Housekeeping planning proposal

PORT STEPHENS COUNCIL

FILE NUMBERS

Council: 58-2020-1

Department: To be provided at Gateway determination.

SUMMARY

Proponent: Port Stephens Council

Proposed changes: The planning proposal includes 13 items that will achieve the following outcomes:

- Item 1 – update the aims of the Port Stephens Local Environmental Plan (LEP);
- Item 2 – correct an error to enable exceptions to minimum lot sizes for attached dwellings;
- Item 3 – correct an error to ensure dwelling entitlements are retained for allotments that have been the subject of a boundary adjustment under the LEP;
- Item 4 – remove redundant provisions relating to the conversion of serviced apartments;
- Item 5 – Remove redundant provisions relating to development at Boundary Road, Medowie;
- Item 6 - Remove redundant provisions relating to development at Medowie Road, Medowie;
- Item 7 – clarify that environmental protection works are permitted with consent in the neighbourhood centre zone;
- Item 8 – clarify that flood mitigation works are permitted without consent in the public recreation zone;
- Item 9 – align the land use prohibitions in the commercial core zone with all other commercial zones by prohibiting single dwelling houses;
- Item 10 – clarify that caravan parks are prohibited in residential and business zones;

- Item 11 – permit child care centres with consent in the rural landscape zone; and
- Item 12 – allow temporary events on Council managed land, schools and places of public worship as exempt development;
- Item 13 – allow signage on sports fields as exempt development.

BACKGROUND

The planning proposal seeks to amend the Port Stephens Local Environmental Plan 2013 (LEP) to give effect to the Port Stephens Local Strategic Planning Statement (LSPS) and Port Stephens Local Housing Strategy (Live Port Stephens), adopted by Council on 14 July 2020. The proposal also includes various 'housekeeping' amendments to address minor administrative matters.

PART 1 – Objectives or intended outcomes

The objective of the planning proposal is to align the LEP with Council's principal land use strategies, the LSPS and Live Port Stephens. The planning proposal will also correct errors and make minor changes throughout the LEP.

The planning proposal is intended to create the following outcomes:

- Item 1 – update the aims of the LEP to reflect the LSPS;
- Item 2 – correct an error to enable exceptions to minimum lot sizes for attached dwellings;
- Item 3 – correct an error to ensure dwelling entitlements are retained for allotments that have been the subject of a boundary adjustment under the LEP;
- Item 4 – remove redundant provisions relating to the conversion of serviced apartments;
- Item 5 – Remove redundant provisions relating to development at Boundary Road, Medowie;
- Item 6 - Remove redundant provisions relating to development at Medowie Road, Medowie;
- Item 7 – clarify that environmental protection works are permitted with consent in the neighbourhood centre zone;
- Item 8 – clarify that flood mitigation works are permitted without consent in the public recreation zone;
- Item 9 – align the land use prohibitions in the commercial core zone with all other commercial zones by prohibiting single dwelling houses;
- Item 10 – clarify that caravan parks are prohibited in residential and business zones to implement an action in Live Port Stephens;

- Item 11 – permit child care centres with consent in the rural landscape zone to implement an action in Live Port Stephens;
- Item 12 – allow temporary events on Council managed land, schools and places of public worship as exempt development to implement an action in Live Port Stephens
- Item 13 – allow signage on sports fields as exempt development to implement an action in the Port Stephens Recreation Strategy.

PART 2 – Explanation of provisions

The objectives of the planning proposal will be achieved by the following amendments to the LEP:

Item no.	Explanation of provisions
1	**Proposed amendment:** Omit cl.1.2(2) and replace with the following: ***1.2 Aims of Plan*** *…* *(2) The particular aims of this Plan are as follows—* *(a) to cultivate a sense of place that promotes community wellbeing and quality of life,* *(b) to provide for a diverse and compatible mix of land uses,* *(c) to protect and conserve environmental values,* *(d) to facilitate economic growth that contributes to long-term employment,* *(e) to provide opportunity for housing choice and support services tailored to the needs of the community,* *(f) to conserve and respect the heritage and cultural values of the natural and built environments,* *(g) to promote an integrated approach for the provision of infrastructure and transport services,* *(h) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts.*
	Justification: The current 'Aims of Plan' refer to two strategies that are now repealed. The changes above propose to remove reference to the Port Stephens Futures Strategy 2009 and Port Stephens Planning Strategy 2011, and to update and consolidate the other aims of the plan to align with Council's current strategic planning framework and planning priorities. Aims that duplicate the objects of the EP&A Act are proposed to be removed pursuant to LEP Practice Note PN 11-001 'Preparing LEPs

	using the Standard Instrument: standard clauses' which states that LEP aims should not duplicate the objects of the Act. The proposed aims include the mandatory aim in the Standard Instrument Local Environmental Plan Order related to arts and cultural activity.
3	**Proposed amendment:** Amend clause 4.1C(4) to a correct an error by replacing '2 lots' in subclause (a) with 'two or more lots'.
	Justification: In clause 4.1C Exceptions to minimum lot sizes for certain residential development, subclause (4)(a) states that development consent may be granted for the subdivision of land 'into 2 lots' for the purpose of an attached dwelling, a dwelling house or a semi-detached dwelling. However, the definition of an 'attached dwelling' under the Standard Instrument LEP is limited to: 'a building containing 3 or more dwellings, where – (a) each dwelling is attached to another dwelling by a common wall, and (b) each of the dwellings is on its own lot of land, and (c) none of the dwellings is located above any part of another dwelling.' The effect of the current is that clause 4.1C would not facilitate subdivision for the purpose of attached dwellings below the minimum lot size that meet the standards in subclause (4)(b)(i). This is believed to be an error given the clause is intended to be facilitative of attached dwellings that meet these standards. The model clause (https://www.planning.nsw.gov.au/-/media/Files/DPE/Other/model-local-clauses-for-standard-instrument-leps-4-1c-exceptions-to-minimum-lot-sizes-for-certain-residential-development.pdf) provides guidance on drafting clause 4.1C and refers to inserting a number of lots 'not less than 3' into 4.1C(3)(a). If the guidance in the model clause was adopted, a semi-detached dwelling that met the standards in the clause would not be possible given the definition of a 'semi-detached dwelling' under the Standard Instrument LEP is a dwelling that is on its own lot of land and is attached to only one other dwelling. A review of other LEPs demonstrates that other councils have avoided these errors by referring to 'two or more lots' in the clause rather than adopting the model clause guidance.

	This item also gives effect to actions 5 and 15 of Live Port Stephens by implementing a recommendation of the Infill Housing Study.
3	**Proposed amendment:** Amend clause 4.2B(3) to rectify an error that could extinguish dwelling entitlements on land following boundary adjustments facilitated by clause 4.1E.
	Justification: On the 14 October 2016, the LEP was amended to introduce clause 4.1E 'Boundary adjustments of land in certain rural, residential and environment protection zones'. The clause is intended to allow certain boundary adjustments between lots with an area below the minimum lot size in rural and environmental zones. This amendment failed to include a corresponding change to clause 4.2B to enable lots subject to boundary adjustments under cl.4.1E to retain dwelling entitlements. Clause 4.1E(3)(b) requires Council to be satisfied that 'the number of dwellings or opportunities for dwellings on each lot after the subdivision will remain the same as before the subdivision' prior to issuing development consent. Clause 4.2B(3) restricts the erection of dwelling houses on lots with an area below the minimum lot size that were created after the current LEP commenced, including lots created as a boundary adjustment under clause 4.1E. Exceptions to the restrictions set out in Clause 4.2B are included in clause 4.2B(3)(c), including for lots 'affected by a minor realignment of its boundaries that did not create an additional lot'. However, 'a minor realignment' is not a defined term, and clause 4.1E is not limited to boundary adjustments that are 'minor realignment'. The effect of clause 4.2B is a restriction on the operation of clause 4.1E for lots that contain existing dwelling entitlements, to only a minor realignment of boundaries. The restriction is not consistent with the object of clause 4.1E. To correct this error, an additional exception is proposed to be added to clause 4.2B(3)(c) for lots created in accordance with clause 4.1E.

	A review of other Local Environmental Plans shows that other councils have adopted similar amendments to clause 4.2B (or other equivalent clauses) on the adoption of clause 4.1E. This amendment is administrative and corrects an error as it is a consequential amendment that should have been made when clause 4.1E was introduced. It also gives effect to a Notice of Motion of Council (27 August 2019, Minute No. 214).
4	**Proposed amendment:** Delete clause 7.13 'Converting serviced apartments to residential flat buildings'.
	Justification: The object of clause 7.13 is to prevent substandard accommodation occurring through conversion of services apartments to residential flat buildings. The conversion of a serviced apartment to a residential flat building requires a development application for a change of use, which considers the standard of resulting accommodation through consideration of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 (e.g. through the application of SEPP 65 - Design Quality of Residential Apartment Development). Clause 7.13 unnecessarily duplicates the requirements of section 4.15(1)(a)(i) and therefore is redundant.
5	**Proposed amendment:** Delete clause 7.19 'Development at Boundary Road, Medowie'.
	Justification: Clause 7.19 refers to a requirement for a conservation agreement for a specific proposed development at Medowie. The agreement has been executed and registered on the land, the development application determined, and therefore the clause is redundant.
6	**Proposed amendment:** Delete clause 7.21 'Development at Medowie Road, Medowie'
	Justification: Clause 7.21 refers to a requirement to decommission a specific poultry farm on land at Medowie. The poultry farm has now been decommissioned, the development application determined, and therefore the clause is redundant.
7	**Proposed amendment:** Amend the land use table for the B1 Neighbourhood Centre zone to remove 'environmental protection works' from being permitted without consent.

	Justification: 'Environmental protection works' are currently listed as both 'permitted without consent' and 'permitted with consent' in the B1 Neighbourhood Centre zone. This use is not 'permitted without consent' in any other zones in the LEP except for the RE1 Public Recreation Zone, which was the intent at the time the LEP commenced in 2013. The amendment will remove uncertainty and resolve the error.
8	**Proposed amendment:** Amend the land use table for the RE1 Public Recreation zone to remove 'flood mitigation works' from being permitted with consent.
	Justification: In the RE1 Public Recreation zone, 'flood mitigation works' are listed as both 'permitted without consent' and 'permitted with consent'. The intent at the time of commencement of the LEP in 2013 was that this use should be permitted without consent in the RE1 zone. The amendment will remove uncertainty and resolve the error.
9	**Proposed amendment:** Amend the land use table for the B3 Commercial Core zone to prohibit 'dwelling houses' in the zone.
	Justification: Dwelling houses are currently permitted with consent in the B3 Commercial Core zone. In Port Stephens, the B3 Commercial Core zone applies to land within the Raymond Terrace town centre and Salamander Bay shopping centre precinct and the zone is the highest order commercial centres zoning in the LGA. The objectives of the B3 Commercial Core zone are: • To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community. • To encourage appropriate employment opportunities in accessible locations. • To maximise public transport patronage and encourage walking and cycling. • To facilitate the growth of Raymond Terrace as a regional centre. The development of single dwelling houses is inconsistent with the objectives of the zone.

	LEP Practice Note PN 11-002 'Preparing LEPs using the Standard Instrument: standard zones' states that the B3 zone should be used for centres that provide a wide range of uses including large-scale retail, office, businesses, entertainment and community uses directly linked to major transport routes. These centres are intended to meet the needs of a wider region as well as those of the local community. It also states that the zone should be applied in major metropolitan or regional centres only where the focus is on the provision of employment and services and that in some areas inclusion of higher density residential accommodation that would activate the area outside of working hours, may be appropriate depending on the scale, role and location of the commercial core. In the Port Stephens LGA, the B3 Commercial Core zone is used in two locations including the Raymond Terrace town centre and the Salamander Bay shopping centre precinct. Given that 'dwelling houses' are a low density form of residential accommodation, it is considered that 'dwelling houses' are an incompatible land use for the B3 zone. Given that dwelling houses are already prohibited in all lower order commercial centres in Port Stephens (the B1 Neighbourhood Centre and B2 Local Centre zones) it is considered that permitting dwelling houses in the B3 zone is inconsistent with the intent of the LEP when it commenced in 2013. The amendment will align the uses permitted in centres under the LEP.
10	**Proposed amendment:** Amend the land use table for the R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R5 Large Lot Residential, B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core and B4 Mixed Use zones to nominate 'caravan parks' as a specific prohibited land use.
	Justification: The amendment gives effect to Action 18 of Live Port Stephens to review local provisions to better plan for lifestyle villages. Caravan parks are defined in the LEP as land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed. Caravan parks can also be developed as lifestyle villages consisting of moveable dwellings (e.g. manufactured homes).

	Port Stephens Council has planned for the location of caravan parks and lifestyle villages by only permitting the use within the RE1 Public Recreation and RE2 Private Recreation zones. The amendment will put it beyond doubt that caravan parks and lifestyle villages cannot be characterised as some other permissible residential land use in residential and business zones by expressly nominating 'caravan parks' as a prohibited use in those zones. The amendment will enable Council to better plan for the location of caravan parks and lifestyle villages and will provide the community with more certainty about the locations where the land use is permitted with consent. This amendment also gives effect to a resolution of Council (12 March 2019, Minute No. 045).
11	**Proposed amendment:** Amend the land use table in the RU2 Rural Landscape zone to allow 'centre-based childcare facilities' and 'respite day care centres' to be permitted with consent.
	Justification: Priority 4.2 of Live Port Stephens is to ensure that communities are connected. Strong communities have the capacity to meet people's needs as families grow or circumstances change. Maintaining and improving liveability requires housing, infrastructure and services in the right locations to ensure residents remain connected to the facilities they need and value. A review undertaken to inform the preparation of Live Port Stephens identified that some rural areas in Port Stephens lacked access to essential services such as child care. Providing housing with convenient access to essential services is an important influence on quality of life. Access to services, such as education and child care, is one of the key measures common to most liveability indexes and contributes to individual health and wellbeing and community cohesion. Live Port Stephens consequently includes Action 23 to review access to essential services in rural areas, such as child care centres. This amendment implements Action 23.

	The amendment will provide opportunities for more accessible and convenient locations for child care, in particular in the western parts of Port Stephens. This amendment will positively impact on affordable living by reducing costs associated with accessing distant child care and respite services.
12	**Proposed amendments:** Delete clause 7.17 'Events permitted without development consent' and amend Schedule 2 Exempt development to insert provisions that allow temporary events on Council owned and managed land, schools and land used as a place of public worship as exempt development. For land owned by Council or where Council has care, control or management (including roads and Crown land), temporary events (including temporary structures) will be exempt development if it is: • consistent with any applicable plan of management prepared under the Local Government Act 1993 for the land. • in accordance with a licence or hire agreement issued by the Council. • consistent with all other approvals, licences, permits or authorities required under any other Act. Note: Other approvals, licences, permits or authorities may include those required under the Local Government Act 1993, the Roads Act 1993 or the Crown Land Management Act 2016. The amendment gives effect to Action 10.2 of the LSPS.
	Justification: Currently clause 7.17 of the LEP allows for temporary events to be carried out without consent on public reserves. Temporary events on all other land requires development consent if they are not otherwise part of an existing approved use of the land. Only a limited amount of Council owned land is also a designated 'public reserve'. In particular most operational land (classified under the Local Government Act 1993) and Council managed Crown land is not a gazetted reserve. The proposed amendment would replace this clause and insert new clauses in Schedule 2 Exempt development to include provisions that would allow temporary events on all land managed or owned by Council (including both community and operational land), schools, and places of public worship as exempt development. For events on land owned and managed by Council, an adopted commercial operator's policy, an events and culture strategy and a

	robust event assessment and licensing process is in place under the Local Government Act 1993. This process includes assessment of amenity impacts, traffic management, environmental health, parks management, waste services, asset management, electrical services, building trades, work health and safety and corporate risk. Assessment of a development application duplicates the assessment of temporary events, adding unnecessary time and expense to the process. For events on land used as a place of public worship or schools, there are existing approvals that regulate the activities associated with temporary events (e.g. parking, hours of operation etc). Action 10.2 of the LSPS is to support the activation of public spaces, including events, public art, small business opportunities, markets and other temporary uses. This amendment will give effect to this LSPS action as well as: • Planning Priority 3 Support tourism development and attract events • Planning Priority 10 Create people friendly spaces in our local centres where people can come together The amendment is also consistent with directions and strategies contained within the Hunter Regional Plan 2036 and Greater Newcastle Metropolitan Plan 2036 as discussed below in response to Question 3.
13	**Proposed amendments:** Amend Schedule 2 Exempt Development to allow signs on sports fields and amenity facilities at sports fields as exempt development if the signs: • provide information about sponsors, products of sponsors, teams or organisations using the sporting facility. • Are not illuminated. • Are installed in accordance with— (a) AS/NZS 1170.0—2002, Structural design actions, Part 0: General principles, (b) AS/NZS 1170.2—2011, Structural design actions, Part 2: Wind actions.
	Justification: Currently signage on sporting fields to advertise the business of sponsors requires a development application. For Council owned and managed facilities, a Sports Facility Signage Policy and Guidelines applies, including a comprehensive assessment process to ensure signage is appropriate. The requirement for an additional layer of assessment is considered to

	be unnecessary. This amendment will enable clubs to acknowledge the contribution of sponsors and generate additional income. There are currently no sporting fields that are privately owned in Port Stephens. The amendment will result in provisions similar to those included in local environmental plans of other councils including Lake Macquarie, Port Macquarie-Hastings and Holroyd. This amendment implements Direction 7.3 of the Port Stephens Recreation Strategy.

PART 3 – Justification

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes, the planning proposal is a result of the strategic work undertaken to prepare the LSPS and Live Port Stephens, adopted by Council on 14 July 2020. The planning proposal will give effect to Action 10.2 of the LSPS and implements Actions 5, 15, 18 and 23 in Live Port Stephens. The planning proposal also gives effect to Direction 7.3 of the Port Stephens Recreation Strategy.

The proposal also contains various housekeeping amendments that seek to address, errors, omissions, and anomalies.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The amendments to the LEP as described by this planning proposal are the best means of achieving the stated objectives. Items 2 to 9 are necessary to correct errors, omissions, and anomalies in the LEP and an amendment to the LEP is the only way to address these matters. Items 1, 11, 12 and 13 are necessary to give effect to adopted Council strategies, with an amendment to the LEP being the only way to address these matters.

Section B – Relationship to strategic planning framework

Q.3 Will the planning proposal give effect to the objectives and actions of the Hunter Regional Plan 2036 or Greater Newcastle Metropolitan Plan 2036?

Hunter Regional Plan 2036 (HRP)

The planning proposal is consistent with the aims of the HRP, including encouraging initiatives that revitalise centres, improve housing choice, and make better use of existing infrastructure.

The planning proposal gives effect to the following directions of the HRP:

- Direction 6 – Grow the economy of MidCoast and Port Stephens
- Direction 8 – Promote innovative small business and growth in the service sectors
- Direction 13 – Plan for greater land use compatibility
- Direction 17 – Create healthy built environments through good design
- Direction 20 – Revitalise existing communities
- Direction 22 – Promote housing diversity
- Direction 24 – Protect the economic functions of employment land
- Direction 26 – Deliver Infrastructure to support growth and communities

The planning proposal gives effect to the following actions of the HRP:

- Action 6.5 – Plan for and provide infrastructure and facilities that support the ageing population.
- Action 10.4 – Encourage niche commercial, tourist and recreation activities that complement and promote a stronger agricultural sector, and build the sector's capacity to adapt to changing circumstances.
- Action 13.3 – Amend planning controls to deliver greater certainty of land use.
- Action 17.2 – Enhance access to fresh food by promoting initiatives that increase urban food production and access to produce from local farmers.
- Action 21.6 – Provide greater housing choice by delivering diverse housing, lot types and sizes, including small-lot housing in infill and greenfield locations.
- Action 21.7 – Promote new housing opportunities in urban areas to maximise the use of existing infrastructure.
- Action 22.2 – Encourage housing diversity, including studios and one and two-bedroom dwellings, to match forecast changes in household sizes.
- Action 23.5 – Focus commercial and retail development within existing centres and transport hubs and ensure that locations for new centres are integrated with existing or planned residential development; do not undermine existing centres; encompass high quality urban design; and consider transport and access requirements.
- Action 25.4 – Maintain an adequate supply of employment land that is appropriately serviced and to respond to changing industry demands for land use, location and floor space.
- Action 26.2 – Enable the delivery of health facilities, education, emergency services, energy production and supply, water and waste water, waste disposal areas, cemeteries and crematoria, in partnership with infrastructure providers.

As the proposal involves housekeeping amendments, the HRP has limited application to some of the proposed items.

Greater Newcastle Metropolitan Plan 2036 (GNMP)

The planning proposal will give effect to the vision of GNMP for Australia's newest and emerging economic and lifestyle city offering great lifestyles minutes from bushland and the airport

The planning proposal will give effect to the following strategies of the GNMP:

- Strategy 6 – Promote tourism, major events and sporting teams on the national and international stage
- Strategy 9 – Plan for jobs closer to homes in the metro frame
- Strategy 16 – Prioritise the delivery of infill housing opportunities within existing urban areas

The planning proposal will give effect to the following actions of the GNMP:

- Action 6.3 – enable major events in strategic centres and other suitable locations along with the development of hotels, event and conference capacity
- Action 7.1 – build capacity for new economy jobs in areas well serviced by public transport and close to established centres by responding to the challenge of balancing the vibrancy of a night-time economy with residential amenity
- Action 10.1 – improve amenity of centres and urban renewal corridors through placemaking initiatives that strengthen the connection between people and the places they share
- Action 11.1 – Greater Newcastle councils with support from the Department of Planning and Environment, will create and activate public spaces in the strategic centres that are suitable for community events like markets, festivals, commemorations and assemblies
- Action 16.1 – Greater Newcastle councils will focus new housing in existing urban areas, particularly within strategic centres and along urban renewal corridors.

As the proposal involves housekeeping amendments, the GNMP has limited application to some of the proposed items.

Q4. Will the planning proposal give effect to the Port Stephens Local Strategic Planning Statement, or another local strategy or strategic plan?

Port Stephens Local Strategic Planning Statement (LSPS)

The LSPS identifies the 20-year vision for land use in Port Stephens and sets out social, economic and environmental planning priorities for the future.

The planning proposal will give effect to the following planning priorities of the LSPS:

- Planning Priority 1 – Support the growth of strategic centres and major employment areas
- Planning Priority 3 – Support tourism development and attract events.
- Planning Priority 5 – Increase diversity of housing choice.

The planning proposal will give effect to the following actions of the LSPS:

- Action 10.2 – Support the activation of public spaces, including events, public art, small business opportunities, markets and other temporary uses.

Item 1, which amends the aims of the plan, will also give effect to the LSPS because on the adoption of the LSPS, the previous land use strategy (Port Stephens Planning Strategy) was repealed, and is currently referred to in the aims of the plan.

Port Stephens Local Housing Strategy (Live Port Stephens)

The planning proposal will give effect to the following priorities of Live Port Stephens:

- Priority 1.2 – Remove barriers to unlock housing supply
- Priority 1.3 – Increase the proportion of infill housing
- Priority 2.2 – Provide more affordable housing near jobs
- Priority 3.1 Facilitate new housing within existing urban areas
- Priority 3.2 Encourage a range of housing types and sizes

The planning proposal will give effect to the following actions of Live Port Stephens:

- Action 5 –Consider recommendations in the Infill Housing Study to facilitate infill housing in centres, including considering incentives to encourage selected types of infill
- Action 15 – Consider the recommendations of the Infill Housing Study and create opportunities for Council to encourage a greater diversity of infill housing around local centres
- Action 18 –Review local provisions to better plan for lifestyle villages and provide controls to ensure high quality design outcomes and liveable communities are created
- Action 23 –Review access to essential services in rural areas, such as child care centres

Port Stephens Recreation Strategy

The planning proposal will give effect to Objective 7 of the Recreation Strategy to achieve well managed and maintained recreation facilities through a coordinated and planned approach. The proposed amendment will facilitate sports sponsorship and utilisation of external funding sources to manage and upgrade community recreation facilities (Direction 7.3). The amendment will enable clubs to generate income and facilitate sponsorship opportunities at minimal cost.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

No inconsistencies with applicable SEPPs have been identified.

Table 1 Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP (Exempt and Complying Development Codes) 2008	This SEPP aims to provide streamlined assessment processes for development by identifying types of exempt and complying development that hove minimal impact	The planning proposal seeks to add exempt provisions to the LEP, which are in addition to the exempt development identified in the SEPP. Under the SEPP, exempt development is subject to general requirements that will not apply to the LEP amendments to list temporary events on certain land and signage on sports fields as exempt development. Council has a comprehensive process for assessing events and licensing under the Local Government Act 1993 which addresses the same requirements for exempt development listed in the SEPP.

		Similarly, for signage on sporting fields, Council has a robust policy and assessment framework already in place that addresses the same requirements for exempt development listed in the SEPP.
SEPP (Coastal Management) 2018	This SEPP aims to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area	The amendment proposes to make centre-based childcare centres and respite day centres permissible with consent in the RU2 zone. Some of the RU2 zoned land is within the coastal zone. Any DA lodged would consider the requirements of this SEPP and the Coastal Design Guidelines. **The planning proposal is consistent with this SEPP**.
SEPP (Educations Establishments and Child Care Facilities)	This SEPP aims to facilitate the effective delivery of educational establishments and early education and care facilities across the State.	The amendment proposes to make centre-based childcare centres and respite day centres permissible with consent in the RU2 zone. Any DA lodged for this use would need to consider the requirements of this SEPP. **The planning proposal is consistent with this SEPP**.
SEPP (Infrastructure) 2007	This SEPP identifies assessment pathways for different infrastructure projects and prevails to the extent of any inconsistency with the LEP.	The SEPP identifies flood mitigation work carried out by or on behalf of a public authority as permitted without consent. **The planning proposal is consistent with this SEPP.**
SEPP No. 21 - Caravan Parks	Ensures that where caravan parks or camping grounds are permitted under an	Whilst the amendment proposes to expressly prohibit caravan parks in a number of zones, caravan

	environmental planning instrument, moveable dwellings, as defined in the Local Government Act 1993, are also permitted. The policy ensures that development consent is required for new caravan parks and camping grounds and for additional long-term sites in existing caravan parks. It also enables, with the council's consent, long-term sites in caravan parks to be subdivided by leases of up to 20 years	parks are already prohibited in these zones. The amendment is only necessary to put it beyond doubt that this use (or some other characterisation of the use) is not permitted in these zones. **The amendment is not inconsistent with the SEPP.**
SEPP No 64 – Advertising and Signage	Contains requirements for certain signs including assessment criteria.	The Policy does not apply to signage that is exempt development under an environmental planning instrument. Council has a robust policy and assessment framework already in place for signage on sporting fields that addresses similar requirements listed in the SEPP. **The amendment is not inconsistent with the SEPP.**
SEPP 65 - Design Quality of Residential Apartment Development	Provides standards and requirements for residential flat buildings.	The Policy will ensure that serviced apartments converted to residential flat buildings maintain high quality standards and are consistent with the Apartment Design Guide. This supports the item in the planning proposal to delete clause 7.13 of the LEP. **The amendment is supported by the SEPP.**

SEPP (Primary Production and Rural Development) 2019	The Primary Production and Rural Development SEPP aims to facilitate the orderly economic use of rural lands, protect important agricultural lands and reduce land use conflict.	The Primary Production and Rural Development SEPP relates specifically to State significant agricultural land, artificial water bodies, livestock industries and aquaculture and no longer contains the Rural Planning Principles that provide broad strategic direction for all rural land. The Rural Planning Principles were transferred to Ministerial Direction 1.5 Rural Lands and are addressed in response to Question 6 of this planning proposal. **The planning proposal is consistent with this SEPP.**

Q6. Is the planning proposal consistent with applicable Ministerial Directions?

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

Table 2 Relevant Ministerial Directions

Ministerial Direction	Consistency and Implications
1. EMPLOYMENT AND RESOURCES	
1.1 Business and Industrial Zones The objectives of this direction are to encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the viability of identified centres.	This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary). The planning proposal affects land within an existing or proposed business or industrial zone by amending the land use table in the B1, B2, B3 and B4 zones. A planning proposal must:

Ministerial Direction	Consistency and Implications
	(a) give effect to the objectives of this direction, (b) retain the areas and locations of existing business and industrial zones, (c) not reduce the total potential floor space area for employment uses and related public services in business zones, (d) not reduce the total potential floor space area for industrial uses in industrial zones, and (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment. **The planning proposal is consistent with Ministerial Direction 1.1 Business and Industrial Zones.**
1.2 Rural Zones The objective of this direction are to protect the agricultural production value of rural lands.	This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). The planning proposal will affect land within an existing or proposed rural zone by amending the land use table for the RU2 zone to allow for 'centre-based child care facilities' and 'respite day care centres'. A planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village). **The planning proposal is consistent with Ministerial Direction 1.2 Rural Zones.**
1.5 Rural Lands The objectives of this direction are to protect the agricultural production value of rural land	This direction applies when a relevant planning authority prepares a planning proposal that: *(a) will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or* *(b) changes the existing minimum lot size on land within a rural or environment protection zone.*

	The direction applies because the planning proposal will affect land within an existing or proposed rural or environmental protection zone by amending the land use table for the RU2 zone to allow for 'centre-based child care facilities' and 'respite day care centres' When this Direction applies a planning proposal must: *(a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement* *(b) consider the significance of agriculture and primary production to the State and rural communities* *(c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources* *(d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions* *(e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities* *(f) support farmers in exercising their right to farm* *(g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other* rural land uses *(h) consider State significant agricultural land identified in State Environmental Planning Policy (Primary Production and Rural Development) 2019 for the purpose of ensuring the ongoing viability of this land* *(i) consider the social, economic and environmental interests of the community.*

Ministerial Direction	Consistency and Implications
	The planning proposal is consistent with Ministerial Direction 1.5 Rural Lands.
2. ENVIRONMENT AND HERITAGE	
2.1 Environment Protection Zones The objective of this direction is to protect and conserve environmentally sensitive areas.	This direction applies to all planning proposals. A planning proposal: *(4) must include provisions that facilitate the protection and conservation of environmentally sensitive areas.* *(5) that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).* The planning proposal does not include any provisions that will reduce the environmental protections standards that already apply to land within Port Stephens. **The planning proposal is consistent with Ministerial Direction 2.1 Environment Protection Zones.**
2.3 Heritage Conservation The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	This direction applies to all planning proposals. A planning proposal must contain provisions that facilitate the conservation of: *(a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,* *(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and* *(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an*

Ministerial Direction	Consistency and Implications
	Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people. The planning proposal does not relate to any heritage items and will not affect provisions relating to the conservation of heritage. **The planning proposal is consistent with Ministerial Direction 2.3 Heritage Conservation.**
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT	
3.1 Residential Zones	This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed residential zone (including the alteration of any existing residential zone boundary), or any other zone in which significant residential development is permitted or proposed to be permitted. When this direction applies a planning proposal must: (4) *A planning proposal must include provisions that encourage the provision of housing that will:* *(a) broaden the choice of building types and locations available in the housing market, and* *(b) make more efficient use of existing infrastructure and services, and* *(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and* *(d) be of good design.* *(5) A planning proposal must, in relation to land to which this direction applies:* *(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and* *(b) not contain provisions which will reduce the permissible residential density of land.*

Ministerial Direction	Consistency and Implications
	The Ministerial direction does not apply to the amendment as there are no proposed changes that will affect future residential development in an existing or proposed residential zone.
3.2 Caravan Parks and Manufactured Home Estates The objectives of this direction are to provide for a variety of housing types, and to provide opportunities for caravan parks and manufactured home estates.	This direction applies to all planning proposals. In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must: *(a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and* *(b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.* In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must: *(a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,* *(b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and* *(c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent.* Schedule 2 to SEPP 36 - Manufactured Home Estates prohibits manufactured home estates in Port Stephens. Further to this, 'Caravan parks' are already prohibited in the zones where it is proposed to expressly nominate this use as prohibited. **The planning proposal is consistent with Ministerial Direction 3.2 Caravan Parks and Manufactured Home Estates.**

Ministerial Direction	Consistency and Implications
3.3 Home Occupations The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	This direction applies to all planning proposals. *Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.* The planning proposal will not affect the permissibility of home occupations. **The planning proposal is consistent with Ministerial Direction 3.3 Home Occupations.**
5. REGIONAL PLANNING	
5.10 Implementation of Regional Plans The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional plans	The direction applies to all planning proposals. A planning proposal must be consistent with a Regional Plan released by the Minister for Planning. The planning proposal is consistent with the Hunter Regional Plan 2036 as provided in response to Question 3. **The planning proposal is consistent with Ministerial Direction 5.10 Implementation of Regional Plans.**
6. LOCAL PLAN MAKING	
6.1 Approval and Referral Requirements The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The direction applies to all planning proposals. A planning proposal must: *(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and* *(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:* *(i) the appropriate Minister or public authority ,and* *(ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and*

Ministerial Direction	Consistency and Implications
	(c) not identify development as designated development unless the relevant planning authority: *(i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment,and* *(ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.* The planning proposal does not propose provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority and does not identify development as designated development. **The planning proposal is consistent with Ministerial Direction 6.1 Approval and Referral Requirements.**
6.2 Reserving Land for Public Purposes The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	The direction applies to all planning proposals. *(4) A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).* The planning proposal is not seeking to reserve land for public purposes. **The planning proposal is consistent with Ministerial Direction 6.2 Reserving Land for Public Purposes.**

Section C – Environmental, social and economic impact

Q7. 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 does not relate to critical habitat or threatened species, populations or ecological communities or their habitats and the proposed amendments are unlikely to adversely impact on them.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. There are no other likely environmental effects as a result of this planning proposal due to the administrative nature of the changes.

Items 12 and 13 propose to add items to Schedule 2 – Exempt Development. There are already rigorous assessment processes detailed above that will ensure there are no adverse environmental impacts.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The amendments are considered to result in positive social outcomes for the community. The housekeeping items of the amendment will address errors and uncertainty and remove minor anomalies in the LEP. The items that will align the LEP with the LSPS, Live Port Stephens and other Council strategies will promote liveability and improve quality of life by providing housing with convenient access to essential services such as childcare, increase opportunities to activate public spaces, and will enable Council to better plan for diverse housing stock in appropriate locations.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

This proposal is unlikely to have any impacts on infrastructure provision. The amendment items are unlikely to generate the need for significant public infrastructure.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation with any relevant agencies can be undertaken following a Gateway determination to proceed.

PART 4 – Mapping

The amendment does not propose any changes to mapping.

PART 5 – Community consultation

Extensive consultation was undertaken with State agencies, neighbouring councils, peak industry bodies and the community in developing the LSPS, Live Port Stephens and Recreation Strategy.

Further community consultation will be undertaken in accordance with a Gateway determination.

Notice of the public exhibition period will be placed in the local newspaper, the Port Stephens Examiner. The exhibition material will be on display at the following locations during normal business hours:

- Council's Administration Building, 116 Adelaide Street, Raymond Terrace
- Raymond Terrace Library, Port Stephens Street, Raymond Terrace
- Tomaree Library, Town Centre Circuit, Salamander Bay
- Medowie Community Centre, Cnr of Medowie and Ferodale Streets, Medowie

The planning proposal will also be available on Council's website.

PART 6 – Project timeline

	Mar '21	Apr '21	May '21	Jun '21	Jul '21	Aug '21	Sep '21	Oct '21	Nov '21	Dec '21	Jan '22	Feb '22	Mar '22
Gateway Determination													
Agency Consultation													
Public Exhibition													
Review of Submissions													
Council Report													
Parliamentary Counsel													