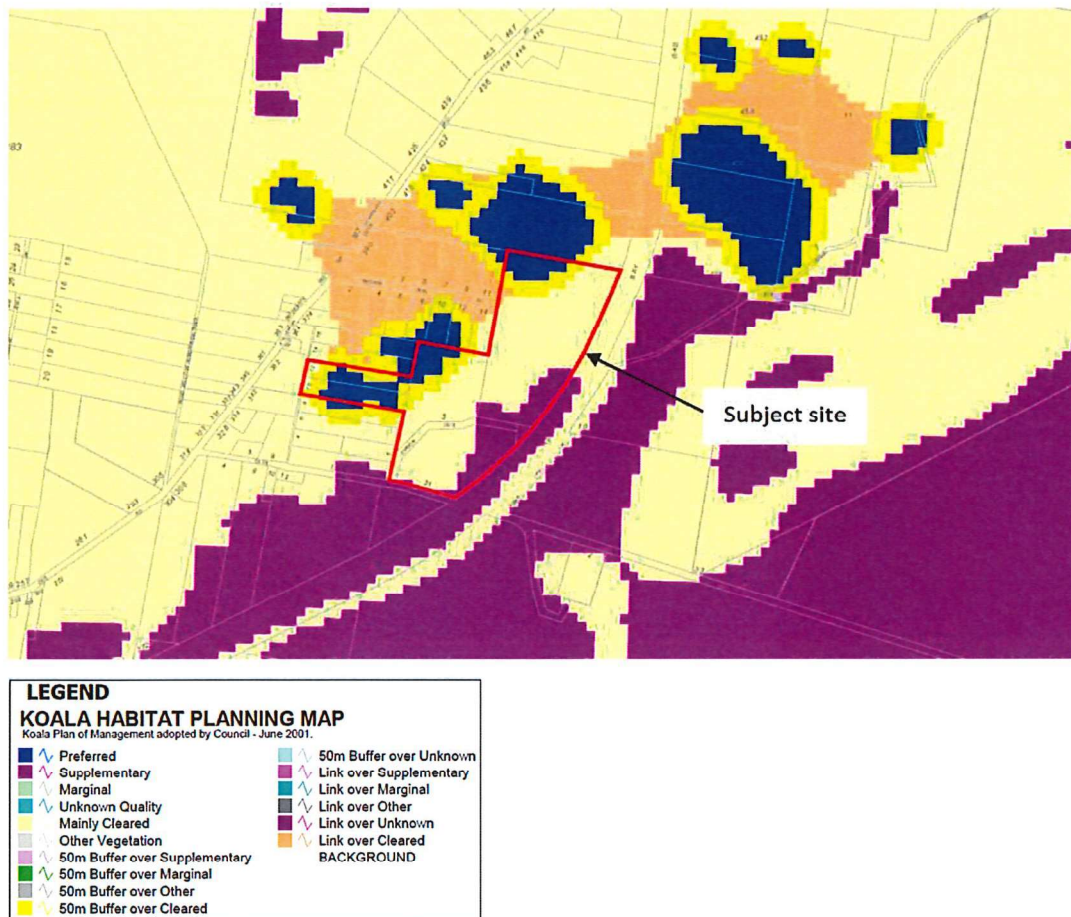


Figure 17: Koala Habitat (source Port Stephens Comprehensive Koala Plan of Management)

## SITE-SPECIFIC ASSESSMENT

### Social

There are positive benefits in strategically locating more residents within a short commute to major employment zones of Williamstown RAAF Base/ Newcastle Airport, the Port of Newcastle and Tomago industrial zone. However, there are site specific constraints that need to be overcome for future residents.

Council considers the social impacts of the proposal to be minor. It considers the proposal to be an extension of an existing large lot residential area which will reduce urban sprawl development and makes more efficient use of existing infrastructure.

However, in the Fullerton Cove context, the locality is zoned RU2 Rural Landscape and there has been no planning analysis to change the locality into a sustainable rural residential community. It is recommended that precinct planning be undertaken so that matters such as settlement pattern, developable and infill areas, connectivity and access to local services can be addressed

### Environmental

The proposal identifies that the site is subject to a range of environmental constraints. These constraints have been discussed previously in this report. Further study and consultation with the relevant agencies is required before environmental impacts (and measures proposed to mitigate those impacts) can be fully evaluated.

## **Economic**

Discussion of economic impacts in the planning proposal focuses on the additional large lot housing supply. Council anticipates that the development will increase the population by 87 people which will increase expenditure and wages in the Port Stephens area accordingly.

This advice about expenditures and wages is difficult to verify, notwithstanding, it is noted that the proposal may result in short term construction jobs should the site be developed as proposed.

## **Infrastructure**

Council advises that the proposal would utilise existing infrastructure (telecommunications, water, electricity, road access) with only on-site effluent infrastructure required. Consultation with Hunter Water Corporation and Energy Australia should occur to confirm capacity. An effluent disposal assessment has been prepared which indicates that on-site disposal is possible.

The proposal adjoins Nelson Bay Road which is a classified road which may be widened from two to four lanes in the future. Given the proximity of the site to Nelson Bay Road and its intersection with Coxs Lane, consultation with RMS is recommended.

## **CONSULTATION**

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### **Community**

Council has not specified a public exhibition period. However, it is recommended that a 28 day exhibition period is required given the complexity of issues.

### **Agencies**

Consultation is required with the following Government agencies:

- Environment Protection Authority (contamination);
- NSW Health (contamination)
- Roads and Maritime (traffic, access);
- Rural Fire Services (bushfire);
- Hunter Water Corporation (water servicing capacity);
- Ausgrid (electricity servicing capacity);
- Office of Environment and Heritage (flooding, ecology, koalas, biodiversity corridor);
- NSW Resources and Geoscience (resources impact); and
- NSW State Emergency Services (flooding).

The Gateway determination has been conditioned accordingly.

## **TIME FRAME**

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Council has proposed a six month time frame for completing the LEP. It is recommended the planning proposal be given an 18 month time frame given the additional studies and agency consultation required.



## **LOCAL PLAN-MAKING AUTHORITY**

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Council has sought authorisation to progress this planning proposal using plan-making delegation. However, given the complexity of the site constraints and inconsistencies with the regional plans, plan-making authorisation is not recommended.

## **CONCLUSION**

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It is considered that the planning proposal should proceed subject to conditions because:

- the proposal facilitates the reuse of a quarry site that adjoins an existing rural residential area;
- the proposal makes use of existing infrastructure and is a minor extension of the existing settlement pattern; and
- the site is well located for residential use in terms of its proximity to employment areas and the transport network.

## **RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands and 4.1 Acid Sulfate Soils are minor and justified.
2. note the consistency with section 9.1 Direction 1.3 Mining Petroleum Production and Extractive Industries, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection and 5.10 Implementation of Regional Plans are unresolved and will require justification and/or consultation.

It is recommended that the delegate of the Minister for Planning and Public Spaces, determine that the planning proposal should proceed subject to the following conditions:

1. Council is to update the planning proposal with the following information and forward it to the Department of Planning and Environment for review prior to public exhibition:
  - (a) a precinct plan prepared for the Fullerton Cove area as defined in Figure 6 of the Gateway determination report which address the following and identifies how the site is to contribute:
    - i. settlement pattern;
    - ii. developable and infill areas;
    - iii. connectivity (transport, habitat); and
    - iv. open space/ community facilities.
  - (b) contamination analysis including referral to and advice from the Environment Protection Authority and NSW Health. This includes the consideration of contamination due to past site activities and PFAS;

- (c) analysis regarding potential land use conflict with the Stockton Sand Quarry, including the consideration of impacts associated with the proposed expansion of extraction activities on that site (refer SSD 18\_9490); and
  - (d) an assessment of consistency with the Williamtown Salt Ash Floodplain Risk Management Plan (2017).
- 2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
  - (b) the planning proposal 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 local environmental plans* (Department of Planning and Environment 2016).
- 3. Consultation is required with the following public authorities and / organisations prior to public exhibition under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
  - Environment Protection Authority
  - Office of Environment and Heritage
  - NSW Health
  - NSW State Emergency Services
  - Worimi Aboriginal Land Council
  - Roads and Maritime Services
  - NSW Resources and Geoscience
  - NSW Rural Fire Service
  - Hunter Water Corporation
  - Ausgrid

Each public authority/organisation 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.

- 4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the 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 time frame for completing the LEP is to be 18 months following the date of the Gateway determination.



A handwritten signature in black ink, appearing to read 'Monica Gibson', with a stylized, cursive script.

16/5/2019

**Monica Gibson**  
**Director Regions, Hunter**  
**Planning Services**