



PLANNING PROPOSAL

Proposed amendment to Port Stephens Local Environmental Plan 2000:

Proposal to rezone land at Lot 14 DP258848,
42 Fullerton Cove Road, Fullerton Cove

24 April 2013

Contacts

Rebecca Connor

Senior Strategic Planner

Ph: (02) 4980 0282

Email:

rebecca.connor@portstephens.nsw.gov.au

PLANNING PROPOSAL – Fullerton Cove Woolworths

Local Government area: Port Stephens Council

Address: Lot 14 DP258848, 42 Fullerton Cove Road, Fullerton Cove

Area: 6.8ha

PART 1 – Objective of the proposed Local Environmental Plan Amendment

The planning proposal aims to rezone Lot 14 DP258848 from 1(a) Rural Agriculture, as identified in Port Stephens LEP 2000 to 3(a) General Business and 7(a) Environmental Protection to facilitate the delivery of a new supermarket anchored neighbourhood shopping centre to meet existing demand within the local catchment.

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

Port Stephens Local Environmental Plan 2000

The subject land is currently zoned 1(a) Rural Agriculture under the provisions of the Port Stephens Local Environmental Plan 2000. The Planning Proposal seeks to rezone approximately 3.8ha to 3(a) General Business and 3ha to 7(a) Environmental Protection.

Draft Port Stephens Local Environmental Plan 2013

A process is underway to replace the Port Stephens Local Environmental Plan 2000 with a comprehensive new local environmental plan, referred to as the Draft Port Stephens Local Environmental Plan 2013. Under this new plan the following equivalent zones will be applied:

- B1 Neighbourhood Centre (for the 3(a) General Business zone); and
- E2 Environmental Conservation (for the 7(a) Environmental Protection zone).

PART 3 – Justification for the Planning Proposal

SECTION A – Need for the Planning Proposal

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

The Planning Proposal is not the result of any strategic study or report. The subject land is being considered for rezoning on its own merits. In summary these merits are:

- The proposal aligns with community feedback received during the preparation of the Port Stephens Futures Strategy which identified a need for "reasonable facilities that match the population" within the Fern Bay and Fullerton Cove locality.
- It presents an opportunity for the creation of 150 new jobs (100 permanent and 50 during construction).

- It provides an opportunity for increased retail choice and shopper convenience, which in turn will reduce the number of required trips to other centres, reduce travel times, and the costs associated with travelling, and the amount of carbon released into the atmosphere.
- It provides an opportunity to enhance the use of existing public transport services that connect the site to other areas within the Port Stephens and Newcastle Local Government Areas (LGA).
- It relates to land that is of sufficient size to enable flexibility in siting and design that can allow for the management and protection and potential enhancement of key vegetation and environmental values of the site.
- It retains existing residentially zoned land opposite the site and the opportunity already afforded to satisfy housing need and demand in the locality.
- It does not expose the community to any cost associated with the upgrading of trunk infrastructure to support the development. Any infrastructure upgrades will be at full cost to the proponent.
- It provides for a physical separation of potentially incompatible land uses between retail and residential uses. The immediate local road network and remnant vegetation corridors provide an opportunity to enable these uses to co-exist in close proximity to each other yet facilitate the effective management of amenity issues such as noise, lighting, traffic and environmental impacts.

The site is situated within the Eastern Growth Corridor as identified in the Port Stephens Planning Strategy 2011-2036. In this context, the provision of a new local centre in this location would provide a logical node that is linked by road infrastructure.

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

The primary objective of the planning proposal is the delivery of a new supermarket anchored neighbourhood shopping centre to meet existing demand within the local catchment and would deliver convenience, competition and choice for local residents. Rezoning of the land represents the best means of achieving this objective. A centre in this location responds positively to the surrounding emerging urban context and has significant potential to integrate with existing and planned urban development.

Is there a community benefit?

The draft LEP amendment has the potential to deliver a significant net community benefit in terms of consumer choice, convenience and competition as well as employment opportunities.

SECTION B – Relationship to Strategic Planning Framework

4. 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)?

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy (LHRS) and the draft Lower Hunter Regional Conservation Plan apply to the site. The purpose of the LHRS is to ensure that adequate land is available and appropriately located to sustainably accommodate the projected housing and employment needs of the region's population over the next 25 years.

The LHRS defines the State Government's 25 year development strategy for the region, designating major centres, employment and conservation areas and land releases for an additional 69,000 new dwellings. The LHRS does permit additional development that is not within an existing footprint or a nominated "new release" area provided conservation values of the area are protected and the land contributes to additional infrastructure costs. This is assessed through the "Sustainability Criteria".

However, the LHRS specifically protects land within the Watagan to Stockton Corridor due to the environmental significance of this land and its role as an "inter-urban break". The subject land is located within the Watagan to Stockton Corridor. The Sustainability Criteria do not apply in the Watagan to Stockton Corridor in order to protect the significant biodiversity and natural resource values of these areas. In this regard, the planning proposal is inconsistent with the Lower Hunter Regional Strategy.

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

Community Strategic Plan

The planning proposal is consistent with the Port Stephens Community Strategic Plan.

Port Stephens Planning Strategy (PSPS)

Fullerton Cove has been identified within the PSPS as an Eastern Growth Corridor suggesting the location is appropriate for future employment growth however, the potential for additional growth in the medium to long term within this corridor has not yet been evaluated. The PSPS states that this evaluation will occur following a review of the LHRS and completion of the Raymond Terrace/Heatherbrae Growth Strategy.

The Commercial and Industrial Lands Study (SGS, 2010) established a commercial hierarchy for the LGA within the PSPS, based on the function performed by each centre. The Fern Bay area is identified as a "Smaller Village Centre", which limits services in these areas to a pub or general store. The Fullerton Cove area is identified as a subcategory of the "Smaller Village Centre", that contains no commercially zoned or occupied floor space.

The PSPS recognises the significant new residential development in the Fern Bay area (population projections indicate a population of 5,211 people in 2031) and seeks to accommodate retail demand within the existing general store and adjacent site on the corner of Vardon Road, with an additional

expectation of a small area of commercially zoned land within the new Seaside Estate.

However, it is recognised that the final location of that site has not been determined and the amount of commercial land may need to be increased to accommodate increased demand. The planning proposal is based on a projected population within the Main Trade Area (Fullerton Cove, Stockton, Fern Bay, Kooragang, Tomago and Williamstown) of 10,480 people in 2026, providing justification for the increase in the amount of commercial land.

The proposal is seen as contributing to the wider Primary Growth Corridor of the LGA and the objectives of the long term strategy.

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

State Environmental Planning Policies (include relevant)

There are no existing or draft SEPPs that prohibit or restrict the proposed development as outlined in this planning proposal. An assessment of relevant SEPPs against the planning proposal is provided in the table below.

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP 6 – Number of Storeys in a Building	Clarifies the reference to storey, floors and levels.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 14 – Coastal Wetlands	The SEPP places restrictions on development on land to which the plan applies and seeks to ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State.	Although the site contains an endangered ecological community that is identified as "Freshwater Wetland" there are no identified SEPP 14 Wetlands on the subject land.
SEPP 15— Rural Landsharing Communities		Not applicable
SEPP 21 – Caravan Parks	The SEPP provides for development for caravan parks.	Not applicable.
SEPP 22 – Shops and commercial premises	The SEPP provides for the change of use of commercial premises.	Not applicable
SEPP 26—Littoral Rainforests		Not applicable

SEPP 30 – Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	Not applicable
SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)	The SEPP makes provision for the redevelopment of urban land suitable for multi-unit housing and related development.	Not applicable
SEPP 33 – Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Not applicable
SEPP 36 – Manufactured Homes Estates	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.	Not applicable
SEPP 44 – Koala Habitat Protection	This 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.	The SEPP applies to land within the Port Stephens LGA proposed for development and is over 1ha in size. The SEPP is therefore relevant in consideration of the proposal and any future development application for the site. The SEPP seeks to ensure the proper management and conservation of vegetation that is a source of koala habitat. Further detailed investigation is required to determine the extent and nature of any impact the proposal would have on koala habitat protection.
SEPP 50—Canal Estate Development		Not applicable
SEPP 55 – Remediation of Land	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	The potential for site contamination arising from existing site uses is to be assessed in further detail.
SEPP 62 – Sustainable Aquaculture	The SEPP relates to development for aquaculture and to development arising from rezoning of land and is of	Not applicable

	relevance for the site specific rezoning proposals.	
SEPP 64 – Advertising and Signage	Aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish	The proposal includes an area of land to be zoned for commercial purposes to enable the erection of pylon signage which would need to be assessed against the provisions of SEPP 64.
SEPP 70 – Affordable Housing		Not applicable
SEPP 71 – Coastal Protection		Not applicable
SEPP Affordable Rental Housing 2009		Not applicable
SEPP Housing for Seniors or people with a Disability 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	Not applicable
SEPP Infrastructure 2007	Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	The Infrastructure SEPP aims to facilitate the efficient delivery of infrastructure across the State. The following matters are relevant to the proposal: • The proposed development will require existing utility services to be upgraded and/or augmented to enable the future development to be accommodated. These works will need to be undertaken in accordance with the provisions of the SEPP. • Any future development application will require an assessment of traffic issues in accordance with the SEPP.
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	Not applicable
SEPP (Rural Lands) 2008	The SEPP aims to facilitate economic use and	The land is currently zoned Rural 1(a) under the

	development of rural lands, reduce land use conflicts and provides development principles.	provisions of the Port Stephens Local Environmental Plan 2000 and is proposed to be zoned RU@ under the draft Port Stephens Local Environmental Plan 2013 however, the land is not identified as Prime Agricultural Land (Class 1-3).
--	--	---

Section 117 Ministerial Directions

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

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

Table 2: Relevant s.117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implications
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Employment Zones	Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	The proposal is considered to be consistent with this direction.
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	The subject land is not identified as Prime Agricultural Land (Class 1-3) and contains little agricultural value. The proposal is considered to be on minor significance.
1.3 Mining, Petroleum Production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	The proposal is considered to be consistent with this direction.
1.4 Oyster Aquaculture	The objective of this direction is to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and	The proposal is considered to be consistent with this direction.

	consequently, on the health of oysters and oyster consumers.	
1.4 Rural Lands	The objective of this direction is to protect the agricultural production value of rural and facilitate the orderly and economic development of rural lands for rural and related purposes.	The subject land is not identified as Prime Agricultural Land (Class 1-3) and contains little agricultural value. The proposal includes a provision to appropriately zone land for environmental protection.
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	The subject land is not zoned for environmental protection purposes. The proposal seeks to appropriately zone land for environmental protection.
2.2 Coastal Protection	The objective of this direction is to implement the principles in the NSW Coastal Policy.	Consistent
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Consistent
2.4 Recreation Vehicle Areas	The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	Consistent
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	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.	The proposal is consistent with this objective as it will ensure that emerging housing types in the locality have access to infrastructure and services.
3.2 Caravan parks and Manufactured Home Estates	The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured	Consistent

	home estates.	
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low impact small businesses in dwelling houses.	Consistent
3.4 Integrating Land Use and Transport	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.	The proposal is consistent with this objective as it will provide services and jobs within a walkable catchment, and reduce the dependence on cars, and travel demand in general.
3.5 Development Near Licensed Aerodromes	The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses	Consistent
4. HAZARD AND RISK		
4.1 Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils	Consistent
4.2 Mine Subsidence and Unstable Land	The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Consistent
4.3 Flood Prone Land	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 <i>Floodplain Development Manual 2005</i> , and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.	Consistent
4.4 Planning for	The objectives of this direction	Consistent

Bushfire Protection	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.	
5. REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The proposal is inconsistent with this direction as the subject land is located within the Stockton-Watagan Green Corridor identified in the Lower Hunter Regional Strategy.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	The objectives for managing commercial and retail development along the Pacific Highway are: (a) to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route; (b) to prevent inappropriate development fronting the highway (c) to protect public expenditure invested in the Pacific Highway, (d) to protect and improve highway safety and highway efficiency, (e) to provide for the food, vehicle service and rest needs of travellers on the highway, and (f) to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.	Consistent
6. LOCAL PLAN MAKING		
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent
6.2 Reserving Land for Public Purposes	The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the	Consistent

	removal of reservations of land for public purposes where the land is no longer required for acquisition.	
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Consistent

SECTION C – Environmental, Social and Economic Impact

8. 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?

The subject site is of high ecological value. The proposed amendment will result in the direct removal of up to 0.44 hectares of the endangered ecological community "Freshwater Wetlands on coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions", which also provides habitat potential for the Green and Golden Bell Frog and a number of threatened birds and flying fox. The proposal will also impact on the endangered ecological community "Swamp Sclerophyll Forest". Koala habitat will also potentially be impacted.

Further detailed investigation is required to support the proposal. It is recommended that the proposal be supported subject to suitable arrangements being made under the NSW Biodiversity Banking and Offsets Scheme following a Gateway Determination.

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

The potential impacts associated with drainage and the potential for flooding has been acknowledged. Resolution of these matters is necessary before the land can be developed for commercial purposes.

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

The provision of a retail centre at the site will result in a positive social impact in the locality. The population of the main trade area (MTA) is estimated to be 7,730 residents and is expected to experience growth associated with the development of urban release areas (most are proximal to the site), increasing to a population of 10,480 by 2026. A significant proportion of residents within the MTA are aged 60 years and over (30%).

Currently, these residents have no alternative other than to travel long distances for their basic grocery needs, incurring expense (associated with travel costs) and inconvenience. The proposal will also create jobs within the

community (in the order of 100 ongoing employment opportunities and 50 during construction) and encourage competition for existing retailers, resulting in a greater variety of product choice and value for residents.

A market assessment, including a review of the likely future demand for retail floor space within the MTA (Fullerton Cove, Fern Bay, Stockton, Kooragang, Tomago and Williamstown) confirms there is sufficient existing capacity to accommodate the development of a new retail centre of the scale and type proposed without adversely impacting the viability of existing retail centres in the LGA.

SECTION D – State and Commonwealth interests

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

The Roads and Maritime Services (RMS) provided preliminary support for the proposal (13 January 2012) subject to the prohibition of direct vehicular access to/from Nelson Bay Road and provision of further technical studies. Any subsequent Development Application for the site would meet the requirements for referral to RMS under State Environmental Planning Policy (Infrastructure) 2007.

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

The Planning Proposal will be referred to relevant authorities for comment in the event of a Council resolution and Gateway Determination allowing it to proceed. It is anticipated that the main authorities will be the Office of Environment and Heritage, Roads and Maritime Services, Rural Fire Service and utility providers.

Part 4 – Mapping

The following map layers are included with the planning proposal as attachments:

Attachment A: Map – Subject land (aerial photo).

Attachment B: Current zoning map (Port Stephens LEP 2000 & draft Port Stephens LEP 2013).

Attachment C: Proposed zoning map (amendment to Port Stephens LEP 2000).

Attachment D: Proposed Land Zoning Map (LSZ_001 amendment to draft Port Stephens LEP 2013)

Attachment E: Proposed Lot Size Map (LSZ_001 amendment to draft Port Stephens LEP 2013)

Attachment F: Proposed Height of Buildings Map (HOB_001 amendment to draft Port Stephens LEP 2013)

Part 5 - Details of Community Consultation

Notice of the proposal will be placed in the local newspapers. The exhibition material will be on display at Councils administration building located at 116 Adelaide Street (Old Pacific Highway), Raymond Terrace NSW between the hours of 830am to 530pm Monday to Friday. The exhibition material will also be made available on Council's website and made available at Council libraries. Adjoining landowners will be notified in writing.

Any further consultation shall be indicated within the Gateway Determination.

Part 6 – Project timeline

The project is expected to be completed within 18 months from Gateway Determination, dependant upon the timeframe for undertaking investigation of biodiversity offsets to the Office of Environment and Heritage's satisfaction.

The following timetable is proposed:

Task	A u g 13	S e p 13	O c t 13	N o v 13	D e c 13	J a n 14	F e b 14	M a r 14	A p r 14	M a y 14	J u n 14	J u l 14	A u g 14	S e p 14	O c t 14	N o v 14	D e c 14	Jan 15
Issue of Gateway Determination																		
Preparation of outstanding studies																		
State Agency Consultation																		
Exhibition of PP																		
Review of Submissions & Council report																		
Report to Council																		
Submission of PP to Department to be made																		

CONSULTATION

The Planning Proposal will be referred to relevant authorities for comment in the event of a Council resolution and Gateway Determination allowing it to proceed. It is anticipated that the main authorities will be the Office of Environment and Heritage, Roads and Maritime Services, Rural Fire Service and utility providers.

In the event of public exhibition the Planning Proposal should be placed on exhibition for a period of at least 28 days. Notice will be placed in the local newspaper and adjacent landowners will be notified in writing. Copies of the Planning Proposal will be available in local libraries, on Council's website and at Council's Administration Building in Raymond Terrace.

OPTIONS

- 1) Adopt the recommendations of this report;
- 2) Amend the recommendations of this report;
- 3) Reject the recommendations of this report.

ATTACHMENTS – Provided Under Separate Cover

- 1) Planning Proposal;
- 2) Locality Map; and
- 3) Proposed Land Use Zone Maps.

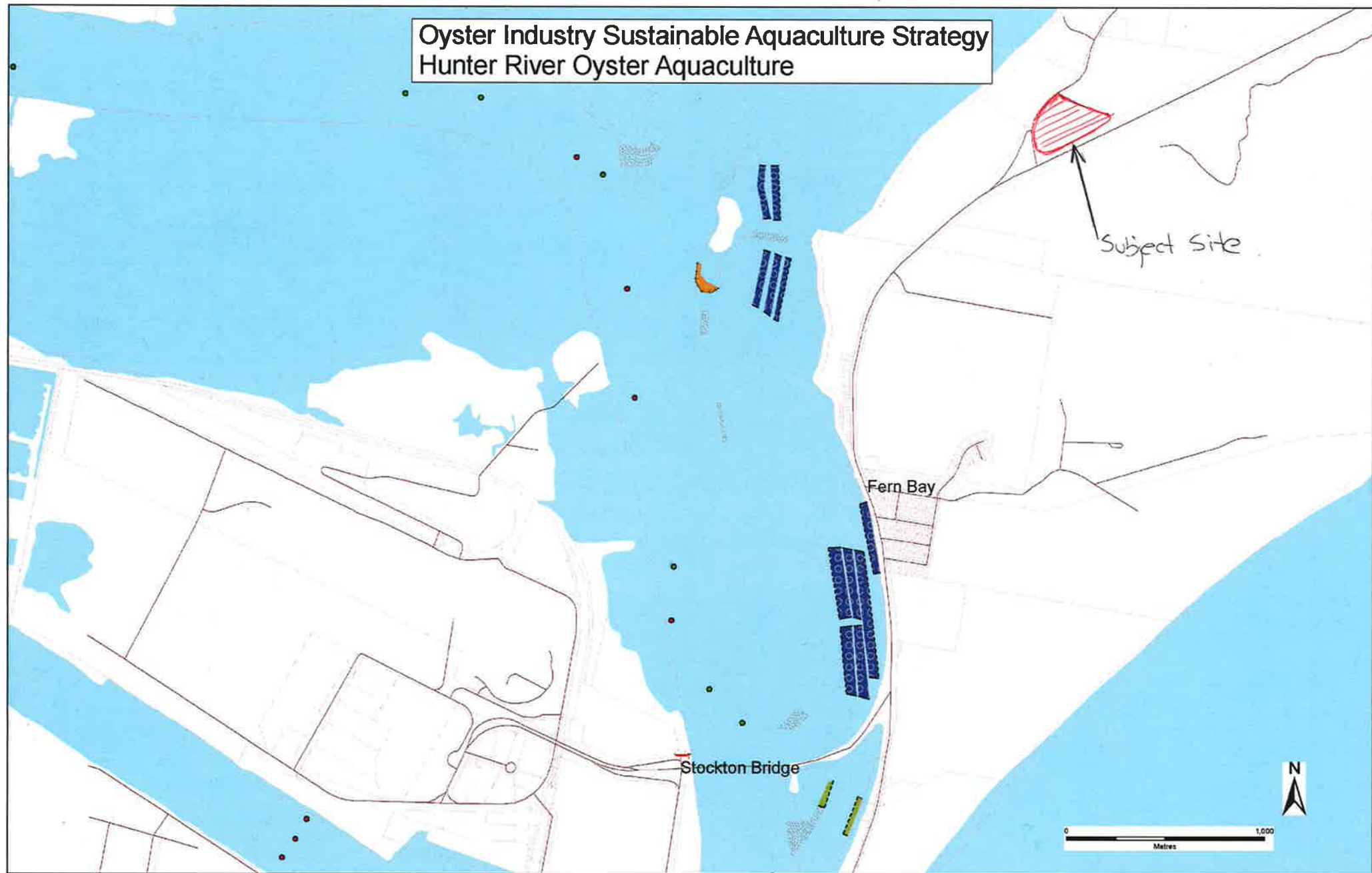
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Oyster Industry Sustainable Aquaculture Strategy Hunter River Oyster Aquaculture



- Legend**
- Priority oyster aquaculture areas
 - Current oyster aquaculture leases to be phased out
 - Current leased area in National Park Estate
 - Leases within Marine Park boundaries
 - Current leased area within Merimbula Airport Jurisdiction
- Minimum Lease Distances/Intervals**
- 50 metre intervals
 - 100 metre intervals
 - Special navigation and mooring condition
 - All other boundaries 100 metre intervals
- Former leases**
- Current leases**
- Cadastral boundaries (shading is indicative only)**
- Roads**
- Launching ramp
 - Mole or boatshed
 - Public wharf
 - Post marker
 - Seaboard marker



NSW DEPARTMENT OF
PRIMARY INDUSTRIES

August 2006

Source: Data from the Department of Land, Water & Heritage, and the Department of Primary Industries, and other sources. All data is indicative only and should not be used for legal purposes. The Department of Primary Industries is not responsible for any errors or omissions in this document. The Department of Primary Industries is not responsible for any errors or omissions in this document. The Department of Primary Industries is not responsible for any errors or omissions in this document.

ITEM NO.

FILE NO: PSC2011-03664

PLANNING PROPOSAL – FULLERTON COVE WOOLWORTHS

REPORT OF: BRUCE PETERSEN - COMMUNITY PLANNING AND ENVIRONMENTAL
SERVICES SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at **(ATTACHMENT 1)** in respect of Lot 14 DP258848, 135A Fullerton Cove Road, Fullerton Cove for the purposes of Section 55 of the Environmental Planning and Assessment Act 1979 to facilitate further investigations into rezoning the subject land to part 3(a) General Business and part 7(a) Environment Protection under the Port Stephens Local Environmental Plan 2000.
- 2) Resolve to proceed with the Planning Proposal on the basis that the Proponent will investigate biodiversity offsets under the NSW Biodiversity Banking and Offsets Scheme following a Gateway Determination.

BACKGROUND

The purpose of this report is to recommend that Council rezone land at Fullerton Cove for part general business development and part environmental protection, subject to satisfactory resolution of biodiversity constraints.

Details of the Planning Proposal:

- Planning Proposal:** To amend the Port Stephens Local Environmental Plan 2000 or draft Port Stephens Local Environmental Plan 2013 (whichever is in force at the time). Refer to **(ATTACHMENT 1)**.
- Subject land:** Lot 14 DP258848, 135A Fullerton Cove Road, Fullerton Cove.
- Proponent:** urbis on behalf of Woolworths.
- Current zones:**
- 1(a) Rural Agriculture Port Stephens Local Environmental Plan 2000.
 - RU2 Rural Landscape Draft Port Stephens Local Environmental Plan 2013.
- Proposed zones:**
- 3(a) General Business and 7(a) Environmental Protection Port Stephens Local Environmental Plan 2000.
 - B1 Neighbourhood Centre and E2 Environmental Conservation Draft Port Stephens Local Environmental Plan 2013.

The Proponent requests the subject land be rezoned from 1(a) Rural Agriculture to part 3(a) Commercial and part 7(a) Environment Protection in accordance with the Planning Proposal at **(ATTACHMENT 1)**. A Location Map and Draft Zoning Map are at **(ATTACHMENT 2)** and **(ATTACHMENT 3)** respectively.

It is intended to review the Planning Proposal in the event of a Council resolution and Gateway Determination from the NSW Department of Planning and Infrastructure allowing detailed investigations to proceed. These investigations will inform a revised Planning Proposal.

The Planning Proposal is not the direct result of any particular planning strategy. The Proponent is requesting that the subject land be considered for rezoning on its own merits as below:

- The proposal aligns with community feedback received during the preparation of the Port Stephens Futures Strategy which identified a need for "reasonable facilities that match the population" within the Fern Bay and Fullerton Cove locality.
- It presents an opportunity for the creation of 150 new jobs (100 permanent and 50 during construction).
- It provides an opportunity for increased retail choice and shopper convenience, which in turn will reduce the number of required trips to other centres, reduce travel times, and the costs associated with travelling, and the amount of carbon released into the atmosphere.
- It provides an opportunity to enhance the use of existing public transport services that connect the site to other areas within the Port Stephens and Newcastle Local Government Areas (LGA).
- It relates to land that is of sufficient size to enable flexibility in siting and design that can allow for the management and protection and potential enhancement of key vegetation and environmental values of the site.
- It retains existing residentially zoned land opposite the site and the opportunity already afforded to satisfy housing need and demand in the locality.
- It does not expose the community to any cost associated with the upgrading of trunk infrastructure to support the development. Any infrastructure upgrades will be at full cost to the proponent.
- It provides for a physical separation of potentially incompatible land uses between retail and residential uses. The immediate local road network and remnant vegetation corridors provide an opportunity to enable these uses to co-exist in close proximity to each other yet facilitate the effective management of amenity issues such as noise, lighting, traffic and environmental impacts.

There are potential environmental impacts associated with pursuing rezoning of the land with a possible loss of 1.8 hectares of Freshwater Wetland for general business development.

The proposal demonstrates the merits of investigating the subject land for rezoning at a broader strategic level prior to committing more financial resources at this early stage of the planning process. The proponent is to provide more detailed environmental studies, including suitable "offsets" as required by the NSW Office of Environment and Heritage in the event of a 'positive' Council resolution and Gateway Determination from the NSW Department of Planning and Infrastructure.

The findings of these studies will inform with greater certainty a suitable zoning footprint and facilitate the preparation of a draft planning proposal for public exhibition.

Due to the range of issues involved the Planning Proposal will be reported back to Council prior to being placed on public exhibition. This will also provide the proponent greater clarity regarding the next stage of the Planning Proposal as determined by the Gateway Determination.

FINANCIAL/RESOURCE IMPLICATIONS

There are no direct financial implications if Council adopts the recommendation to proceed.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	NA	NA	
Reserve Funds	NA	NA	
Section 94	Yes		The proposal will result in additional Section 94 funds for Council
External Grants	NA	NA	
Other	Yes	\$24,150 \$13,815.60	Stage 1 Planning Proposal fees of \$24,150 have been paid. Stage 2 fees (\$13,815.60) are payable post gateway determination.

LEGAL, POLICY AND RISK IMPLICATIONS

The Planning Proposal is to be progressed in a manner consistent with statutory and policy requirements. The Planning Proposal is consistent with the Port Stephens Planning Strategy as it is located in an area generally identified as the "Eastern Growth Corridor". The land however, is within the Lower Hunter Regional Strategy Watagan Stockton Green Corridor. The Lower Hunter Regional Strategy is currently under review and the status of the Watagan Stockton Green Corridor is untested at this time. As the review of the Lower Hunter Regional Strategy is being undertaken by the same government department that issues a Gateway Determination, it is considered that the risks associated with progressing the Planning Proposal are minimal.

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy (LHRS) states that by focusing a greater proportion of development within the identified major regional centres and surrounding neighbourhoods, a more sustainable balance of infill development will be achieved.

The planning proposal is consistent with the LHRS by providing logical employment opportunities for the future growth of the projected population in the local

government area. The planning proposal will facilitate additional employment and economic opportunities by integrating with an existing residential area and maximising the use of existing infrastructure and road network connections.

However, the subject land is not located in any of the identified centres or renewal corridors within the LHRS and in this regard, is inconsistent with the LHRS.

The planning proposal is inconsistent with the LHRS in that the subject land is located within the Watagan Stockton Green Corridor. The LHRS specifically states that the Sustainability Criteria will not apply in the Watagan to Stockton green corridor to protect the significant biodiversity and natural resource value of this area.

The Lower Hunter Regional Strategy is currently under review by the Department of Planning and Infrastructure, and as such, the status of the Watagan Stockton Green Corridor is untested at this time.

Port Stephens Planning Strategy (PSPS)

Fullerton Cove has been identified within the PSPS as an Eastern Growth Corridor suggesting the location is appropriate for future employment growth however, the potential for additional growth in the medium to long term within this corridor has not yet been evaluated. The PSPS states that this evaluation will occur following a review of the LHRS and completion of the Raymond Terrace/Heatherbrae Growth Strategy.

The Commercial and Industrial Lands Study (SGS, 2010) established a commercial hierarchy for the LGA within the PSPS, based on the function performed by each centre. The Fern Bay area is identified as a "Smaller Village Centre", which limits services in these areas to a pub or general store. The Fullerton Cove area is identified as a subcategory of the "Smaller Village Centre", that contains no commercially zoned or occupied floor space.

The PSPS recognises the significant new residential development in the Fern Bay area (population projections indicate a population of 5,211 people in 2031) and seeks to accommodate retail demand within the existing general store and adjacent site on the corner of Vardon Road, with an additional expectation of a small area of commercially zoned land within the new Seaside Estate. Approximately 1ha of land has been identified in the draft Port Stephens LEP 2013 for B1 Neighbourhood Centre however, it is argued that the location of this land does not lend itself to servicing the broader community as it is located within an emerging community titled residential estate that essentially functions as a 'gated community'.

The PSPS recognised that the amount of commercial land may need to be increased to accommodate increased demand. The planning proposal is based on a projected population within the Main Trade Area (Fullerton Cove, Stockton, Fern Bay, Kooragang, Tomago and Williamstown) of 10,480 people in 2026, providing justification for the increase in the amount of commercial land.

The proposal is seen as contributing to the wider Primary Growth Corridor of the LGA and the objectives of the long term strategy.

Port Stephens Economic Development Strategy 2007

The Economic Development Strategy identifies the need to build foundations for growth by ensuring adequate employment lands are available to support future industry growth.

Port Stephens Local Environmental Plan 2000

The draft LEP amendment proposes to rezone the subject land from 1(a) Rural Agriculture to part 3(a) General Business and part 7(a) Environmental Protection.

If the land is rezoned, development will be permissible, subject to consent, in accordance with 3(a) General Business and 7(a) Environmental Protection zones under Port Stephens LEP 2000.

Draft Port Stephens Local Environmental Plan 2013

The draft LEP amendment proposes to rezone the subject land from RU2 Rural Landscape to part B1 Neighbourhood Centre and E2 Environmental Conservation in the draft Port Stephens Local Environmental Plan 2013.

If the land is rezoned, development will be permissible, subject to consent, in accordance with B1 Neighbourhood Centre and E2 Environmental Conservation zones under draft Port Stephens Local Environmental Plan 2013.

Port Stephens Development Control Plan (DCP) 2007

If the land is rezoned, the provisions for commercial development in the Port Stephens Development Control Plan 2007 will apply. All future development will need to be assessed against the relevant provisions of the DCP.

Risk

There is a risk that if the environmental offset cannot be resolved as part of the Gateway process then the matter cannot proceed. This issue will be required to be resolved prior to the plan proceeding following Gateway Determination.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that due process is not followed	Low	Care is taken to ensure due process is followed	Yes
There is a risk that the Planning Proposal does not proceed	Low	Ensure that planning issues are identified during the Planning Proposal process are addressed efficiently and effectively.	Yes
There is a risk that the Planning proposal is amended during the decision making process	Low	Ensure that any amendments are consistent with ensuring that the objectives of the Planning Proposal are met.	Yes

There is risk a risk that the land is zoned for 3(a), but cannot be developed due to environmental constraints.	Medium	The proponent will need to demonstrate compliance with the NSW Bio Banking Offset Scheme prior to the proposal proceeding post Gateway.	Yes
---	--------	---	-----

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The provision of a retail centre at the site will result in a positive social impact in the locality. The population of the main trade area (MTA) is estimated to be 7,730 residents and is expected to experience growth associated with the development of urban release areas (most are proximal to the site), increasing to a population of 10,480 by 2026. A significant proportion of residents within the MTA are aged 60 years and over (30%).

Currently, these residents have no alternative other than to travel long distances for their basic grocery needs, incurring expense (associated with travel costs) and inconvenience. The proposal will also create jobs within the community (in the order of 100 ongoing employment opportunities and 50 during construction) and encourage competition for existing retailers, resulting in a greater variety of product choice and value for residents.

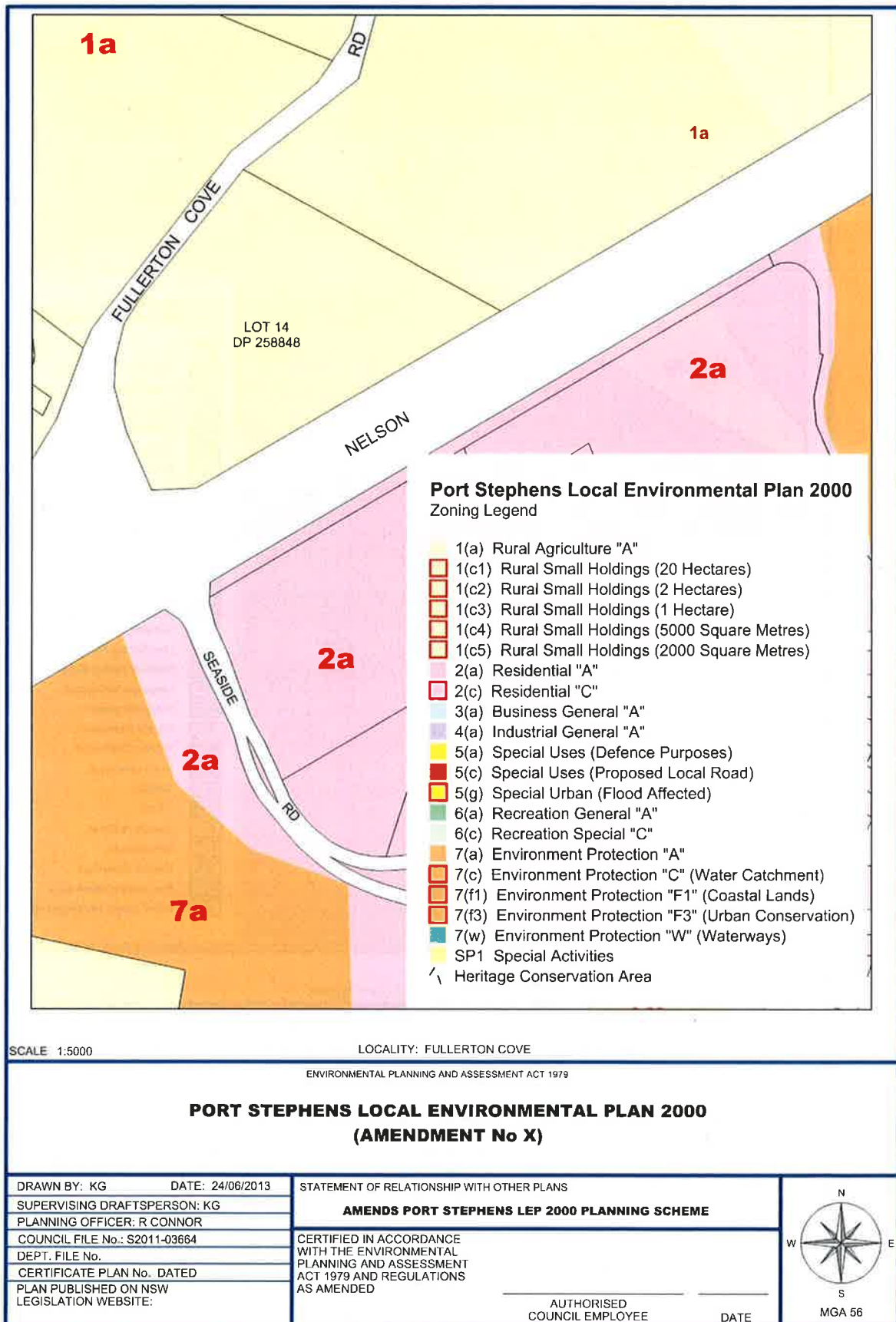
A market assessment, including a review of the likely future demand for retail floor spaced within the MTA (Fullerton Cove, Fern Bay, Stockton, Kooragang, Tomago and Williamstown) confirms there is sufficient existing capacity to accommodate the development of a new retail centre of the scale and type proposed without adversely impacting the viability of existing retail centres in the LGA.

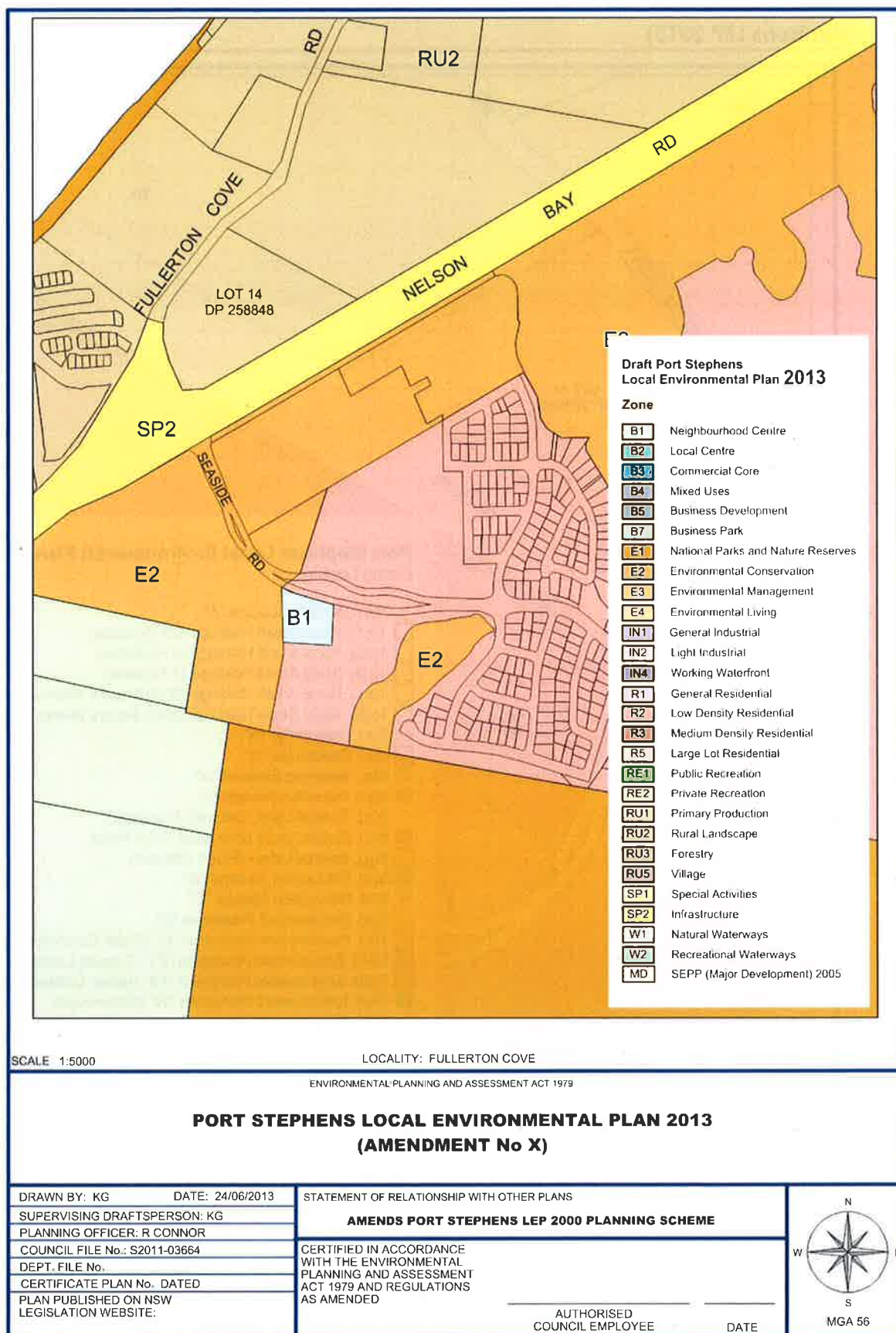
The subject site is of high ecological value. The proposed amendment will result in the direct removal of up to 1.8 hectares of the endangered ecological community *"Freshwater Wetlands on coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions"*, which also provides habitat potential for the Green and Golden Bell Frog and a number of threatened birds and flying fox. The proposal will also impact on the endangered ecological community *"Swamp Sclerophyll Forest"*. Koala habitat will also potentially be impacted.

The proposal was forwarded to Council's Natural Resources Section for comment. The Natural Resources Section does not support the proposal due to the high ecological value of the land and the impact on threatened species and their habitats and the difficulty associated with securing satisfactory biodiversity offsets.

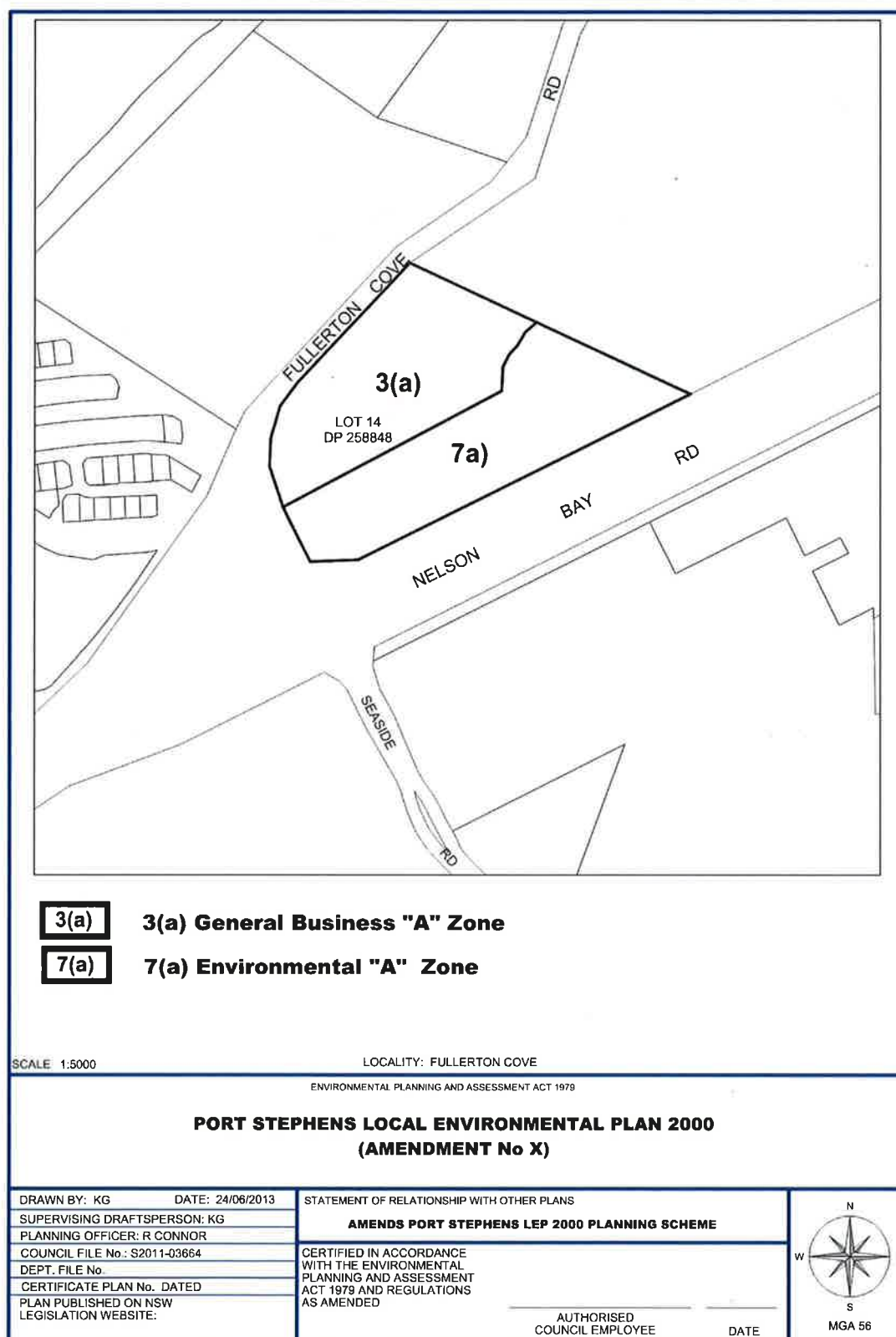
Further detailed investigation is required to support the proposal. A balanced approach to the proposal regarding the potential environmental impacts versus the positive social and economic impacts is required. It is recommended that the proposal be supported subject to suitable arrangements being made under the NSW Biodiversity Banking and Offsets Scheme following a Gateway Determination.

Attachment B: Current zoning map (Port Stephens LEP 2000 & draft Port Stephens LEP 2013)

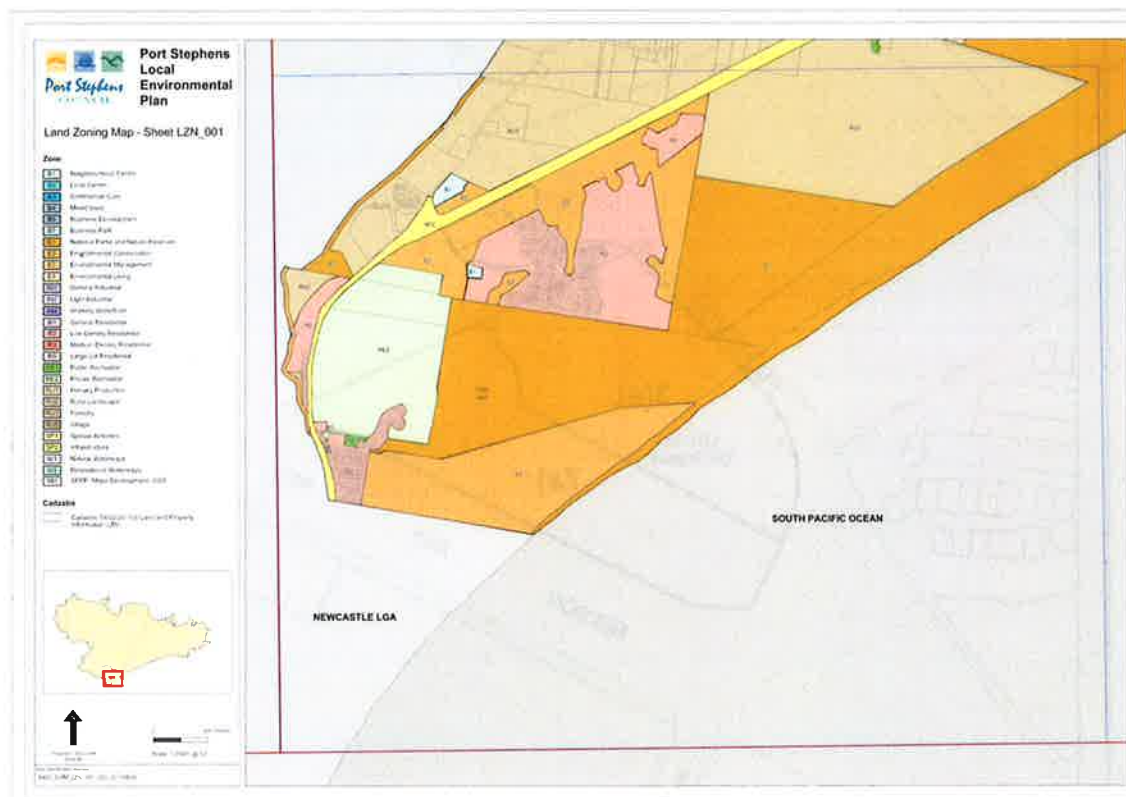




Attachment C: Proposed zoning map (amendment to Port Stephens LEP 2000).



Attachment D: Proposed Land Zoning Map (LSZ_001 amendment to draft Port Stephens LEP 2013)



Attachment E: Proposed Lot Size Map (LSZ_001 amendment to draft Port Stephens LEP 2013)



Attachment F: Proposed Height of Buildings Map (HOB_001 amendment to draft Port Stephens LEP 2013)



ORDINARY COUNCIL MEETING – 9 JULY 2013

ATTACHMENTS – PROVIDED UNDER SEPARATE COVER

ITEM NO. 2

FILE NO. PSC2011-03664

PLANNING PROPOSAL – FULLERTON COVE WOOLWORTHS

ATTACHMENT: 2

- 1) Planning Proposal;
- 2) Locality Map; and
- 3) Proposed Land Use Zone Maps.

ORDINARY COUNCIL MEETING – 9 JULY 2013

ATTACHMENTS – PROVIDED UNDER SEPARATE COVER

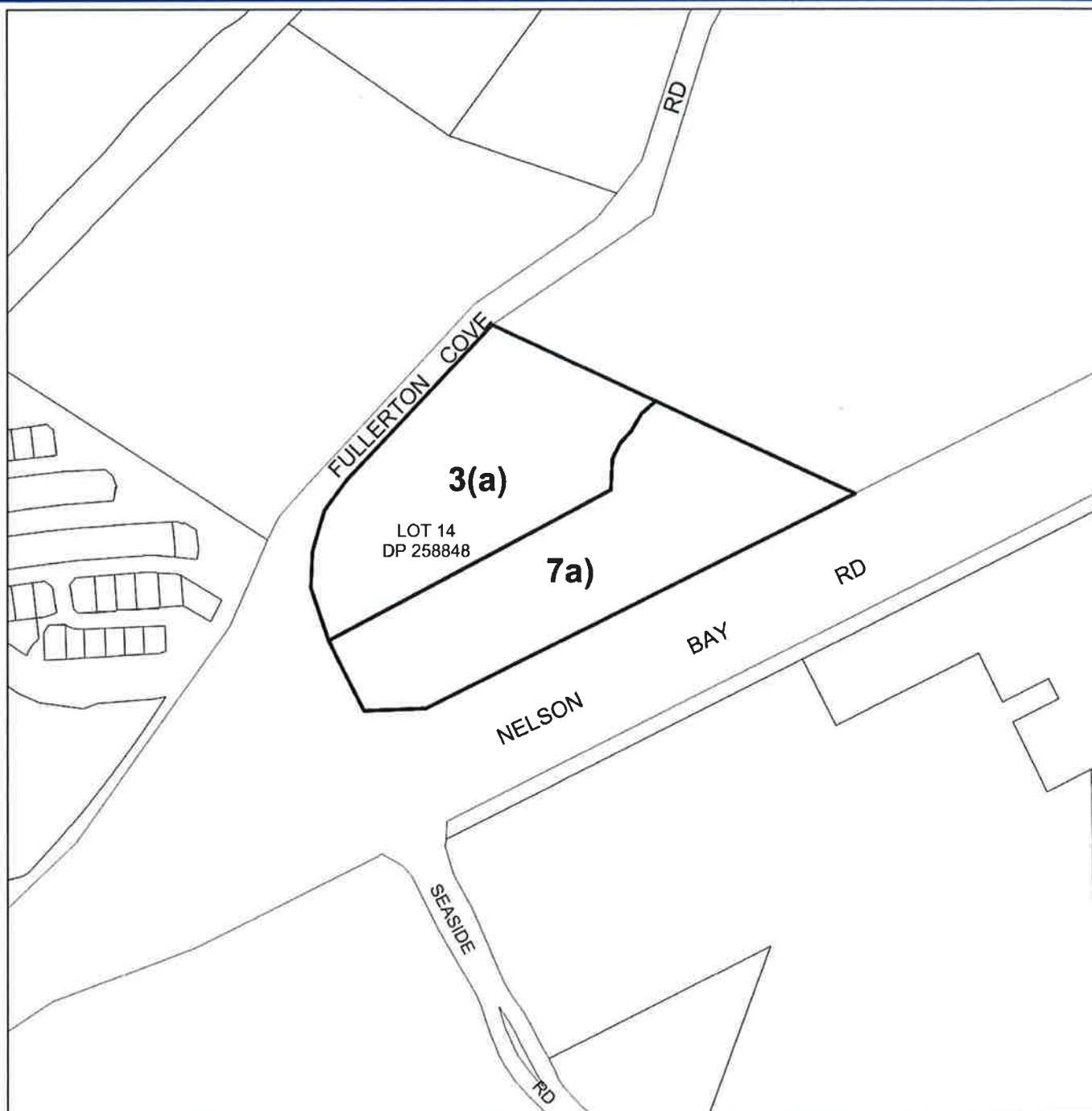
ITEM NO. 2

FILE NO. PSC2011-03664

PLANNING PROPOSAL – FULLERTON COVE WOOLWORTHS

ATTACHMENT: 3

- 1) Planning Proposal;
- 2) Locality Map; and
- 3) Proposed Land Use Zone Maps.



3(a)

3(a) General Business "A" Zone

7(a)

7(a) Environmental "A" Zone

SCALE 1:5000

LOCALITY: FULLERTON COVE

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

**PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000
(AMENDMENT No X)**

DRAWN BY: KG DATE: 24/06/2013

SUPERVISING DRAFTSPERSON: KG

PLANNING OFFICER: R CONNOR

COUNCIL FILE No.: S2011-03664

DEPT. FILE No.

CERTIFICATE PLAN No. DATED

PLAN PUBLISHED ON NSW
LEGISLATION WEBSITE:

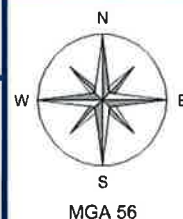
STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMENDS PORT STEPHENS LEP 2000 PLANNING SCHEME

CERTIFIED IN ACCORDANCE
WITH THE ENVIRONMENTAL
PLANNING AND ASSESSMENT
ACT 1979 AND REGULATIONS
AS AMENDED

AUTHORISED
COUNCIL EMPLOYEE

DATE



INFORMATION CHECKLIST

Attachment 1

> STEP 1: REQUIRED FOR ALL PROPOSALS

(under s55(a) – (e) of the EP&A Act)

- Objectives and intended outcome
- Mapping (including current and proposed zones)
- Community consultation (agencies to be consulted)
- Explanation of provisions
- Justification and process for implementation (including compliance assessment against relevant section 117 direction/s)

> STEP 2: MATTERS - CONSIDERED ON A CASE BY CASE BASIS

(Depending on complexity of planning proposal and nature of issues)

PLANNING MATTERS OR ISSUES	To be considered	N/A	PLANNING MATTERS OR ISSUES	To be considered	N/A
Strategic Planning Context			Urban Design Considerations		
• Demonstrated consistency with relevant Regional Strategy	☒	☐	• Existing site plan (buildings vegetation, roads, etc)	☒	☐
• Demonstrated consistency with relevant sub-regional strategy	☒	☐	• Building mass/block diagram study (changes in building height and FSR)	☐	☒
• Demonstrated consistency with or support for the outcomes and actions of relevant DG endorsed local strategy	☐	☒	• Lighting impact	☐	☒
• Demonstrated consistency with Threshold Sustainability Criteria	☒	☐	• Development yield analysis (potential yield of lots, houses, employment generation)	☐	☒
Site Description/Context			Economic Considerations		
• Aerial photographs	☒	☐	• Economic impact assessment	☒	☐
• Site photos/photomontage	☐	☒	• Retail centres hierarchy	☒	☐
Traffic and Transport Considerations			• Employment land	☐	☒
• Local traffic and transport	☒	☐	Social and Cultural Considerations		
• TMAP	☐	☒	• Heritage impact	☐	☒
• Public transport	☒	☐	• Aboriginal archaeology	☒	☐
• Cycle and pedestrian movement	☒	☐	• Open space management	☐	☒
Environmental Considerations			• European archaeology	☐	☒
• Bushfire hazard	☒	☐	• Social and cultural impacts	☒	☐
• Acid Sulphate Soil	☒	☐	• Stakeholder engagement	☒	☐
• Noise impact	☐	☒	Infrastructure Considerations		
• Flora and/or fauna	☒	☐	• Infrastructure servicing and potential funding arrangements	☐	☒
• Soil stability, erosion, sediment, landslip assessment, and subsidence	☐	☒	Miscellaneous/Additional Considerations		
• Water quality	☒	☐	List any additional studies		
• Stormwater management	☒	☐			
• Flooding	☐	☒			
• Land/site contamination (SEPP55)	☐	☒			
• Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	☐	☒			
• Sea level rise	☐	☒			

Supplementary Information



TO: All Councillors & Executive Team

FROM: Mike McIntosh
Group Manager – Development Services

DATE: 09 July 2013

RE: Supplementary information for Ordinary Council Meeting 09 July 2013

FILE No: PSC2011-03664

ITEM No: 2

REPORT TITLE: Planning Proposal – Fullerton Cove Woolworths

PURPOSE

Council note the subject property incorrectly identified as Lot 14 DP258848, 135A Fullerton Cove Road, Fullerton Cove. The property is correctly identified as Lot 14 DP 258848, 42 Fullerton Cove Road, Fullerton Cove

ISSUES

The subject land is incorrectly identified in the Planning Proposal as 135A Fullerton Cove Road, Fullerton Cove when it should be identified as 42 Fullerton Cove Road, Fullerton Cove.

RECOMMENDATION

Receive and note the correct property information.

