

PLANNING PROPOSAL

Proposed amendment to Port Stephens Local Environmental Plan 2013

Rezoning of various land parcels at:

Lot 302 DP 1004596 (15 Gray Drive Karuah)
Lot 143 DP 605461 (38 Old Punt Road, Tomago)
Lot 12 DP 1138643 (1 Laverick Avenue, Tomago)
Lot 2 DP 1138643 (12 Laverick Avenue, Tomago)
Lot 1 DP 1195849 (14 Laverick Avenue, Tomago)

July 2015

Contact

Strategic Planning
Ph: (02) 4980 0163

BACKGROUND

Since gazettal of the Port Stephens Local Environmental Plan 2013 (PS LEP 2013) five (5) sites have been identified as mapping anomalies during the initial transference from the Port Stephens Local Environmental Plan 2000 (PS LEP 2000) to the standard instrument Port Stephens Local Environmental Plan 2013 (PS LEP 2013).

While the amendments are considered transitional inconsistencies, given the time that has lapsed since the planning controls came into effect, the amendment is being progressed as a planning proposal with a short community consultation is proposed to ensure surrounding land owners have adequate opportunity to comment.

PART 1 – Objectives or Intended Outcomes

The objective of this planning proposal is to rectify mapping anomalies made during the transition from the PS LEP 2000 to the standard Instrument LEP by amending the Port Stephens Local Environmental Plan 2013 relating to the following sites:

- Rezone part of Lot 302 DP 1004596 (15 Gray Drive Karuah) from RU2 Rural Landscape to R2 Low Density Residential;
- Rezone part Lot 143 DP 605461 (38 Old Punt Road, Tomago) from E2 Environmental Conservation to IN1 General Industrial;
- Rezone part Lot 12 DP 1138643 (1 Laverick Avenue, Tomago) from E2 Environmental Conservation to IN1 General Industrial; and
- Rezone part Lot 2 DP 1195849(12 Laverick Avenue, Tomago) from E2 Environmental Conservation to IN1 General Industrial; and
- Rezone part Lot 1 DP 1195849 (14 Laverick Avenue, Tomago) from E2 Environmental Conservation to IN1 General Industrial.

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

The proposal will be implemented by amendment of the PS LEP 2013. The amendments are as follows:

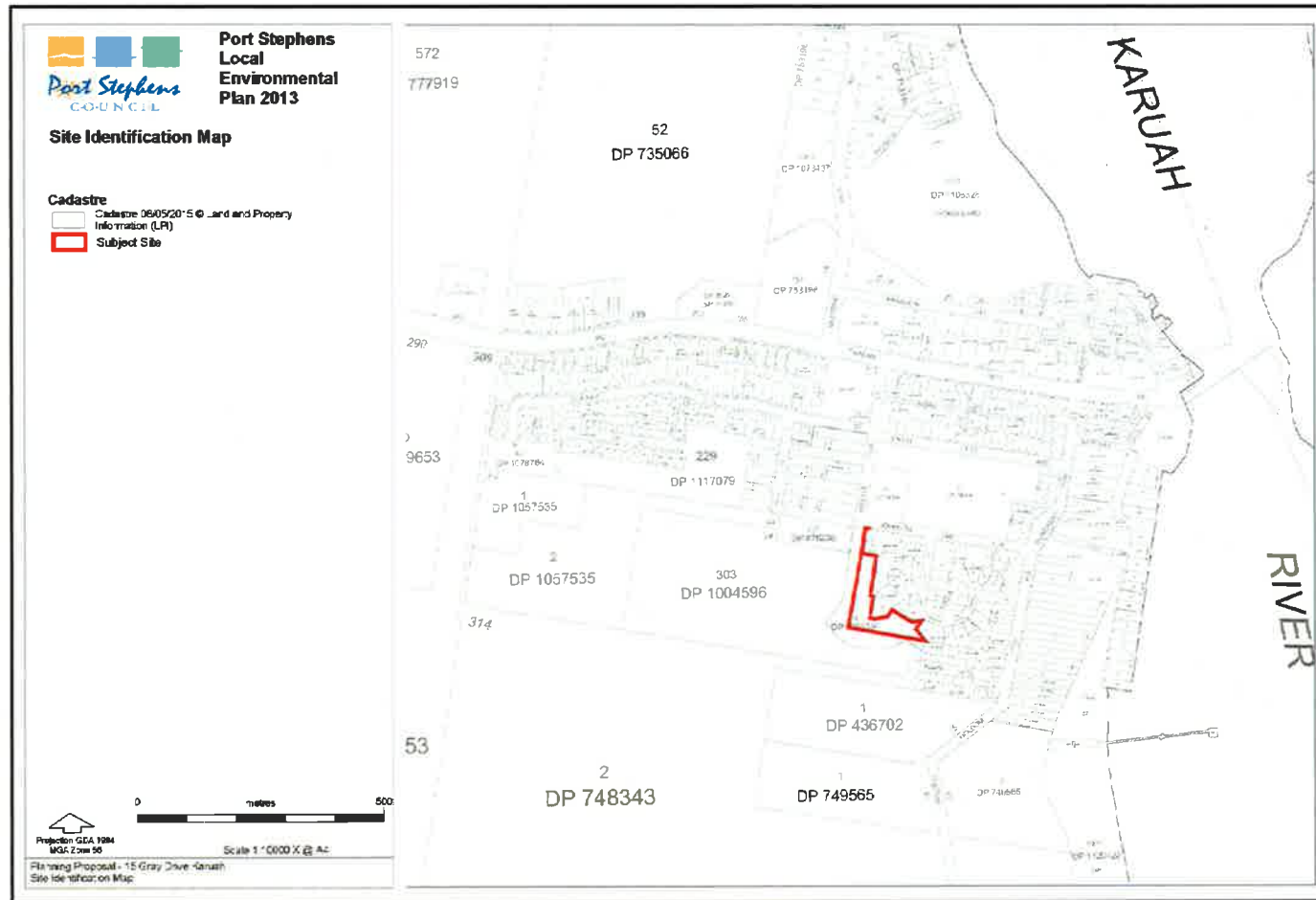
1. Amend the land zoning map and lot size map relating to Lot 302 DP 1004596, (15 Gray Drive, Karuah) as identified in Figure 1. Under the PS LEP 2000 the lot was part zoned 1(a) Rural Agriculture (western portion) and 2(a) Residential (eastern portion). During zone conversion to the Standard Instrument, the whole lot was incorrectly converted to RU2 Rural Landscape.

Subsequently, the western portion of the lot has been rezoned R2 Low Density Residential as part of Port Stephens Local Environmental Plan 2013 (Amendment No. 5) gazetted in June 2014. The remaining eastern portion of the lot is required to be zoned R2 Low Density Residential in line with its previous zoning under LEP 2000. The associated lot size and height of buildings maps also require amendment as shown in Table 1.

	Zoning	Lot Size	Height of Building
Proposed Amendment	Part R2 Low Density Residential	500sqm	(j) 9m
PS LEP 2013 (Amendment No. 5)	Part RU2 Rural Landscape	AB2 20ha	N/A
Gazetted PS LEP 2013	Part RU2 Rural Landscape	AB2 20ha	N/A
Exhibited PS LEP 2013	Part RU2 Rural Landscape	AB2 20ha	N/A
PS LEP 2000	Part 2(a) Residential	N/A	N/A

Table 1 - 15 Gray Drive, Karuah, Zoning, Lot size and Height of building changes

Figure 1 – 15 Gray Drive, Karuah, Location Map



2. Amend the land zoning map and lot size map relating to Lot 143 DP 605461 (38 Old Punt Road, Tomago) as identified in Figure 2. During the zone conversion to the PS LEP 2013, 38 Old Punt Road, Tomago did not transition from part 4(a) Industrial General "A" and part 1(a) Rural Agriculture "A" to part IN1 General Industrial and part E2 Environmental Conservation. Instead the whole parcel was incorrectly converted to E2 Environmental Conservation. The associated lot size map is also required to be amended to remove the 40ha minimum lot size provision to reflect the IN1 Zone provisions.

	Zoning	Lot Size	Height of Building
Proposed Amendment	Part IN1 General Industrial	N/A	N/A
Gazetted PS LEP 2013	E2 Environmental Conservation	AB3 40ha	N/A
Exhibited PS LEP 2013	E2 Environmental Conservation	AB3 40ha	N/A
PS LEP 2000	Part 4(a) Industrial General	N/A	N/A

Table 2 - 38 Old Punt Road, Zoning, Lot size and Height of building changes

3. Amend the land zoning map relating to Lot 12 DP 1138643 (1 Laverick Avenue Tomago) as identified in Figure 2. During the zone conversion to the PS LEP 2013, 1 Laverick Avenue, Tomago zoned part 4(a) Industrial General "A" and part 1(a) Rural Agriculture "A" did not transition to the equivalent zones of part IN1 General Industrial and part E2 Environmental Conservation. Instead the entire portion on the lot south of Laverick Avenue was zoned E2 Environmental Conservation. The associated lot size map to remove part of the 40ha minimum lot size provision is also required to reflect the IN1 Industrial General zone provisions.

	Zoning	Lot Size	Height of Building
Proposed Amendment	part IN1 General Industrial	N/A	N/A
Gazetted PS LEP 2013	E2 Environmental Conservation	AB3 40ha	N/A
Exhibited PS LEP 2013	E2 Environmental Conservation	AB3 40ha	N/A
PS LEP 2000	part 4(a) Industrial General "A"	N/A	N/A

Table 3 - 1 Laverick Avenue, Tomago, Zoning, Lot size and Height of building changes

4. Amend land zoning map relating to Lot 2 DP 1195849 (12 Laverick Avenue, Tomago) as identified in Figure 2. During the zone conversion to the PS LEP 2013, the entire portion of the site zoned 4(a) Industrial General was not converted to IN1 General Industrial instead a portion was zoned E2 Environmental Conservation. The associated lot size map to remove part of the 40ha minimum lot size provision is also required to reflect the IN1 Industrial General provisions.

	Zoning	Lot Size	Height of Building
Proposed Amendment	Part IN1 General Industrial	N/A	N/A
Gazetted PS LEP 2013	Part lot E2 Environmental Conservation	AB3 40ha	N/A
Exhibited PS LEP 2013	Part E2 Environmental Conservation	AB3 40ha	N/A
PS LEP 2000	Part Lot 4(a) Industrial General	N/A	N/A

Table 4 – 12 Laverick Avenue, Tomago, *Zoning, Lot size and Height of building changes*

5. Amend land zoning map relating to Lot 1 DP 1195849 (14 Laverick Avenue, Tomago) as identified in Figure 2. Due to a cadastre amendment the boundary of the lot was adjusted resulting in a portion of the lot being identified E2 Environmental Conservation. The amendment will extend the IN1 General Industrial zone across the entire lot. The associated lot size map to remove part of the 40ha minimum lot size provision is also required to reflect the IN1 Industrial General zone provisions.

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 result of any strategic study or report. The anomalies have arisen as a result of the conversion from the Port Stephens Local Environmental Plan 2000 to the standard instrument Port Stephens Local Environmental Plan 2013.

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

The Planning Proposal is the only way of rectifying the anomalies that have occurred since the transition to the standard instrument LEP. The changes are directly applicable to the instrument and there is no other way of amending the instrument other than via a planning proposal.

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?

The Lower Hunter Regional Strategy (LHRS) is a strategic planning framework to guide the sustainable growth of the lower Hunter over the next 25 years. The amendment will not conflict with the objectives of the Strategy as it seeks to rectify administrative errors that have resulted from the changeover to the standard instrument LEP.

The amendments will ensure that land is zoned appropriately to facilitate employment opportunities.

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

Community Strategic Plan

The proposal is consistent with Council's Integrated Strategic Plan (Port Stephens 2022).

The proposal is consistent with the Strategic Direction 11.1 'Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations'. The proposal is also consistent with the Strategic Direction 3.6 'Develop strategic land use and infrastructure plans and prepare and maintain statutory planning instruments (Local Environment Plans), Development Control Plans and policies'.

This Proposal seeks to maintain the Port Stephens Local Environmental Plan 2013.

Port Stephens Planning Strategy 2011

Council's Port Stephens Planning Strategy seeks to encourage a sufficient supply of a diverse range of housing in the Local Government Area (LGA) and ensure that there is a sufficient supply of a diversity of industrial land to meet market demand. The Planning Proposal is consistent with Council's adopted Port Stephens Planning Strategy (PSPS).

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

The Planning proposal is of minor planning significance. Relevant State Environmental Planning Policies are outlined below.

SEPP	Relevance	Consistency and Implications
SEPP 14 – Coastal Wetlands	This 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.	This SEPP applies to 38 Old Punt Road Tomago and 12 Laverick Avenue Tomago. The area proposed to be rezoned is however not affected. The planning proposal is consistent with the SEPP by ensuring that surrounding coastal wetlands are preserved and protected.
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 subject sites do not contain land identified as Preferred Koala Habitat and Supplementary Koala habitat under the Port Stephens Comprehensive Koala Plan of Management (CKPoM) 2002. The Planning proposal is considered consistent with the SEPP.
SEPP 71 – Coastal Protection	This SEPP seeks to protect the coastal zone.	The subject sites in Tomago are affected by this SEPP. The Planning proposal aims to reinstate the previous industrial zone on a small portion of the sites adjacent to existing industrial zoned

		land and uses. The majority of the land will retain the E2 Environmental Conservation ensuring the proposal: • Manages and balance natural, cultural, recreational and economic attributes of the NSW coast; • Public access to the foreshore will be unaffected; • Aboriginal places will be protected; • Visual amenity of the coast will be maintained; • Native coastal vegetation will be managed; • The principles of ecological sustainable development (ESD) have been taken into account • The scale of development is appropriate for the site, is consistent with adjoining and surrounding development; and • will not impact the natural scenic quality of the surrounding area.
SEPP Affordable Rental Housing 2009	This SEPP aims to provide forward rental housing.	The proposal facilitates residential development on land to which the SEPP applies, and accordingly has the potential to increase the supply of affordable housing. It is consistent with the SEPP.
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 proposal facilitates development on land upon which housing for seniors and people with a disability may be developed. It is consistent with the SEPP.

SEPP (Rural Lands) 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	The proposal does not minimise rural land fragmentation at 15 Gray Drive Karuah by proposing residential subdivision given the subject land was previously zoned residential and surrounding land is zoned residential.
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6. Is the planning proposal consistent with applicable 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 planning proposal is consistent with the Port Stephens Planning Strategy and will protect employment land in industrial zones.
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	Although the planning proposal seeks to rezone rural land to a residential zone, the subject land was previously zoned residential and is currently used for residential purposes.
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.	Although the planning proposal seeks to rezone rural land to a residential zone, the subject land was previously zoned residential and is currently used for residential purposes.
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	Although the planning proposal seeks to rezone Environmental zoned land to industrial, the subject land was previously zoned

		industrial and is currently used for industrial purposes. The planning proposal is considered consistent with this direction.
2.2 Coastal Protection	The objective of this direction is to implement the principles in the NSW Coastal Policy.	The Planning proposal aims to reinstate the previous industrial zone on a small portion of the sites adjacent to existing industrial zoned land and uses. The majority of the land will retain the E2 Environmental Conservation ensuring the principles of the NSW Coastal Policy are maintained.
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 planning proposal seeks to reinstate the residential zone to accommodate additional residential housing.
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.	While Lot 143 DP 605461 (38 Old Punt Road, Tomago), Lot 12 DP 1138643, 1 Laverick Avenue and Lot 2 DP 1195849 12 Laverick Avenue, Tomago contains potential acid sulphate soils, the PS LEP 2013 contains provisions to adequately manage acid sulphate soils.

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.	While Lot 143 DP 605461 (38 Old Punt Road, Tomago), Lot 12 DP 1138643, 1 Laverick Avenue and Lot 2 DP 1195849 12 Laverick Avenue, Tomago are identified as flood prone the amendment proposes to reinstate the existing zoning which is consistent with the NSW Floodplain Development Manual.
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.	While Lot 143 DP 605461 (38 Old Punt Road, Tomago) is identified as bushfire prone land, the amendment proposes to reinstate the existing zoning which is compatible with land uses in bushfire 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 consistent with the LHRS by ensuring that land is zoned appropriately to facilitate employment opportunities and residential growth.
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.

SECTION C – Environmental, Social and Economic Impact

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

This planning proposal seeks to correct administrative anomalies that have arisen during the changeover from the Port Stephens Local Environmental Plan 2000 to the Port Stephens Local Environmental Plan 2013. There is no likelihood that critical habitat or threatened species populations or ecological communities, or their habitats will be adversely affected.

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

No additional environmental effects are anticipated as a result of this amendment.

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

This amendment will ensure that the Port Stephens Local Environmental Plan 2013 remain current, accurate and effective.

SECTION D – State and Commonwealth interests

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

The amendment does not warrant changes to the delivery of public infrastructure.

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

The proposal is minor in nature; consultation will be undertaken with relevant government authorities once a Gateway determination has been received.

Part 4 – Mapping

The planning proposal seeks to amend the following maps:

Amendment Map	Explanation of Provision
Land zoning map 003B	Lot 302 DP 1004596 (15 Gray Drive, Karuah) - rezone part lot currently zoned RU2 Rural Landscape to R2 Low Residential Density
Lot size map 003B	Lot 302 DP 1004596 (15 Gray Drive, Karuah) - amend AB2 20ha lot size to (I) 500sq m lot size
Height of Building map 003B	Lot 302 DP 1004596 (15 Gray Drive, Karuah) - amend height to (J) 9m
Land zoning map 002	- Lot 143 DP 605461 (38 Old Punt Road, Tomago) –rezone to part IN1 General Industrial and part E2 Environmental Conservation - Lot 12 DP 1138643 (1 Laverick Ave Tomago) - amend part lot from E2 Environmental Conservation to IN1 General Industrial - Lot 2 DP 1195849 (12 Laverick Avenue, Tomago) from E2 Environmental Conservation to IN1 General Industrial - Lot 1 DP 1195849 (14 Laverick Avenue, Tomago) from E2 Environmental Conservation to IN1 General Industrial
Lot size map 002	- Lot 143 DP 605461 (38 Old Punt Road, Tomago) -part (AB3) 40ha lot size removed - Lot 12 DP 1138643 (1 Laverick Ave Tomago) - remove part lot size 40ha (AB3) - Lot 2 DP 1195849 (12 Laverick Avenue, Tomago) - remove part lot size 40ha (AB3) - Lot 2 DP 1195849 (14 Laverick Avenue, Tomago) - remove part lot size 40ha (AB3)

Part 5 – Community Consultation

The planning proposal is considered 'low impact' given that it aims to correct a transitional error and is:

- Consistent with the pattern of surrounding land use zones and/or land uses;
- Consistent with the strategic planning framework;
- Presents no issues with regard to infrastructure servicing;
- Not a principal LEP; and
- Does not reclassify public land.

It is considered public exhibition of 14 days is appropriate. During the exhibition period the planning proposal will be:

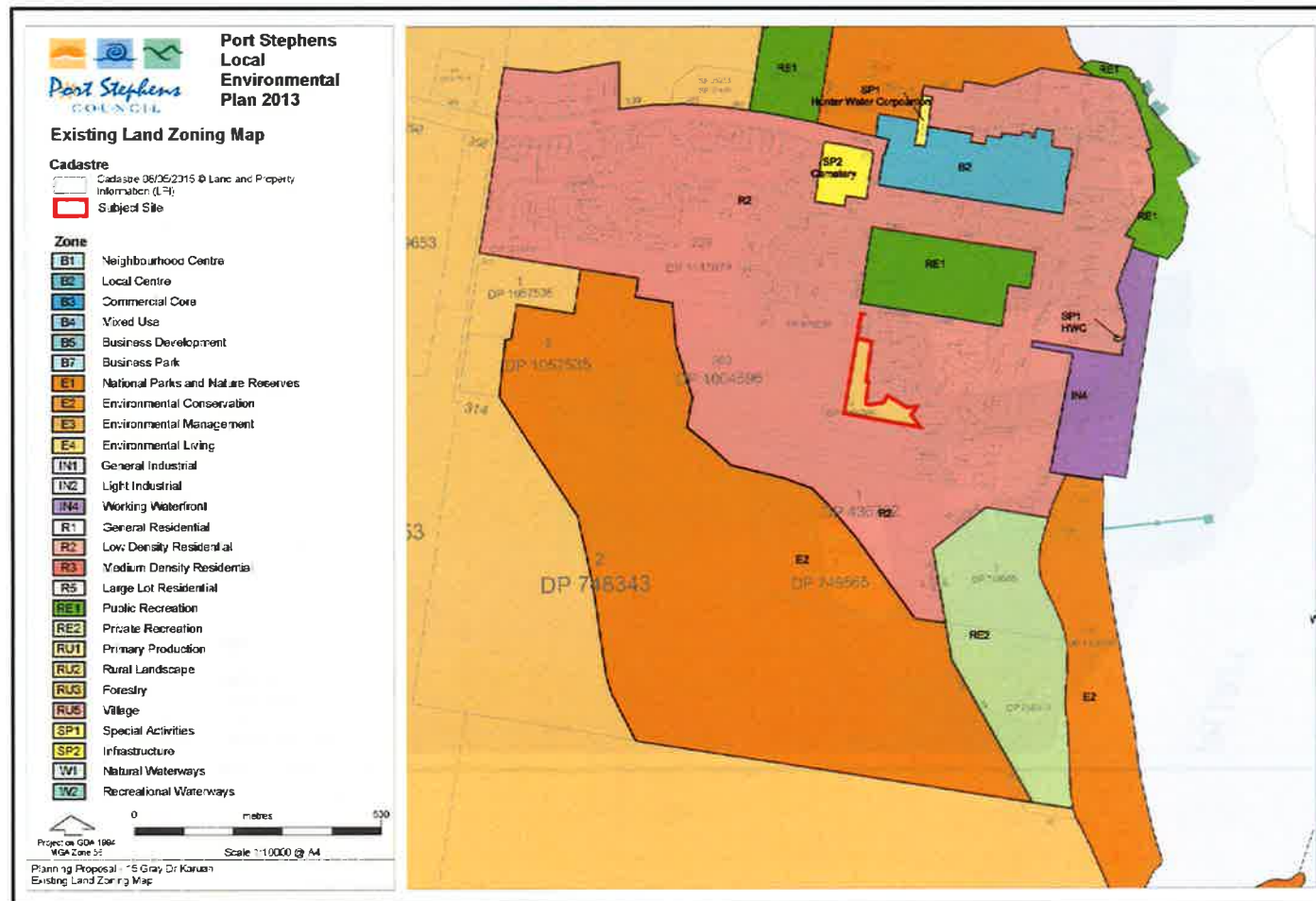
- Notified in the local newspaper and on Councils website;
- Property owners and adjoining owners of the subject properties will also be notified by letter.

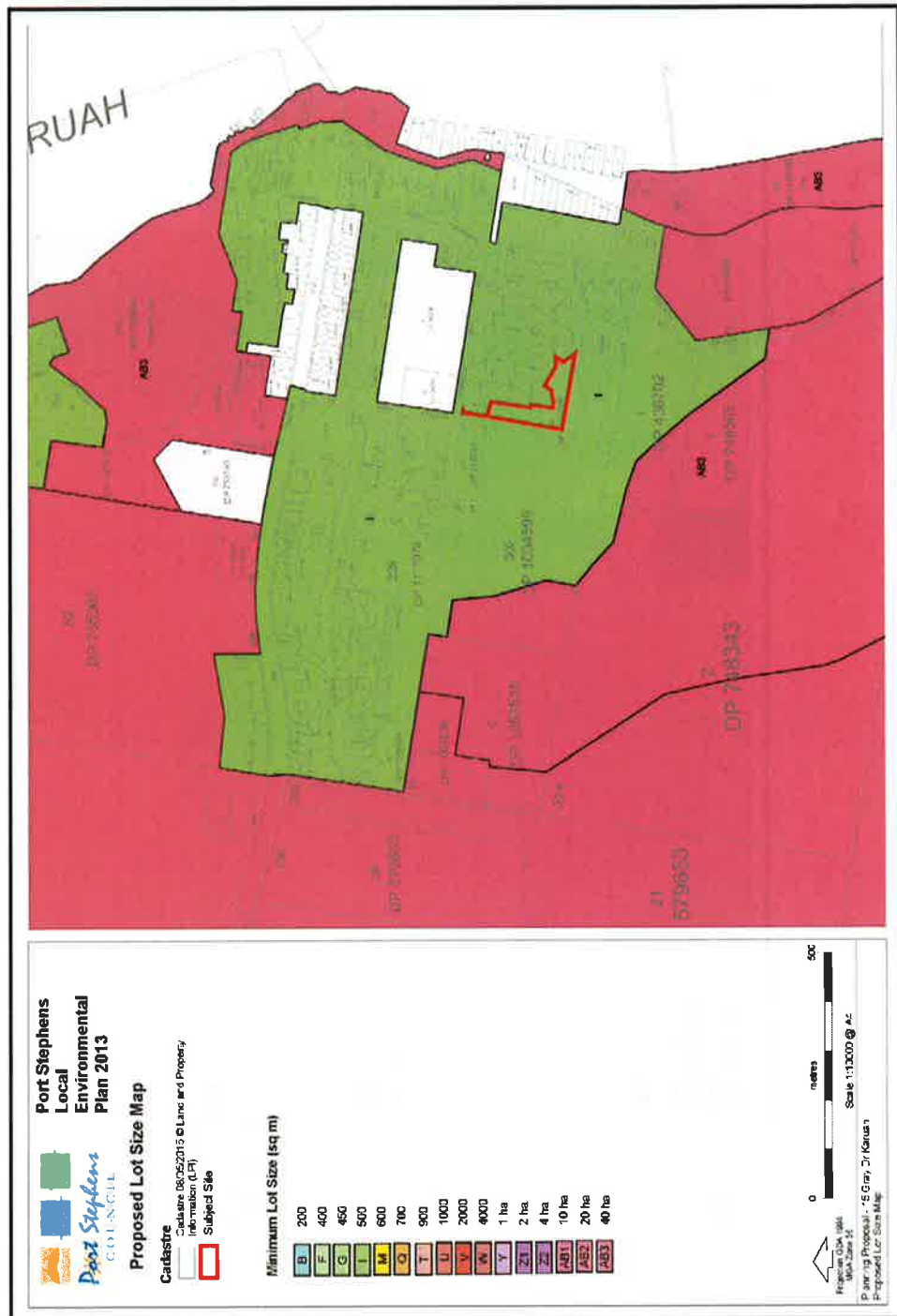
Following community consultation Council will consider all submissions and report back findings to Council.

Part 6 – Project Timeline

The project is expected to be completed within six months from Gateway Determination. The following timetable is proposed:

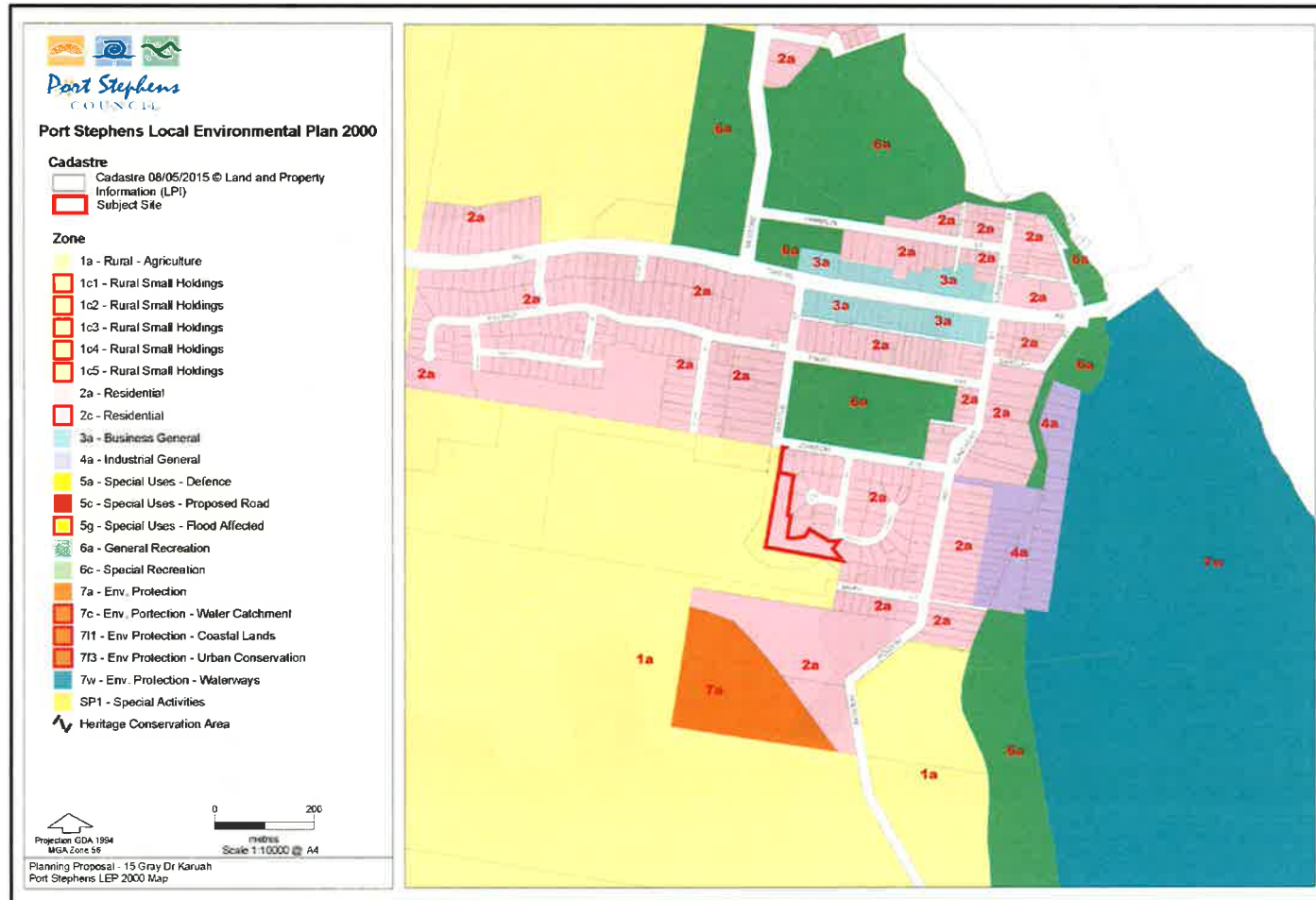
	Task Description	Estimated Timeline
1.	Gateway Determination	July 2015
2.	Completion of required technical information	August 2015
3.	Government agency consultation	August 2015
4.	Public exhibition period	September 2015
5.	Consideration of submissions	September 2015
6.	Submission to Department to finalise the LEP	Council is requesting delegation for this plan
7.	Making of the Plan	October 2015
8.	Forward notification of Plan to Department	October 2015

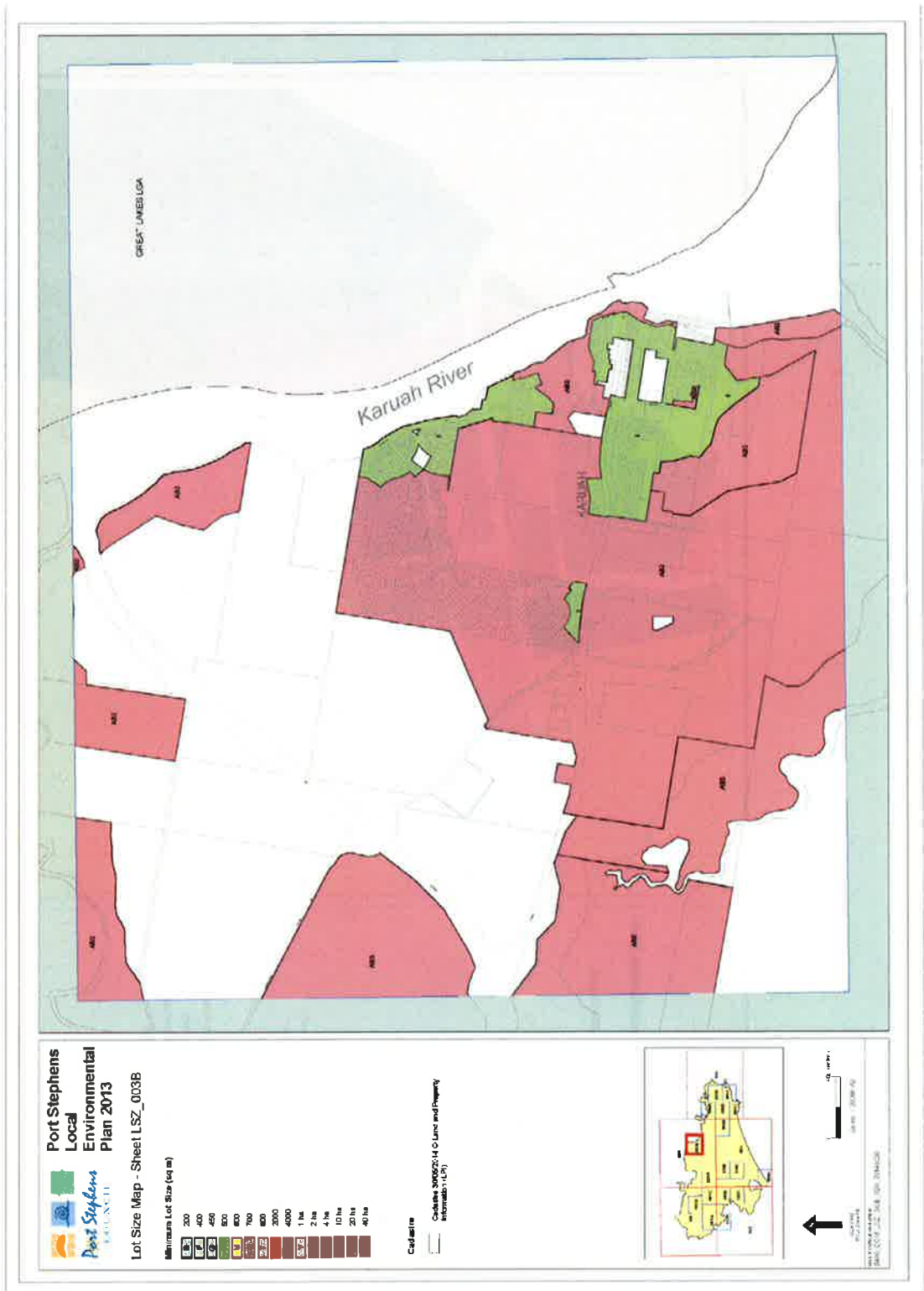


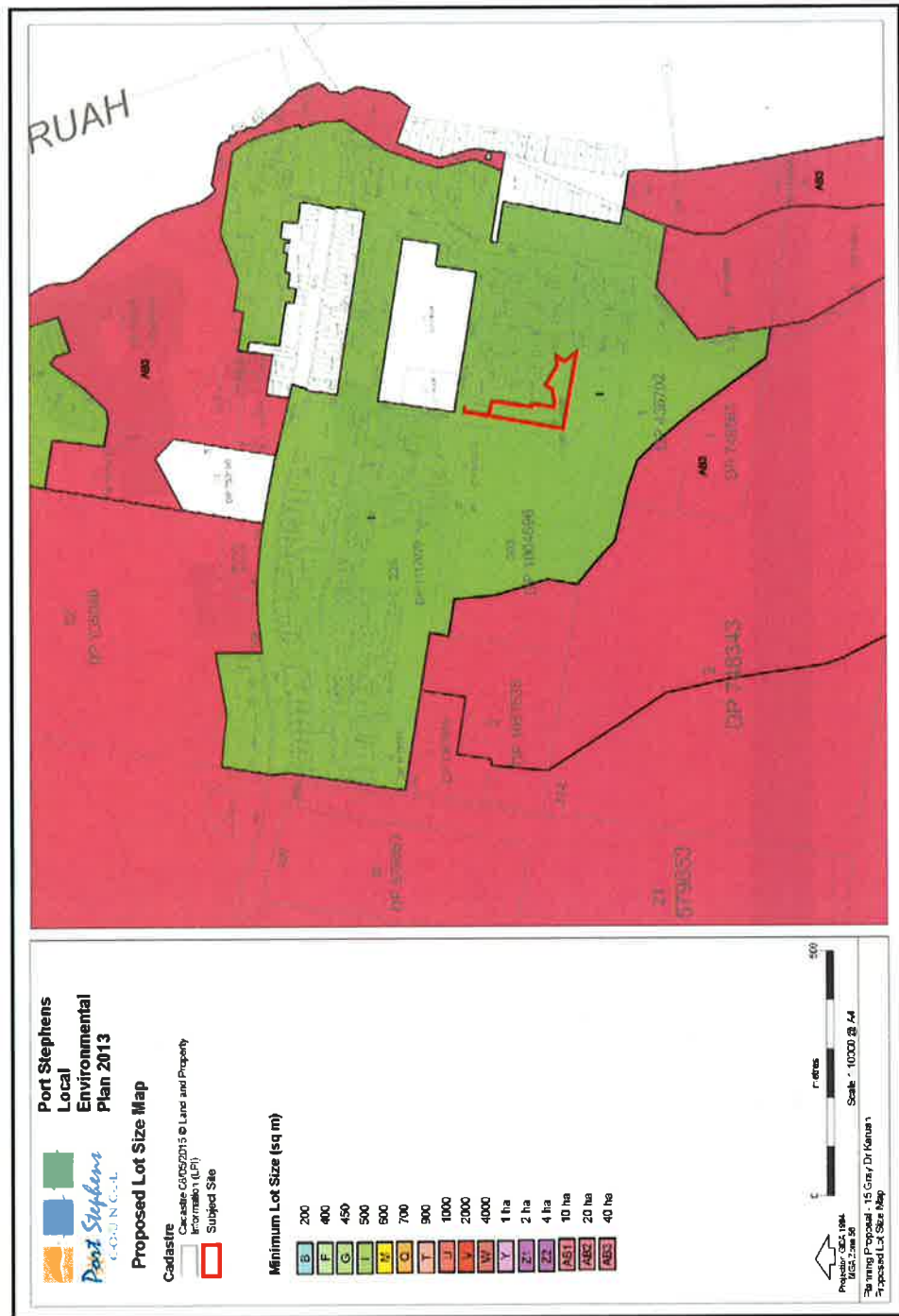


Attachment B – Proposed PSLEP 2013 Land Zoning Map –LZN_003B

Attachment C – PSLEP 2000 Land Zoning Map



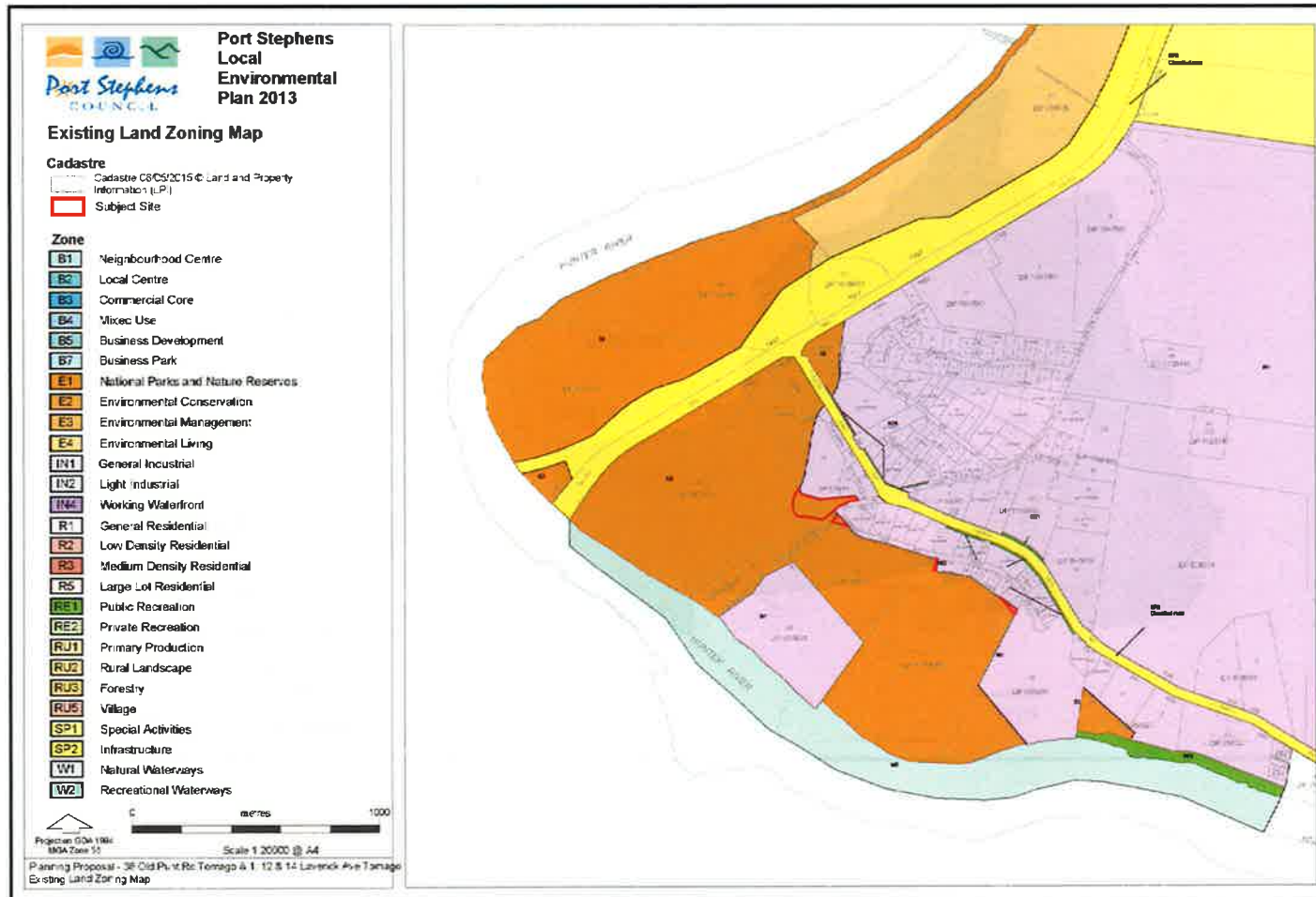


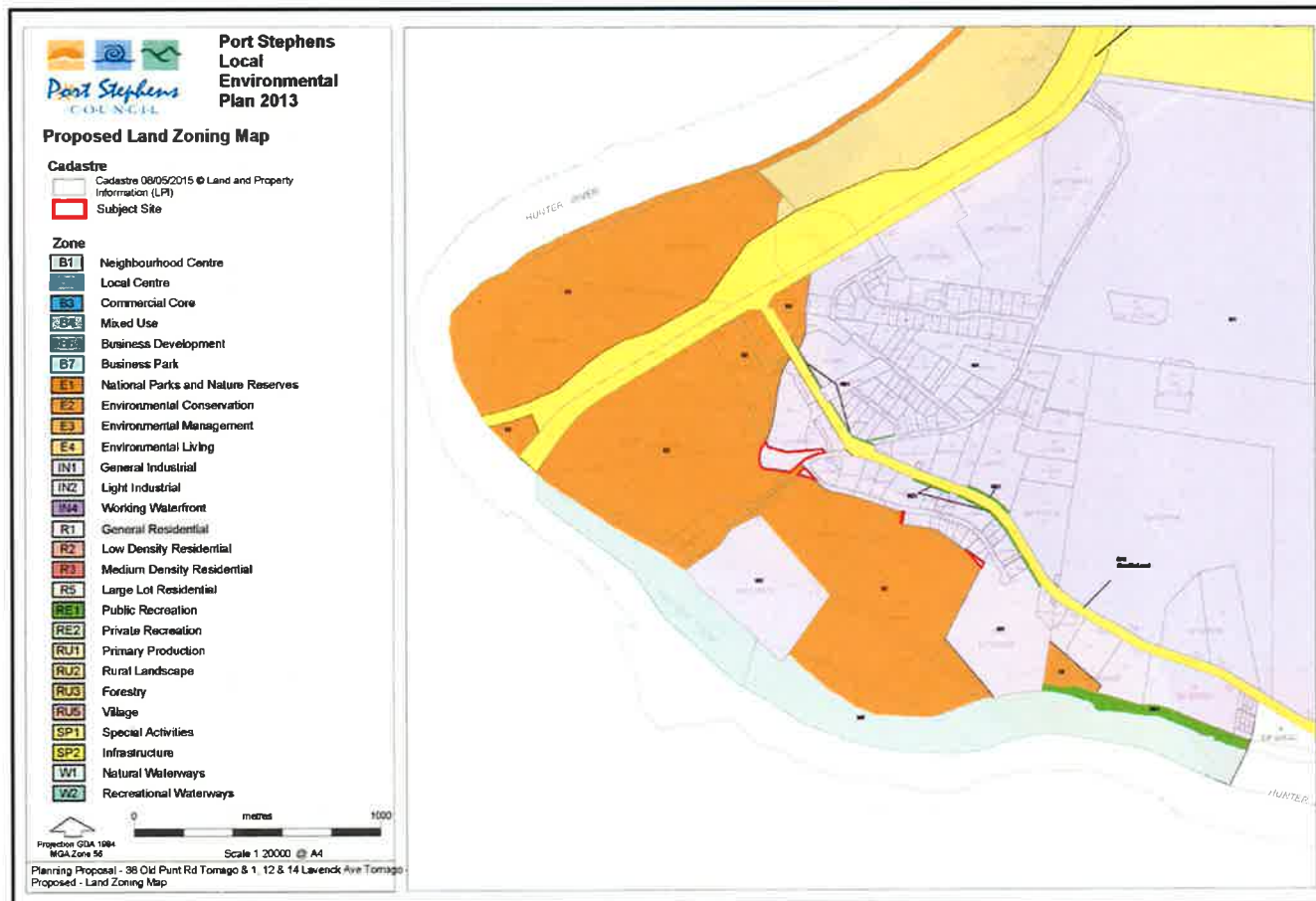


Attachment E - Proposed PSLEP 2013 Lot Size Map – Sheet LSN_003B

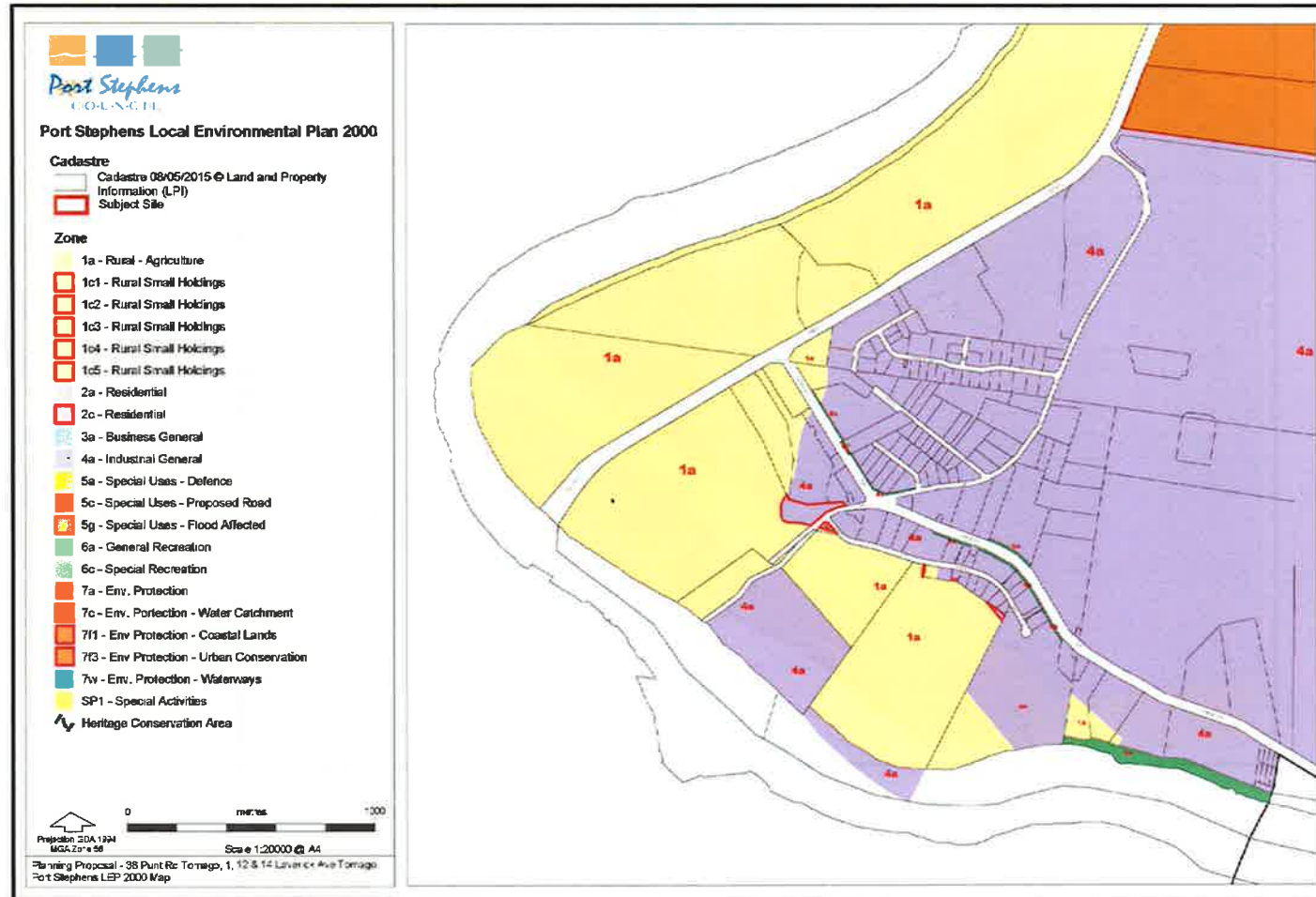


Attachment F – Current PSLEP 2013 Height of Buildings Map – Sheet HOB_003B





Attachment J – PS LEP 2000 Land Zoning Map



Attachment K – Council Report and Resolution

MINUTES ORDINARY COUNCIL - 14 JULY 2015

ITEM NO. 2

FILE NO: PSC2015-01000/426

TRIM REF NO: PSC2014-01907

**PROPOSED AMENDMENT TO PORT STEPHENS LOCAL ENVIRONMENTAL
PLAN 2013 - MINOR AMENDMENTS TO VARIOUS LAND AT TOMAGO AND
KARUAH**

**REPORT OF: TIMOTHY CROSDALE - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES**

RECOMMENDATION IS THAT COUNCIL:

1. Adopt the Planning Proposal (**ATTACHMENT 1**) to amend the Port Stephens Local Environmental Plan 2013 for the following sites:
 - Part Lot 302 DP 1004596 (15 Gray Drive, Karuah) rezone from RU2 Rural Landscape to R2 Low Density Residential.
 - Part Lot 143 DP 605461 (38 Old Punt Road, Tomago) rezone from E2 Environmental Conservation to IN1 General Industrial.
 - Part Lot 12 DP 1138643 (1 Laverick Avenue, Tomago) rezone from E2 Environmental Conservation to IN1 General Industrial.
 - Part Lot 2 DP 1195849 (12 Laverick Avenue, Tomago) rezone from E2 Environmental Conservation to IN1 General Industrial.
 - Part Lot 14 DP 1159849 (14 Laverick Avenue, Tomago) rezone from E2 Environmental Conservation to IN1 General Industrial.
2. Refer the Planning Proposal to the NSW Department of Planning and Environment with a recommendation that the Minister make a Gateway Determination and request delegation be given to Council to make the plan.

**ORDINARY COUNCIL MEETING - 14 JULY 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

Councillor Paul Le Mottee returned to the meeting at 05:59pm.

	Councillor Ken Jordan Councillor John Morello That the recommendation be adopted.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

MINUTES ORDINARY COUNCIL - 14 JULY 2015

Those for the Motion: Mayor MacKenzie, Crs Geoff Dingle, Chris Doohan, Sally Dover, Ken Jordan, Paul Le Mottee, John Morello and Steve Tucker.

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING - 14 JULY 2015 MOTION

190	Councillor Steve Tucker Councillor Ken Jordan It was resolved that Council: 1. Adopt the Planning Proposal (ATTACHMENT 1) to amend the Port Stephens Local Environmental Plan 2013 for the following sites: • Part Lot 302 DP 1004596 (15 Gray Drive, Karuah) rezone from RU2 Rural Landscape to R2 Low Density Residential. • Part Lot 143 DP 605461 (38 Old Punt Road, Tomago) rezone from E2 Environmental Conservation to IN1 General Industrial. • Part Lot 12 DP 1138643 (1 Laverick Avenue, Tomago) rezone from E2 Environmental Conservation to IN1 General Industrial. • Part Lot 2 DP 1195849 (12 Laverick Avenue, Tomago) rezone from E2 Environmental Conservation to IN1 General Industrial. • Part Lot 14 DP 1159849 (14 Laverick Avenue, Tomago) rezone from E2 Environmental Conservation to IN1 General Industrial. 2. Refer the Planning Proposal to the NSW Department of Planning and Environment with a recommendation that the Minister make a Gateway Determination and request delegation be given to Council to make the plan.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor MacKenzie, Crs Geoff Dingle, Chris Doohan, Sally Dover, Ken Jordan, Paul Le Mottee, John Morello and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present a planning proposal for Council's consideration.

MINUTES ORDINARY COUNCIL - 14 JULY 2015

The changes are simply to rectify minor mapping inconsistencies and/or administrative changes.

Since gazettal of the Port Stephens Local Environmental Plan 2013 five (5) sites have been identified as being incorrectly mapped during the initial transference from the former Port Stephens Local Environmental Plan 2000 (PS LEP 2000) to the current Standard Instrument Port Stephens Local Environmental Plan 2013 (PS LEP 2013).

The zoning anomalies have been identified by Council staff or land owners of the identified parcels of land. The amendments are considered transitional mapping anomalies, however were originally exhibited and adopted in the PS LEP 2013. It is proposed the anomalies be rectified as an amendment through a planning proposal with a short community consultation to ensure surrounding land owners have adequate opportunity to comment. The exhibition requirements/timing will be known after the application passes through the Gateway.

The Planning Proposal aims to amend the PS LEP 2013 as summarised below:

1. Part Lot 302 DP 1004596 (15 Gray Drive, Karuah)

Amend the land zoning map and lot size map relating to Lot 302 DP 1004596; (15 Gray Drive, Karuah) as identified in **(ATTACHMENT 2)**. Under the PS LEP 2000 the lot was part zoned 1(a) Rural Agriculture (western portion) and 2(a) Residential (eastern portion). During zone conversion to the Standard Instrument, the whole lot was incorrectly converted to RU2 Rural Landscape.

Subsequently, the western portion of the lot has been rezoned R2 Low Density Residential as part of PS LEP 2013 (Amendment No. 5) gazetted in June 2014. The remaining eastern portion of the lot is required to be zoned R2 Low Density Residential in line with its previous zoning under LEP 2000. The associated lot size and height of buildings maps also require amendment to be consistent with the R2 Low Density Residential zone.

2. Part Lot 143 DP 605461 (38 Old Punt Road, Tomago) rezone from E2 Environmental Conservation to IN1 General Industrial;

Amend the land zoning map relating to Lot 143 DP 605461 (38 Old Punt Road, Tomago) as identified in ATTACHMENT 3. During the zone conversion to the PS LEP 2013, 38 Old Punt Road, Tomago did not transition from part 4(a) Industrial General "A" and part 1(a) Rural Agriculture "A" to part IN1 General Industrial and part E2 Environmental Conservation. Instead the whole parcel was incorrectly converted to E2 Environmental Conservation.

3. Part Lot 12 DP 1138643 (1 Laverick Avenue, Tomago) rezone from E2 Environmental Conservation to IN1 General Industrial;

MINUTES ORDINARY COUNCIL - 14 JULY 2015

Amend the land zoning map relating to Lot 12 DP 1138643 (1 Laverick Avenue Tomago) as identified in **(ATTACHMENT 3)**. During the zone conversion to the PS LEP 2013, 1 Laverick Avenue, Tomago zoned part 4(a) Industrial General "A" and part 1(a) Rural Agriculture "A" did not transition to equivalent zones part IN1 General Industrial and part E2 Environmental Conservation. Instead the entire portion on the lot south of Laverick Avenue was zoned E2 Environmental Conservation.

4. Part Lot 2 DP 1195849 (12 Laverick Avenue, Tomago)

Amend land zoning map relating to Lot 2 DP 1195849 (12 Laverick Avenue, Tomago) as identified in **(ATTACHMENT 3)**. During the zone conversion to the PS LEP 2013, the entire portion of the site zoned 4(a) Industrial General was not converted to IN1 General Industrial instead a portion was zoned E2 Environmental Conservation.

5. Part Lot 14 DP 1195849 (14 Laverick Avenue, Tomago)

Amend land zoning map relating to Lot 1 DP 1195849 (14 Laverick Avenue, Tomago) as identified in **(ATTACHMENT 3)**. Due to a cadastre amendment the boundary of the lot was adjusted resulting in a portion of the lot being identified E2 Environmental Conservation. The amendment will extend the IN1 General Industrial zone across the entire lot.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

FINANCIAL/RESOURCE IMPLICATIONS

The Planning Proposal has been assessed within Council's existing resources. There are no direct financial implications if Council adopts the recommendation.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		The Planning Proposal will be prepared using existing Council resources.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Environmental Planning and Assessment Act 1979

The Environmental Planning and Assessment Act 1979 (EP&A Act) details the legislative process for the making of a Local Environmental Plan. This Planning Proposal is consistent with this process.

The proposal is not the result of any strategic study or report. The anomalies have arisen as a result of incorrect mapping conversion from the Port Stephens Local Environmental Plan 2000 to the Standard Instrument Port Stephens Local Environmental Plan 2013.

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy (LHRS) is a strategic planning framework to guide the sustainable growth of the lower Hunter over the next 25 years. The amendment is consistent with the strategy by ensuring that land is zoned appropriately to facilitate development opportunities.

Ministerial 117 Directions

Under section 117(2) of the (EP&A Act), local councils must follow a list of directions when preparing planning proposals for new LEPs. The directions cover the following broad categories:

1. Employment and resources.
2. Environment and heritage.
3. Housing, infrastructure and urban development.
4. Hazard and risk.
5. Regional planning.
6. Local plan making.

Given the planning proposal relates to minor mapping anomalies it is considered to have low planning significance and is consistent with all 117 directions.

Port Stephens Planning Strategy

The Port Stephens Planning Strategy (PSPS) seeks to encourage a sufficient supply of a diverse range of housing in the Local Government Area (LGA) and ensure that there is a sufficient supply of a diversity of industrial land to meet market demand. The Planning Proposal is consistent with the Strategy.

Split Zones

LEP Practice Note: PN 11- 002 provides guidelines on the use of standard zones in the Standard Instrument. It outlines that "in some circumstances 'dual' or 'split' zoning

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on a single lot may be acceptable to acknowledge the different development potential of the land due to topography, different environmental values, certain land constraints or different designated future land uses".

1, 12 and 14 Laverick Avenue Tomago all have current industrial uses applying to part of the land proposed to be zoned Industrial. Reinstating the part lot zoning is therefore consistent the aims of split zoning.

PS LEP 2013 (Housekeeping Amendment)

The PS LEP 2013 was prepared to comply with the State Governments direction that all councils prepare a new LEP to comply with the Standard Instrument (Local Environmental Plans) Order, 2006.

Due to the complexities of translating existing provisions into the new standard format it is likely other minor anomalies and mapping errors have occurred during the transition. Given the time that has passed since the gazettal of the LEP it is considered timely to undertake a more comprehensive review of the entire LEP through a housekeeping amendment. The Amendment will provide an opportunity to review the application and effectiveness of the LEP since it came into force and:

- Ensure consistency with Councils overall strategic policy direction.
- Ensure consistency with State legislation.
- Clarify the intent and wording of written provisions within the planning instrument.
- Correct any other minor anomalies, and mapping amendments that were created during the Plan's preparation.

The review is proposed to commence towards the end of this year and will provide opportunity for consultation with staff, Councillors and the community to raise any issues with the LEP, allowing this Planning Proposal to progress independently of the Housekeeping Amendment.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the land owners are unable to undertake land uses previously permissible on their land under LEP 2000.	Low	This report explains that the planning proposal aims to amend a transitional error with limited social, financial or environmental costs.	Yes

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Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk the planning proposal will be challenged by the community.	Low	The planning proposal will be placed on exhibition to ensure all relevant stakeholders can provide a submission which will be considered by Council.	Yes
There is a risk the planning proposal will be delayed further if required to wait for a general housekeeping LEP.	Medium	Strategic Planning proposes to undertake a Housekeeping Amendment to the PS LEP 2013 towards the end of the year which will provide an opportunity to amend any further errors or issues with the PS LEP 2013.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

This planning proposal seeks to correct administrative anomalies that have arisen during the changeover from the Port Stephens Local Environmental Plan 2000 to the Port Stephens Local Environmental Plan 2013. It is unlikely that the amendment will result in any social, economic or environmental implications.

Despite this, a conservative approach has been taken by preparing a planning proposal to ensure all social, economic and environmental implications are considered and provision made for a public exhibition period to ensure relevant stakeholders are consulted.

In failing to undertake the amendment, there will be potential social and economic implications to subject landowners by prohibiting permissible land uses previously permissible on their land.

CONSULTATION

The mapping anomalies identified in the planning proposal have been identified by Council staff or land owners.

Subject to a Gateway Determination the Planning Proposal will be placed on public exhibition for comment from state agencies and the community for a minimum period of 14 days.

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OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Planning Proposal
- 2) Location Map - 15 Gray Drive Karuah
- 3) Location Map - 38 Old Punt Road, 1 Laverick Avenue, 12 Laverick Avenue, and 14 Laverick Avenue Tomago

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

