



# 792 Seaham Road, Seaham Planning Proposal

**Proposed amendment to Port Stephens Local  
Environmental Plan 2013**  
Rezoning of Lot 100 DP 1064980  
792 Seaham Road, Seaham



## FILE NUMBERS

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**Council:** 58-2018-23-1

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

## SUMMARY

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**Subject land:** Lot 100 DP 1064980 (792 Seaham Road, Seaham)

**Proponent:** Le Mottee Group

**Proposed changes:** Amend the mapping in the Port Stephens Local Environment Plan 2013 to:

- Rezone the subject land from RU1 Primary Production to R5 Large Lot Residential
- Reduce the minimum lot size provisions for the subject land from 40 hectares to 2 hectares

**Area of land:** ~ 45 ha

**Lot yield:** Approximately 18 lots

## SUBJECT LAND

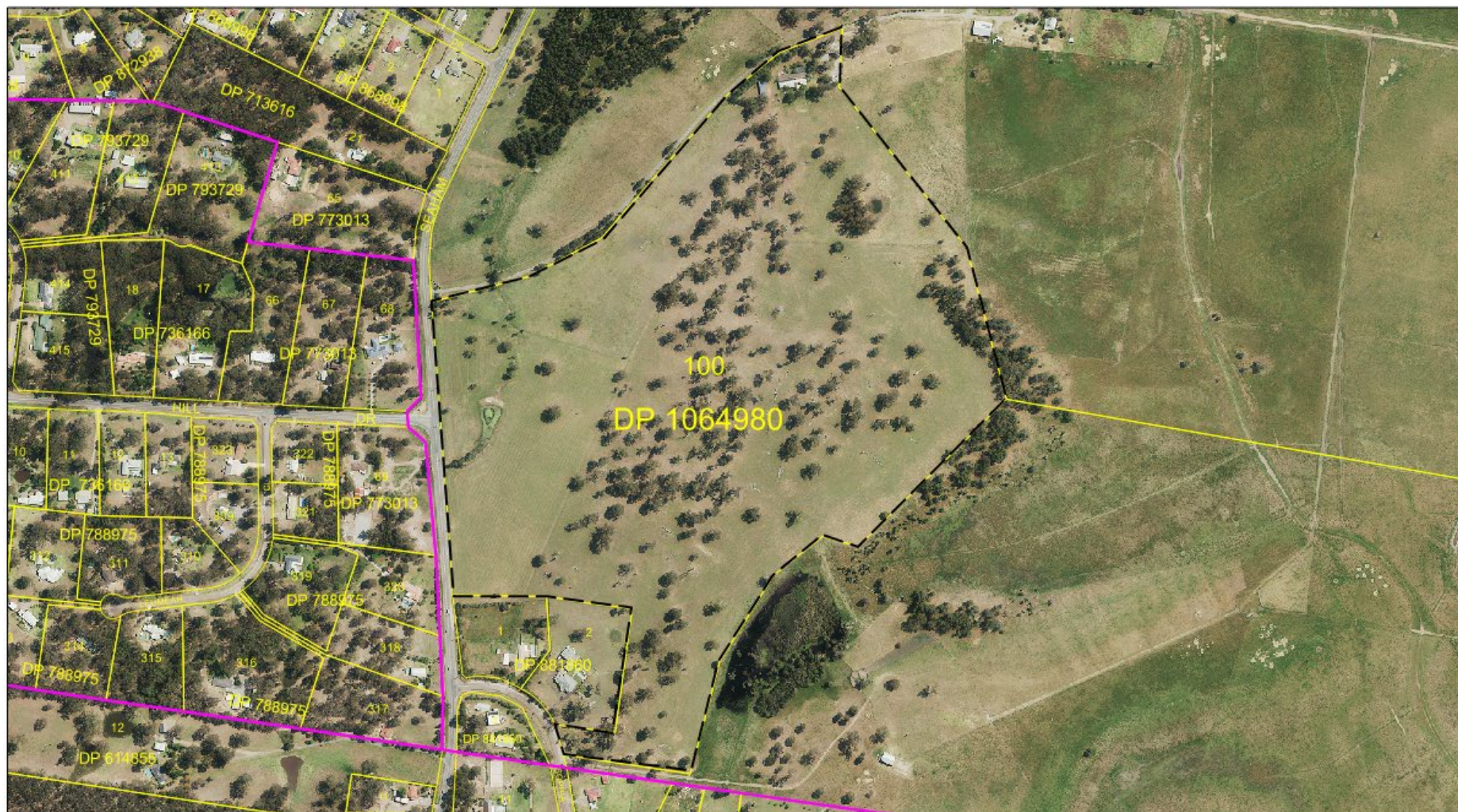
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The subject land (see Figure 1) has a total area of 45 hectares and has direct frontage to Seaham Road, the main arterial road connecting Seaham and Raymond Terrace. The subject land is approximately 9 minutes' drive north-west of Raymond Terrace and 20 minutes' drive north-east of Maitland.

Surrounding uses include a mix of rural residential allotments and larger agricultural allotments used for grazing and poultry farms west and south of the land. The subject land was historically used for cattle grazing however is currently vacant.

The site contains an existing dwelling and a machinery shed within the northern end of the lot. The site is partially cleared. Some scattered native trees occur throughout the middle of the site and along the eastern boundary; the understorey in these areas is cleared and has been historically grazed by cattle. The eastern and western portions of the site are in a Flood Planning Area. Two small farm dams are located on the Site; one in the north-western part and the other in the north-eastern part. The site is surrounded by a mix of residential development, cleared pasture lands and remnant patches of bushland. It is located approximately 25m from an existing large lot residential settlement (1.5 ha lots) to the west.

## Site Plan



## PART 1 – Intended outcome

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The intended outcome of the planning proposal is to enable rural residential subdivision and housing at 792 Seaham Road, Seaham (Lot 100 DP 1064980). An estimated 18 lots will be created as a result of the planning proposal.

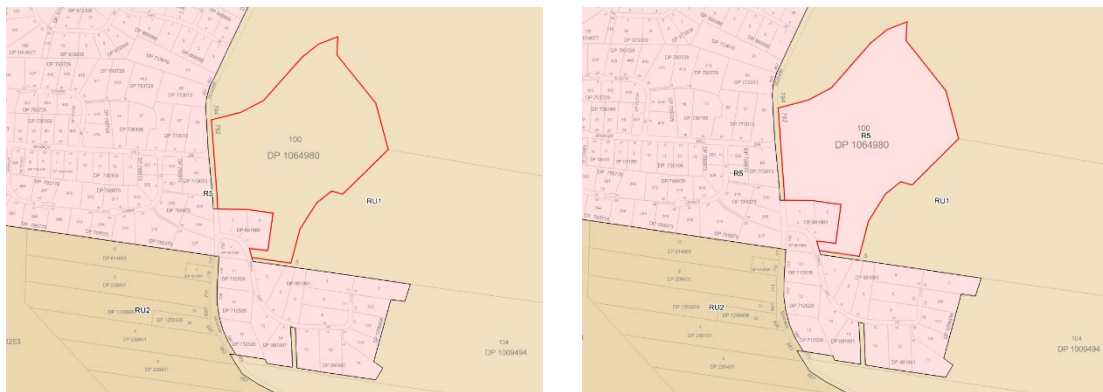
## PART 2 – Explanation of provisions

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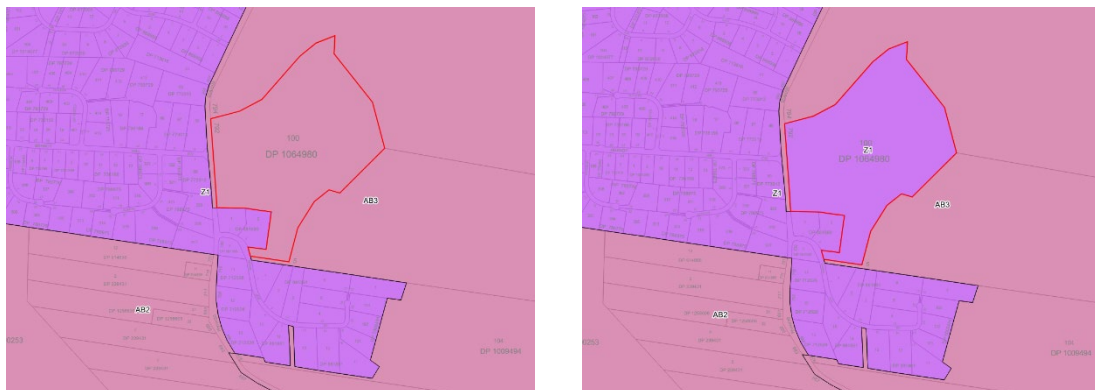
The intended outcome can be achieved by the following amendments to the Port Stephens Local Environmental Plan 2013 (LEP):

- Amend Land Zoning Map Sheet LZN\_001 for Lot 100 DP 1064980 from Zone RU1 Primary Production to R5 Large Lot Residential (see Figure 2); and
- Amend Lot Size Map Sheet LSZ\_001 for Lot 100 DP 1064980 from 40 hectares (AB3) to 2 hectares (Z1) (see Figure 3).

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



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



## PART 3 – Justification

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### Section A – Need for the planning proposal

#### **Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?**

Yes. The planning proposal is the result several strategic planning documents. The Port Stephens Local Strategic Planning Statement (LSPS) includes 'Planning Priority 9 – Protect and preserve productive agricultural land'. Action 9.1 implements the Planning Priority:

*Prepare a local housing strategy that includes assessment criteria for new rural residential development to protect existing and potential productive agricultural land*

The Port Stephens Local Housing Strategy (Live Port Stephens) includes Rural Residential Criteria. The planning proposal is consistent with the criteria as provided in response to Question 4.

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

Yes. Amending the land zoning and minimum lot size maps within the LEP is the best means of enabling rural residential subdivision and housing at 792 Seaham Road, Seaham (Lot 100 DP 1064980). The following alternative approaches were considered:

- **Alternative option 1:** Not rezoning the subject land

The intended outcome cannot be achieved by maintaining the existing RU1 Primary Production zone and 40ha minimum lot size.

- **Alternative option 2:** Schedule 1 – Additional permitted uses

An additional permitted use to facilitate rezoning and subdivision is not preferred as per the NSW Government's guidance that Schedule 1 should be used in exceptional circumstances.

## Section B – Relationship to strategic planning framework

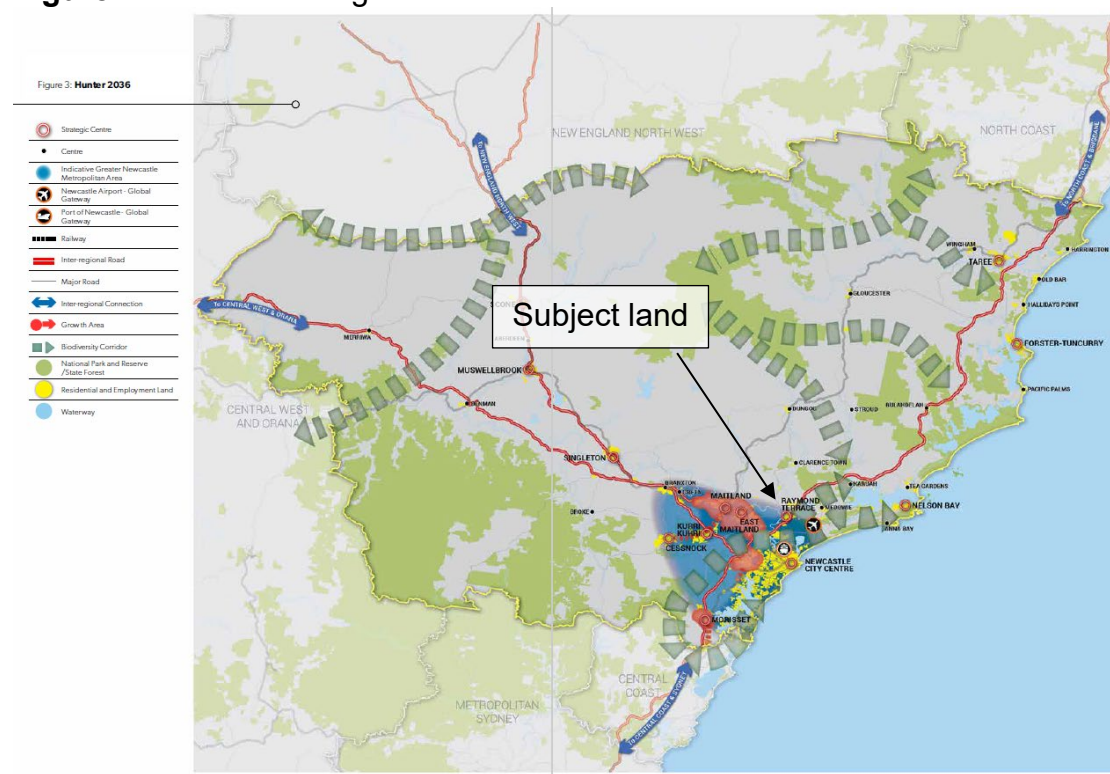
### Q3. Will the planning proposal give effect to the objectives and actions of the Hunter Regional Plan or Greater Newcastle Metropolitan Plan?

#### Hunter Regional Plan 2036

Yes. The planning will give effect to the objectives of the Hunter Regional Plan 2036 (HRP) vision to provide greater housing choice (see Figure 4). It aligns with Goal 4 of the HRP and Direction 22 to promote housing diversity. The planning proposal supports these outcomes by encouraging rural residential housing in proximity to an established rural residential area and within 10 minutes of a strategic centre at Raymond Terrace.

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

**Figure 4** Hunter Regional Plan



Action 22.5 of the HRP requires Councils to include guidance in local land use strategies for expanding rural villages and rural residential development. Council has adopted Rural Residential Criteria as part of Live Port Stephens and the planning proposal is consistent with the criteria as provided in response to Question 4.

The HRP provides the following objectives for rural residential development and a response relevant to the planning proposal is provided:

Objective	Response
<p>1. Not impact on strategic or important agricultural land, energy, mineral or extractive resource viability or biodiversity values.</p>	<p>Consistent.</p> <p>Existing rural residential development is located to the north, south and west of the subject land.</p> <p>The subject land is not strategic agricultural land nor identified as containing significant energy, mineral or extractive resource viability.</p> <p>The site has approximately 380m<sup>2</sup> of land that is identified on the High Biodiversity Values Map. Given the extent of the land mapped as being of high biodiversity value is insignificant the inconsistency is minor.</p> <p>Further consideration of potential land use conflict is provided in response to Question 8 of this planning proposal.</p>
<p>2. Not impact on drinking water catchments.</p>	<p>Consistent.</p> <p>The subject land is not located in a drinking water catchment.</p>
<p>3. Not result in greater natural hazard risk.</p>	<p>Consistent.</p> <p>The subject land contains around 22ha of land that is flood prone, being below the 1:100 year flood level. These areas will not be developed. A Flood Certificate and Floor Report have been prepared in support of the planning proposal, which identifies sufficient flood free ground available, and if residents do not choose to stay then adequate warning time exists to permit evacuation prior to the subject land becoming isolated. Further information is provided in response to Question 8 of this planning proposal.</p> <p>The subject land is bushfire prone and a Preliminary Bush Fire Assessment has been prepared in support of the planning proposal. An indicative subdivision plan demonstrates that the proposed lot sizes allow sufficient distance for asset protection zones. It is recommended that an updated report be</p>

Objective	Response
	prepared should the planning proposal receive a Gateway determination to proceed to reflect the Planning for Bushfire Protection 2019.
4. Occur on land that is unlikely to be needed for urban development.	<p>Consistent.</p> <p>The subject land is not identified for more intensive urban development in the LSPS or Live Port Stephens. The land is within 800m of an existing R5 zone and therefore considered suitable for rural residential development. Given the land is not currently nor planned to be serviced by reticulated sewer, the land is unlikely to be needed for urban development.</p>
5. Contribute to the conservation of important biodiversity values or the establishment of important corridor linkages.	<p>Consistent.</p> <p>The proposed lot size will allow for the retention of existing trees and conservation of the subject land's biodiversity values. The subject land is not part of any regionally significant biodiversity corridors. A Biodiversity Development Assessment Report (BDAR) will be prepared should the planning proposal receive a Gateway to proceed. Further detail on environmental values are provided in response to Question 7 of this planning proposal.</p>
6. Facilitate expansion of existing and new tourism development activities in agricultural or resource lands and related industries across the region.	<p>Consistent.</p> <p>The proposal does not seek to facilitate the expansion of existing or new tourism development. Rather, it seeks to contribute to housing diversity.</p>

The planning proposal is consistent with the HRP of providing housing opportunities near essential services and in an area with sufficient infrastructure already in place.

#### Greater Newcastle Metropolitan Plan 2036

Yes. The planning proposal will give effect to the vision of the Greater Newcastle Metropolitan Plan 2036 (GNMP) for Australia's newest and emerging economic and lifestyle city offering great lifestyles minutes from bushland and the airport (see Figure 5).

The planning proposal will give effect to:

- Strategy 18 – Deliver well-planned rural residential housing area

**Figure 5** Greater Newcastle Metropolitan Plan



In relation to rural residential housing, the Plan states that Greater Newcastle councils will enable rural residential housing when the need is demonstrated through a local planning strategy endorsed by the Department of Planning and Environment, and it is in locations where criteria are met.

Action 18.1 of the GNMP requires Councils enable rural residential housing when the need is demonstrated through local housing strategies. Council has demonstrated the need for rural residential housing in Live Port Stephens adopted Rural Residential Criteria to guide proposals. The planning proposal is consistent with the criteria as provided in response to Question 4.

The GNMP provides the following objectives for rural residential development and a response relevant to the planning proposal is provided:

Objective	Response
1. The land is unlikely to be required for more intensive urban purposes in the future due to physical constraints such as slope, environmental characteristics, or natural hazards.	<p>Consistent.</p> <p>The land is not identified for more intensive urban development in the LSPS or Live Port Stephens. Given the land is not currently nor planned to be serviced by reticulated sewer, the land is unlikely to be needed for urban development. The characteristics of the land and surrounding locality are consistent with rural residential development. The proposal will enable the extension of rural residential development to the subject land.</p>
2. Less intensive development will result in better management of the land.	<p>Consistent.</p> <p>Assessments prepared in support of the planning demonstrate that more intensive urban development is unlikely to result in better management of the land and potential environmental impacts. It is considered that rural residential housing on 2ha lots is an appropriate scale of development that will complement existing land uses and respond to the relevant characteristics of the subject land and its surrounds.</p>
3. The delivery of infrastructure required to service the development is physically and economically feasible.	<p>Consistent.</p> <p>The subject land is serviced by electricity and telecommunications infrastructure that shall be extended upon subdivision of the subject land. Consultation will be undertaken with Hunter Water Corporation (HWC) should the planning proposal receive a Gateway determination to proceed to confirm the capacity of existing water infrastructure. Connection to a reticulated sewer system is not available and unlikely to be economically feasible however this will be confirmed during consultation with HWC post-Gateway.</p>

The planning proposal is consistent with the GNMP by delivering well-planned rural residential housing areas close to jobs and services.

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

Port Stephens Local Strategic Planning Statement

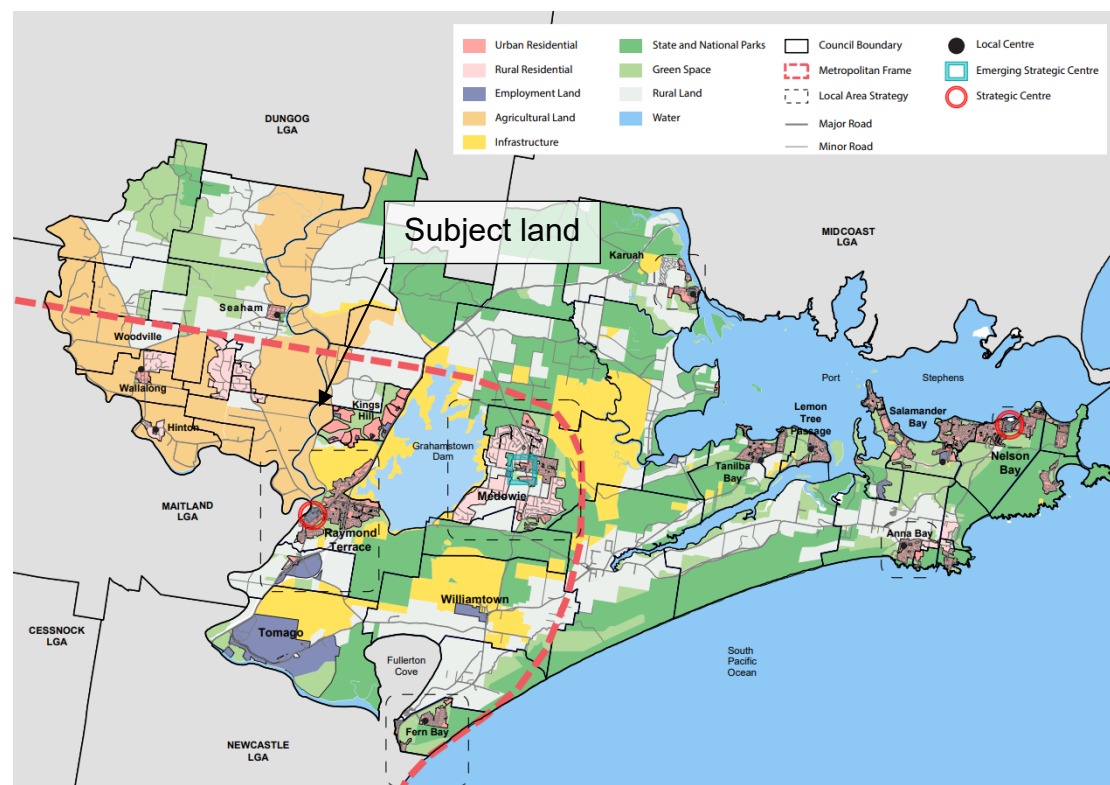
Yes. The planning proposal will give effect to 'Planning Priority 9 – Protect and preserve productive agricultural land' and Action 9.1 to:

*Prepare a local housing strategy that includes assessment criteria for new rural residential development to protect existing and potential productive agricultural land*

The Port Stephens Local Housing Strategy (Live Port Stephens) includes Rural Residential Criteria. The planning proposal is consistent with the criteria and further detail is provided in response to Live Port Stephens below.

The planning proposal is also consistent with 'Planning Priority 4 – Ensure suitable land supply' and 'Priority 5 – Increase diversity of housing choice'. The proposal will increase the supply of land for residential housing and provide housing that is different to that of locations such as Kings Hill and Raymond Terrace because it will be located on larger lots that have a minimum lot size of 2 hectares.

**Figure 6** Port Stephens Local Strategic Planning Statement

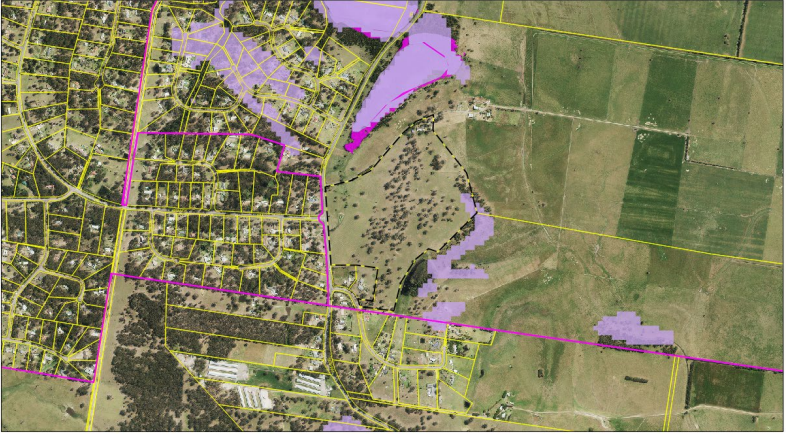


Port Stephens Local Housing Strategy (Live Port Stephens)

Yes. The planning proposal will give effect to Live Port Stephens. Live Port Stephens provides criteria that outlines the key requirements and constraints that require consideration in preparing rezoning requests for rural residential.

The following table lists those criteria and provides an appropriate response for the proposal:

Criteria Summary	Response
<b>Locational Criteria</b>	
1. Zoned RU1, RU2, E3 or E4.	Consistent.  The subject land is zoned RU1 Primary Production.
2. Located at least 800m from RU5, R1 and R2 zones.	Consistent.  The subject land is not within 800m of existing RU5 Rural Village, R1 General Residential or R2 Low Density Residential zoned Land.
3. Within 800m of R5 zone.	Consistent.  The entire land holding is 800m from existing land zoned R5 Large Lot Residential.
<b>Exclusionary Criteria</b>	
4. Areas identified for potential urban housing.	Consistent.  The subject land is not identified for urban housing.
5. Land within a 2km from existing or planned major employment areas.	Consistent.  The subject land is not within 2km of an existing or planned major employment area.
6. Slopes greater than 18 degrees.	Consistent.  The subject land slope is not greater than 18.
7. Class 1 and 2 acid sulfate soils.	Consistent. The subject land is mapped as containing class 2, 3 and 5 acid sulfate soils however the proposed R5 zone is unaffected by class 1 or 2. Further consideration of acid sulfate soils is provided in response to Ministerial Direction 4.1 of this planning proposal.
8. Land within the Flood Planning Area.	Consistent.

Criteria Summary	Response
	<p>Part of the site is below the FPL of 6.0 m AHD and as such, all lots within the proposed subdivision have land that will be subject to flood planning controls. However, the layout configuration provides land within each lot that is elevated above the FPL, in order to satisfy minimum habitable floor level requirements.</p> <p>Sufficient flood warning time will be available to evacuate the site in the event of a major flood.</p> <p>In addition, the proposed lot and road layout typically provides rising access to flood-free land on site.</p>
<p>9. High biodiversity value land.</p>	<p>Consistent.</p> <p>The subject land is mapped as having a very small portion of high biodiversity values that is unlikely to be impacted by the planning proposal. Further assessment of ecological value is providing in response to Question 7 of this planning proposal.</p> <p style="text-align: center;">Biodiversity Values Map</p> 
<p>10. Noise exposure areas within an ANEF 25 or greater.</p>	<p>Consistent.</p> <p>The subject land is not located in the noise exposure area with an ANEF 25 or greater.</p>
<p>11. Land identified as Important Agricultural Land.</p>	<p>Consistent.</p> <p>The subject land is not identified as BSAL.</p>
<p>12. Land within 500m of extractive industries, quarrying or mining.</p>	<p>Consistent.</p> <p>The subject land is not located within 500m of known extractive industries, quarrying or mining.</p>

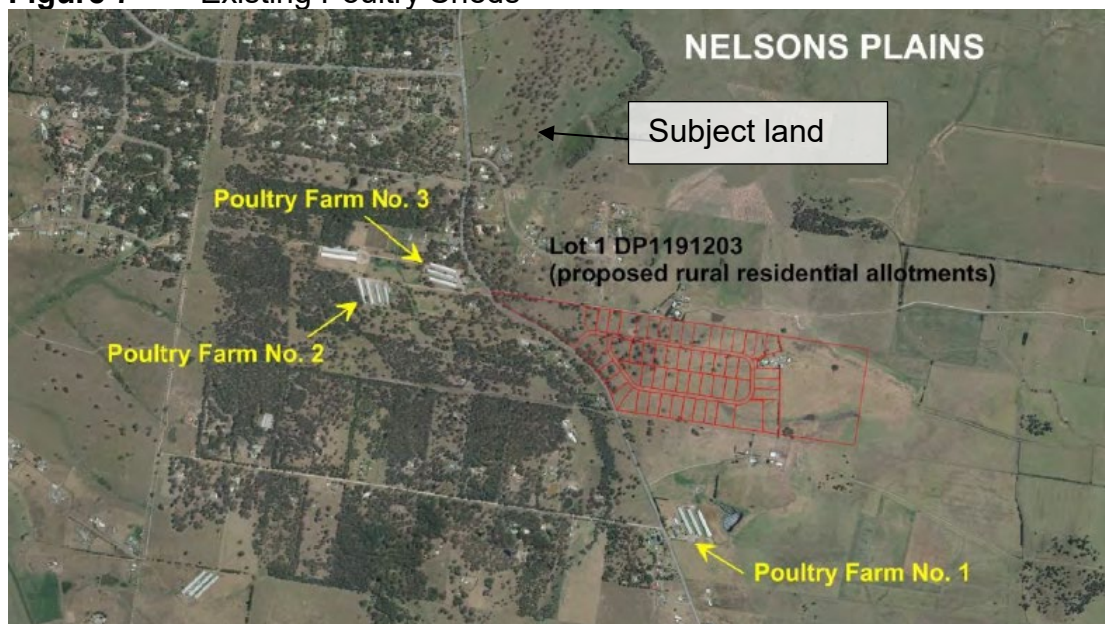
Criteria Summary	Response
13. Land identified as having known mineral resource potential.	<p>Consistent.</p> <p>The subject land is not identified by the State Government as having known mineral resource potential.</p>
<b>Management Criteria</b>	
14. Flooding – Land that has the potential to be isolated in flood events, must demonstrate access to evacuation facilities via a public road that is given 24 hours warning of flood isolation.	<p>Consistent.</p> <p>The subject land contains around 22ha of land that is flood prone, being below the 1:100 year flood level. These areas will not be developed.</p> <p>A Flood Certificate and Floor Report have been prepared in support of the planning proposal, which identifies sufficient flood free ground available, and if residents do not choose to stay then adequate warning time exists to permit evacuation prior to the subject land becoming isolated. Further information is provided in response to Question 8 of this planning proposal.</p>
15. Bushfire – Land identified as bush fire prone land must demonstrate consistency with Planning for Bush Fire Protection 2019.	<p>Consistent.</p> <p>The planning proposal identifies that an updated Bushfire Assessment Report is to be provided should the planning proposal receive a Gateway determination to proceed. Bushfire is a low risk that can be managed given the lack of recorded fire history in the locality.</p>
16. Environmentally Sensitive Land – Land in coastal management areas must be justified by a study or strategy to demonstrate consistency with the SEPP.	<p>Consistent.</p> <p>The subject land is not identified as a coastal management area.</p>
17. Environmentally Sensitive Land – Land that includes koala habitat areas	<p>Consistent.</p> <p>An Ecological Assessment has been prepared and recommends further investigations be carried out should the planning proposal receive a Gateway</p>

Criteria Summary	Response
and/or corridors, significant native vegetation, endangered ecological communities, threatened species or habitats must submit a Preliminary Ecological Assessment.	determination to proceed. Further consideration of environmentally sensitive land is provided in response to Question 7 of this planning proposal.
18. Environmentally Sensitive Land – Demonstrate how the proposal will contribute to the conservation of important biodiversity values or the establishment of important biodiversity linkages.	<p>Consistent.</p> <p>An Ecological Assessment has identified trees to be retained, which will contribute to the conservation of important biodiversity. Further investigations will be undertaken should the planning proposal receive Gateway determination to proceed. Further consideration of environmentally sensitive land is provided in response to Question 7 of this planning proposal.</p>
19. Aboriginal Cultural Heritage – An initial assessment of the likelihood of Aboriginal cultural heritage values.	<p>Consistent.</p> <p>An initial assessment via Aboriginal Heritage Information Management System (AHIMS) has shown that there no Aboriginal sites or places in or near the planning proposal.</p> <p>Further consideration of aboriginal cultural heritage is provided in response to Ministerial Direction 2.3.</p>
20. Drinking Water Catchment – Must be able to be connected	<p>Consistent.</p> <p>The subject land is not located in a Drinking Water Catchment.</p>

Criteria Summary	Response
to reticulated sewer or able to demonstrate a neutral or beneficial effect (NorBE) on water quality.	
21. Rural Land Resources – Land within 1km from existing agricultural industries (e.g. poultry farms, aquaculture) measured from property boundary to property boundary are requirement to provide expert reports (e.g. noise, odour, visual amenity and biosecurity risks etc.) to establish appropriate setbacks.	<p>Consistent.</p> <p>The site is located within 1km from a poultry farm. Odour due to poultry farms has not historically been an issue for the area.</p> <p>Further to this, due to the topography of the site impacts of odour are likely to be minor. Should a Gateway determination be issued an odour assessment will need to be prepared to minimise potential impacts on existing poultry farms operating in proximity to the subject land. Mitigations measures such as building envelopes may be necessary.</p> <p>Further consideration of potential odour impacts are provided in response to Question 8 of this planning proposal.</p>
22. Scenic Amenity – Land within high or very high landscape area must submit a visual impact assessment.	<p>Consistent.</p> <p>The land is identified by the Rural Lands Study as being within the River Estuary area (see Figure 10) characterised by the floodplains of the Paterson and Williams River offering distant views of pasture and wetlands. Given the proximity of existing rural residential areas and the consistency of the proposal with adjoining land, it is not considered that the proposal will detract from the scenic values identified.</p>
23. Scenic Amenity – Identify an appropriate buffer zone between	<p>Consistent.</p> <p>The Indicative Subdivision Layout proposes the retention of existing trees along Seaham Road, which will provide a buffer.</p>

Criteria Summary	Response
housing and existing road corridors.	
24. Infrastructure and Services – Demonstrate the land will be accessed via a sealed road.	Consistent.  Seaham Road is a sealed road.
25. Infrastructure and Services – Demonstrate the land will not result in the creation of direct access to a State Road.	Consistent.  Seaham Road is not a State Road.
26. Infrastructure and Services – Demonstrate the land will not create additional demand for unplanned State infrastructure upgrades.	Consistent.  The proposal is not understood to result in the need for State infrastructure upgrades.
27. Infrastructure and Services – Demonstrate the land will be connected to reticulated power supply.	Consistent.  The subject land is connected to a reticulated power supply.
28. Infrastructure and Services – Demonstrate that the land is able to dispose of onsite sewage.	Consistent.  A Wastewater Management Report in support of the planning proposal was provided.

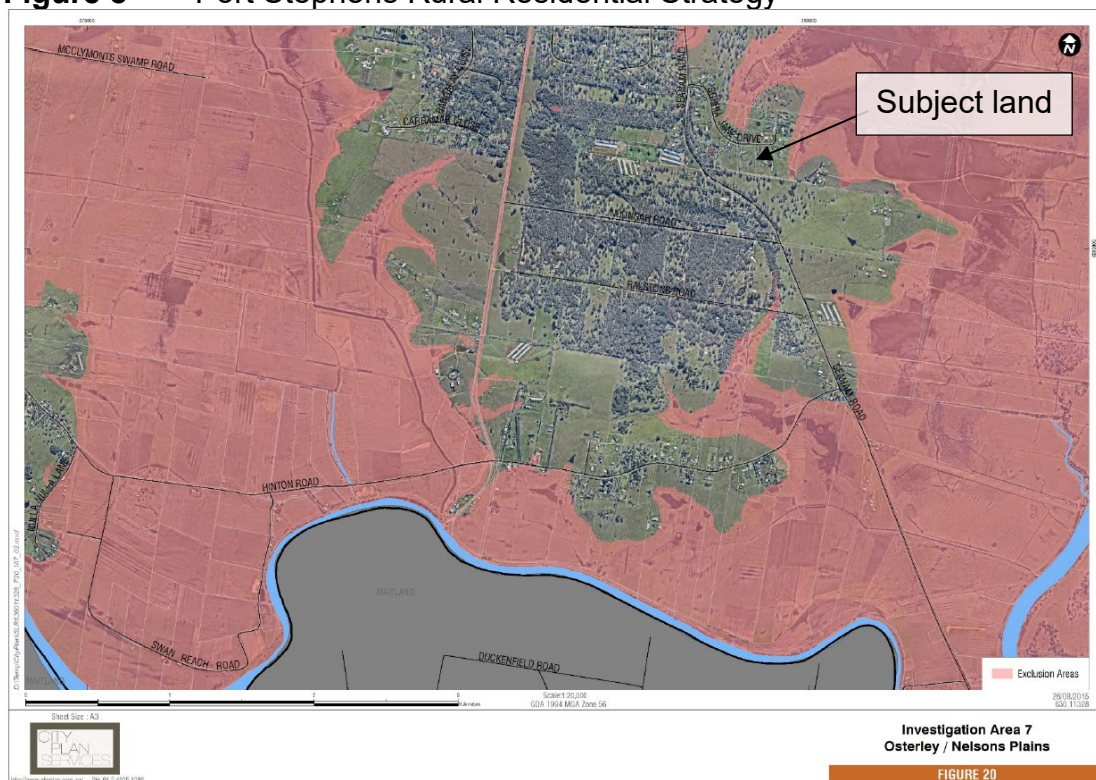
**Figure 7** Existing Poultry Sheds



### Port Stephens Rural Residential Strategy

The rural residential criteria requires proposals to address the Port Stephens Rural Residential Strategy (2015) including any matters for investigation that have been identified relevant to the proposed land. The subject land is within Investigation Area 7 – Osterley/Nelsons Plains of the Port Stephens Rural Residential Strategy (RRS) (see Figure 8).

**Figure 8** Port Stephens Rural Residential Strategy

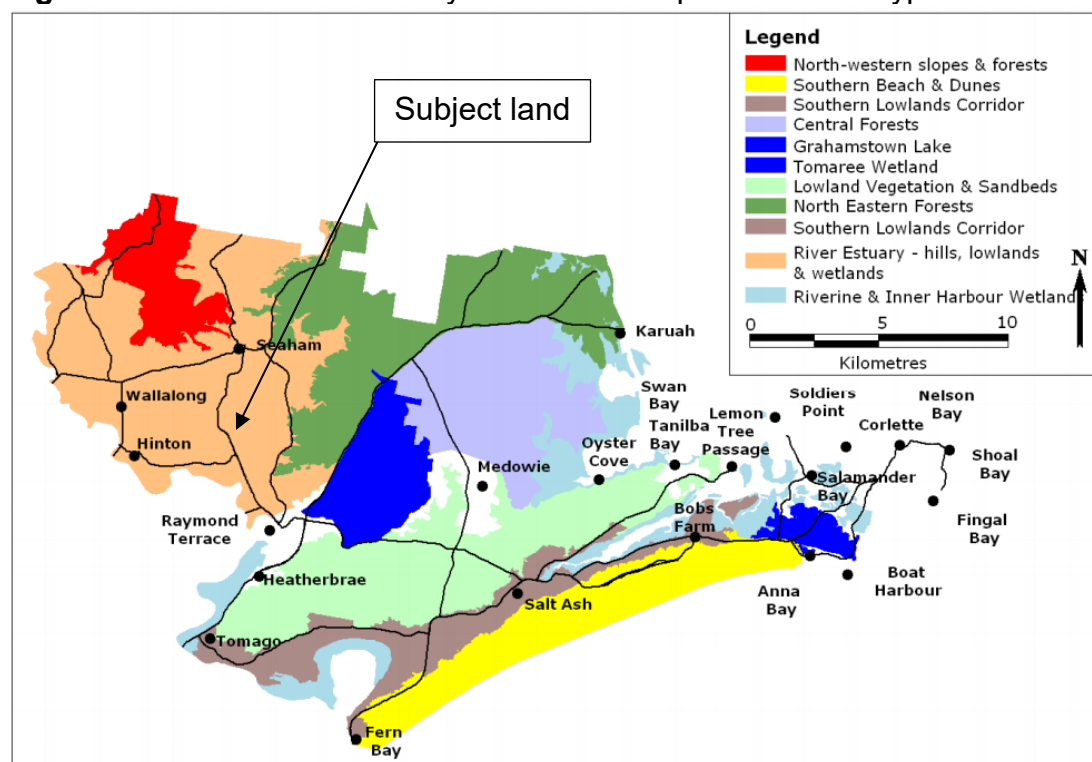


The following relevant matters are identified within the RRS as requiring investigation:

Matter for Investigation	Response
1. Estimated potential yield: 25 Rural living lots, with a 1ha minimum lot size. A mix of lot sizes, including some lots smaller than 2ha, may be appropriate in keeping with the character of the Brandy Hill area.	An estimated yield of 25 rural living lots at 1ha in size has been based on a desktop analysis. Investigations to support the subject planning proposal, including odour assessment, have provided a detailed analysis of the suitability of the subject land for rural residential purposes. The proposed lot size of 2ha is appropriate given the mitigation of potential odour impacts and avoidance of environmentally sensitive and flood prone land and proximity to Raymond Terrace.
2. Timing: Short - medium term	The RRS was prepared in 2015 and identified short-term investigation areas as likely to be investigated for development within 5 years. The proposal is considered to align with this timing.
3. Southern and western edge adjoins areas of significant agricultural potential therefore maintain the size of agricultural holdings and ensure that there are suitable buffers between intensive agriculture (including existing cluster of poultry sheds to the north) and dwellings.	<p>The RRS identifies the need to exclude lots greater than 80ha for agricultural or biodiversity purposes. The subject land is 45ha. The subject land is within proximity to several poultry sheds.</p> <p>Odour due to poultry farms has not historically been an issue for the area.</p> <p>Further to this, due to the topography of the site impacts of odour are likely to be minor. Should a Gateway determination be issued an odour assessment will need to be prepared to minimise potential impacts on existing poultry farms operating in proximity to the subject land. Mitigations measures such as building envelopes may be necessary.</p> <p>Further consideration of potential odour impacts are provided in</p>

Matter for Investigation	Response
	response to Question 8 of this planning proposal.
4. Isolated by flooding, so there needs to be provision for flood evacuation to nearest centre (Maitland/ Raymond Terrace) and stock refuge areas.	<p>The subject land contains around 22ha of land that is flood prone, being below the 1:100 year flood level. These areas will not be developed.</p> <p>A Flood Certificate and Flood Report have been prepared in support of the planning proposal, which identifies sufficient flood free ground available, and if residents do not choose to stay then adequate warning time exists to permit evacuation prior to the subject land becoming isolated. Further information is provided in response to Question 8 of this planning proposal.</p>
5. Mostly cleared land, but there are some areas of environmental sensitivity including some native vegetation and wetlands, and potential acid sulfate soils to be avoided.	The planning proposal is supported by a preliminary ecological assessment. The assessment found a variety of ecological attributes on the subject land and recommended further assessment should the planning proposal receive a Gateway to proceed. Further detail is provided in response to question 7 of this planning proposal.
6. Visually sensitive landscape and high landscape values based on river estuary and agricultural settings.	The land is identified by the Rural Lands Study as being within the River Estuary area (see Figure 9) characterised by the floodplains of the Paterson and Williams River offering distant views of pasture and wetlands. Given the proximity of existing rural residential areas and the consistency of the proposal with adjoining land, it is not considered that the proposal will detract from the scenic values identified.

**Figure 9** Rural Lands Study Rural Landscape Character Types



No other local area plans or strategies exist for the Nelson Plains/Seaham locality.

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

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	Consistency and Implications
<b>SEPP 55 – Remediation of Land</b> This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination.	SEPP 55 requires that consideration be given to whether the land is contaminated as part of a planning proposal. The planning proposal applies to land on which development for agricultural activities is known to have been carried out and is therefore potentially contaminated. A preliminary investigation in accordance with the contaminated land planning guidelines will be undertaken should the planning proposal receive a Gateway determination to proceed because the land is proposing to change from a rural zone to a residential zone. The findings of the investigation will satisfy Council that the land is suitable in its contaminated state or will be suitable after remediation. Any remediation required will be undertaken prior to development occurring.

SEPP	Consistency and Implications
<p><b>State Environmental Planning Policy (Koala Habitat Protection) 2019</b></p> <p>The Koala SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.</p>	<p>The Port Stephens Comprehensive Koala Plan of Management (CKPoM) has been prepared in accordance with the Koala SEPP.</p> <p>The subject land is mapped in the CKPoM as containing a small area of 'preferred' koala habitat, and a significant amount of 'marginal' and 'mainly cleared'</p> <div data-bbox="539 521 1326 981"> <p style="text-align: center;">Koala Habitat Mapping</p> </div> <p>The CKPoM provides performance criteria for rezonings to address:</p> <ul style="list-style-type: none"> <li>(a) <i>not result in development within areas of Preferred Koala Habitat or defined Habitat Buffers</i></li> </ul> <p>The subject land is mapped as containing a small portion of Preferred Koala Habitat. This part of the land will not be developed.</p> <ul style="list-style-type: none"> <li>(b) <i>allow for only low impact development within areas of Supplementary Koala Habitat and Habitat Linking Areas</i></li> </ul> <p>The subject land contains marginal koala habitat and linking marginal koala habitat. Building envelopes proposed to mitigate potential odour impacts will also ensure the habitat linking areas are maintained in the north-west portion of the land.</p> <ul style="list-style-type: none"> <li>(c) <i>minimise the removal of any individuals of preferred koala food trees, where ever they occur on the site</i></li> </ul> <p>Further assessment of tree removal required for the proposed development will be undertaken</p>

SEPP	Consistency and Implications
	<p>should the planning proposal receive a Gateway determination to proceed.</p> <p><i>(d) not result in development which would sever koala movement across the site. This should include consideration of the need for maximising tree retention on the site generally and for minimising the likelihood of impediments to safe/unrestricted koala movement.</i></p> <p>The proposal adequately considers the need for maximising tree retention, with majority of the vegetation on the subject land to be retained.</p>
<p><b>State Environmental Planning Policy (Primary Production and Rural Development) 2019</b></p> <p>The Rural Development SEPP aims to facilitate the orderly economic use of rural lands, protect important agricultural lands and reduce land use conflict.</p>	<p>The Primary Production and Rural Development SEPP supersedes the former Rural Lands SEPP, which contained Rural Planning Principles for consideration in strategic planning and to be addressed by any proposal to amend a planning instrument in relation to rural zoned land.</p> <p>The Primary Production and Rural Development SEPP relates specifically to State significant agricultural land, artificial water bodies, livestock industries and aquaculture and no longer contains the Rural Planning Principles that provide broad strategic direction for all rural land.</p> <p>The Rural Planning Principles were transferred to Ministerial Direction 1.5 Rural Lands and are addressed in response to Question 6 of this planning proposal.</p> <p>Notwithstanding, the objectives of the Primary Production and Rural Development SEPP include the facilitation of orderly economic use and development of lands for primary production, and to reduce land use conflict by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources.</p>

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

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

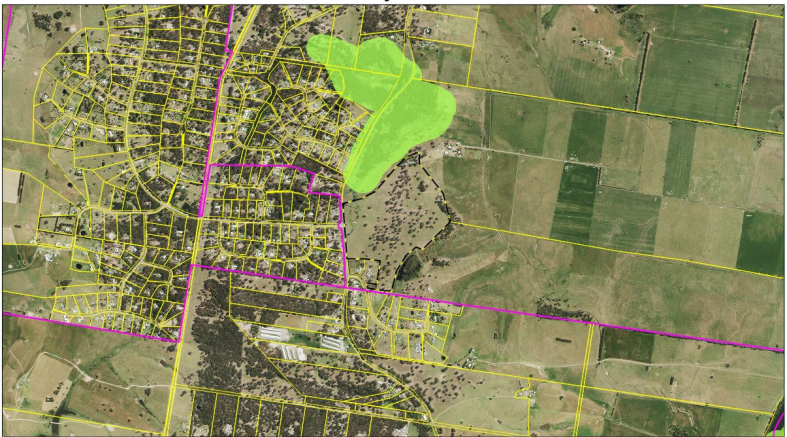
**Table 2 – Relevant Ministerial Directions**


Ministerial Direction	Consistency and Implications
1. EMPLOYMENT AND RESOURCES	
<p><b>1.2 Rural Zones</b></p> <p>The objectives of this direction are to protect the agricultural production value of rural lands.</p>	<p>The planning proposal will affect land within an existing rural zone.</p> <div data-bbox="544 416 1337 869"> <p style="text-align: center;">Land Zoning</p> </div> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) <i>not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</i></li> <li>(b) <i>not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).</i></li> </ul> <p>The planning proposal is inconsistent with this direction as it proposes to rezone land from RU1 Primary Production to R5 Large Lot Residential and will reduce the lot size provisions enabling an increase in the permissible density of the land.</p> <p>A planning proposal may be inconsistent with this direction if the proposal is in accordance with the HRP or GNMP. As provided above, the planning proposal is in accordance with both the HRP and GNMP as it will assist in meeting the dwelling targets identified within the GNMP and reinforce the role of Raymond Terrace as a strategic centre by providing increased housing diversity within a short distance of Raymond Terrace.</p> <p><b>The planning proposal is justifiably inconsistent with Ministerial Direction 1.2 Rural Zones.</b></p>

Ministerial Direction	Consistency and Implications
<p><b>1.5 Rural Lands</b> The objective of this direction is to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.</p>	<p>The planning proposal will affect land within an existing rural zone and proposes to change the existing minimum lot size.</p> <div data-bbox="544 412 1337 869"> <p style="text-align: center;">Land Zoning</p> </div> <p>A planning proposal within an existing rural zone must:</p> <ul style="list-style-type: none"> <li>(a) <i>be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement</i></li> </ul> <p>Refer to response to Question 3 in this planning proposal.</p> <ul style="list-style-type: none"> <li>(b) <i>consider the significance of agriculture and primary production to the State and rural communities</i></li> </ul> <p>The proposal considers the importance of primary production to the State and rural communities, with any inconsistencies with this direction considered to be minor.</p> <ul style="list-style-type: none"> <li>(c) <i>identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources</i></li> </ul> <p>Refer to response to Question 7 in this planning proposal.</p> <ul style="list-style-type: none"> <li>(d) <i>consider the natural and physical constraints of the land, including but not limited to, topography,</i></li> </ul>

Ministerial Direction	Consistency and Implications
	<p><i>size, location, water availability and ground and soil conditions</i></p> <p>The natural and physical constraints of the land have been considered throughout the planning proposal, particularly in response to Questions 6 and 7.</p> <p><i>(e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</i></p> <p>The proposal does not specifically promote opportunities for investment in productive rural economic activities.</p> <p><i>(f) support farmers in exercising their right to farm</i></p> <p>The proposal has considered the policy directions of the NSW Right to Farm Policy. To support this, an Odour Assessment Report, Peer Review and Community Questionnaire has been provided. For further information on the odour assessment, refer to the response to Question 8.</p> <p><i>(g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses</i></p> <p>Refer to response to Question 8 in this planning proposal.</p> <p><i>(h) consider State significant agricultural land identified in State Environmental Planning Policy (Primary Production and Rural Development) 2019 for the purpose of ensuring the ongoing viability of this land</i></p> <p>The proposal does not relate to State significant agricultural land.</p> <p><i>(i) consider the social, economic and environmental interests of the community.</i></p>

Ministerial Direction	Consistency and Implications
	<p>Refer to response to Questions 7-9 in this planning proposal.</p> <p>A planning proposal that proposes to change the existing minimum lot size within a rural zone must demonstrate that it:</p> <p><i>(a) is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses</i></p> <p>The proposal has considered the potential for land use conflict. Should the proposal receive a Gateway determination, an odour assessment report will need to be provided.</p> <p>Odour due to poultry farms has not historically been an issue for the area. An odour assessment may suggest building envelopes to ensure future dwellings can achieve the predicted EPA Odour assessment criteria.</p> <p>Further consideration of potential odour impacts are provided in response to Question 8 of this planning proposal.</p> <p><i>(b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains</i></p> <p>It is considered that the proposal will not adversely affect the operation of existing and future rural land uses and supporting infrastructure and facilities that are essential to rural industries or supply chains.</p> <p><i>(c) where it is for rural residential purposes:</i></p> <ul style="list-style-type: none"> <li><i>i. is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres</i></li> <li><i>ii. is necessary taking account of existing and future demand and supply of rural residential land.</i></li> </ul>

Ministerial Direction	Consistency and Implications
	<p>The planning proposal will facilitate rural residential development that can be appropriately serviced, that is within a 10 minute drive of a Strategic Centre. Council understands that there is a demand for this type of housing type.</p> <p>A planning proposal may be inconsistent with this direction if the provisions of the planning proposal that are inconsistent are of minor significance. The planning proposal has adequately considered the potential for land use conflict with existing agricultural operations in particular poultry sheds within proximity of the site.</p> <p><b>The planning proposal is justifiably inconsistent with Ministerial Direction 1.5 Rural Lands.</b></p>
<b>2. ENVIRONMENT AND HERITAGE</b>	
<p><b>2.1 Environment Protection Zones</b></p> <p>The objective of this direction is the protection and conservation of environmentally sensitive areas, by ensuring that planning proposals do not reduce the environmental protection standards applying to such land unless it is suitably justified by a relevant strategy or study or is of minor significance.</p>	<p>The direction applies to all planning proposals however the land is not within an environment protection zone or otherwise identified for environmental protection purposes in the LEP.</p> <p><i>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</i></p> <p>The land is not within an environmentally sensitive area.</p> <div data-bbox="547 1330 1337 1787"> <p style="text-align: center;">Environmentally Sensitive Areas</p>  </div> <p>However, further investigations will be undertaken should the planning proposal receive a Gateway to proceed to determine the extent of ecological values on the land. Further detail is provided in response to Question 7 of this planning proposal.</p>

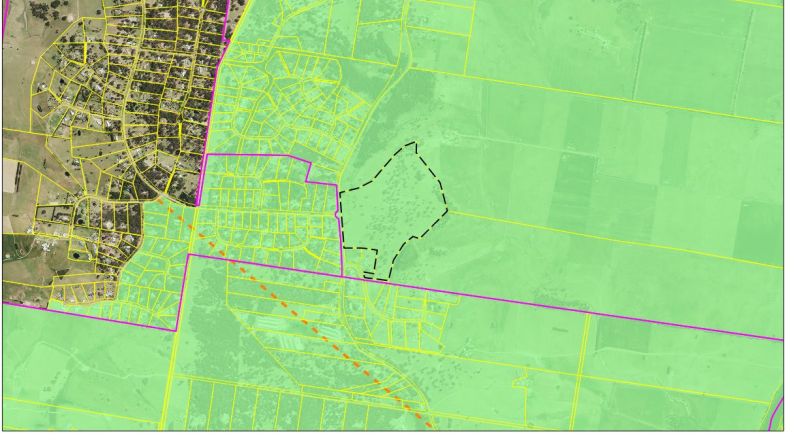
Ministerial Direction	Consistency and Implications
	<p><b>The planning proposal is consistent with Ministerial Direction 2.1 Environment Protection Zones.</b></p>
<p><b>2.3 Heritage Conservation</b>  The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>	<p>The direction applies to all planning proposals.</p> <p>A planning proposal must contain provisions that facilitate the conservation of:</p> <ul style="list-style-type: none"> <li>(a) <i>items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</i></li> <li>(b) <i>Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</i></li> <li>(c) <i>Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.</i></li> </ul> <p>No items, areas, objects, or places of environmental heritage significance are located on the subject land. Heritage Item 84 'Eskdale House' is located to the north of the subject land however is not related to the proposal.</p> <div data-bbox="547 1518 1337 1971"> <p style="text-align: center;">Heritage</p>  </div>

Ministerial Direction	Consistency and Implications
	<p>A Preliminary Aboriginal Heritage Assessment has been prepared in support of the planning proposal. It is recommended that a site assessment be undertaken should the planning proposal receive a Gateway determination to proceed. The assessment will be carried out in consultation and collaboration with the Worimi Local Aboriginal Land Council to consider preservation and protection of Aboriginal heritage, values in the event that Aboriginal objects of significance or potential are identified.</p> <p>The planning proposal may be updated post-Gateway to include provisions that facilitate the conservation of any Aboriginal areas, objects, places or landscape identified.</p> <p><b>The planning proposal is likely to be consistent with Ministerial Direction 2.3 Heritage Conservation subject to further investigation following a Gateway determination to proceed.</b></p>
<p><b>2.6 Remediation of Contaminated Land</b></p> <p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p>	<p>The planning proposal applies to land on which development for agricultural activities is known to have been carried out and is therefore potentially contaminated.</p> <p>A planning proposal must not permit a change of zoning on potentially contaminated land unless:</p> <ul style="list-style-type: none"> <li><i>(a) the planning proposal authority has considered whether the land is contaminated, and</i></li> <li><i>(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</i></li> <li><i>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.</i></li> </ul> <p>A preliminary investigation in accordance with the contaminated land planning guidelines will be undertaken should the planning proposal receive a Gateway determination to proceed because the land is</p>

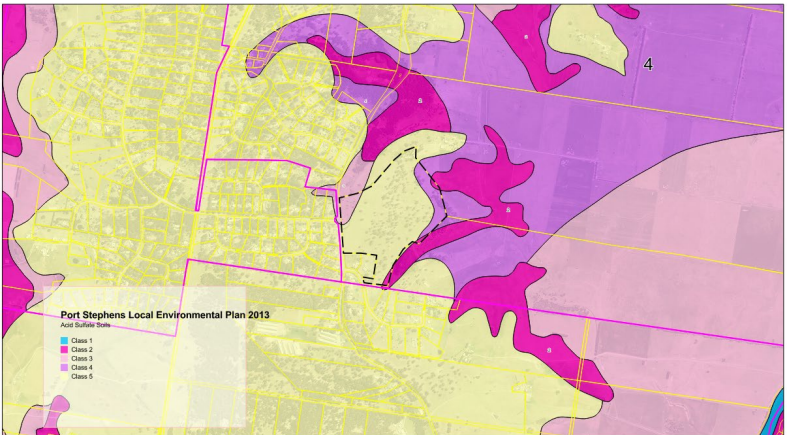
Ministerial Direction	Consistency and Implications
	<p>proposing to change from a rural zone to a residential zone. The findings of the investigation will satisfy Council that the land is suitable in its contaminated state or will be suitable after remediation. Any remediation required will be undertaken prior to development occurring.</p> <p><b>The planning proposal is likely to be consistent with Ministerial Direction 2.6 Remediation of Contaminated Land subject to further investigation following a Gateway determination to proceed.</b></p>
<b>3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT</b>	
<p><b>3.1 Residential Zones</b></p> <p>Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.</p>	<p>The planning proposal will affect land within a proposed residential zone.</p> <p>A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> <li><i>(a) broaden the choice of building types and locations available in the housing market, and</i></li> <li><i>(b) make more efficient use of existing infrastructure and services, and</i></li> <li><i>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</i></li> <li><i>(d) be of good design.</i></li> </ul> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li><i>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</i></li> <li><i>(b) not contain provisions which will reduce the permissible residential density of land</i></li> </ul> <p>The planning proposal is partly consistent with the terms of the direction as it will broaden the choice of building types and locations in the housing market and be of good design. However, the planning proposal is inconsistent with the remaining terms of the direction as it does not make more efficient use of existing infrastructure and will increase the consumption of land on the urban fringe.</p>

Ministerial Direction	Consistency and Implications
	<p>A planning proposal may be inconsistent with this direction if the proposal is in accordance with the HRP or GNMP. As provided above, the planning proposal is in accordance with both the HRP and GNMP as it will assist in meeting the dwelling targets identified within the GNMP and reinforce the role of Raymond Terrace as a strategic centre by providing increased housing diversity within a short distance of Raymond Terrace.</p> <p><b>The planning proposal is justifiably inconsistent with Ministerial Direction 3.1 Residential Zones.</b></p>
<p><b>3.4 Integrating Land Use and Transport</b></p> <p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.</p>	<p>The planning proposal will create a zone for residential purposes.</p> <p>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p><i>(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</i></p> <p><i>Principles:</i></p> <ol style="list-style-type: none"> <li>1. <i>Concentrate in centres</i></li> <li>2. <i>Mix uses in centres</i></li> <li>3. <i>Align centres within corridors</i></li> <li>4. <i>Link public transport with land use strategies</i></li> <li>5. <i>Connect streets</i></li> <li>6. <i>Improve pedestrian access</i></li> <li>7. <i>Improve cycle access</i></li> <li>8. <i>Manage parking supply</i></li> <li>9. <i>Improve road management</i></li> <li>10. <i>Implement good urban design</i></li> </ol> <p><i>(b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</i></p> <p><i>Aim:</i></p> <p><i>“To encourage a network of vibrant, accessible mixed use centres which are closely aligned with and accessible by public transport, walking and cycling.”</i></p> <p><i>Objectives</i></p>

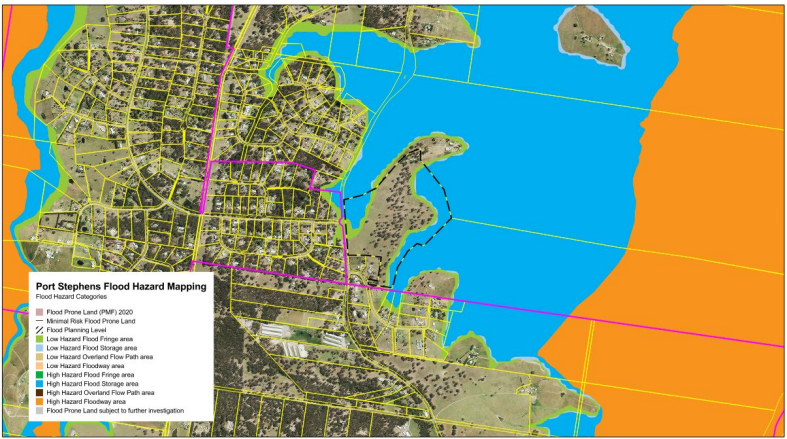
Ministerial Direction	Consistency and Implications
	<ul style="list-style-type: none"> <li>• <i>locate trip-generating development which provides important services in places that:</i> <ul style="list-style-type: none"> <li>○ <i>help reduce reliance on cars and moderate the demand for car travel</i></li> <li>○ <i>encourage multi-purpose trips</i></li> <li>○ <i>encourage people to travel on public transport, walk or cycle</i></li> <li>○ <i>provide people with equitable and efficient access</i></li> </ul> </li> <li>• <i>minimise dispersed trip-generating development that can only be accessed by cars</i></li> <li>• <i>ensure that a network of viable, mixed use centres closely aligned with the public transport system accommodates and creates opportunities for business growth and service delivery</i></li> <li>• <i>protect and maximise community investment in centres, and in transport infrastructure and facilities</i></li> <li>• <i>encourage continuing private and public investment in centres, and ensure that they are well designed, managed and maintained</i></li> <li>• <i>foster growth, competition, innovation and investment confidence in centres, especially in the retail and entertainment sectors, through consistent and responsive decision making.</i></li> </ul> <p>Although, the subject land is not located in a centre or in walking distance from a major public transport mode like a railway station or high frequency bus route, it is within 10 minutes' drive of a strategic centre at Raymond Terrace. The planning proposal is inconsistent with the terms of the direction as it does not ensure that a network of viable, mixed use centres closely aligned with the public transport system accommodates and creates opportunities for business growth and service delivery. However, the nature of the proposed development, as rural residential, is unlikely to be able to satisfy these requirements.</p> <p>A planning proposal may be inconsistent with this direction if the proposal is in accordance with the HRP or GNMP. As provided above, the planning proposal is in accordance with both the HRP and GNMP as it will assist in meeting the dwelling targets identified</p>

Ministerial Direction	Consistency and Implications
	<p>within the GNMP and reinforce the role of Raymond Terrace as a strategic centre by providing increased housing diversity within a short distance of Raymond Terrace.</p> <p><b>The planning proposal is justifiably inconsistent with Ministerial Direction 3.4 Integrating Land Use and Transport.</b></p>
<p><b>3.5 Development Near Regulated Airports and Defence Airfields</b></p> <p>The objectives of this direction are to ensure the effective and safe operation of regulated airports and defence airfields; that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</p>	<p>The planning proposal will create a zone on land near Williamstown RAAF Base / Newcastle Airport. The land is identified on the Port Stephens Height Trigger Map and all structures higher than 45m require referral to the Department of Defence. The land is not affected by any ANEF contour.</p> <div data-bbox="547 857 1337 1312"> <p style="text-align: center;">Height Trigger Map</p>  </div> <p>Where a planning proposal sets controls for development of land near a regulated airport, Council must:</p> <ul style="list-style-type: none"> <li>(a) <i>consult with the lessee/operator of that airport;</i></li> <li>(b) <i>take into consideration the operational airspace and any advice from the lessee/operator of that airport;</i></li> <li>(c) <i>for land affected by the operational airspace, prepare appropriate development standards, such as height controls.</i></li> <li>(d) <i>not allow development types that are incompatible with the current and future operation of that airport</i></li> </ul> <p>Where a planning proposal that sets controls for the development of land near a defence airfield, Council must:</p>

Ministerial Direction	Consistency and Implications
	<p>(a) <i>consult with the Department of Defence if:</i></p> <p>(i) <i>the planning proposal seeks to exceed the height provisions contained in the Defence Regulations 2016 – Defence Aviation Areas for that airfield; or</i></p> <p>(ii) <i>no height provisions exist in the Defence Regulations 2016 – Defence Aviation Areas for the airfield and the proposal is within 15km of the airfield.</i></p> <p>(b) <i>for land affected by the operational airspace, prepare appropriate development standards, such as height controls.</i></p> <p>(c) <i>not allow development types that are incompatible with the current and future operation of that airfield.</i></p> <p>The existing planning controls in the Port Stephens Development Control Plan 2014 require development higher than 45m to be referred to the Department of Defence. Future development associated with an R5 Large Lot Residential zone is unlikely to exceed 1-2 storeys (4-7m). Therefore, the proposal is unlikely to impact on the existing operations of Williamtown RAAF Base / Newcastle Airport. Nevertheless, consultation with Newcastle Airport and the Commonwealth Department of Defence will be undertaken should the planning proposal receive a Gateway determination to proceed.</p> <p><b>The planning proposal is likely to be consistent with Ministerial Direction 3.5 Development Near Regulated Airports and Defence Airfields subject to consultation with Newcastle Airport and the Commonwealth Department of Defence following a Gateway determination to proceed.</b></p>
<b>4. HAZARD AND RISK</b>	
<p><b>4.1 Acid Sulfate Soils</b></p> <p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability</p>	<p>The planning proposal will apply to land having a probability of containing acid sulfate soils.</p>

Ministerial Direction	Consistency and Implications
of containing acid sulphate soils.	<p data-bbox="868 264 1011 286" style="text-align: center;">Acid Sulfate Soils</p>  <p data-bbox="547 763 1193 792">What Council must do if this direction applies:</p> <ul style="list-style-type: none"> <li data-bbox="596 835 1331 1122">(4) <i>The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</i></li> <li data-bbox="596 1128 1331 1525">(5) <i>When a relevant planning authority is preparing a planning proposal to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:</i> <ul style="list-style-type: none"> <li data-bbox="692 1274 1299 1379">a. <i>the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Director-General, or</i></li> <li data-bbox="692 1386 1331 1525">b. <i>such other provisions provided by the Director-General of the Department of Planning that are consistent with the Acid Sulfate Soils Planning Guidelines</i></li> </ul> </li> <li data-bbox="596 1532 1331 2002">(6) <i>A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the DirectorGeneral prior to undertaking community consultation in satisfaction of section 57 of the Act.</i></li> </ul>

Ministerial Direction	Consistency and Implications
	<p><i>(7) Where provisions referred to under paragraph (5) of this direction have not been introduced and the relevant planning authority is preparing a planning proposal that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the planning proposal must contain provisions consistent with paragraph (5).</i></p> <p>The subject land is nominated as class 2, 3 and 5 acid sulfate soils requiring consent for works:</p> <ul style="list-style-type: none"> <li>• below the natural ground surface OR by which the watertable is likely to be lowered (class 2).</li> <li>• more than 1 metre below the natural ground surface OR by which the watertable is likely to be lowered more than 1 metre below the natural ground surface (class 3).</li> <li>• within 500m of Class 1, 2, 3 or 4 land (Class 5).</li> </ul> <p>The land subject to rezoning is mostly class 5 and is the lowest risk classification. Sufficient area is available to develop outside of land containing class 2 and 3 ASS. The Port Stephens Local Environmental Plan 2013 contains a clause consistent with <i>the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Director-General</i>, which ensures that all development applications provide consideration to acid sulfate soils. Further consideration of Acid Sulfate Soils can be managed through existing provisions of the LEP.</p> <p><b>The planning proposal is consistent with Ministerial Direction 4.1 Acid Sulfate Soils</b></p>
<p><b>4.3 Flood Prone Land</b></p> <p>The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain</p>	<p>The planning proposal affects minimal land that is subject the probable maximum flood, including low hazard fringe and low hazard storage area.</p>

Ministerial Direction	Consistency and Implications
<p>Development Manual 2005, and that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p>	<p style="text-align: center;"><b>Flood Prone Land</b></p>  <p><b>Port Stephens Flood Hazard Mapping</b> Flood Hazard Categories</p> <ul style="list-style-type: none"> <li>Flood Prone Land (PML) 2020</li> <li>Mineral Risk Flood Prone Land</li> <li>Flood Planning Level</li> <li>Low Hazard Flood Storage area</li> <li>Low Hazard Floodway area</li> <li>Low Hazard Floodway area</li> <li>Low Hazard Floodway area</li> <li>High Hazard Flood Fringe area</li> <li>High Hazard Flood Storage area</li> <li>High Hazard Floodway area</li> <li>High Hazard Floodway area</li> <li>Flood Prone Land subject to further investigation</li> </ul> <p>A planning proposal must:</p> <ol style="list-style-type: none"> <li>(4) <i>include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).</i></li> <li>(5) <i>not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial Special Use or Special Purpose Zone.</i></li> <li>(6) <i>not contain provisions that apply to the flood planning areas which:</i> <ol style="list-style-type: none"> <li>(a) <i>permit development in floodway areas;</i></li> <li>(b) <i>permit development that will result in significant flood impacts to other properties;</i></li> <li>(c) <i>permit a significant increase in the development of that land;</i></li> <li>(d) <i>are likely to result in a substantial increased requirement for government spending on flood mitigation measures, infrastructure or services; or</i></li> <li>(e) <i>permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.</i></li> </ol> </li> <li>(7) <i>not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate</i></li> </ol>

Ministerial Direction	Consistency and Implications
	<p><i>justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</i></p> <p><i>(8) a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</i></p> <p>The subject land contains around 22ha of land that is flood prone, being below the 1:100 year flood level. These areas will not be developed. A Flood Certificate and Flood Report have been prepared in support of the planning proposal, which identifies sufficient flood free ground available, and if residents do not choose to stay then adequate warning time exists to permit evacuation prior to the subject land becoming isolated. Further information is provided in response to Question 8 of this planning proposal.</p>

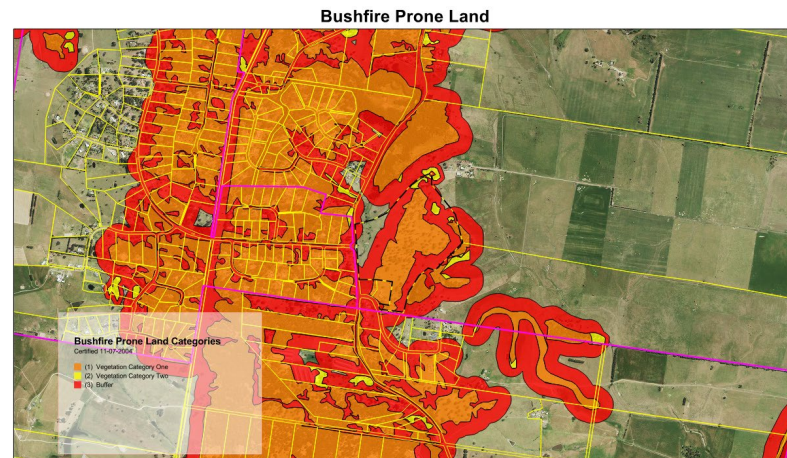
A planning proposal may be inconsistent with the terms of this direction if the provisions of the planning proposal that are inconsistent are of minor significance.

**The planning proposal is justifiably inconsistent with Ministerial Direction 4.3 Flood Prone Land**

#### 4.4 Planning for Bushfire Protection

The objectives of this direction are to protect life, property, and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.

The planning proposal will affect land mapped as bushfire prone land.



A planning proposal must:

- (a) have regard to *Planning for Bushfire Protection 2006*,
- (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
- (c) ensure that bushfire hazard reduction is not prohibited within the APZ.

A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:

- (a) provide an Asset Protection Zone (APZ) incorporating at a minimum:
  - (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and
  - (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,
- (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,

	<p>(c) <i>contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,</i></p> <p>(d) <i>contain provisions for adequate water supply for firefighting purposes,</i></p> <p>(e) <i>minimise the perimeter of the area of land interfacing the hazard which may be developed,</i></p> <p>(f) <i>introduce controls on the placement of combustible materials in the Inner Protection Area.</i></p> <p>While a preliminary bushfire assessment report has been provided, a Strategic Bush Fire Assessment in accordance with the NSW RFS, 2018, 'Draft Planning for Bushfire Protection (Part 4 – Strategic Planning)' will be completed should the planning proposal receive a Gateway determination to proceed.</p> <p>This Report will respond directly to this direction and:</p> <ul style="list-style-type: none"> <li>• have regard to Planning for Bushfire Protection 2018,</li> <li>• introduce controls that avoid placing inappropriate developments in hazardous areas, and</li> <li>• ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zones (APZ).</li> </ul> <p>The primary protection of any future development from bushfire would be via the establishment of APZs, consistent with the "Planning for Bushfire Protection 2018" guidelines.</p> <p>No further assessment of bushfire is required prior to a Gateway determination and appropriate consultation with the NSW Rural Fire Service will be undertaken should the planning proposal receive a Gateway determination to proceed.</p> <p><b>The planning proposal is likely to be consistent with Ministerial Direction 4.4 Planning for Bushfire Protection subject to further investigation following a Gateway determination to proceed.</b></p>
<b>5. REGIONAL PLANNING</b>	
<b>5.10 Implementation</b>	The direction applies to all planning proposals.

<p><b>of Regional Plans</b></p> <p>The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional plans.</p>	<p>A planning proposal must be consistent with a Regional Plan released by the Minister for Planning.</p> <p>The planning proposal is consistent with the Hunter Regional Plan 2036 as provided in response to Question 3.</p> <p><b>The planning proposal is consistent with Ministerial Direction 5.10 Implementation of Regional Plans.</b></p>
<p><b>6. LOCAL PLAN MAKING</b></p>	
<p><b>6.1 Approval and Referral Requirements</b></p> <p>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p>	<p>The direction applies to all planning proposals.</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) <i>minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</i></li> <li>(b) <i>not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:</i> <ul style="list-style-type: none"> <li>(i) <i>the appropriate Minister or public authority, and</i></li> <li>(ii) <i>the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and</i></li> </ul> </li> <li>(c) <i>not identify development as designated development unless the relevant planning authority:</i> <ul style="list-style-type: none"> <li>(i) <i>can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and</i></li> <li>(ii) <i>has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.</i></li> </ul> </li> </ul> <p>The planning proposal does not propose provisions that require the concurrence, consultation or referral of</p>

	<p>development applications to a Minister or public authority and does not identify development as designated development.</p> <p><b>The planning proposal is consistent with Ministerial Direction 6.1 Approval and Referral Requirements.</b></p>
<p><b>6.2 Reserving Land for Public Purposes</b></p> <p>The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p>	<p>The direction applies to all planning proposals.</p> <p><i>(4) A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).</i></p> <p>The planning proposal is not seeking to reserve land for public purposes.</p> <p><b>The planning proposal is consistent with Ministerial Direction 6.2 Reserving Land for Public Purposes.</b></p>

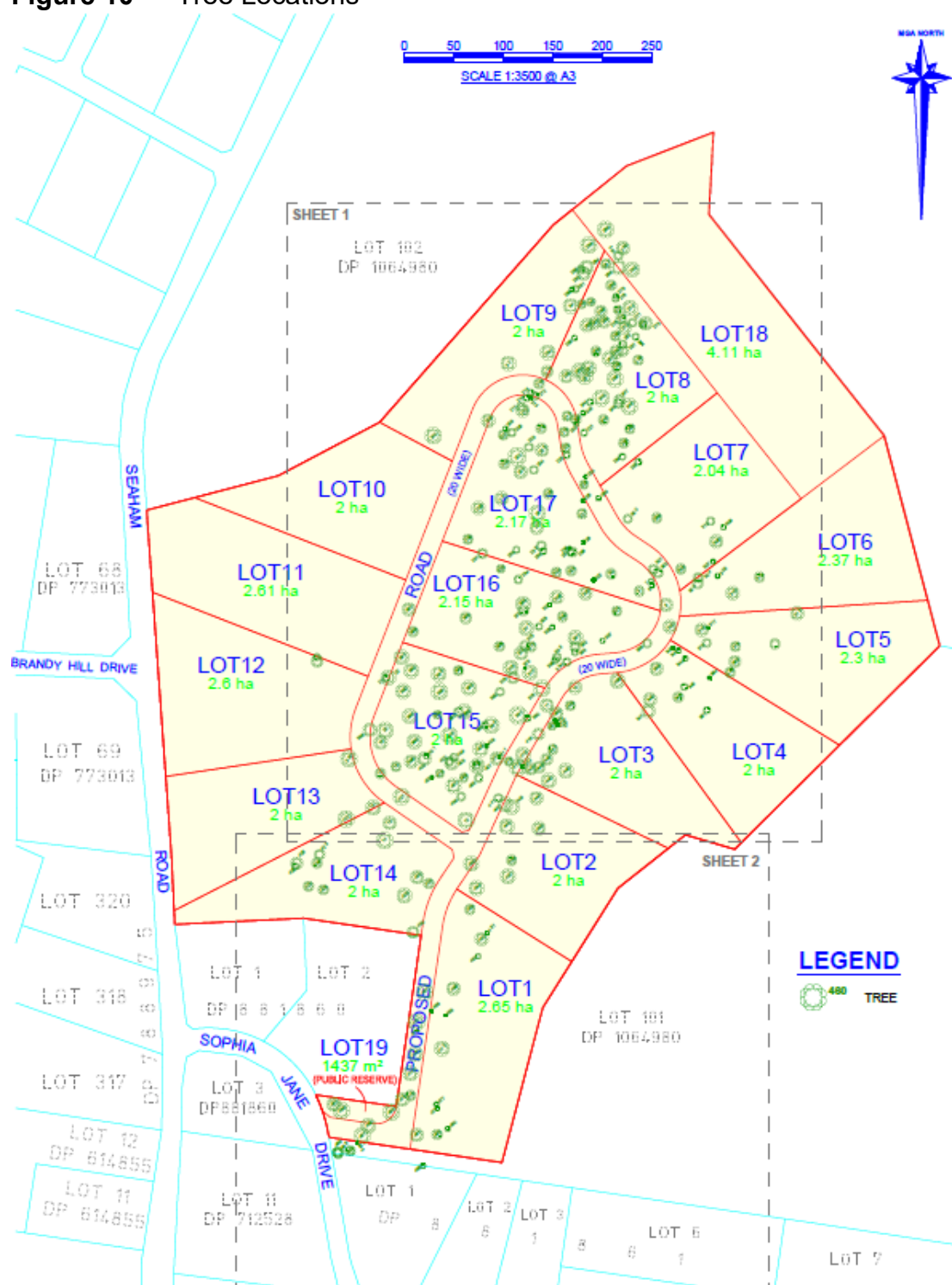
## Section C – Environmental, social, and economic impact

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

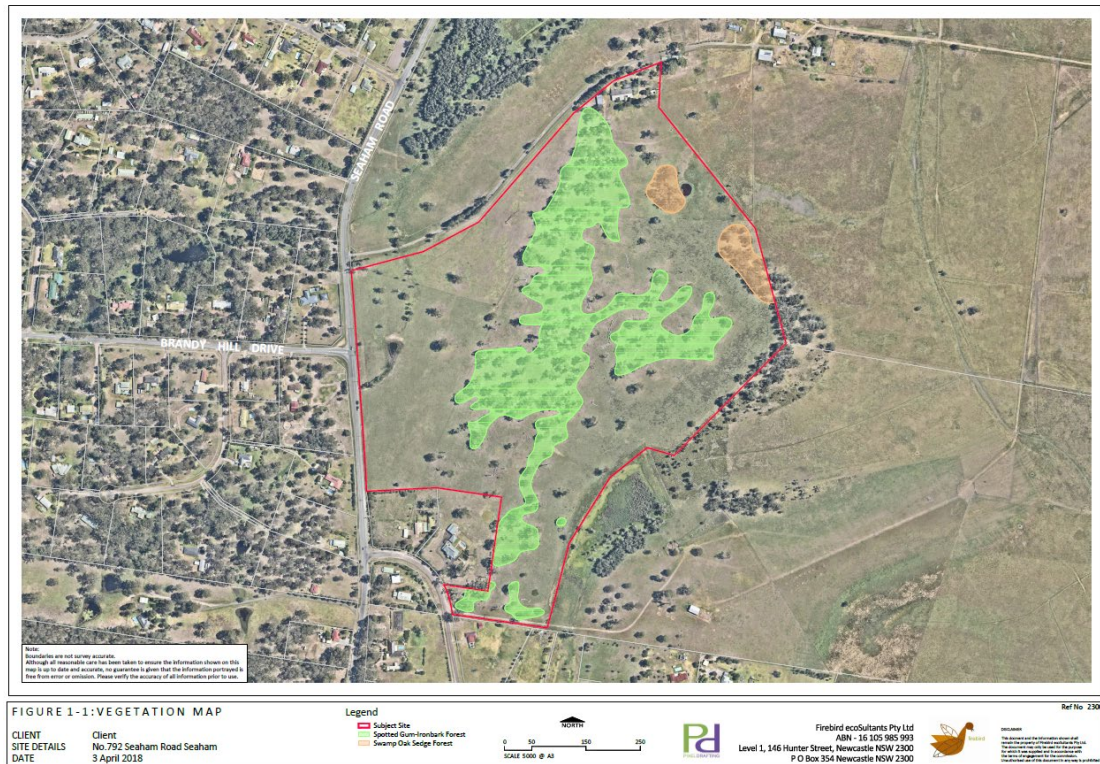
An Ecological Assessment has been prepared examining the likelihood of significant impact upon any threatened species, populations or ecological communities listed within the *Threatened Species Conservation Act 1995* (TSC Act) and the threatened entities listed federally under the *Environment Protection and Biodiversity Conservation Act* (EPBC Act).

The assessment has identified important biodiversity values on the site (such as an abundance of large, hollow-bearing trees, two EECs and potential habitat for threatened fauna species). The proposal would remove greater than 0.5 hectares of native vegetation, thus triggering the biodiversity offsets scheme under the *Biodiversity Conservation Act 2016*.

**Figure 10** Tree Locations



**Figure 11** Vegetation Map (Spotted Gum-Ironbark Forest in green and Swamp Oak Sedge Forest in Orange)



The ecological investigations outlined within the assessment report provide a sufficient level of detail at this stage of the LEP amendment process. Notwithstanding, the following further assessments are recommended to understand the effects on critical habitat or threatened species, populations or ecological communities or their habitats should the planning proposal receive a Gateway determination to proceed:

- BAM field survey covering the site, including required plots and targeting all relevant threatened species during appropriate survey periods (August and November) as per the NSW Bionet Threatened Biodiversity Profile Data Collection.
- BAM calculator runs using collected data and initial desktop bushfire constraints mapping to inform refinement of subdivision design.
- CKPoM assessment for rezoning proposals
- Biodiversity Development Assessment Report (BDAR)

Development controls and/or design features to minimise impacts on threatened species habitats will be established through subsequent development assessment processes, post gateway determination. For

instance, future development controls may be put in place, to avoid or minimise removal of hollow-bearing trees and Preferred Koala Habitat.

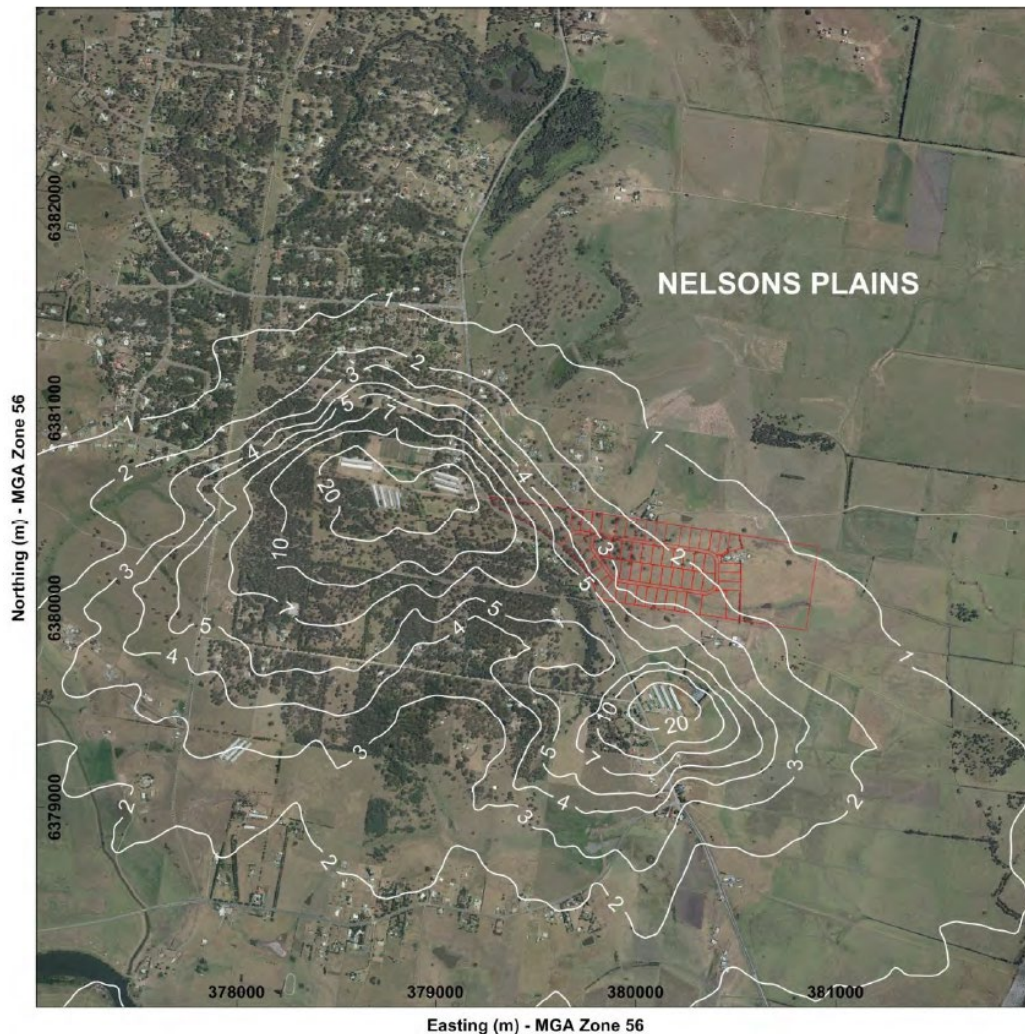
An updated bushfire assessment will also be undertaken to determine the extent of clearing that will be required to maintain asset protection zones, and associated ecological impacts.

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

Yes. The predominant land uses surrounding the site comprise rural residential dwellings, rural dwelling houses, cattle grazing activities and intensive agriculture (poultry farms). While there is rural residential land surrounding the subject land (see Figure 7), the introduction of rural residential land uses within a rural allotment may contribute to the creation of conflicting land use issues.

The site is located within 1km from a poultry farm. Odour due to poultry farms has not historically been an issue for the area. Further to this, due to the topography of the site impacts of odour are likely to be minor. Should a Gateway determination be issued, an odour assessment will need to be prepared to minimise potential impacts on existing poultry farms operating in proximity to the subject land. Mitigations measures such as building envelopes may be necessary.

**Figure 12** Odour contouring from Poultry sheds



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

Yes. The rezoning of the land for rural residential purposes will have positive social and economic effects, and in particular the development of the land for housing will assist in meeting regional dwelling targets identified within the GNMP. The community benefit associated with the proposed development will be found in the provision of additional housing to service the future population needs of the Port Stephens LGA.

However, it is also recognised that any reduction in lot size permitting a dwelling can have negative social and economic outcomes by increasing fragmentation of agricultural land, making it more difficult and expensive to consolidate larger (potentially more economically viable) parcels for agriculture, and potentially increasing land use conflicts.

The Seaham/Nelsons Plains community have access to community services and facilities within the regional centre of Raymond Terrace, and Maitland and

access to recreational facilities locally and within the wider Port Stephens locality. Additional demand from growth in the rural west is likely to continue to be met by either Raymond Terrace or centres within the Maitland LGA. The proposal will provide much needed housing for Port Stephens in a location that is in proximity to the major centre of Raymond Terrace. The impacts of the proposal will be reduced by the retention of the most significant trees and putting in place evacuation arrangements during significant flooding events.

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

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

Yes. Preliminary service advice from Ausgrid (electricity) and Hunter Water Corporation (water) confirm the availability and capacity of electricity and water supply to the subject land.

Connection to a reticulated sewer system is not available therefore onsite wastewater systems shall be required for each lot which remains consistent with the surrounding rural residential development of Seaham, Nelsons Plains and Brandy Hill. A concept Wastewater Management Report has been submitted, suggesting that each lot will be able to dispose of wastewater effectively. An updated Wastewater Management Report will be provided should the planning proposal receive a Gateway to proceed.

An updated Traffic Assessment Report will be provided to consider the impact of development on the local road network should the planning proposal receive a Gateway determination to proceed. Therefore, the expected growth/demand from the amendments is not expected to place excessive demands on infrastructure.

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

Consultation with relevant State and Commonwealth agencies can be undertaken following a Gateway determination to proceed. It is envisaged that the following agencies will be consulted:

- |                            |                            |
|----------------------------|----------------------------|
| • NSW Rural Fire Service   | Environment, Energy and    |
| • Department of Primary    | Science Group              |
| Industries – Agriculture   | • Worimi Aboriginal Land   |
| • Department of Primary    | Council                    |
| Industries – Water         | • Hunter Water Corporation |
| • Department of Planning,  |                            |
| Industry and Environment - |                            |

## **PART 4 – Mapping**

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Proposed changes to the Land Zoning Map and Lot Size Map are provided in Part 2 of this planning proposal (see Figures 2 and 3). Maps will be prepared in accordance with the Department of Planning, Industry and Environment's

'Standard technical requirements for spatial datasets and maps' following a Gateway determination to proceed.

## **PART 5 – Community consultation**

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

Notice of the public exhibition period will be placed on Council's website. The exhibition material will be on display at the following locations during normal business hours:

- Council's Administration Building, 116 Adelaide Street, Raymond Terrace;
- Raymond Terrace Library, Port Stephens Street, Raymond Terrace;
- Tomaree Library, Town Centre Circuit, Salamander Bay.

## **PART 6 – Project timeline**

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

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

\*Including:

- Bushfire Assessment Report
- Preliminary Contamination Assessment
- BDAR
- Odour Assessment
- Aboriginal Cultural Heritage Assessment
- Traffic Assessment