

## Planning and Assessment

SF20/14101

### Gateway determination report

<b>LGA</b>	Lake Macquarie City
<b>PPA</b>	Lake Macquarie City Council
<b>NAME</b>	Ramsgate Estate, Wyee Point (40 additional homes)
<b>NUMBER</b>	PP_2020_LAKEM_001_00
<b>LEP TO BE AMENDED</b>	Lake Macquarie Local Environmental Plan 2014
<b>ADDRESS</b>	Ramsgate Estate, Wyee Point
<b>DESCRIPTION</b>	DP1596
<b>RECEIVED</b>	14/02/2020
<b>FILE NO.</b>	SF20/14101
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1. INTRODUCTION

### 1.1 Description of planning proposal

To balance development and conservation outcomes on the site by removing the Environmental Living zoned land, increasing the amount of conservation land and increasing the permitted density (reducing minimum lot size requirements). The proposal supports the development of the historical Ramsgate Estate paper subdivision. Figure 1 below outlines the proposal.



Figure 1 - Proposal

## 1.2 Site description

The subject land is part of the Ramsgate Estate paper subdivision site consisting of 96 separate lots and multiple landowners, including Council. The subject land is shown under on Figure 2.



Figure 2 – Subject land

## 1.3 Existing planning controls

The subject land is currently zoned E4 Environmental Living and a long narrow piece of R2 Low Density Residential (see Figure 3). The E4 zoned land has a minimum lot size of 1250m<sup>2</sup> and a maximum building height of 8.5m and is mapped as an urban release area.

The R2 land has a minimum lot size of 450m<sup>2</sup> with a maximum building height of 8.5m.



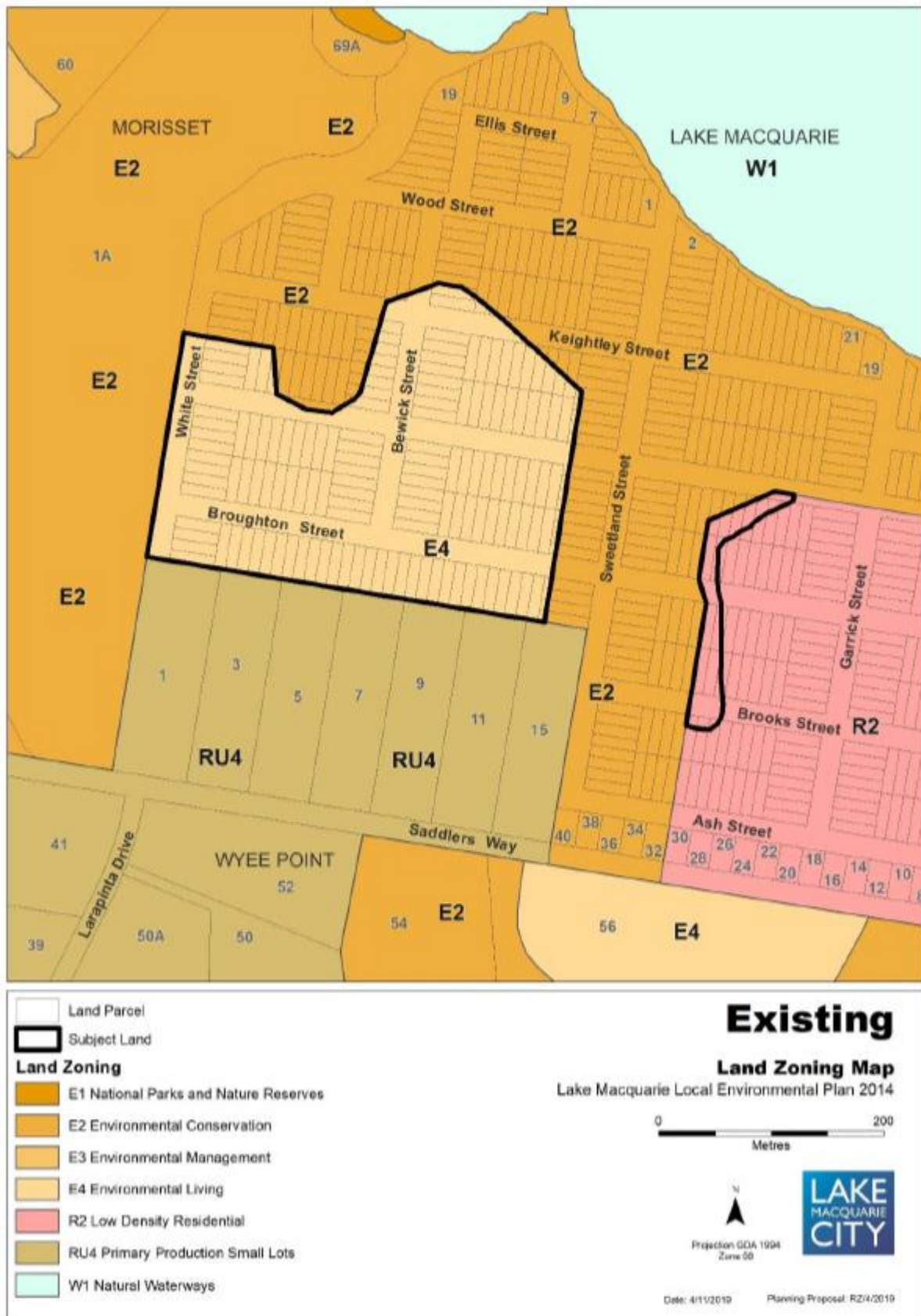


Figure 3 – Existing planning controls

#### 1.4 Surrounding area

Wyee Point is an isolated village on the shore of Lake Macquarie and has no shops or services. It has 8500m<sup>2</sup> of B1 Neighbourhood Centre zoned but undeveloped land in the existing village area. Other nearby towns such as Wyee and Mannering Park provide local services and are within a 10 minute car trip. Morisset provides more regional level services being around 10-15 minutes (see Figure 4).

The subject site is 3km from the Vales Point power station and is bounded by E4 Environmental Living land to the south consisting of 7 lots each with a separate house and a large contiguous bushland area to the north and west (see Figures 2 and 4).

To the east is the balance of the paper subdivision (low density residential zoned but undeveloped) and the existing low density residential development of Wyee Point.

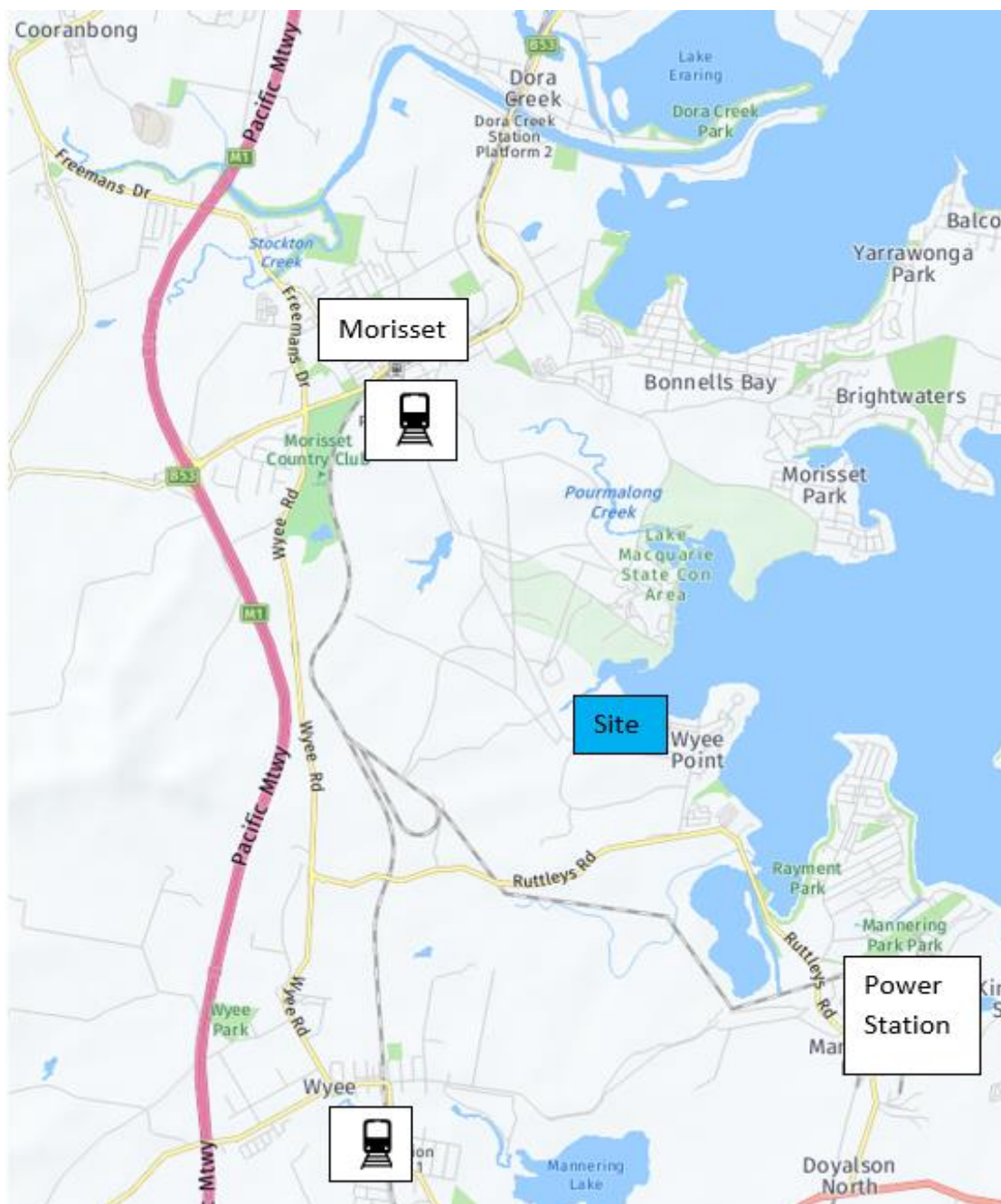


Figure 4 – Surrounding land and context

### **1.5 Summary of recommendation**

The proposal would achieve the aim of balancing development and conservation outcomes. It has considered the environmental, social and economic impacts of the proposed changes and is consistent with the Greater Newcastle Metropolitan Plan.

The proposal should proceed subject to appropriate conditions.

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The objectives of the proposal are to provide an appropriate balance of development and conservation outcomes. These objectives clearly align with the explanation of provisions and maps.

### **2.2 Explanation of provisions**

The proposal includes changes to the LEP maps to achieve the stated objectives.

### **2.3 Mapping**

The proposal includes maps that show the current and proposed controls for Land use zoning, Lot size, Height of buildings and Urban release area. These maps are clear and do not require updating prior to community consultation.

## **3. NEED FOR THE PLANNING PROPOSAL**

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The need for the proposal has arisen from a review by the key landowner in developing the land, responding to environmental conservation constraints that stemmed from a Species Impact Statement submitted with a DA for subdivision. Options explored and considered include:

- Rezoning the 2.15ha of EEC land to E2 Environmental Conservation without any change to other zones. This retains the important EEC's and adds to the adjoining conservation land. However, this does not address the lot size issues associated with the E4 Environmental Living zone. Council has assessed that the E4 zone objectives cannot be achieved with the current minimum lot size of 1,250m<sup>2</sup>. This is mainly due to the amount of land clearing required to construct a house, other outbuildings and fencing. Council's experience is that vegetation retention on lots this size is unsuccessful.
- Increase the minimum lot size in the E4 zone to 2ha consistent with other E4 zoned areas in the LGA. This would ensure the objectives of the zone could be met and be an advantageous transition to the E2 zoned land adjoining the subject land. This would result in a reduced lot/dwelling yield from 39 to 6. However, such as reduction becomes inefficient for infrastructure provision, is inconsistent with aspects of the Hunter Regional Plan and Newcastle Metropolitan Plan (e.g. Compact Settlement). Council advises that this option would cause problems for the future development of the paper subdivision in managing landowner expectations and cooperation. This option also does not include the specific rezoning of the EEC land to the E2 zone.
- The proposal as lodged. The removal of 7.86ha of Environmental Living zoned land and a small section of Residential zoned land is being rezoned to an additional 2.15ha of conservation land and 5.71ha of residential land as outlined in figure 1.

A Species Impact Statement for DA/1430/2018 over the land outlines the E4 zoned land proposed as E2 Environmental Conservation has the following attributes:

Swamp Sclerophyll Forest on Coastal Floodplain (EEC);  
Habitat trees;  
Coastal Wetland identified under the Coastal Management SEPP with some buffer area;  
Connectivity to other native vegetation and habitat; and  
Part of a native vegetation corridor.

The proposed R2 Low Density Residential zoned land contains the less significant bushland on the site and will provide for an additional 40 dwellings as a result of the change in minimum lot size provisions. The proposal concludes that the proposed zoning changes will improve ecological outcomes for the site.

The proposal is considered the most appropriate option as it would enable better use of infrastructure, better facilitate development and improve environmental outcomes than the current planning controls. While currently zoned E4, the minimum lot size allowed would not result in positive environmental outcomes should the site develop. Rezoning the site to R2 and allowing a greater density while protecting more high value vegetation land E2, is considered a better outcome.

The proposal is consistent with the Greater Newcastle Metropolitan Plan (discussed later) which identifies the site as a housing release area site. Consultation with the NSW Biodiversity Conservation Division needs to occur to assess the environmental impacts and offset in greater detail.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 State**

The proposal is generally consistent with the state planning framework.

It is noted that this proposal is part of a wider development that implements the development of land within paper subdivision sites in accordance with the aims of the legislation (Schedule 7 of the Environmental Planning and Assessment Act 1979) and 2014 Subdivision Guidelines. The developer is actively pursuing this initiative with the help of Lake Macquarie City Council.

### **4.2 Regional / District** Hunter Regional Plan

The proposal is consistent with the following Directions:

Direction 14 – Protect and connect natural areas, as it provides additional conservation land to the existing Environmental conservation zoned land in the area, noting that this land is part of an environmental offset.

Direction 21 – Create a compact settlement. The proposal is an extension of the existing Wyee Point settlement and makes better use of the existing infrastructure network.

### Greater Newcastle Metropolitan Plan (GNMP)

The proposal is consistent with Strategy 12 (Enhance the Blue and Green Grid and the urban tree canopy) through the increase in land zoned E2 Environmental Conservation.

The site is also recognised on Figure 8 (Housing opportunities) in the GNMP as an urban release area.

No other specific Strategies apply to this proposal.



### 4.3 Local

Council advise that the proposal is consistent with the Community Strategic Plan in relation to its increase in conservation land being a key measure of 'Unique landscape value'.

Council has exhibited a draft Housing Strategy, and while this site is minor in only adding an additional 40 house sites, Council acknowledge that it will contribute to the supply required to meet ongoing demand.

Lake Macquarie Local Strategic Planning Statement (LSPS) identifies the general location of the site as an urban intensification area adjoining the Green network. Land within this area. The proposal outlines consistency with the LSPS in relation to the following Planning Priorities:

- Planning Priority 2: A City to Call Home  
*Strategy: Work with industry to deliver future housing growth through infill development in and around centres and train stations and new housing areas in the North West and South West growth areas.*
- Planning Priority 6: A City with a Vast Natural Environment  
*Strategies: Avoid and minimise the impact of development on areas of high ecological value, while supporting opportunities to enjoy our natural areas  
Protect and enhance biodiversity areas and corridors.*

While it is acknowledged that the proposal is not entirely consistent with the LSPS actions, it is considered that the proposal is the best balanced outcome for the site and that an increase in dwellings will assist in providing greater feasibility for transport and economic development in Wyee Point.

### 4.4 Section 9.1 Ministerial Directions

The following list provides a detailed assessment against the applicable 9.1 Directions. The proposal is consistent with all other applicable 9.1 Directions:

2.1 Environment Protection Zones. The existing E4 Environmental Living zone and minimum lot size provisions do not enable an adequate environmental management outcome to occur. While the change from the E4 Environmental Living zone to R2 Low Density Residential zone reduces (in theory) the environmental protection standards, the 1250m<sup>2</sup> minimum lot size that currently applies limits the potential for environmental values to be retained. By allowing more development on the site while reducing the development footprint, the overall environmental outcome is enhanced as greater amounts of contiguous environmental conservation land is preserved. Consultation with Biodiversity Conservation Division (Environment) will be required to address the potential inconsistency with this Direction.

2.3 Heritage Conservation. The proposal does not introduce any development potential over the land identified in the LEP as Sensitive Aboriginal Landscape foreshore area. Previous heritage studies have made recommendations to manage Aboriginal Cultural heritage and these can be progressed at DA stage. The proposal is consistent with this Direction.

2.6 Remediation of Contaminated Land. This Direction was introduced on 17 April 2020 after the proposal was lodged by Council. The Direction replaces the requirements of clause 6 of SEPP 55 – Remediation of Land which has since been repealed. Council will need to update the proposal against the requirements of this

Direction and seek the Department assessment of consistency prior to finalisation of the plan.

3.4 Integrating Land Use and Transport. The proposal is part of a larger historical paper subdivision site that was created over 100 years ago without the foresight of current policies. The proposal provides for better environmental and development outcomes which will increase the amount of conservation land and additional homes by 40. Council also assert that increasing housing may make public transport (buses) and development of the neighbourhood centre land more feasible. Road and pedestrian linkages from the western residential area to the adjoining residential area and main centres of Wyee and public transport are unknown.

The proposal is considered to be potentially inconsistent with this Direction and as this matter is not critical, it should be resolved prior to finalisation of the plan. Consultation with Transport for NSW is recommended.

4.1 Acid Sulfate Soils. The proposal includes the rezoning of residential land that is class 2 Acid Sulfate soils. However, the proposal notes that the location of this land is likely to be used as an Asset Protection Zone for bushfire hazard management. While this may be the case, Council intend to further investigate acid sulfate soils prior to finalisation of the plan. Consistency with this Direction can then be determined.

4.2 Mine Subsidence and Unstable Land. Consultation with Subsidence Advisory NSW will be required to consider consistency with this Direction. The proposal is considered to be potentially inconsistent with this Direction and as this matter is not critical, it should be resolved prior to finalisation of the plan.

4.4 Planning for Bushfire Protection. Consultation with NSW Rural Fire Service will be required to consider consistency with this Direction. The proposal is considered to be potentially inconsistent with this Direction and as this matter is not critical, it should be resolved prior to finalisation of the plan.

#### **4.5 State environmental planning policies (SEPPs)**

SEPP 19 - Bushland in Urban Areas applies. The existing E4 Environmental Management zone and minimum lot size provisions do not enable objective 2(b) (*to retain bushland in parcels of s size and configuration which will enable the existing plant and animal communities to survive in the long term*) to be achieved. The proposal provides a balance between conservation and development that provides for better long term conservation outcomes and is thus consistent with this SEPP.

SEPP 55 – Remediation of Land applies, noting that clause 6 of the SEPP was recently repealed.

SEPP (Coastal Management) 2016 applies and is considered consistent.

SEPP (Koala Habitat Protection) 2019 applies to the assessment of development applications, thus this SEPP does not apply.



## **5. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social**

There are two key social impacts associated with this proposal. Firstly, the continued development of this paper subdivision is a positive to many landowners and Council who have been frustrated at being legally and financially constrained over many decades to develop their land.

Secondly, the proposal will increase the dwelling density of the subject land which adjoins seven existing Environmental Living zoned lots with a minimum lot size of 1ha. Thus, these landowners will experience change, noting that the existing levels of vegetation at the rear of these lots provide opportunity for screening and managing impacts.

### **5.2 Environmental**

As outlined earlier in this report, the proposal is considered the most appropriate option to balance conservation and residential outcomes and align with state, regional and local policy settings. The proposal avoids EEC's, habitat trees, Coastal wetlands and adds additional conservation land to the adjoining offset site. Consultation with the NSW Biodiversity Conservation Division will assess the environmental impacts in greater detail.

### **5.3 Economic**

The proposal is relatively small scale with an additional 40 homes. However, the proposal will make more efficient use of the infrastructure that will result in a more efficient and cost effective development, with better return on the investment for infrastructure providers.

### **5.4 Infrastructure**

The site is proposed to be mapped as an Urban release area, thus will attract state development contributions towards state infrastructure.

The key infrastructure for this site is the provision of water and sewer. The advice from Hunter Water back in 2010 is now out of date and further consultation is required.

## **6. CONSULTATION**

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### **6.1 Community**

Council proposes a 28 day consultation period which is considered appropriate.

### **6.2 Agencies**

Agency consultation is required to resolve some of the outstanding Section 9.1

Directions:

- Biodiversity Conservation Division (Environment)
- Subsidence Advisory NSW
- NSW Rural Fire Service
- Transport for NSW

Council also identify consultation with Biodiversity Conservation Division (Flooding and Aboriginal Cultural Heritage), Department of Premier and Cabinet, Hunter Water Corporation and Ausgrid.

It is considered unnecessary to consult with Biodiversity Conservation Division (Flooding) and Department of Premier and Cabinet at this time.

## **7. TIME FRAME**

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Council propose a 21 month timeframe which includes time to undertake specific site studies. Given the nature of the current COVID 19 on potential access to the workforce/consultancy services, additional time is being added. It is considered that a more appropriate timeframe is 24 months.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has not requested delegations for this proposal, recognising that it owns land within the subject site, hence Council should not be authorised to be the local plan-making authority.

## **9. CONCLUSION**

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The proposal responds to the environmental constraints of the site by avoiding the most significant environmental impacts by zoning 2.15ha of the site as E2 Environmental Conservation. The remaining land will be zoned to enable low density residential development.

This approach balances minimising environmental impacts with maximising the development to take advantage of infrastructure. In doing so it provides for a better outcome than the current planning controls. Enabling residential on the site is consistent with the GNMP which identifies the site for housing.

The planning proposal is supported to proceed subject to appropriate conditions.

## **10. RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. note that the consistency with section 9.1 Directions 2.1 Environment Protection Zones, 2.6 Remediation of Contaminated Land, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 4.2 Mine Subsidence and Unstable Land and 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
  - Biodiversity Conservation Division (Environment)
  - Biodiversity Conservation Division (Aboriginal Cultural Heritage)
  - Subsidence Advisory NSW
  - NSW Rural Fire Service
  - Transport for NSW
  - Hunter Water Corporation
  - Ausgrid
3. The time frame for completing the LEP is to be 24 months from the date of the Gateway determination.

4. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.



28/4/2020  
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