

PLANNING PROPOSAL

Amendment to the Upper Hunter Local Environmental Plan 2013



Planning Proposal 2/2015 – Proposed Amendment to Upper Hunter Local Environmental Plan 2013.

Amendment to Zone RE2 Private Recreation

Version 01

PART 1: OBJECTIVES AND BACKGROUND

The objective of this planning proposal is to amend the Upper Hunter Local Environmental Plan 2013 to make animal boarding or training establishments and veterinary hospitals permissible uses within the Hunter Valley Equine Research Precinct, Flemington Drive, Scone.

The Scone Racecourse and surrounding land was originally developed with the intention of establishing an equine precinct to service the local thoroughbred breeding and racing industry. The masterplan for the area outlines the development of thoroughbred stables, training facilities and associated businesses. The precinct is currently zoned RE2 Private Recreation and contains the Scone Racecourse, Hunter Valley Equine Research Centre, Scone TAFE campus and privately owned horse stables.

It has recently been brought to Council's attention that the development of horse stables, training facilities, veterinary hospitals and other associated activities that are not ancillary to the racecourse are not permitted uses within the RE2 Private Recreation zone under the Upper Hunter Local Environmental Plan 2013. However, these uses were previously permitted with consent when the land was zoned 6(b) Open Space – Private Recreation under the former Scone Local Environmental Plan 1986.

This planning proposal intends to:

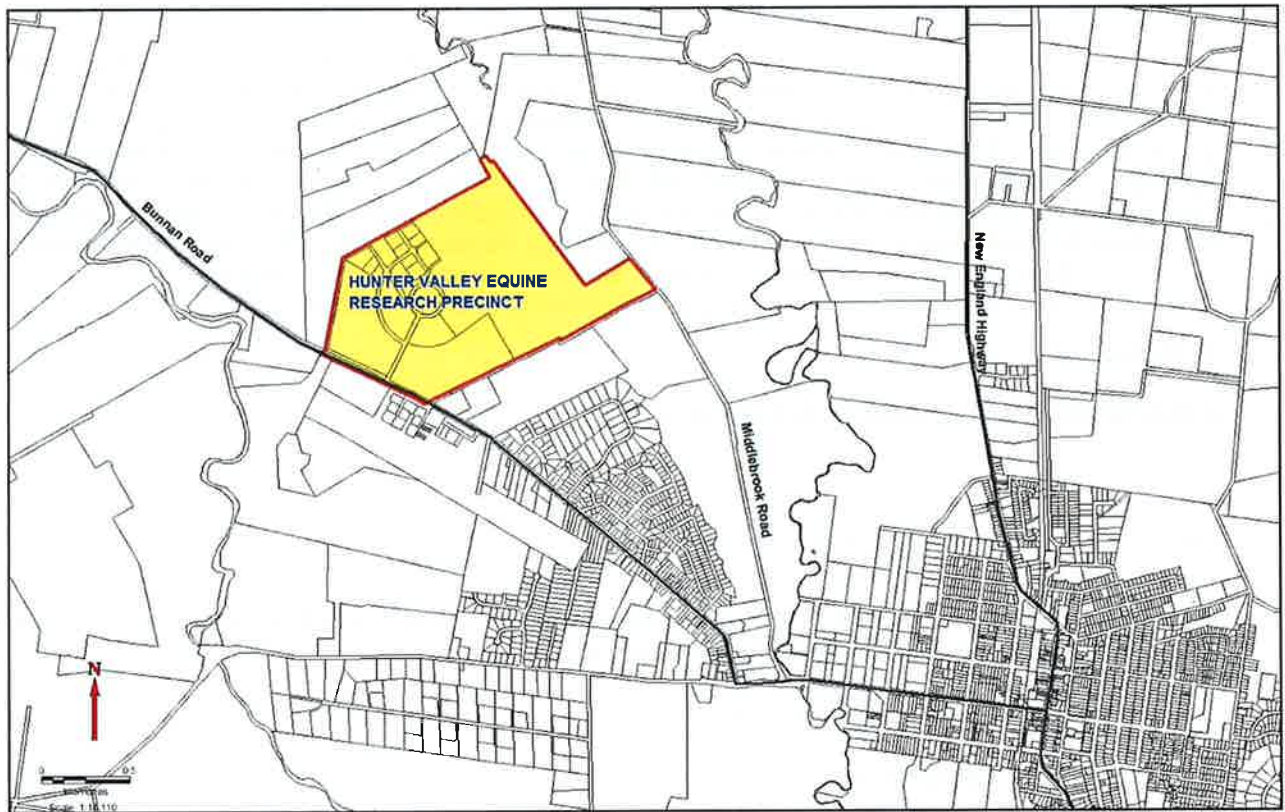
- a) reinstate two permissible land uses (animal boarding or training establishments and veterinary hospitals) that were previously permitted on the land under the former Scone Local Environmental Plan 1986,
- b) ensure the RE2 Private Recreation zone reflects the types of existing and intended land uses within the Hunter Valley Equine Research Precinct,
- c) provide greater opportunity for equine business growth and development,

A map showing the location of the Hunter Valley Equine Research Precinct is provided in Figure 1.

As a consequence of the planning proposal, animal boarding or training establishments and veterinary hospitals will become permissible uses on all land zoned RE2 Private Recreation zone throughout the Upper Hunter Shire Local Government Area.

The use of land within the equine precinct for the purpose of an animal boarding or training establishment or veterinary hospital is complementary to other uses within the precinct including the Scone Racecourse and is not inconsistent with the objectives of the RE2 Private Recreation zone.

Figure 1. – Locality Map



PART 2: EXPLANATION OF PROVISIONS

The use of land for the purpose of horse stables, training facilities and other associated activities is consistent with the definition of 'animal boarding or training establishment' which is defined by the Standard Instrument as follows:

animal boarding or training establishment means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.

The use of land for the purpose of a veterinary hospital, equine or otherwise, is defined by the Standard Instrument as follows:

veterinary hospital means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

In order to achieve the objective of this planning proposal it is proposed to amend the Land Use Table of the *Upper Hunter Local Environmental Plan 2013* in relation to **Zone RE2 Private Recreation** by inserting 'Animal boarding or training establishments' and 'Veterinary hospitals' under item 3 **Permitted with consent** as follows:

Zone RE2 Private Recreation

1 Objectives of zone

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

2 Permitted without consent

Environmental protection works; Roads

3 Permitted with consent

Animal boarding or training establishments; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Charter and tourism boating facilities; Child care centres; Community facilities; Dwelling houses; Eco-tourist facilities; Educational establishments; Electricity generating works; Emergency services facilities; Entertainment facilities; Environmental facilities; Extensive agriculture; Flood mitigation works; Helipads; Information and education facilities; Jetties; Kiosks; Markets; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Respite day care centres; Restaurants or cafes; Signage; Take away food and drink premises; Veterinary hospitals; Water recreation structures; Water supply systems; Wharf or boating facilities

4 Prohibited

Any development not specified in item 2 or 3

PART 3: JUSTIFICATION

In accordance with the Department of Planning and Environment's Guide to Preparing Planning Proposals, this section provides a response to the following issues:

- Section A: Need for proposal
- Section B: Policy Context
- Section C: Potential Environmental, Social and Economic Impact; and
- Section D: Other Government Interests

SECTION A – NEED FOR THE PLANNING PROPOSAL

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

The planning proposal is not the result of any strategic study.

It is noted that the *Upper Hunter Land Use Strategy 2008* highlights the importance of the equine industry to the Upper Hunter region. The planning proposal will support the equine industry by providing greater opportunities for equine related business growth and development.

The proposal is consistent with the strategic objective of progressing development in an orderly and economic manner.

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

This planning proposal is considered to be the best way of achieving the objective. Amending the Land Use Table to make animal boarding or training establishments and veterinary hospitals permissible uses within the RE2 Private Recreation Zone is relatively straightforward and will allow horse stables, training facilities, veterinary hospitals and other associated activities that are not ancillary to the racecourse to be developed within the Hunter Valley Equine Research Precinct in accordance with the original masterplan for the site.

Although animal boarding or training establishments and veterinary hospitals will become permissible uses on all land zoned RE2 Private Recreation zone throughout the Upper Hunter Shire LGA, any proposal for such a use would require development consent and be subject to an assessment of its environmental impacts.

It is noted that there are very few properties throughout the Upper Hunter Shire LGA that are zoned RE2 Private Recreation and most sites are currently developed or have limited development potential due to constraints such as land area or dimensions and proximity to residential development. These constraints make the likelihood of development for the purpose of animal boarding or training establishments or veterinary hospitals relatively low. Current zoning maps showing the location of land zoned RE2 Private Recreation in the Upper Hunter Shire LGA are provided in Appendix A.

Under the former Scone Local Environmental Plan 1986, the Hunter Valley Equine Research Precinct was zoned 6(b) Open Space – Private Recreation zone. Animal boarding, breeding or training establishments were permitted with consent within the 6(b) zone and were defined as follows:

animal boarding, breeding or training establishment means a place used for the commercial boarding, breeding, keeping or training of animals and includes a riding school and veterinary clinic.

It is noted that the definition of animal boarding, breeding or training establishment in the Scone LEP 1986 includes 'veterinary clinic'. This differs somewhat from the definition of animal boarding or training establishment under the Upper Hunter LEP 2013 in that the term 'veterinary clinic' has been replaced with the term 'ancillary veterinary hospital'. As a result, veterinary hospitals are only permitted within the RE2 Private Recreation zone if they are ancillary to an animal boarding or training establishment. Accordingly, it is considered appropriate to reinstate veterinary hospitals as a separate permitted land use within the RE2 Private Recreation zone.

The Hunter Valley Equine Research Precinct contains an established equine business (horse stables/training facility) that was approved by Council on 30 September 2013 under the former Scone LEP 1986. The use was permissible as an animal boarding, breeding or training establishment within the 6(b) Open Space-Private Recreation Zone. Upon gazettal of the Upper Hunter LEP 2013, the zoning of the land was changed to RE2 Private Recreation and the use became prohibited.

Whilst the existing use may be able to rely on existing use rights under the *Environmental Planning and Assessment Act 1979* to ensure its lawful continuance, there are limitations imposed by the Act in relation to the enlargement, expansion, intensification or change of an existing use and there is a degree of uncertainty regarding the continuance of a use where a use ceases for a period of time. The inclusion of animal boarding or training establishments as a permissible use within the RE2 Private Recreation zone will provide much greater protection for this existing use and will facilitate future business expansion. The planning proposal will also allow the development of other uses within the precinct that are compatible with the established use.

Rezoning the subject land from RE2 Private Recreation to an alternative land use zone is not considered appropriate given that the principal use of the precinct is for private recreation (ie Racecourse) and the objectives and/or permitted uses of alternative zones do not align with existing and intended uses within the precinct. In this regard, the RE2 Private Recreation zone is considered to be the most appropriate land use zone for the subject land.

An alternative way of achieving the objective of this planning proposal is to identify animal boarding or training establishments and veterinary hospitals as additional permitted uses of the land in Schedule 1 of the Upper Hunter LEP 2013. This option will be considered if the planning proposal is not supported in its current form.

3. Is there a community benefit?

The proposal will have a net community benefit by providing greater flexibility and opportunity for the establishment of equine related businesses and other associated development, consistent with the original masterplan for the site. This in turn will generate additional employment opportunities and attract investment to the region whilst reinforcing the role and significance of the precinct as a centre for equine related business.

Given the unique nature of existing and intended land uses within the precinct, the proposal is unlikely to have a significant detrimental impact on other areas or centres throughout the Upper Hunter Shire LGA or the region.

The planning proposal will restore the development opportunities that were afforded to land owners under the former Scone LEP 1986. Owners of existing development will be provided with greater investment certainty regarding the continuation, expansion, alteration or change of existing uses by eliminating the reliance on existing use rights.

The Hunter Valley Equine Research Precinct is considered suitable for the establishment of animal boarding or training establishments and veterinary hospitals given the compatibility of existing uses within the area including the Scone Racecourse; the distance to sensitive land uses such as residential areas; the close proximity of the site to Scone township and transport linkages; and the availability of infrastructure. The site provides a much more suitable and viable alternative to other sites close to Scone that could potentially be developed for animal boarding or training establishments or veterinary hospitals.

SECTION B –RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

The *Upper Hunter Strategic Regional Land Use Plan 2012* was prepared in relation to the Upper Hunter, Muswellbrook, Singleton, Dungog and Gloucester Local Government Areas and is a relevant consideration for this planning proposal.

The Upper Hunter Strategic Regional Land Use Plan 2012 recognises the importance of the thoroughbred industry to the Upper Hunter with the region boasting the world's second largest cluster of thoroughbred breeders and accounting for 80% of the total value of Australian stud horse exports. A number of the policy response objectives in relation to economic development and employment in the Upper Hunter are relevant to the planning proposal including:

- *Ensure an adequate supply of land for the needs of Upper Hunter industries.*
- *Diversify the region's economy and build economic resilience.*

The planning proposal would support these objectives by providing greater opportunities and flexibility for the development of sustainable equine related industries.

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

The planning proposal is consistent with the Key Focus Areas and Aspiration Goals 3 and 5 of the Upper Hunter Shire Council Community Strategic Plan: "(3) *Protect the natural and built environment and plan for a sustainable future for our Shire and our planet;* (5) *Enhance economic and employment opportunities and promote development*".

The proposal will not have a significant detrimental impact on the natural and built environment, will facilitate sustainable forms of development and will encourage a diverse economy with a thriving and growing business community.

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

The State Environmental Planning Policies (SEPPs) that are relevant to this planning proposal are outlined below.

Relevant SEPP	Consistency of Planning Proposal
SEPP No 55 Remediation of Land	The planning proposal does not trigger the need for any remediation or further investigation of land contamination as the additional land uses to be permitted in the RE2 Private Recreation zone are no more sensitive to land contamination than the uses currently permitted in the zone (eg child care centres).

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 Directions)?

Each s117 Ministerial Direction is listed below with an annotation stating whether it is relevant to the Planning Proposal and confirming consistency.

s.117 Direction Title	Applies	Consistency of Planning Proposal
<i>1.1 Business and Industrial Zones</i>	NA	Not Applicable
<i>1.2 Rural Zones</i>	NA	Not Applicable
<i>1.3 Mining, Petroleum Production and Extractive Industries</i>	NA	Not Applicable
<i>1.4 Oyster Aquaculture</i>	NA	Not Applicable
<i>1.5 Rural Lands</i>	NA	Not Applicable
<i>2.1 Environment Protection Zones</i>	NA	Not Applicable
<i>2.2 Coastal Protection</i>	NA	Not Applicable
<i>2.3 Heritage Conservation</i>	Yes	The existing provisions of the Upper Hunter Local Environmental Plan 2013 relating to heritage conservation will continue to apply to all land zoned RE2 Private Recreation, including the land subject to the planning proposal.
<i>2.4 Recreation Vehicle Areas</i>	NA	Not Applicable
<i>3.1 Residential Zones</i>	NA	Not Applicable
<i>3.2 Caravan Parks and Manufactured Home Estates</i>	NA	Not Applicable
<i>3.3 Home Occupations</i>	NA	Not Applicable
<i>3.4 Integrating Land Use and transport</i>	NA	Not Applicable
<i>3.5 Development Near Licensed Aerodromes</i>	Yes	Land subject to the planning proposal is in the vicinity of the Scone Aerodrome, however the additional land uses to be permitted in the RE2 Private Recreation zone would have no greater impact on the operation of the aerodrome than the current uses permitted in the zone. The existing provisions of the Upper Hunter Local Environmental Plan 2013 relating to airspace operations and development in areas subject to aircraft noise will not be affected by the proposal and will continue to apply to the land. The planning proposal is consistent with the objectives of the planning direction.
<i>3.6 Shooting Ranges</i>	NA	Not Applicable
<i>4.1 Acid Sulfate Soils</i>	NA	Not Applicable
<i>4.2 Mine Subsidence and Unstable Land</i>	NA	Not Applicable
<i>4.3 Flood Prone Land</i>	Yes	Consideration has been given to this Direction as part of the subject land is identified as being flood prone. The planning proposal will not result in an increased flood risk to development relative to that under the existing zoning of the land. The existing flood planning provisions of the Upper Hunter Local Environmental Plan 2013 will not be affected by the proposal and will continue to apply to the land. Accordingly, the proposal is considered to be consistent with Direction 4.3.

s.117 Direction Title	Applies	Consistency of Planning Proposal
<i>4.4 Planning for Bushfire Protection</i>	Yes	Part of the subject land is identified as being bushfire prone on Council's Bushfire Prone Land Map. The planning proposal will not result in an increased bushfire risk to development relative to that under the current zoning of the land. In accordance with Direction 4.4, the Commissioner of the NSW Rural Fire Service will be consulted following receipt of a gateway determination.
<i>5.1 Implementation of Regional Strategies</i>	NA	Not Applicable
<i>5.2 Sydney Drinking Water Catchments</i>	NA	Not Applicable
<i>5.3 Farmland of State and Regional Significance on the NSW Far North Coast</i>	NA	Not Applicable
<i>5.4 Commercial and Retail Development along the Pacific Highway, North Coast</i>	NA	Not Applicable
<i>5.6 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)</i>	NA	Not Applicable
<i>5.9 Second Sydney Airport: Badgerys Creek</i>	NA	Not Applicable
<i>6.1 Approval and Referral Requirements</i>	NA	Not Applicable
<i>6.2 Reserving Land for Public Purposes</i>	NA	Not Applicable
<i>6.3 Site Specific Provisions</i>	NA	Not Applicable
<i>7.1 Implementation of the Metropolitan Strategy</i>	NA	Not Applicable

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

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

The planning proposal relates to land that is largely developed for urban purposes and comprises a range of land uses as well as cleared vacant land.

The planning proposal is not likely to have an adverse impact on critical habitat or threatened species, populations or ecological communities or their habitats.

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

The environmental impact of future development resulting from the planning proposal is unlikely to be any greater than that of development currently permitted in the RE2 Private Recreation zone. Furthermore, the potential environmental impact of the additional uses to be permitted in the RE2 Private Recreation zone is no greater than that of development previously permitted in the 6(b) Open Space – Private Recreation zone under the former Scone Local Environmental Plan 1986.

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

This planning proposal is likely to have positive social and economic impacts due to the increased flexibility and opportunity for future development and greater investment certainty for land owners. The proposal will support economic diversification and the establishment of new employment generating businesses.

SECTION D – COMMONWEALTH AND STATE INTERESTS

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

The land subject to the planning proposal is serviced by adequate public infrastructure to meet the needs of existing and future development.

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

State and Commonwealth public authorities will be consulted in accordance with the Gateway determination.

PART 5: COMMUNITY CONSULTATION

The Hunter Valley Equine Research Centre Limited has been consulted in the preparation of this planning proposal and has provided its in principle support.

Community consultation is to be undertaken in accordance with the requirements of any Gateway Determination by the Department of Planning and Environment.

PART 6: PROJECT TIMELINE

The project timeline in respect of the planning proposal is provided in the following diagram.

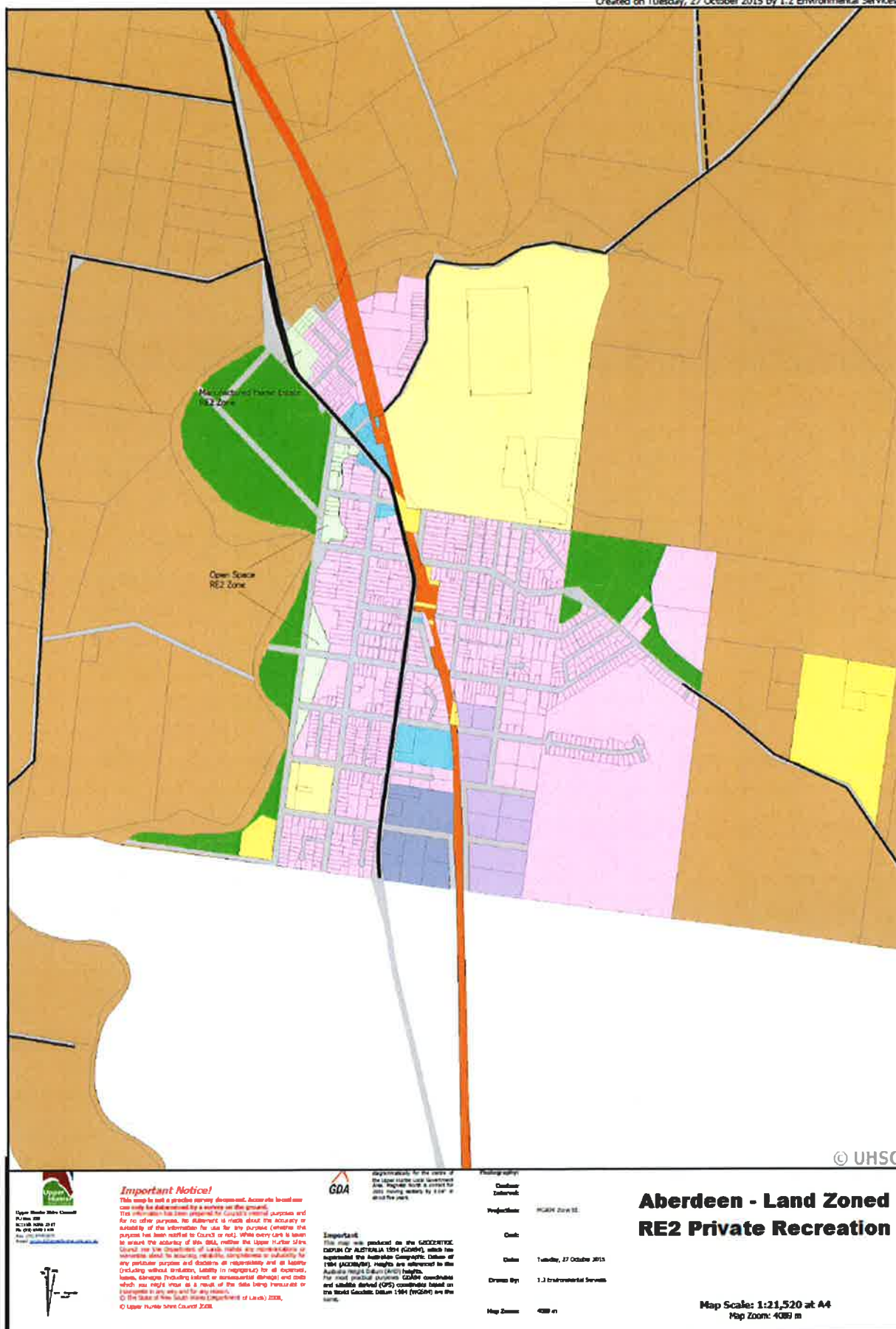
The anticipated timeframe for the proposed amendment to the Upper Hunter Local Environmental Plan 2013 from submission of the proposal to NSW Planning and Environment to gazettal of the LEP amendment is seven (7) months.

PROJECT TIMELINE

	December 2015	January 2016	February 2016	March 2016	April 2016	May 2016	June 2016
STAGE 1 Submit Planning Proposal to NSW Planning & Environment							
STAGE 2 Anticipated commencement date (Gateway Determination)							
STAGE 3 Consultation – Community/ Public Authorities							
STAGE 4 Review / consideration of submissions to public exhibition							
STAGE 5 Report to Council							
STAGE 6 Finalise the Local Environmental Plan using Minister's plan making delegations.							

APPENDIX A: LAND ZONED RE2 PRIVATE RECREATION

Created on Tuesday, 27 October 2015 by I.2 Environmental Services



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