



PLANNING PROPOSAL

Proposed 73A Amendment to Port Stephens Local Environmental Plan 2013

Lot 34 43388 (279 Medowie Road, Campvale)
Lot 31 DP 1107351 (19 Steel Street, Williamtown)
Lot 1 DP 716775 (30 Steel Street, Williamtown)

August 2015

Contact

Strategic Planning
Ph: (02) 4980 0163

BACKGROUND

The planning proposal aims to amend the Port Stephens Local Environmental Plan 2013 (PS LEP 2013) by making amendments under Section 73A of the Environmental Planning and Assessment Act 1979.

The amendment relates to Lot 31 DP 1107351 (19 Steel Street, Williamtown) and Lot 1 DP 716775 (30 Steel Street, Williamtown) which were incorrectly zoned during transition from the PS LEP 2000 to the PS LEP 2013; and Lot 34 DP 43388 (279 Medowie Road, Campvale) which is a result of an update to the LEP cadastral base in October 2014.

PLANNING PROPOSAL – ADMINISTRATIVE AMENDMENT

Local Government area: Port Stephens Council

Address: The Planning Proposal applies to land identified in Figure 1 including:

- Lot 1 DP 716775 (30 Steel Street, Williamtown)
- Lot 31 DP 1107351 (19 Steel Street, Williamtown)
- Lot 34 DP 43388 (279 Medowie Road, Campvale)

PART 1 – Objective of the proposed Local Environmental Plan Amendment

The objective of this planning proposal is to rectify administrative errors made through the transition from the PS LEP 2000 to the standard Instrument LEP by amending the Port Stephens Local Environmental Plan 2013 under Section 73A of the Environmental Planning and Assessment Act.

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

During exhibition of the PS LEP 2012 in December 2012, Department of Defence (DoD) lodged a submission requesting that all DoD owned land near the RAAF Base Williamtown be zoned SP2 Defence to clearly distinguish the planning and management of the land (see Attachment 1).

The following Council report recommended the request be complied with (see Attachment 2) and subsequently all DoD land was zoned SP2 Defence prior to gazettal of the LEP. In carrying out this amendment one parcel of DoD land at 30 Steel Street, Williamtown (Lot 1 DP 716775) was omitted inadvertently and retained its RU2 Rural landscape zoning. This land needs to be changed to zone SP2 Defence.

In addition, the privately owned land at 19 Steel Street, Williamtown (Lot 31 DP 1107351) zoned RU2 Rural Landscape was inadvertently zoned SP2 Defence during the transition. This amendment will reinstate this site's zoning to RU2 Rural Landscape.

A third parcel at 279 Medowie Road, Campvale (Lot 34, DP 43388) owned by DoD was not included within the gazetted cadastral base. The cadastre was updated in October 2004 and this amendment will update the zoning to SP2 Defence with a lot size of AB2 20ha to reflect the update.

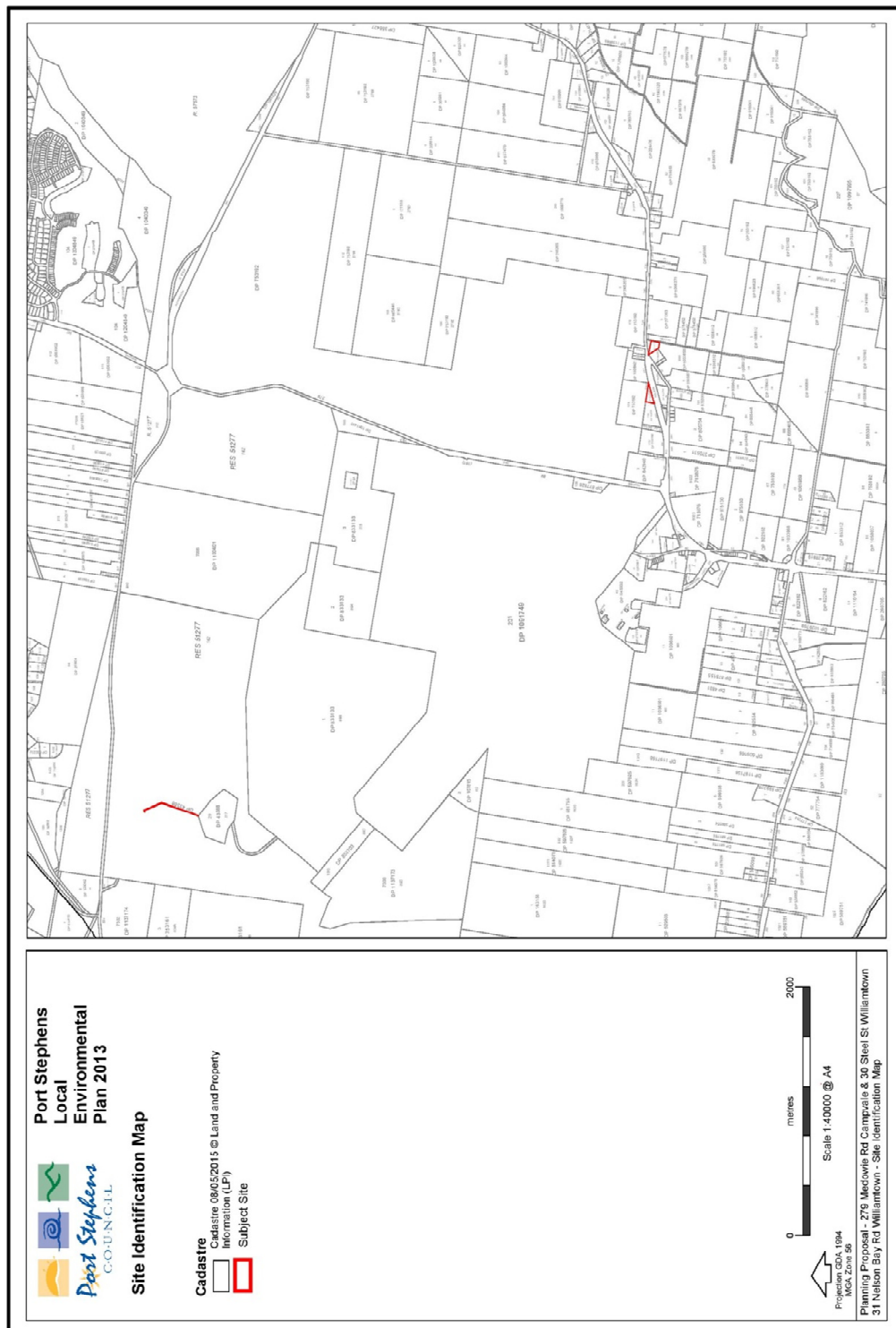


Figure 1 – 279 Medowie Road, Campvale, 19 Steel Street and 30 Steel Street, Williamtown, Location Map

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.

During exhibition of the PS LEP 2012, the DoD raised concerns regarding the zoning of DoD land allows noise sensitive uses and requested that all defence land near the RAAF base be zoned SP2 Infrastructure (Defence). The Council report seeking adoption of the PS LEP 2013 recommended that request be complied with. This was carried out with the exception of two sites, where during the transition Lot 1 DP 716775 (30 Steel Street, Williamtown) was inadvertently omitted, while part Lot 31 DP 1107351 (19 Steel Street, Williamtown) was inadvertently zoned SP2. This amendment rectifies these three errors.

In addition, Lot 34 DP 43388 (279 Meadowie Road, Campvale) owned by DoD was not included within the gazetted cadastral base and needs to be zoned SP2 to reflect the update to the cadastre base.

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 in accordance with section 73A of the Environmental Planning and Assessment Act 1979.

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 LHRS identifies the airport and RAAF Base Williamtown as a “specialised centre” which provide “regionally significant economic activity and employment”. The LHRS encourages its development while ensuring the negative impacts on surrounding development such as aircraft noise are considered.

The administrative 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.

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 administrative 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 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 to amend these transitional errors seeks to maintain the intention of Port Stephens Local Environmental Plan 2013.

Port Stephens Planning Strategy

Council's Port Stephens Planning Strategy seeks to encourage a sufficient supply of a diverse range of housing and employment in the Local Government Area (LGA).

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?

Nothing in this administrative amendment affects the aims and provisions of any state environmental planning policies.

This Planning Proposal clarifies the position of zoning areas of Commonwealth land used for Defence purposes should be zoned SP2 (Defence) as outlined within LEP Practice Note: PN 10–001 Zoning for infrastructure in LEPs (see Attachment 3).

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

The amendment is administrative in nature and does not propose to change requirements relating to any Section 117 Ministerial Directions.

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 administrative amendment.

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

This administrative amendment will ensure that the Port Stephens Local Environmental Plan 2013 remain current, accurate and effective. Correcting the error will ensure that appropriate land uses can be carried out on rural land.

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 amendment is taking place at the request of the Department of Defence.

Part 4 – Mapping

The planning proposal seeks to amend the following maps:

Amendment Map	Explanation of Provision
Land Zoning Map 004	- Lot 34 DP 43388 (279 Medowie Road, Campvale) Zone SP2 Defence - Lot 31 DP 1107351 (19 Steel Street, Williamtown) – rezone part lot from SP2 Defence to RU2 Rural Landscape; and - Lot 1 DP 716775 (30 Steel Street, Williamtown) - rezone from RU2 Rural Landscape to SP2 Defence.
Lot Size Map 004	- Lot 34 DP 43388 (279 Medowie Road, Campvale) – amend lot size to AB2 20ha.

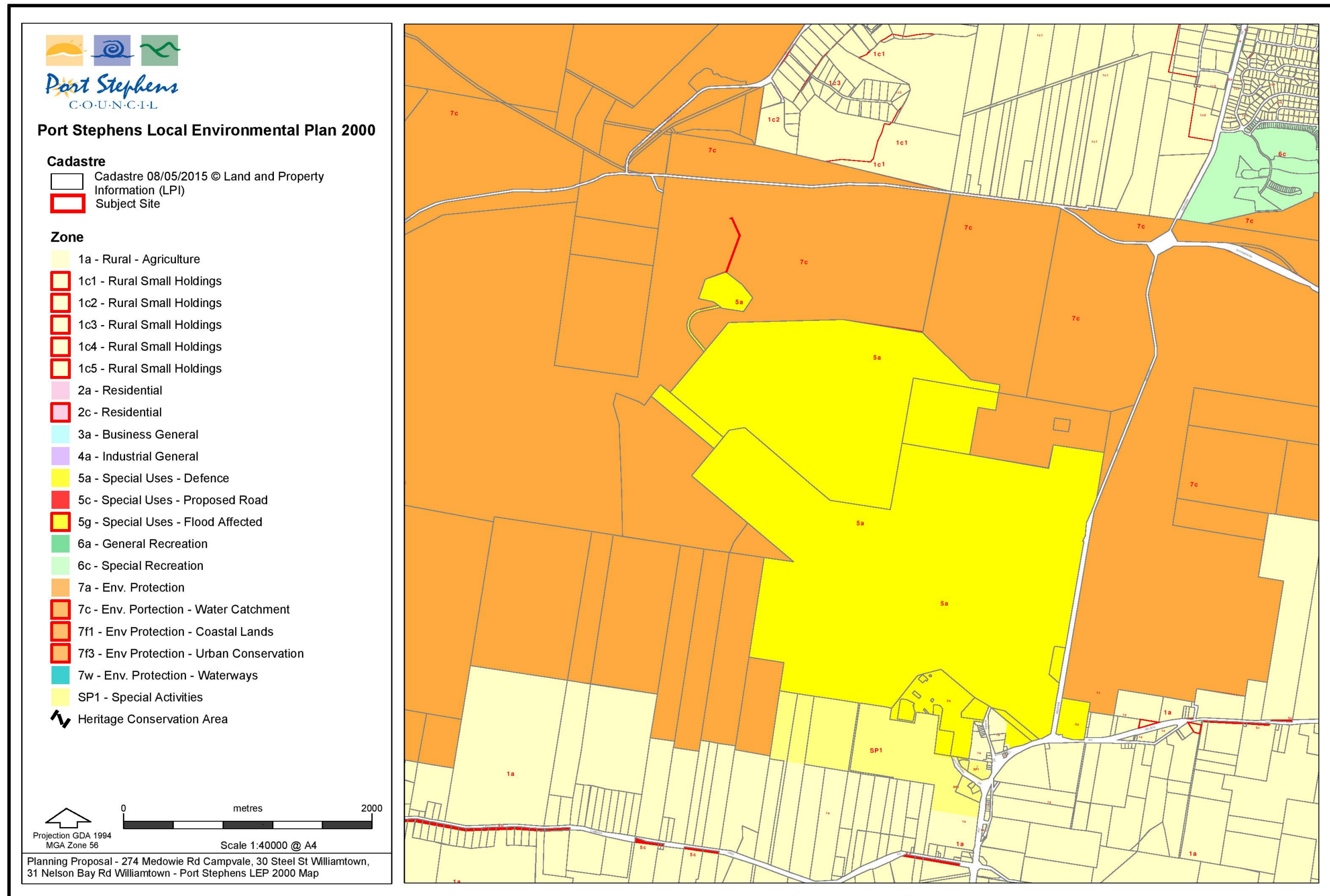


Figure 2. Port Stephens LEP 2000

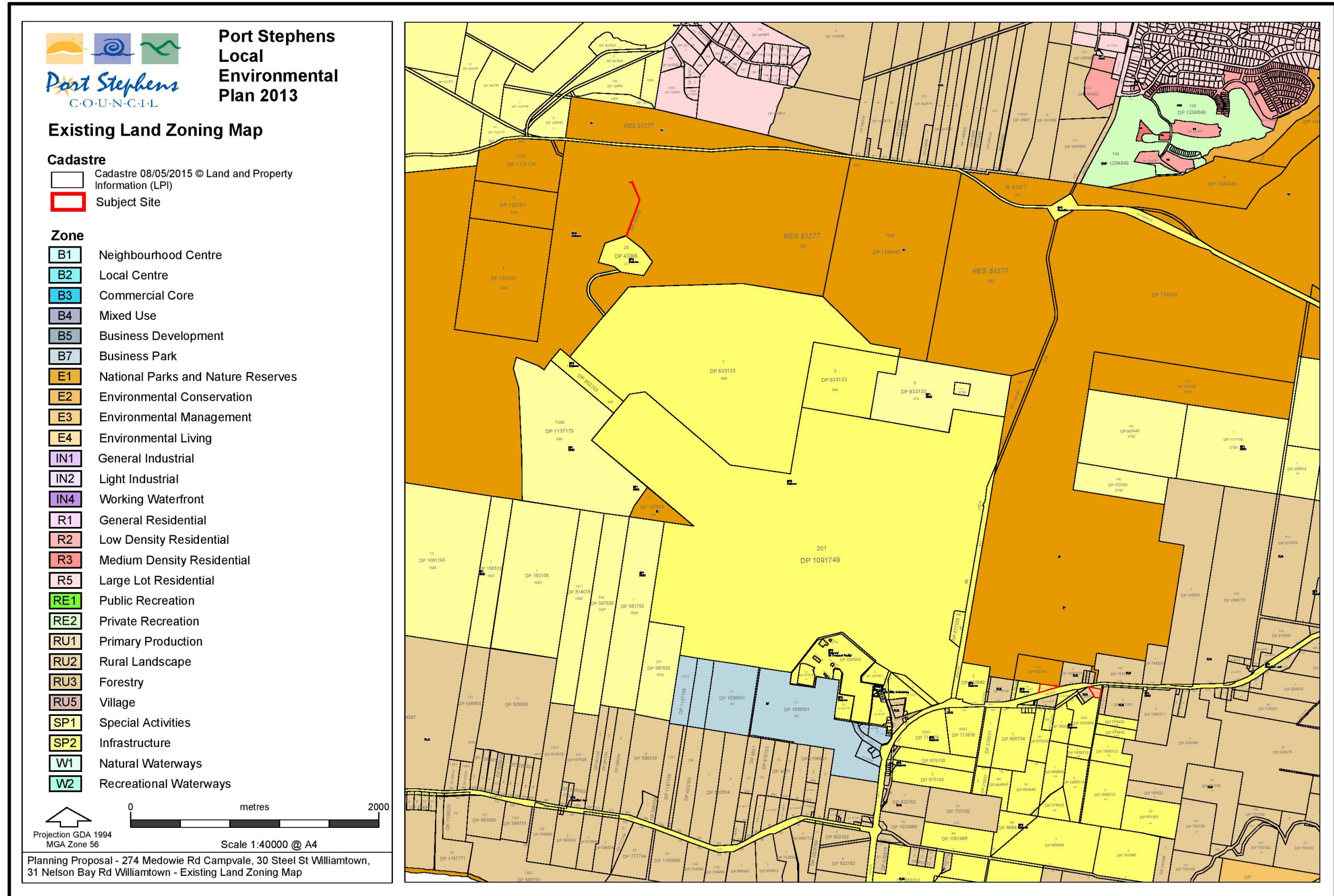


Figure 3. Existing Port Stephens LEP 2013 Land Zoning Map

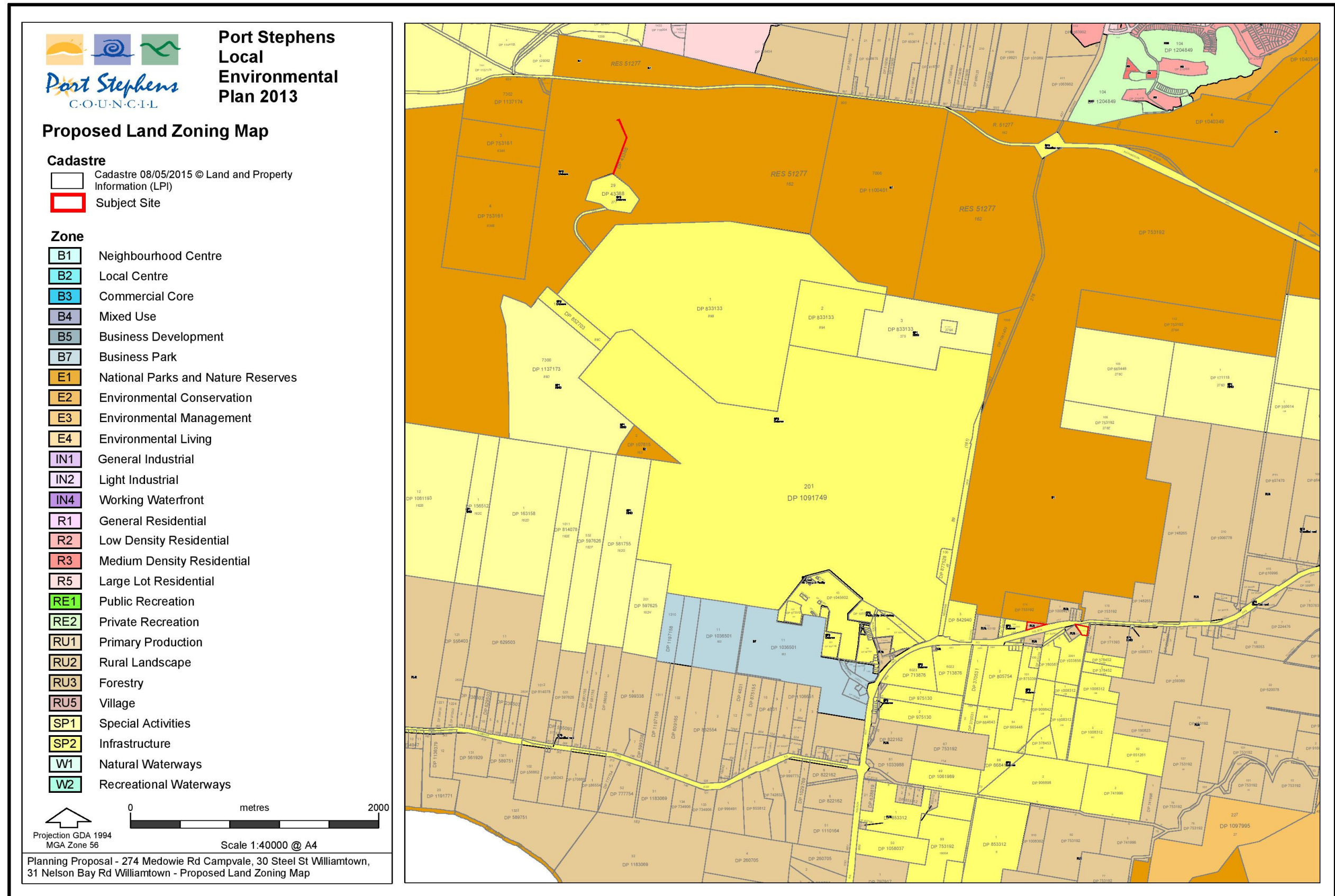


Figure 4. Proposed Land Zoning Map

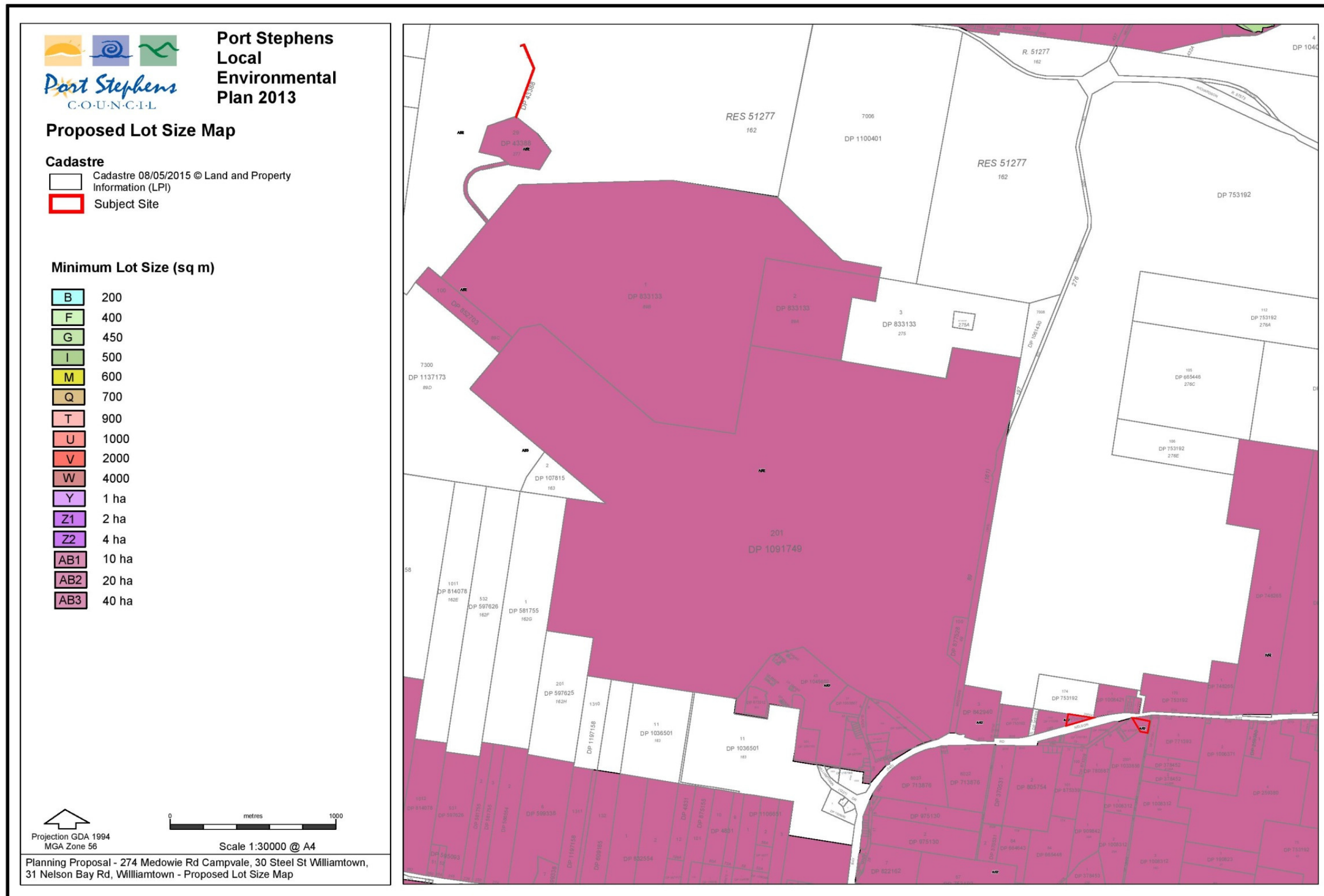


Figure 5. Proposed Lot Size Map

Part 5 – Community Consultation

Community Consultation is not required under Section 73A of the Environmental Planning and Assessment Act 1979.

Part 6 – Project Timeline

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

	Task Description	Estimated Timeline
1.	Gateway Determination	August 2015
2.	Completion of required technical information	August 2015
3.	Government agency consultation	Not required under Section 73A of the Act
4.	Public exhibition period	Not required under Section 73A of the Act
5.	Consideration of submissions	Not required under Section 73A of the Act
6.	Submission to Department to finalise the LEP	Council is requesting delegation for this plan
7.	Making of the Plan	September 2015
8.	Forward notification of Plan to Department	September 2015

**ATTACHMENT 1 –
Department of Defence submission to Draft Port Stephens Local
Environmental Plan 2012**



Australian Government

Department of Defence

Defence Support Group

ID/EP/ELP/OUT/75/2012/AF12535229

Mr Peter Gessling
General Manager,
Port Stephens Council,
PO Box 42
Raymond Terrace NSW 2324

Dear Mr Gessling

RE: DRAFT PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2012

Thank you for the opportunity to comment on the Draft Port Stephens Local Environmental Plan (LEP) 2012. The relevant issues for Defence are addressed below.

RAAF Base Williamtown Clauses

Defence has reviewed the proposed amended clauses within the LEP that relate specifically to RAAF Base Williamtown, in particular clauses *7.4 Airspace operations* and *7.5 Development in areas subject to aircraft noise*. Defence is supportive of the sentiment of these clauses, which references the existing ANEF for RAAF Base Williamtown and provides additional protection matters for consideration of proposed developments within this area and seeks to protect this area from inappropriate urban encroachment.

"B7 Business Park" zoning

The Draft LEP includes a "B7 Business Park" zoning for the Defence and Airport Related Employment Development Zone (DAREZ) adjacent to RAAF Base Williamtown. The Business Park DAREZ is located in a high noise environment, with noise monitoring recording an average maximum noise level for the purpose of compliance with AS2021-2000 of 88 dB(A). However, it is forecast that peak noise levels are likely to increase with the introduction of new capability with anticipated maximum noise levels in the order of 100 to 105 dB(A).

Defence has previously raised concerns with Port Stephens Council regarding the inclusion of noise sensitive land uses such as 'educational establishment' and 'hotel accommodation' as permissible with consent in this zone. The draft LEP includes hotel accommodation, educational establishments and child care facilities as permissible with consent within the "B7 Business Park" zone. It is acknowledged that the zone objectives are an attempt to deter/condition this type of development, however Defence is still concerned at the possibility of noise sensitive development being permitted within this zone and in close proximity to the Base.

Land Use Zoning

Defence is particularly concerned at some of the land use zoning and planning instruments that appear to have been applied to Defence land within the Local Government Area (LGA), particularly to the south east of RAAF Base Williamtown. This is a concern for Defence as the strategic long-term viability of RAAF Base Williamtown and Salt Ash Air Weapons

Range has particular land use objectives that require a clear distinction in the strategic land uses between Council and Defence land.

Correctly identifying these land parcels as Defence land will clearly distinguish the planning and management of the land, and may also mitigate potential misunderstandings with the public's perception for the future strategic objectives of the land. Inappropriate zoning and therefore land uses near RAAF Williamtown can also influence the public's perceptions of the relationship between future operational needs of RAAF Williamtown and Port Stephens LEP strategic outcomes.

The Draft LEP proposes "*RU2 Rural Landscape*" zones upon Defence land. Defence requests that its land be identified as "*SP2 (Defence)*" consistent with the standard NSW LEP template. This reflects Defence land not being subject to planning instruments under NSW Legislation

Defence requests amendments to the LEP mapping so that DP plan and lot numbers as per Attachment A are identified as Defence owned land and that any additional overlays linked to these areas be removed. I have also attached for your information a cadastre map of all Defence land in the Port Stephens Council LGA.

Should you wish to discuss the content of this submission further please contact Mr Tim Hogan on telephone (02) 6266 8540 or email on lpsi.directorate@defence.gov.au.

Yours sincerely



Simone Murray
Director External Land Planning
Department of Defence
PO Box 7925
CANBERRA BC ACT 2610

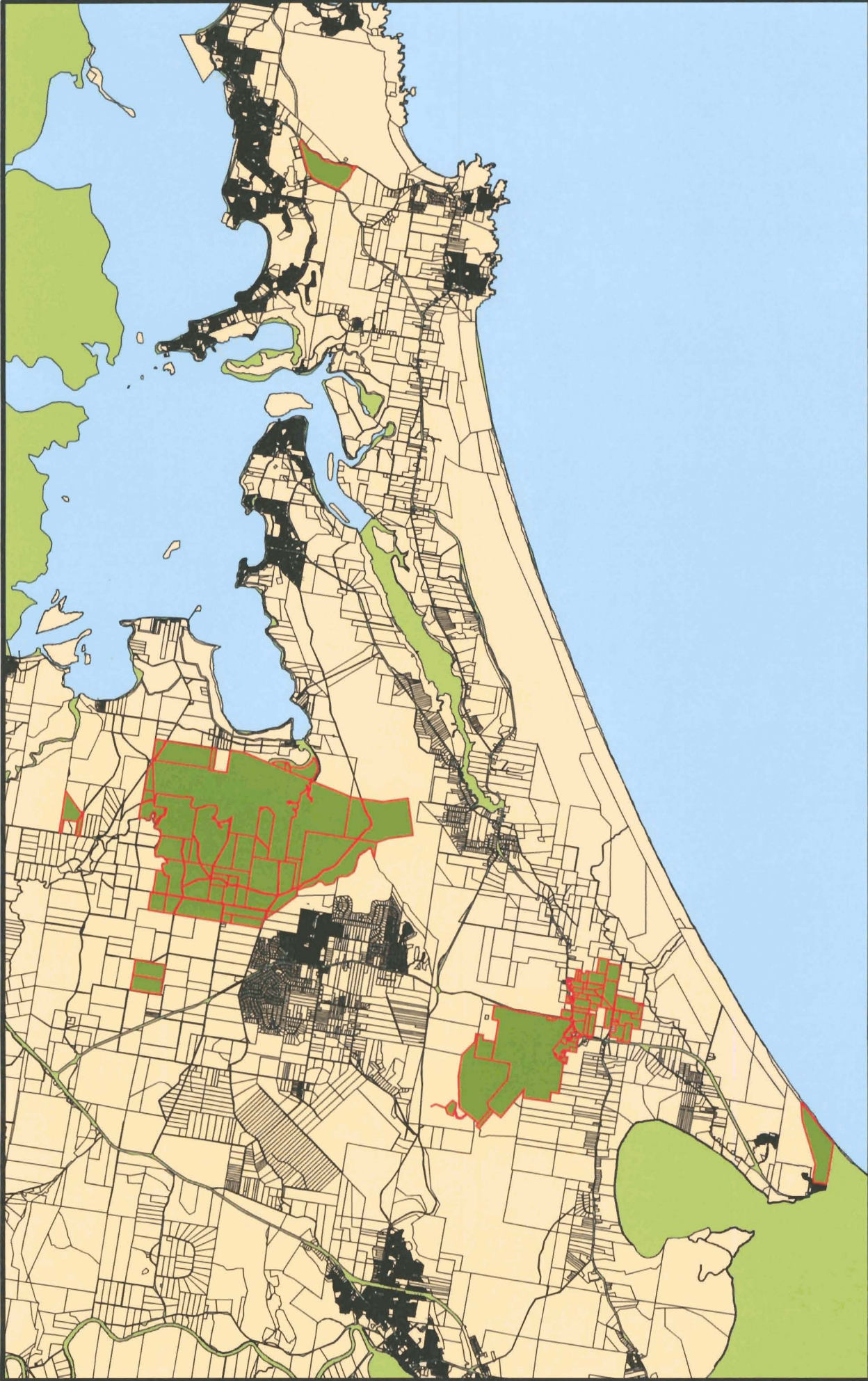
12 December 2012

Cc. DSIP - AF
DS - NNSW

ATTACHMENT A

Defence Land in Port Stephens Council LGA – Lot and DP number

Parcel ID	Parcel ID	Parcel ID
34//DP43388	6023//DP713876	1//DP774880
2//DP23587	1//DP397890	3//DP856209
1//DP368768	2//DP1008312	1//DP856209
2//DP378452	154//DP1058038	6//DP856209
21//DP633577	A//DP403221	2//DP856209
4//DP23587	1//DP502079	8//DP856209
100//DP875339	1//DP780587	4//DP856209
1501//DP712205	43//DP1045602	5//DP856209
1//DP805754	1//DP1008312	7//DP856209
1//DP511803	1//DP716775	1/1//DP856210
5//DP233358	1//DP370531	1/3//DP856210
2//DP741996	23//DP633577	1/4//DP856210
29//DP43388	41//DP1045602	1/4//DP867931
121//DP627291	100//DP877528	1/6//DP867931
82//DP651261	84//DP665448	1/1//DP867931
49//DP1061989	2//DP805754	1/9//DP867931
2//DP27473	1//DP975130	1/14//DP867931
4//DP27473	5//DP23587	1/10//DP867931
103//DP873512	1//DP844232	1/12//DP867931
2//DP906898	122//DP627291	1/11//DP867931
1//DP372153	3//DP1008312	1/3//DP867931
1//DP23587	84//DP664643	1/7//DP867931
42//DP1045602	202//DP1091749	1/5//DP867931
1//DP909842	203//DP1091749	1/13//DP867931
110//DP1008800	89//DP753192	1/15//DP867931
3//DP27473	21//DP1053667	1/2//DP867931
1//DP344717	1//DP202924	1/8//DP867931
1//DP129042	50//DP1058037	1/1//DP867932
70//DP1006330	1//DP854099	1/1//DP869030
2//DP502079	1502//DP712205	1/2//DP869030
2//DP129042	1//DP833133	1/135//DP753194
3//DP23587	7//DP771393	1/149//DP753194
102//DP873511	101//DP875339	1/1522//DP774846
B//DP403221	3//DP842940	1/1//DP734441
2//DP833133	201//DP1091749	1/22//DP753194
8//DP771393	1/81//DP753194	1/282//DP839826
2//DP975130	1/80//DP753194	1/281//DP839826
1//DP853312	1/23//DP753194	1/1//DP1053672
1//DP378452	1/69//DP753194	1/2//DP1053672
1//DP377321	99//DP753194	6022//DP713876
88//DP668415	136//DP753194	6//DP569121
204//DP1091749	43//DP753194	11//DP841401
1//DP378453	44//DP753194	
100//DP852703	70//DP753194	
2001//DP1033856	82//DP753194	
1//DP856211	83//DP753194	
11//DP844528	78//DP753194	
2000//DP1033856	79//DP753194	
1//DP315918	55//DP753194	
1//DP359028	422//DP792914	



Legend

- Defence Land
- Port Stephens cadastral boundaries



**Defence Land in
Port Stephens Council LGA**

Produced by DSRG/DIEPB Task 132/12 Ref. AF12604124 Date Created 28/11/2012

**ATTACHMENT 2 –
Council response to Department of Defence Submission**

Attachment 4

Government Agencies submission Register - draft Port Stephens LEP 2013

Issue Name	General nature of the issue raised	Locality	Sub No.	Cat	Planning Comment	Recommendation
G	Department of Primary Industries. <u>Fisheries NSW</u> Fisheries NSW request the addition of an additional provision to be added to clause 1.9A(2)(c) – Suspension of covenants, agreements and instruments to recognise conservation agreements under the Fisheries Management Act 1994. It is also noted that no such agreements currently exist in the Port Stephens LGA. Fisheries NSW also request the addition of Key Fish Habitat maps and the inclusion of Key Fish Habitats and adjacent riparian buffers as 'environmentally sensitive areas' in clause 3.3. Commends the inclusion of local clauses 7.1 (acid sulfate soils), 7.9 (wetlands) and 7.10 (Williams River catchment) to provide further protection to waterways and aquatic habitats. <u>Aquaculture</u> Requests the removal of 'aquaculture' from the land use tables relating to Zones B5 Business Development, IN1 General Industrial and IN4 Working Waterfront as this land use is already addressed in SEPP62 – Sustainable Aquaculture. Conversely, requests aquaculture be included as a permitted use in suitable waterways zones until such time as SEPP62 is further amended to cover natural water based aquaculture.	LGA	39	A	This request is supported as it is consistent with the construction of this standard clause. It would be inappropriate to include any additional environmental map overlay post-exhibition, as community consultation would be required. The Draft LEP relies essentially on various SEPPs to regulate exempt and complying development. As such, only some forms of signage are included as 'exempt development' in the Draft LEP. The inclusion of additional environmentally sensitive areas in clause 3.3 would have no effect. No change requested. This request is supported and reflects the drafting directions issued by DoPI. The Draft LEP was exhibited with 'Aquaculture' as a permitted use in both Zones W1 Natural Waterways and W2 Recreational	Amend Draft LEP to include an additional provision at clause 1.9A(2)(g) relating to conservation agreements under the Fisheries Act. No change to Draft LEP as exhibited. No change required. Amend Draft LEP by deleting 'Aquaculture' from item 3 in Zones B5, IN1 and IN4. No change to Draft LEP required.

						Waterways.	
G	Department of Defence	Defence supports the inclusion of the clauses 7.4 Airspace operations and 7.5 Development in areas subject to aircraft noise. Concerned that Draft LEP continues to allow noise sensitive uses in the adjacent DAREZ land such as hotel accommodation and educational establishments as well as the new inclusion of child care facilities. However, acknowledges zone objectives attempt to deter them. Request all Defence zoned land near the RAAF Base be zoned SP2 Infrastructure (Defence).	Williamstown	58	A	Concerns raised by the Department of Defence (DoD) have not altered from LEP 2000 to the Draft LEP. It is noted that DoD have continued to purchase land around the RAAF Base to function as a buffer for their activities. No changes are recommended. The request to zone all DoD land has been complied with.	Amend Draft LEP to reflect all DoD lands as SP2 Infrastructure.
G	Department of Trade and Investment – Crown Lands.	Crown Lands have reviewed their land portfolio in relation to the Port Stephens LGA and has requested a number of zoning amendments. Generally, these amendments reflect either the tenure of the land or management regimes (e.g. existing Plans of Management).	LGA	65	A	The request to rezone a number of Crown land sites is supported.	Amend Draft LEP to be consistent with advice from Crown Lands.
G	Office of Environment and Heritage (OEH).	Strongly supports proposed rezoning of land from rural to environmental in recognition of the environmental values of the sites. Supports additional local provisions which deal with natural resources such as flood planning and wetlands. Supports adoption of the 1 in 100 year Average Recurrence Interval plus 0.5 freeboard as a standard flood planning level. Notes the absence of an Aboriginal cultural study in the timeframe available. Any study of this nature should be undertaken with the Aboriginal community. Request Council consult with Department of Planning and Infrastructure to determine reflection of the Watagan to Stockton Green Corridor in the Draft LEP. Offers Council access to mapping layers held by the OEH which may assist Council develop additional mapping layers in future amendments to the Draft LEP.	LGA	76	A	It is acknowledged that further work is required to address Aboriginal cultural heritage across the LGA. However, this work could not be undertaken in the timeframe to complete the principal LEP. Appropriate zoning of the Watagan to Stockton Green Corridor, identified in the Lower Hunter Regional Strategy (LHRS), has been discussed with the Department of Planning and Infrastructure (DoPI). Considering the poor quality and scale of the mapping in the LHRS, available supporting data and the imminent review of the LHRS it was not considered appropriate to reflect the Corridor in the Draft LEP.	No change required to the Draft LEP.
G	Department of Finance and Services.	Requests Council ensure a variety of housing choices are permissible in the R2 Low Density Residential zone, in particular, multi dwelling housing. Request to be consulted when the draft DCP is placed on exhibition in the future.	LGA	81	A	This request is supported. It is appropriate to include multi dwelling housing in Zone R2 Low Density Residential as this land use type is typical of the type of housing style developed in these locations.	Amend Draft LEP to permit 'multi dwelling housing' with consent in Zone R2 Low Density Residential.
G	Hunter Water	Supports the specific zone for Hunter Water Corporation (HWC) Lands.	LGA	85	A	As the Draft LEP does not	No amendment to Draft LEP

	Corporation	Has no objection to the Draft LEP, however, notes that as the Shire grows some of their facilities will reach capacity.				include Planning Proposals such as the Wallalong planning proposal they can only provide general advice. All planning proposals which propose to intensify land use are referred to the HWC for comment.	required.
G	Catchment Management Authority.	Supports the environmental zones, including the waterways zones and the inclusion of local provision clauses that address natural resource management. Supports the preparation of a DCP chapter to protect native vegetation in the LGA that is not covered by Native Vegetation Act. Requests additional environmental provisions be included in clause 6.3 (urban release areas) to state 'wherever possible new development should be sited on land already cleared to avoid the destruction of remnant native vegetation' or similar. Questions land use types (bee keeping and home occupation) included as permissible without consent in E2 Environmental Conservation zone and suggests they be removed in the final plan. Questions land use types with consent in the E2 Zone (water recreation structures, bed and breakfast accommodation and business identification signs) and suggests they be removed in the final plan.	LGA	89	A	This request is not supported. The plan-making process that involves the preparation of detailed planning studies and rezoning of land through a Planning Proposal is the appropriate mechanism to determine where development should occur. This request is not supported. These uses reflect the fact that little disturbance to the natural environment will occur as a result – e.g. bee keeping requires very little land area and is an appropriate form of agricultural use, and home occupations must take place within an existing dwelling. This request is not supported. Water recreation structures (as defined) include dams as well as other forms. The size, scale and nature of a water recreation structure will determine whether it is appropriate in the zone. Bed and breakfast accommodation and business identification signs are uses consistent with the existence of a dwelling and should not impact on the natural	No change to Draft LEP. No change to Draft LEP. No change to Draft LEP.

		Expectation that Council will comply with its obligations under SEPP44 for the protection of koala habitat corridors through the use of environmental zones in the LEP. Request additional clause in clause 7.8 – Drinking Water Catchment to ensure that certain forms of development are not permitted unless certain environmental considerations are satisfied. Requests uses such as 'boat launching ramps, boat sheds, building identification and business signs etc' be removed from being permitted with consent in Zone W1 Natural Waterways due to potential impact on Williams River. <u>Wetlands</u> Recommends including a buffer zone for all wetlands mapped on the Wetlands Map to buffer from agricultural and residential uses. Also recommends including a 40m buffer area around the wetlands area within Zone E2 Environmental Conservation. Recommends linking wetland areas zoned E2 to adjoining areas of remnant woody vegetation zoned E2 or E3 to assist in creating more contiguous vegetated linkages throughout the landscape and increasing biodiversity and ecosystem resilience. <u>Development within the coastal zone</u> Requests additional provisions be included in clause 5.5 – Development within the coastal zone to reflect the CMA Catchment Action Plan guiding principles. CMA states that it is of the opinion that a more rigorous approach to protecting the coastal environment from inappropriate development and the effects of climate change and sea level rise is required. CMA recommends that Council identify areas for 'natural retreat' of estuarine habitats and zone these retreat areas E2.			environment. The Comprehensive Koala Plan of Management formed part of the information for developing the new environmental zones This request is not supported. Clause 7.8(3) adequately addresses this requirement as it relates to 'any development' within the Drinking Water Catchment. This request is not supported. The Draft LEP permits these uses with consent. Clause 7.8 – Drinking Water Catchment and 7.10 – Williams River Catchment provide adequate additional environmental considerations for this waterway. The Standard template does not include a buffer zone for use by councils. The only generic zone that could be adopted would be the RU6 Transition zone which is not an appropriate zone for this request. The identification of the three key areas for the new environmental zones utilised available corridor mapping to achieve improved linkages and preservation of significant vegetation. Clause 5.5 is a standard compulsory clause in the template and cannot be amended by Council. Further, the protection of the coastal environment is a policy position that State and Federal	No change to Draft LEP No change to Draft LEP. No change to Draft LEP. No change to Draft LEP. No change to Draft LEP. No change to Draft LEP.
--	--	--	--	--	--	--

						government need to resolve and issue consistent advice to all councils to implement. Council will expect State agencies to take the lead role in this issue.	
G	Roads and Maritime Services	Advise that the LEP should be consistent with SEPP (Infrastructure) with regard to access to classified roads and traffic generating development. Advise that the LEP should make provision for satisfactory arrangements for state infrastructure. Request that all classified roads be zoned SP2 Infrastructure and note that several State roads are not identified in this zone. Requests that Council ensure that 'roads' are permitted with consent in all zones. Requests that 'child care facilities' be prohibited from any zones that front a classified road. Ensure that bulky goods retailing and other forms of 'emerging retail outlets' are prohibited in rural zones. Provides mapping information on relevant land acquisition details for road widening schemes, road corridors such as F3 to Raymond Terrace corridor, etc. States that all RMS comments in relation to various rezonings are relevant to the Draft LEP, including Kings Hill. Refers Council to two s117 Ministerial Directions that are relevant to RMS operations: 3.4 – Integrating Land Use and Transport and 5.4 – Highway service centre at Heatherbrae. Supports retention of provision	LGA	94	A	The provisions of the SEPP override the provisions in the LEP. Part 6 in the Draft LEP relates to urban release areas. Any release area identified on the Urban Release Area Map is required to comply with the provisions in Part 6 of the LEP that deal specifically with infrastructure requirements. Exhibited Draft LEP maps were prepared with the information available to Council at the time. The RMS has now provided new detail identifying areas to be zoned SP2 Infrastructure. Roads are permitted either with or without consent in all zones. This request is not supported, as the provision creates a sub-zone in the LEP that is inconsistent with the Drafting Directions. These land uses are prohibited in the rural zones. Bulky goods retailing is permitted with consent in the following business zones: B2 , B3, B4,B5 and B7 zones.	Draft LEP has been amended to reflect additional SP2 Infrastructure zoned areas managed by the RMS. No change to Draft LEP required. No change to Draft LEP required. No change to Draft LEP required.

		for a site and suggests this site should be identified when the F3 to Raymond Terrace link is constructed.					
G	Trade and Investment Resources and Energy.	Port Stephens mineral resources are important both locally and regionally. Concern at the use of environmental zones which do not support these resources.	LGA	96	A	Particular concern is raised regarding specific existing sand extraction activities and quarries. Many of these sites are already located in environmental zones with existing consents. In some instances amendments have been made to reflect these activities.	Amend Draft LEP as per recommendations for Submissions 18 & 57 of Attachment 3.

**ATTACHMENT 3 -
LEP Practice Note: PN 10–001 Zoning for infrastructure in LEPs**



LEP practice note

STANDARD INSTRUMENT FOR LEPS

Local Planning

Ref No.	PN 10-001 (supersedes and replaces PN 08-002)
Issued	14 December 2010
Date	PN 06-002; PS 09-011

Zoning for Infrastructure in LEPs

The purpose of this practice note is to provide guidance to councils on zoning public infrastructure land in standard instrument local environmental plans. It supersedes and replaces the previous LEP Practice Note on this subject [LEP PN 08-002]. It also updates the information provided for Special Purpose 'SP' zones in PN 06-002.

Introduction

State Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP) was introduced to facilitate the delivery of infrastructure across NSW by improving regulatory certainty and efficiency.

The Infrastructure SEPP, which came into effect on 1 January 2008, has specific planning provisions and development controls for 25 types (sectors) of infrastructure:

- air transport facilities
- correctional centres
- educational establishments
- electricity generating works
- electricity transmission and distribution
- emergency services facilities
- flood mitigation and bushfire hazard reduction
- forestry activities
- gas transmission and distribution
- health services facilities
- housing and group homes
- parks and other public reserves
- port, wharf and boating facilities
- public administration buildings
- rail infrastructure facilities
- research stations
- road and traffic facilities
- sewerage systems
- soil conservation works
- stormwater management systems
- telecommunications networks
- travelling stock reserves
- waste or resource management facilities

- water supply systems
- waterway or foreshore management activities.

Zoning public infrastructure

To complement the provisions of the Infrastructure SEPP, this practice note provides advice on zoning public infrastructure land when a council is preparing a local environmental plan (LEP).

A number of approaches have previously been taken in zoning infrastructure land in LEPs. These zoning methods often restricted new infrastructure developments, redevelopment of sites for alternative uses or disposal of surplus public land.

The new zoning approach advocated here provides greater flexibility and adaptive management of land used for the provision of public or private infrastructure. It moves away from zoning infrastructure land as 'special use' or 'special purpose' zones, which previously limited the ability of infrastructure providers to respond to changing demographic trends and provide the public with infrastructure and services outside existing locations.

Matters to consider upfront

Prior to zoning infrastructure land in new LEPs, the following steps should first be taken:

- Identify whether the **infrastructure type** is covered in the Infrastructure SEPP, including

whether the SEPP provisions are associated with public or private infrastructure.

- Identify whether the infrastructure is **currently operating** or is no longer used; whether the land is intended for other future infrastructure purposes or whether the land is now considered to be **surplus public land**.

The Infrastructure SEPP identifies the prescribed zones for various types of infrastructure. This should act as a guide when determining the choice of zone for particular uses.

Follow the principles for zoning infrastructure land in this practice note in *sequential* order, selecting the most appropriate principle for the land being zoned.

Six principles for zoning infrastructure

The following principles should be followed when zoning infrastructure land in new LEPs.

1. Where the infrastructure type is permitted on all land in the Infrastructure SEPP:
 - future infrastructure may be placed in any zone
 - existing 'special use' zones should be rezoned the same as the adjacent zone
 - roads must be zoned.
2. Where the infrastructure type is only permitted in certain prescribed zones in the Infrastructure SEPP:
 - provide for future infrastructure in prescribed zones rather than special use zones
 - existing 'special use' zones should be rezoned the same as the adjacent land (if a prescribed zone)
 - rezone land SP2 Infrastructure, if there is no adjacent prescribed zone.
3. If currently zoned 'special use', the following infrastructure land should remain zoned for a 'special purpose':
 - special purposes such as cemeteries, sewage treatment plants, waste disposal or landfill sites (rezone as SP2 Infrastructure)
 - strategic sites (rezone as SP2 Infrastructure)
 - large complexes (rezone as SP1 Special Activities).

It is anticipated that only a minority of TAFEs and schools across NSW could be considered a 'strategic site', however, to

assist in the initial assessment the following criteria should be used:

- is it 20 hectares or more in size; and/or
 - does it provide a wide range of facilities (meeting rooms, halls, pool, sports fields, tennis courts and the like) that can also be used by the surrounding community; and/or
 - is it of regional significance (i.e. the only school servicing a large region).
4. Where land is to be zoned SP1 Special Activities or SP2 Infrastructure:
 - include flexible zone boundary provisions where appropriate.
 - use generic land use map annotations.
 5. Where surplus public land is currently zoned 'special use':
 - where a valid site compatibility certificate exists, the land is to be rezoned consistent with the certificate, or
 - the land should be rezoned as a compatible land use, (e.g. to a prescribed zone).
 6. When preparing an LEP, avoid duplicating provisions in the Infrastructure SEPP (including those to manage impacts on infrastructure corridors).

Zoning principles explained

The infrastructure zoning principles are explained here. The principles are intended to support a zoning regime which provides greater flexibility and adaptive management of public infrastructure land. Councils should also take these zoning principles into account when zoning land for private infrastructure or services.

Principle 1 - Zoning for infrastructure that is permitted on all land

The Infrastructure SEPP identifies several types of infrastructure activities undertaken by public authorities that are permissible in all LEP zones, irrespective of the LEP zoning.

This includes:

- roads and railway lines
- utility distribution networks such as electricity lines, or gas, water and sewage pipelines
- certain environmental management works (e.g. bushfire management, flood mitigation, waterway and foreshore works and soil conservation works).

Principle 1.1 - Providing for future infrastructure

'Special purpose' zones are not required in LEPs to permit infrastructure that is already permitted on all land through the Infrastructure SEPP. It is not necessary for infrastructure types to be listed separately in any zone as permitted uses in the LEP zoning table if they are automatically permitted through the Infrastructure SEPP.

For **private** infrastructure, please see note in Principle 2.1 regarding zoning provisions.

Principle 1.2 - Rezoning existing 'special use' zones

For infrastructure or services prescribed in all zones and those currently zoned 'special use', (e.g. roads, railway lines, substations, pipelines etc), the appropriate adjacent land zone should generally be used.

Applying the adjacent zone type to public infrastructure land follows a basic planning principle of aligning land uses. It is established practice to refer to the zoning of adjoining land when seeking to establish an appropriate zoning for land. In many cases the infrastructure land would have been zoned the same as the adjoining land if it had not been used instead for an infrastructure purpose.

This approach avoids the need for spot rezonings when the infrastructure use expands, ceases, is realigned or is downsized in the future. It is preferable that the land use zone be the same as the adjacent zoning, so that future uses are compatible with existing surrounding uses.

Principle 1.3 - Roads must be zoned

Currently in many LEPs, roads are unzoned. In future, all land is to be zoned in LEPs, including roads.

Roads should be zoned as outlined below.

- Classified roads that pass through major retail centres should be zoned using the appropriate business zone for the adjoining land. This provides a planning framework for considering potential development over or below roads and on footpaths.
- Freeways, Tollways, Transitways, National Highways and major roads (carrying greater than 40,000 vehicles per day) outside of major centres may be zoned SP2 Infrastructure. Other regional roads may be appropriate for an SP2 zoning, e.g. Pacific Highway. Councils

should consult with the relevant Department of Planning Regional Office.

- Outside major centres, roads that carry less than 40,000 vehicles per day should generally be zoned the same as the adjoining land.¹
- All other roads should be zoned in accordance with the adjoining land. This avoids the need for spot rezonings where the roads are closed, or where the alignment of the roads changes, which can commonly occur in rural and release areas.

In cases where a road forms a boundary between zones:

- the whole of the road should be zoned the same zone (i.e. the zone boundary should not run down the middle of the road); and
- wherever possible, the zone applied should be the same as that applied to adjoining land, and which provides for a range of land uses to assist with flexibility in land use planning.

An assessment should be made on a case by case basis using the information provided, to determine the appropriate zoning for an unzoned road.

Principle 2 – Zoning for infrastructure that is permitted only in prescribed zones

'Prescribed zone' is a reference to the standard zones in the Standard Instrument (Local Environmental Plans) Order 2006 (the Standard Instrument) which have been nominated as the zones where certain types of infrastructure are permitted under the Infrastructure SEPP.

Each of the 25 types of infrastructure in the SEPP has a list of prescribed zones where the infrastructure activity may be undertaken.

Principle 2.1 - Providing for future infrastructure in prescribed zones

In most circumstances, 'special use' or 'special purpose' zones will not be required in LEPs to cater for current or proposed infrastructure. Most types of infrastructure development are permitted under the Infrastructure SEPP in a

¹ The RTA provides Annual Average Daily Traffic Volume maps on its website for reference for Metro areas, and Data for Regional areas Regional Areas - Traffic Volume Data: <http://163.189.7.150/publicationsstatisticsforms/aadtdata/index.html?plid=trafficvolume>
Metro Areas - Traffic Volume Maps: http://163.189.7.150/publicationsstatisticsforms/downloads/traffic_volume_maps/traffic_vol_maps_dl1.html

range of suitable 'prescribed zones'. It is therefore not necessary to include these infrastructure types as permitted uses in the LEP zoning table—they are automatically permitted through the Infrastructure SEPP.

As an example, when zoning a new land release area, it is unnecessary to set aside land to be zoned 'special use' for a new public school. Public schools are automatically permitted within residential and business zones under the Infrastructure SEPP.

Note: Given the Infrastructure SEPP applies only to certain private infrastructure types, zoning provisions may be required in the LEP zoning table to allow private infrastructure as a permitted use in nominated zones.

Principle 2.2 - Rezoning existing 'special use' zones to adjacent prescribed zones

Most existing infrastructure land currently zoned 'special use' should be rezoned in the LEP according to what the adjacent zone is, if that zone is a 'prescribed zone' in the ISEPP which permits that type of infrastructure.

Where infrastructure adjoins multiple zones (that are prescribed zones), the following rules apply:

- all the land should be zoned the same (i.e. the zone boundary should not run down the middle of the site), unless there is an exceptional circumstance (e.g. large sites with multiple infrastructure uses), and
- adopt a zone that is **compatible with surrounding land uses**, having regard to:
 - the nature and character of the subject site
 - existing adjacent land uses and preferred future uses
 - regional strategy priorities
 - availability of services and infrastructure to support new land uses
 - environmental impacts and risks

An assessment will need to be made on a case-by-case basis to consider the appropriateness of the various adjacent zone types.

Principle 2.3 - Rezoning existing 'special use' zones when there are no adjacent prescribed zones

Most existing infrastructure lands should be zoned according to what the adjacent land use zone is, if that adjacent zone is a prescribed zone for that infrastructure type.

However if none of the adjacent zones are 'prescribed zones' for that particular infrastructure type under the Infrastructure

SEPP, then the site should be zoned SP2 Infrastructure.

All public infrastructure listed under the SEPP are permitted in SP1 Special Activities and SP2 Infrastructure zones. Regardless of what the surrounding land use zones are, if an existing facility is zoned SP2 Infrastructure it can continue to operate under the provisions of the SEPP.

As an example, an existing hospital may be located on land adjacent to an R2 Low Density Residential zone. As R2 is not a prescribed zone for hospitals under the Infrastructure SEPP, it is not possible to apply Principle 2.2 when rezoning the site. The hospital land should be zoned SP2 Infrastructure to ensure that the existing use remains permissible. (Note: In this case, if the site is to be redeveloped or becomes surplus public land, a rezoning would then be required.)

Principle 3 – Certain special purpose zones should remain as special purpose zones

Principle 3.1 - Where the land use is unlikely to change, and where the use is not otherwise covered in this practice note, land may be zoned SP2 Infrastructure.

Infrastructure land that is highly unlikely to be used for a different purpose in the future should be zoned 'special purpose'. For example, cemeteries and sewage treatment plants.

These lands should be zoned SP2 Infrastructure.

Principle 3.2 - Large precinct sites should remain in special purpose zones

Major state infrastructure on large sites may be zoned SP2 Infrastructure.

Examples could include major hospitals and universities that constitute large precincts, making identification of appropriate zones more problematic. Other examples might include major:

- dams;
- sewage treatment plants;
- power stations;
- correctional centres; and
- airports.

Areas of Commonwealth land used for Defence purposes should be zoned SP2 (Defence).

Where a site consists of a mix of diverse uses not readily zoned SP2, e.g. research, education, business and accommodation, then these should, where possible, be zoned a standard zone which allows an appropriate mix of land uses. In cases where no suitable standard zone can be applied to the infrastructure use, only then should zone SP1 be applied. By applying a zone other than SP1, greater flexibility is provided for the precinct.

Principle 4 - Rules for using SP1 and SP2 zones

Principle 4.1 - Maintain flexible zone boundaries

Councils are advised that when adopting an SP1 or SP2 zoning for infrastructure land in an LEP, clause 5.3 of the Standard Instrument ('Development near zone boundaries') should generally be adopted.

Clause 5.3 provides flexibility where the investigation of a site reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone. This clause applies to the land within the distance from the boundary nominated in the LEP.

Development permitted on the adjoining land would then be permitted on the SP1 or SP2 land if the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

Principle 4.2 - Generic land use map annotations

The land uses in zones SP1 Special Activities or SP2 zone-Infrastructure should be annotated on the Land Zoning Map. This annotation should use the infrastructure categories contained in the Infrastructure SEPP or the Standard Instrument dictionary, rather than the specific type of infrastructure.

For example, 'educational establishment' should be used rather than 'TAFE' or 'primary school'. Councils should note that the Infrastructure SEPP allows a range of infrastructure uses to occur within a special purpose zone regardless of the annotation on the map and therefore only one category should be used (no need to list any ancillary uses).

In general, the Standard Instrument definition for the primary use should be applied to the land

zoning map for any area zoned SP1 or SP2. Other uses will be ancillary to this primary use.

The following annotations should be used on the Land Zoning Map for land that may be zoned SP2 in accordance with this practice note.

Infrastructure categories to be used on land zoning maps *

Infrastructure categories to be used on land zoning maps *	Examples of infrastructure type
Air transport facility	airports, heliport
Correctional centre	prisons, remand centre, detention centre
Educational establishment	high school, primary school, TAFE, university
Health services facility	hospitals, medical centres
Waste or resource management facility	landfill, waste transfer station, waste depot
Water supply system	dams, reservoirs, water treatment facilities

Note. * See Infrastructure SEPP for a full list.

Principle 5 - Zoning surplus public land

Government land that is no longer required to provide services or infrastructure is sometimes classified as 'surplus' public land. The NSW Government has updated planning provisions in regard to 'surplus' public land.

The Infrastructure SEPP provides a more tailored and local solution for such land, to ensure new land uses are appropriate and compatible with surrounding land. Councils are requested to follow the broad policy direction of the Infrastructure SEPP when preparing new LEPs covering surplus public land, by following the principles outlined below.

Principle 5.1 - Zone surplus public land as a compatible land use

Surplus public land should be rezoned to be compatible with surrounding land uses having regard to:

- the nature and character of the subject site
- existing adjacent land uses and preferred future uses
- regional strategy priorities
- availability of services and infrastructure to support new land uses
- environmental impacts and risks.

An assessment will need to be made on a case-by-case basis to consider the appropriateness of the various adjacent zone types.

Principle 5.2 - If relevant, adopt the zone in the site compatibility certificate

If a valid **site compatibility certificate** applies to the infrastructure land, then the land should be zoned in the LEP *to be generally compatible with* the nominated land use in the certificate².

Note. Under the Infrastructure SEPP, additional uses may be undertaken on certain State land if the uses are permitted on adjacent land. To ensure that the additional land uses are appropriate, a site compatibility certificate must first be obtained from the Director-General of the Department of Planning before a development application can be lodged.

For more information on site compatibility certificates please see *SEPP (Infrastructure) 2007: Director-General's site compatibility certificate— guideline for applications* on the Department's website.

In some rare instances, it may be more appropriate for a council to consider adopting a different zone type to the adjacent land use nominated in the site compatibility certificate (following consideration of the issues outlined in Principle 5.1 above). Where this is the case, it should be identified by councils in their section 64 and section 68 reports to the Director-General.

Principle 6—Avoid additional provisions in LEPs

The Infrastructure SEPP provides consistent state-wide provisions for considering the impacts of certain types of development on land adjacent to linear infrastructure and vice versa. These considerations include the impact:

- of road or rail noise or vibration on residential and other sensitive development adjacent busy roads and railway lines
- of development with frontage to classified roads (impacts associated with traffic, access, safety)
- of development involving excavation adjacent to a classified road or railway line
- on rail safety if a new public railway crossing is required or an old crossing needs to be upgraded
- on safety if adjacent to a gas pipeline
- of development within a road *corridor* in which an *easement* is reserved for a future infrastructure purpose.

² A site compatibility certificate may be provided for the purposes of clauses 18 or 57 of the ISEPP although the clause 18 provisions for State land are an interim measure that will only apply until LEPs drafted under the Standard Instrument are in place and apply to the site.

LEPs should not include provisions that deal with these matters as they are already addressed by the Infrastructure SEPP.

Councils should discuss any proposed local infrastructure provision with the relevant regional office of the Department to determine whether the proposal is consistent with the SEPP and suitable for inclusion in the LEP.

It is advisable that no new or amending provisions for development that is covered by the Infrastructure SEPP be included in LEPs.

Permissibility of private infrastructure

The Infrastructure SEPP principally focuses on providing for the delivery of infrastructure or services by local and State government authorities.

There are however certain types of infrastructure where the SEPP provisions apply equally to private or public infrastructure, including:

- electricity generating works
- licensed gas pipelines
- health services facilities (e.g. hospitals)
- group homes
- certain port-related development
- sewage treatment plants
- certain telecommunications infrastructure
- waste management and transfer facilities.

Most other private infrastructure remains regulated under local planning rules (e.g. LEPs), including where the infrastructure is permitted and whether development consent is required.

It is recommended that, if a council is zoning private infrastructure land, the above zoning principles be followed rather than automatically reverting to 'special purpose' zoning.

Further information

For more advice on the Infrastructure SEPP, and LEP preparation and the standard instrument see <http://www.planning.nsw.gov.au>. If you have further enquiries, please phone the Planning Information Centre 02 9228 6333 or email information@planning.nsw.gov.au.

Authorised by:
Sam Haddad
Director General