



Planning Proposal

Proposed Amendment to the Port Stephens Local Environmental Plan 2013

Recreational Facility (Outdoor) at 775, 777 and 781 Marsh Road, Bobs Farm, NSW, 2316

Version –Council Meeting and Pre-Gateway Determination – 14 June 2016

Further Information:

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FILE NUMBERS

Council: 58-2016-2-1
Department: To be advised following Gateway Determination.

SUMMARY

Subject land: 775, 777 and 781 Marsh Road, Bobs Farm, NSW 2316
Lot, DP: Lot 14, DP 1071458 and Lot 223, DP 598773
Proponent: Griffiths Investment Properties
Total Area: 22.3Ha
Existing Zoning: RU2 Rural Landscape
Proposed Amendment: Insert *recreation facility (outdoor)* under Schedule 1 – Additional Permitted Uses at 781, 775 and 777 Marsh Road to permit (with consent) a water ski centre.
Delegation: To be advised following Gateway Determination.

BACKGROUND

A pre-lodgement meeting was held in relation to 775, 777 and 781 Marsh Road, Bobs Farm on 15 May 2015. The pre-lodgement meeting minutes were issued to the proponent and a planning proposal submitted to Council on 22 January 2016. The planning proposal was seeking to achieve the stated objective by placing a Schedule 1 – Additional Permitted Use for the site. The following information supports this proposal:

1. Traffic Impact Assessment;
2. Ecological Assessment;
3. Business Plan;
4. Flood/Stormwater Study;
5. Dust and Sediment Control Plan;
6. Bushfire Study;
7. Acid Sulphate Soils Assessment;
8. Acoustic Report; and
9. Archaeological Due Diligence Assessment.

No further information was requested as a result of internal referrals. After a strategic review of Council's Zone RU2 – Rural Landscape, it was considered more appropriate that recreation facilities (outdoor) be listed as an additional permissible use within the Zone RU2 – Rural Landscape. This has been based on a strong strategic justification, which primarily relates to the following:

- Existing recreational facilities have created an informal tourism cluster at this location as illustrated by **Figure 1 – Tourist Cluster Map** (p. 5);
- A sample of other LEPs identified recreational facilities (outdoor) are commonly permitted within consent in Zone RU2 – Rural Landscape;
- Locations where recreational facilities (outdoor) are currently permitted with consent include business zones where outdoor recreational facilities, such as a water ski park are unlikely to be viable nor appropriate;

- The approach of allowing a recreational facility (outdoor) on this site is consistent with previous completed planning strategies, such as the Rural Residential Strategy, Rural Lands Strategy or Planning Proposal for the Standard Instrument Local Environmental Plan; and
- It is recommended that Council consideration in the near future of this site to be part of a potential 'cluster' of tourism activities. This application provides a unique opportunity to advance the proposal ahead of a broader review of this tourism precinct as part of a future housekeeping amendment to the PSLEP 2013.

Council Officers informed the proponent that recreational facility (outdoor) in the Zone RU2 – Rural Landscape could be considered as a future housekeeping amendment to the Port Stephens Local Environmental Plan 2013 (the LEP). However, given that the exact timing of this housekeeping LEP was unknown the proponent expressed that they would like the matter to be considered as a Schedule 1 – Additional Permitted Use Amendment to the LEP. This approach was verbally discussed with the NSW Department of Planning and Environment on 22 April 2016. The Department suggested that a Schedule 1 Amendment could be considered appropriate if Council committed to revisiting the broader merits of recreational facilities (outdoor) in this Rural Zone in the near future.

SITE

The site is known as 775, 777 and 781 Marsh Road and is visible from a predominant corner of Nelson Bay Road. The lots are legally described as Lot 14, DP 1071458; Lot 223, DP 598773; and Lot 26, DP 253796. The site is cleared land managed rural land. A residential dwelling is situated in proximity to Marsh Rd.

Residential dwellings are situated to the east, south and west of the site. An existing recreation facility (outdoor) in the form of a go-kart track is located to the south at 778 Marsh Road, Bobs Farm, which is surrounded by residential dwellings. Bobs Farm Public School is located at 764 Marsh Road, Bobs Farm. The north of the site has floodplain forest. Otherwise, the site is predominately cleared managed land that is surrounded by lots of varying sizes.

The site has direct access and frontage to Marsh Road, which is connected to Nelson Bay Road. Nelson Bay road is a classified road under the Roads Act 1993 and serves as the main arterial road connecting Newcastle to Nelson Bay. The site is not identified for a particular purpose or as an identified centre under the Port Stephens Planning Strategy (2011) or the Lower Hunter Regional Strategy (2006) (LHRS). Rather it is identified as a part of the Watagan Stockton & Wallarah Green Corridor. The site is also identified within the Hunter City's Hinterland under the Draft Hunter Regional Plan (HRP) (2015). This description of the site is illustrated by **Figure 2 – Site Plan** (p. 6).

PART 1 – Objective of the proposed Local Environmental Plan

The objective of this proposal to enable a water ski park, which is defined as a recreational facility (outdoor) to be listed as permissible with development consent at 775, 777 and 781 Marsh Road, Bobs Farm.

PART 2 – Explanation of the provisions to be included in proposed LEP

The objective of this proposal will be achieved by amending the Port Stephens Local Environmental Plan 2013 (NSW) Schedule 1 – Additional Permitted Uses by inserting the following additional clause:

8 – Use of certain land at 775, 777 and 781 Marsh Road, Bobs Farm

- (1) This Clause applies to land at 775, 777 and 781 Marsh Road, Bobs Farm, being Lot 14, DP 1071458 and Lot 223, DP 598773
- (2) Development for the purpose of a recreational facility (outdoor) is permitted with consent.

Recreational facility (outdoor) is currently defined as follows under the LEP:

'Recreational facility (outdoor) means a building or place (other than a recreation area) used predominately for outdoor recreation, whether or not operational for the purposes of gain, including a golf course, gold driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart tract, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).'

PART 3 – Justification for the Planning Proposal

SECTION A – Need for the Planning Proposal

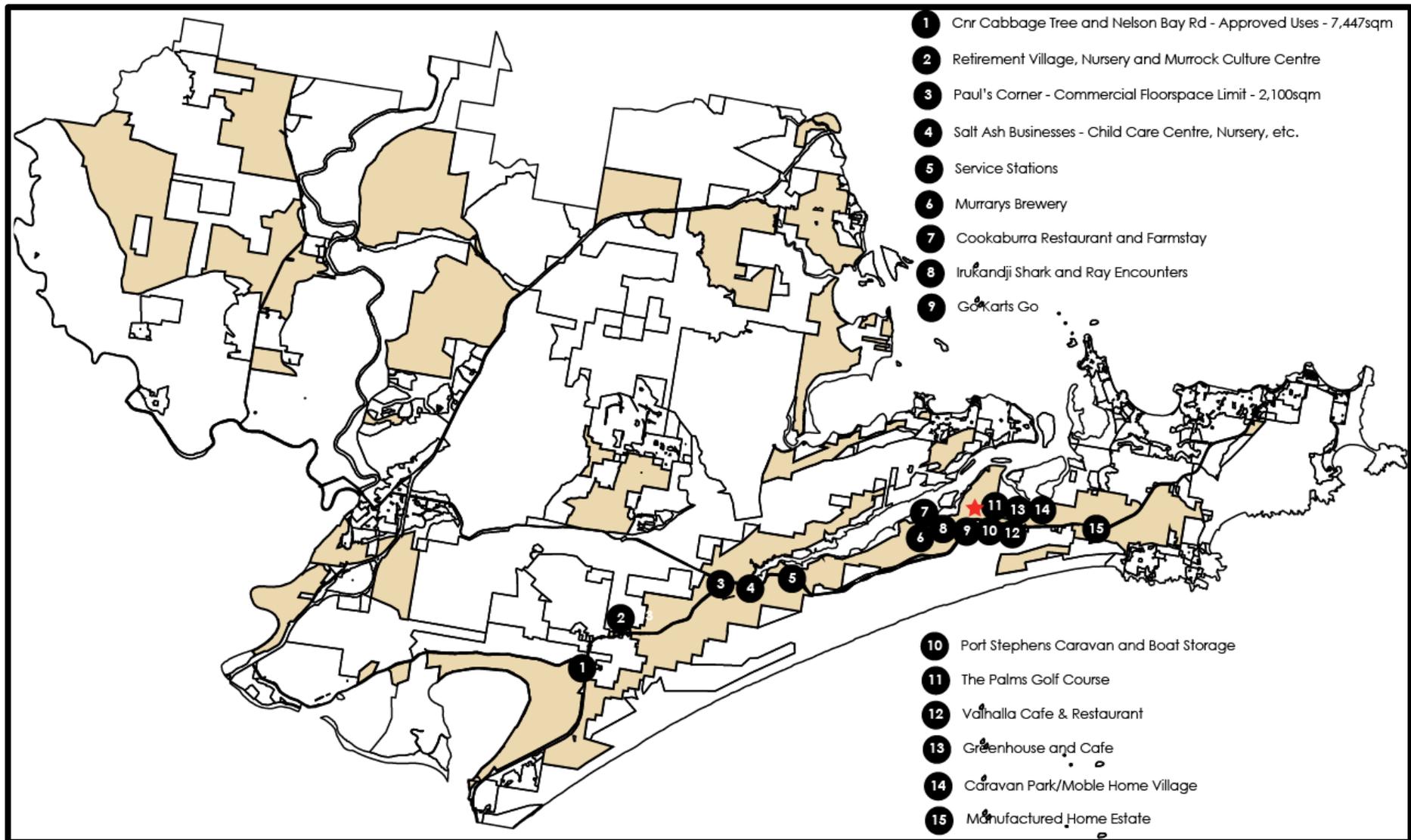
1. Is the planning proposal a result of any strategic study or report?

The proposal is not the product of any strategic study or report.

However, a review of the Zone RU2 – Rural Landscape has been conducted and is included as **(Attachment 1)**. This review has identified that a recreation facility (outdoor) is an appropriate use within this rural zone. This strategic review has identified that they are an appropriate inclusion based on the following:

- Existing recreational facilities have created an informal tourism cluster at this location as illustrated by **Figure 1 – Tourist Cluster Map** (p. 5);
- A sample of other LEPs identified recreational facilities (outdoor) are commonly permitted within consent in Zone RU2 – Rural Landscape;
- Locations where recreational facilities (outdoor) are currently permitted with consent include business zones where outdoor recreational facilities, such as a water ski park are unlikely to be viable nor appropriate;
- The approach of allowing a recreational facility (outdoor) on this site is consistent with previous completed planning strategies, such as the Rural

FIGURE 1 – TOURIST CLUSTER MAP



- Residential Strategy, Rural Lands Strategy or Planning Proposal for the Standard Instrument Local Environmental Plan; and
- It is recommended that Council consideration in the near future of this site to be part of a potential 'cluster' of tourism activities. This application provides a unique opportunity to advance the proposal ahead of a broader review of this tourism precinct as part of a future housekeeping amendment to the PSLEP 2013.

The Report to Council has sought to commit Council to addressing the wider strategic planning matter of recreational facilities (outdoor) in the Zone RU2 – Rural Landscape, which will be in the form of an upcoming Housekeeping LEP.

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

The other means to achieve the objective would be to list a recreational facility (outdoor) as permissible (with consent) within the Zone RU2 – Rural Landscape.

This approach is best driven by Council as part of a Local Government Area wide review. The Council Report that accompanies this Report commits Council to considering a recreational facility (outdoor) as a permissible use within the Zone RU2 – Rural Landscape through a more appropriate process as part of a future housekeeping amendment to the Port Stephens Local Environmental Plan 2013.

SECTION B – Relationship to Strategic Planning Framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The proposal is identified as a part of the Watagan Stockton & Wallarah Green Corridor and as a part of the Hunter City's Hinterland under the Draft Hunter Regional Plan (HRP) (2015). The site consists of managed land and in turn the site only contains a small amount of remnant vegetation on its northern boundary.

The proposal will not undermine the centres hierarchy contained within the LHRS. Lands of agricultural value are zoned RU1 – Primary Production, while lands of environmental significance are zoned an appropriate environmental zone. The site is in close proximity to existing recreational facilities, including a go-kart track, mini golf, driving range and a shark/ray centre.

4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The proposal is consistent with the strategic direction that is provided by the Port Stephens Council. 2013, 'Integrated Plans', being to 'Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations' and to 'Provide Strategic Land Use Planning Services'.

The proposal is consistent with Council's local strategic plan, being the Port Stephens Planning Strategy (PSPS) (2011), which identifies land to the east of the site as the Tomaree Tourism and Lifestyle Growth Area. As previously stated, Nelson Bay Road is the main arterial road that connects Newcastle to Nelson Bay. A number of tourism businesses have sought to situate along this road to take advantage of this main road exposure and proximity to centres of tourism accommodation, such as Nelson Bay, Fingal Bay and Anna Bay.

5. Is the planning proposal consistent with the applicable State Environmental Planning Policies?

There are no existing or draft State Environmental Planning Policies (SEPPs) that prohibit or restrict the proposed development as outlined in this planning proposal.

An assessment of the SEPPs against the planning proposal is provided below:

SEPP	Relevance	Consistency and Implications
SEPP No 1 – Development Standards	Does not apply.	Clause 4.6 under the PSLEP2013 applies at the development application stage.
SEPP No 14 – Coastal Wetlands	Does not apply.	The land to which this proposal applies is not classified as coastal wetland.
SEPP No 15 – Rural Landsharing Communities	Does not apply.	This proposal is not seeking to draw from the provisions of this SEPP.
SEPP No 19 – Bushland in Urban Areas	Does not apply.	This SEPP does not apply to the Port Stephens Local Government Area.
SEPP No 21 – Caravan Parks	Does not apply.	The proposal is not seeking to draw from the provisions of this SEPP.
SEPP 26 – Littoral Rainforests	Does not apply.	The Port Stephens Local Government Area does not contain any that has been declared as littoral rainforest.
SEPP 29 – Western Sydney Recreation Area	Does not apply.	This SEPP does not apply to the Port Stephens Local Government Area.
SEPP 30 – Intensive Agriculture	Does not apply.	This SEPP is not proposing or will inhibit intensive agriculture.
SEPP 32 – Urban Consolidation (Redevelopment)	Does not apply.	This proposal does not apply to urban land.

of Urban Land)		
SEPP 33 – Hazardous & Offensive Development	Does not apply.	The proposal does not relate to development that could be considered as 'potentially hazardous industry' or 'potentially offensive industry'.
SEPP No 36 – Manufactured Home Estates	Does not apply.	This proposal is not seeking to draw from the provisions of this SEPP.
SEPP No 39 – Spit Island Bird Habitat	Does not apply.	The land to which this proposal applies is not classified as spit island bird habitat.
SEPP 44 – Koala Habitat Protection	Applies.	Consistent. Any future development application will be required to address the requirements of the Port Stephens Comprehensive Koala Plan of Management (CKPoM).
SEPP 47 – Moore Park Showground	Does not apply.	This SEPP does not apply to the Port Stephens Local Government Area.
SEPP 50 – Canal Estate Development	Does not apply.	This proposal does not apply to land that can be defined as Canal Estate.
SEPP 55 – Remediation of Land	Applies.	Consistent. The proposal is not seeking to rezone land to a land use zone that would allow for sensitive land uses. Any future development application would be required to address the provisions of the SEPP.
SEPP 59 – Central Western Sydney Regional Open Space and Residential	Does not apply.	This proposal does not apply to land that is defined as the Central Western Sydney Regional Open Space and Residential.
SEPP 62 – Sustainable Aquaculture	Does not apply.	This proposal does not apply to development for land to which this SEPP applies.
SEPP 64 – Advertising and Signage	Does not apply.	This proposal does not involve advertising or signage.
SEPP 65 – Design of Quality of	Does not apply.	This SEPP applies to development defined as a residential flat building.

Residential Apartment Development		
SEPP 70 – Affordable Housing (Revised Schemes)	Does not apply.	This SEPP does not apply to this proposal.
SEPP 71 – Coastal Protection	Consistent.	This proposal does not seek to intensify development in the coastal zone and any future development application will be subject to the provisions of this SEPP.
SEPP (Affordable Rental Housing) 2009	Does not apply.	This SEPP does not apply to this proposal.
SEPP (BASIX) 2004	Does not apply.	This SEPP applies at the development application stage.
SEPP (Exempt and Complying Development Codes) 2008	Does not apply.	This SEPP applies at the development application stage.
SEPP (Housing for Seniors or People with a Disability) 2004	Does not apply.	This SEPP applies at the development application stage.
SEPP (infrastructure) 2007	Does not apply.	This SEPP applies to significant types of infrastructure, which are listed in this SEPP.
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	Does not apply.	This proposal does not apply to development for land to which this SEPP applies.
SEPP (Kurnell Peninsula) 1989	Does not apply.	This proposal does not apply to development for land to which this SEPP applies.
SEPP (Major Development) 2005	Does not apply.	This proposal is not defined as Major Development for the purposes of this SEPP.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Does not apply.	This proposal does not apply to land that has been identified to have the potential to be used for mining, petroleum production or extractive industries.

SEPP (Miscellaneous Consent Provisions) 2007	Does not apply.	This proposal does not propose to use any of the provisions under this SEPP.
SEPP (Penrith Lakes Scheme) 1989	Does not apply.	This proposal does not apply to development for land to which this SEPP applies.
SEPP (Rural Lands) 2008	Applies.	Consistent. This proposal is consistent with the rural planning principles outlined in this SEPP. Any potential land-use conflicts can be managed through the use of appropriate mitigation measures at the development application stage.
SEPP (SEPP 53 Transitional Provisions) 2011	Does not apply.	This proposal does not apply to development for land to which this SEPP applies.
SEPP (State and Regional Development) 2011	Does not apply.	This proposal is not defined as State and Regional Development for the purposes of this SEPP.
SEPP (Sydney Drinking Water Catchment) 2011	Does not apply.	This proposal does not apply to development for land to which this SEPP applies.
SEPP (Sydney Region Growth Centres) 2006	Does not apply.	This proposal does not apply to development for land to which this SEPP applies.
SEPP (Three Ports) 2013	Does not apply.	This proposal does not apply to development for land to which this SEPP applies.
SEPP (Urban Renewal) 2010	Does not apply.	This proposal does not apply to development for land to which this SEPP applies.
SEPP (Western Sydney Employment Area) 2009	Does not apply.	This proposal does not apply to development for land to which this SEPP applies.
SEPP (Western Sydney Parklands) 2009	Does not apply.	This proposal does not apply to development for land to which this SEPP applies.

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

The proposal does not demonstrate any major inconsistencies with the applicable Ministerial Directions. Only a number of the Directions are applicable, which is demonstrated in the following table:

1. Employment and Resources		
Ministerial Directions	Application	Consistency and Implications
1.1 Business and Industrial Zones	This direction applies when a planning proposal will affect land within an existing or proposed business or industrial zone.	Does not apply. This does not involve any business or industrial zones and in turn does not apply.
1.2 Rural Zone	This direction applies when a proposal will affect land within an existing or proposed rural zone.	Consistent. The proposal will introduce an additional permitted use at a density of development that is permissible on site. This is believed to be of minor significance given that a recreational facility (outdoor) will only occur in a minority of circumstances and impacts can be further dealt with at the Development Application Stage.
1.3 Mining, Petroleum Production and Extractive Industries	This direction applies when a proposal will prohibit mining or restrict the development of resources.	Consistent. The proposal will not prohibit mining or restrict the development of resources.
1.4 Oyster Aquaculture	This direction applies to priority oyster aquaculture areas.	Does not apply. The proposal does not apply to land identified as priority oyster areas.
1.5 Rural Lands	This direction applies when the proposal will affect land within an existing rural zone.	Inconsistent. The proposal will affect land within the Zone RU2 – Rural Landscape. The Gateway Determination dated 26/06/15 has considered this to be of minor significance and that no further approval is required.
2. Environment and Heritage		
Ministerial Directions	Application	Consistency and Implications
2.1	This direction	Does not apply.

Environment Protection Zones	applies to land in an environment protection zone or land otherwise identified for environment protection purposes.	The proposal does not apply to land in an environment protection zone or land otherwise identified for environment protection purposes.
2.2 Coastal Protection	This direction applies to a proposal that relates to land in a coastal zone.	Consistent. The proposal does apply to land in the coastal zone, but it is of minor significance because a development application for a major recreation facility (outdoor) will be assessed on its merits.
2.3 Heritage Conservation	This Direction applies to a planning authority that prepares a proposal.	Consistent. The site does not contain any heritage items nor is it situated within a heritage conservation area.
2.4 Recreation Vehicle Areas	This Direction applies to development for the purpose of a recreation vehicle area.	Does not apply. The proposal does not relate to development for the purpose of a recreation vehicle area.
3. Housing, Infrastructure and Urban Development		
Ministerial Directions	Application	Consistency and Implications
3.1 Residential Zones	This Direction applies to a proposal that will affect land within an existing residential zone or another zone where significant residential development is permitted.	Does not apply. The proposal only relates to land that is zoned RU2 – Rural Landscape.
3.2 Caravan Parks and Manufactured Home Estates	This Direction applies to caravan parks and manufactured home estates.	Does not apply. The proposal does not include any reference to caravan parks or manufactured home estates.
3.3 Home Occupations	This Direction seeks to permit	Does not apply. This proposed does not relate to dwelling

	home occupations to be carried out in dwelling houses without the need for development consent.	houses.
3.4 Integrating Land Use and Transport	This direction seeks to ensure that urban structures, building forms, etc. are consistent with the stated planning objectives.	Consistent. The proposal seeks to enable recreational facilities in an appropriate location. Land zoned RU2 – Rural Landscape is the most appropriate location for these uses within the Local Government Area.
3.5 Development Near Licensed Aerodromes	This Direction applies to a planning authority that prepares a proposal.	Consistent. The site is located within the Port Stephens Height Trigger Map and in turn requires referral when structures are proposed to be higher than 45m metres. This is a development application requirement and does not demonstrate an inconsistency with this Direction.
3.6 Shottng Ranges	This Direction applies to a planning proposal that will affect, create, alter or remove a zone relating to an existing shooting range.	Does not apply. The proposal does not relate to an existing shooting range.
4. Hazard and Risk		
Ministerial Directions	Application	Consistency and Implications
4.1 Acid Sulfate Soils	This Direction applies because the land has a probability of containing acid sulfate soils.	Consistent. The site is identified as having a probability of containing Class 3 Acid Sulfate Soils. The proposal is consistent by virtue of Clause 7.1 – Acid Sulfate Soils (ASS) which allows for development that is proposed on land identified to contain ASS.
4.2 Mine Subsidence and Unstable Land	This Direction applies to land within a Mine Subsidence District.	Does not apply. The proposal does not relate to land that has been prescribed a Mine Subsidence District.

4.3 Flood Prone Land	This Direction applies to a planning authority that prepares a proposal that affects flood prone land.	Consistent. The site is identified as flood prone land. The proposal is consistent by virtue of Clause 7.3 – Flood Planning which allows for development on flood prone land subject to satisfying the provisions listed under this clause.
4.4 Planning for Bushfire Protection	This Direction applies as the land is identified as bushfire prone.	Consistent. The site is identified as bushfire prone land and in turn will be required to satisfy the requirements of the RFS. 2006, 'Planning for Bushfire Protection' at the Development Application stage.
5. Regional Planning		
Ministerial Directions	Application	Consistency and Implications
5.1 Implementation of Regional Strategies	This Direction applies to land that is covered by the Lower Hunter Regional Strategy.	Consistent. The proposal is consistent with the objectives of the Lower Hunter Regional Strategy to create 1600 jobs and is consistent with the PSPS and the <i>Port Stephens Council. 2015, 'Draft Raymond Terrace and Heatherbrae Strategy'</i> .
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	This Direction applies as the site traverses the Pacific Highway and is located in Port Stephens.	Consistent. The proposal has considered access from the Marsh Road and will not undermine the commercial centre role of Raymond Terrace.
6.3 Site Specific Provisions	This Direction applies when a relevant planning authority prepares a proposal to allow a specific use to be carried out.	Consistent. The proposal seeks to add an additional use to the zone RU2 – Rural Landscape.

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

No. The site is cleared of remnant vegetation with the exception of the northern parcel of the lot, which is low-lying and is unlikely to be developed.

Any future development that proposes the removal of this vegetation in order to carry out the additional use of a recreation facility (outdoor) will be required to address relevant legislation and regulations in relation to threatened species, populations or ecological communities or their habitats.

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

No. The site is cleared of remnant vegetation with the exception of the northern parcel of the lot, which is low-lying and is unlikely to be developed.

Any future development that proposes the removal of this vegetation in order to carry out the additional use of a recreation facility (outdoor) will be required to address relevant legislation and regulations in relation to threatened species, populations or ecological communities or their habitats.

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

The proposal has the potential to provide for improved social and economic effects through the creation of jobs during the construction phase and during operation. The Tomaree Peninsula is a regional tourism destination that provides a variety of tourism activities. Enabling the zone RU2 – Rural Landscape on the subject site for this purpose will continue this use at those destinations where market demands exists.

SECTION D – State and Commonwealth Interests

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

The proposal will provide jobs for nearby residents and reinforce the role of Heatherbrae as an employment centre.

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

It is suggested that the following public authorities be consulted during the public exhibition period:

- NSW Rural Fire Service;
- NSW Office of Environment and Heritage;
- NSW Roads and Maritime Services; and
- Department of Primary Industries.

PART 4 - MAPPING

The proposal relates to inserting the development type of recreational facility (outdoor) as an additional permitted use on the site. The relevant map is included as **Attachment 2 – Additional Permitted Uses Map** (p. 26).

PART 5 – DETAILS OF COMMUNITY CONSULTATION

It is suggested that the gateway determination condition that the planning proposal be placed on public exhibition for a minimum period of 28 days.

All landowners that are adjoining neighbours of the site will be provided with written notice. Public notice will be provided in accordance with the Environmental Planning and Assessment Regulation 2000, which includes a notice in the Port Stephens Examiner and copies of the plans being available during normal business hours. Additionally, notice will be provided via Council's various social media platforms.

This time period and notification platforms will provide adequate time for informed comment to be received on this proposal.

PART 6 – PROJECT TIMELINE

The proposal is to be reported to the Council Meeting of 14 June 2016. In this report, it is recommended that Council resolve to request delegation from the gateway determination to make this plan. The proposal is following this timeframe:

	JUN 16	JUL 16	AUG 16	NOV 16	DEC 16
<i>Council Report</i>					
<i>Gateway Determination</i>					
<i>Public Exhibition</i>					
<i>Council Report</i>					
<i>Parliamentary Counsel</i>					

ATTACHMENTS

The following attachments are supplementary to this proposal:

- Attachment 1: Strategic Analysis; and
- Attachment 2: Additional Permitted Uses Map

Attachment 1 – Strategic Analysis

This strategic analysis has been developed by Port Stephens Council to detail how the Zone RU2 – Rural Landscape has been applied within Port Stephens.

Planning Proposal – Standard Instrument LEP

The post exhibition version of this planning proposal dated 23 March 2013 simply states the zone RU2 – Rural Landscape was set to replace the existing zones 1(a) Rural Agriculture and 1(c1) Rural Small Holdings under the Port Stephens Local Environmental Plan 2000. It contains no other reference to the characteristics of the land that was set to be covered by this zone.

Port Stephens Local Environmental Plan 2013

We also need to understand where recreation facilities (outdoor) are encouraged under the Port Stephens Local Environmental Plan 2013 and the market is responding to their permissibility in this zone. A review of the current planning framework has demonstrated that recreational facilities (outdoor) are permissible within the following zones:

Development Type	RU1	RU2	B1	B2	B3	B4	B5	B7	RE1	RE2
Recreation (indoor)	No	No	Yes							
Recreation (major)	No	No	No	No	Yes	Yes	Yes	Yes	No	No
Recreation (outdoor)	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes

What this review demonstrates is that recreational facilities are permitted and encouraged within the range of business zones and recreation zones. This is appropriate in some instances (i.e. bowling greens), but at the same time provides limited opportunities for those more active recreational facilities (i.e. golf driving range, paint-ball centre, equestrian centre, go-kart track, rifle range and water-ski centres). The price of commercial land potentially limits these types of uses in these locations, while only existing caravan parks and bowling greens have been zoned RE2 – Private Recreation. While land that is zoned RE1- Public Recreation is required to be classified for operational purposes and of a sufficient size to then be leased for these purposes. Council's Open Space planning has not provided active consideration for to matters such as water ski parks on existing land zoned RE1 – Public Recreation.

Port Stephens Planning Strategy

The Port Stephens Planning Strategy (PSPS) identified that:

'Port Stephens has scenic rural landscapes, characterised by coastal plains, river valleys, forests, wetlands and wooded ridgelines. These landscapes contribute greatly to local identity and to the attractiveness of the area for residents and tourists. The PSPS seeks to focus development in defined areas and to protect the scenic qualities of the coast, waterways and rural areas from inappropriate development' (p.89).

From this, it could be understood that the prohibition of recreation facilities (outdoor) within the Zone RU2 – Rural Landscape is a direct result of this approach outlined in the PSPS. However, this planning proposal demonstrates that this direction provided by the PSPS fails to identify appropriate locations for these types of facilities with the precedent provided by existing developments and the neighbouring approaches taken by other local government areas. In order to adopt this approach appropriate destinations or precincts should have concurrently been identified by the PSPS.

Rural Land-Use Study

The Port Stephens Council, February 2011, 'Port Stephens Rural Strategy' was developed to inform the Port Stephens Local Environmental Plan 2013.

This Strategy discusses rural landscapes, but doesn't identify particular locations of high scenic value, nor does it address those existing approved uses in rural zones (e.g. go kart tracks, retirement villages, paintball ranges, etc.). It recommends a range of rural zones and minimum lot sizes. It also discusses the need to develop a series of rural planning principles, but doesn't go into sufficient detail in relation to rural landscapes. Rural landscape value is believed to have been preserved in the north western part of the Local Government Area where the land has not been subject to the commercial pressures experienced in the east.

The land zoned RU2 – Rural Landscape appears to be not one of the following:

- Primary Production Agriculture;
- Environmental Significance;
- Rural Residential;
- Forestry; and
- Town Centres.

In turn, existing uses, including paint ball, go kart tracks, manufactured home estates, self-storage premises, child care centres, amusement parks, motels and so forth are present and successfully operating in this zone.

The land zoned RU2 – Rural Landscape could be grouped into the following uses:

- In most cases, primarily cleared lands;
- Remnant vegetation;
- Poultry sheds;
- Rural Residential;
- Various – Business, Rural, Tourism, etc.; and
- Residential Fringe.

These groupings are illustrated by **Figure 2 – Groupings Map** (p. 25). This analysis also raises the question as to what other uses may be appropriate in the strip of land that adjoins Nelson Bay Road. A vast mixture of uses are already taking place here due to past development consents and are not operating on existing use rights. In turn, the question of a more appropriate zone for this location is raised and if

allowing more uses has the potential to undermine existing centres. This will be explored as a part of a future review of the Port Stephens Planning Strategy.

Draft Rural Residential Strategy

Port Stephens Council resolved to place the Draft Rural Residential Strategy on public exhibition on 28 July 2015. This Strategy is a constraints analysis that has drawn on data relating to known constraints, such as flooding to then identify land that may be suitable for the purposes of rural residential development. It does not discuss the role of the Nelson Bay Road Corridor or the attributes that are of the Zone RU2 – Rural Landscape. It does not provide any further guidance in relation to this planning proposal and the permissibility of recreational facilities (outdoor).

Local Government Area – Local Environmental Plans

A review of eight random Local Environmental Plans (LEPs), being:

- Lake Macquarie Council (LMC);
- Former Great Lakes Council (GLC);
- Cessnock City Council (CCC);
- Maitland City Council (MCC);
- Singleton City Council (SCC);
- Former Wyong City Council (WCC);
- Former Gosford City Council (GCC); and
- Coffs Harbour Council (CHC).

Each of these examples identified that recreational facilities (outdoor) are permitted within Zone RU2 – Rural Landscape. From this it can be understood that they're considered a common development type for this zone. The following table illustrates the permissibility of recreation facilities in this zone:

Development Type	PSC	LMC	GLC	CCC	MCC	SCC	WCC	GCC	CHC
Recreation facility (indoor)	No	No	Yes	No	No	No	No	No	No
Recreation facility (major)	No	No	Yes	Yes	No	No	No	No	No
Recreation facility (outdoor)	No	Yes							

The next key step is to understand whether the Zone RU2 – Rural Landscape has been applied to localities with similar characteristics. This is illustrated by the Map that is provided as Figure 1. What this map demonstrates is that the Zone RU2 – Rural Landscape has been applied to locations within former Great Lakes, Singleton, Cessnock, Maitland and Lake Macquarie in locations that are generally of more scenic value than Port Stephens and yet these locations have permitted recreation facilities (outdoor). For example, the outskirts of the Watagans National Park that follow the main riparian corridors within the Cessnock Local Government Area are zoned RU2 – Rural Landscape. Another example of significant lands of high scenic value that is zoned RU2 – Rural Landscape is land within the former Great Lakes

Local Government Area, which is just to the north of Port Stephens. What this demonstrates is that although these lands are of high scenic value, recreation facilities (outdoor) are still listed as permissible with consent.

The reality is that economic forces will persuade these uses to locate close to existing population and along locations that experience high amounts of passing traffic in order to attract customers (i.e. Nelson Bay Road).

Practice Notes relating to the role of the zone RU2 – Rural Landscape

The LEP Practice Note PN11-002 provides guidance on the standard zones. For the Zone RU2 – Rural Landscape, it states:

'This zone is for rural land used for commercial primary production that is compatible with ecological or scenic landscape qualities that have been conserved (often due to topography). It may apply to land that is suitable for grazing and other forms of extensive agriculture, or intensive plant agriculture (such as viticulture), but where the main purpose of the zone is to protect significant environmental attributes or to provide rural residential accommodation' (p.4).

Nothing within this practice note inhibits the rural landscape zone being utilised for major recreation facilities (outdoor). This is further reinforced by how it has been applied by the other neighbouring local government areas.

Attachment 2 – Additional Permitted Uses Map

