



Planning Proposal Nelson Bay Town Centre



PORT STEPHENS
COUNCIL

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FILE NUMBERS

Council: 58-2018-24-1
Department: To be provided at Gateway Determination.

SUMMARY

- Purpose**
- The purpose of this Planning Proposal is to amend various built form provisions within the *Port Stephens Local Environmental Plan 2013* (PSLEP) that apply to land within the Nelson Bay Town Centre and Foreshore (the Town Centre) to create opportunities for increased density and achieve the desired built form outcomes as set out in Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program (the Delivery Program). A copy of the Delivery Program has been included as Appendix 1.
- The proposed changes are consistent with the Delivery Program, adopted by Council on 25 September 2018, and are necessary to complete Actions 1, 2 and 7.
- The Delivery Program seeks to provide built form controls to create opportunities for the activation of underdeveloped and underutilised sites in the Town Centre whilst maintaining quality public domain spaces and encouraging built forms that complement and enhance the character of the locality.
- Subject land:** Land in the Nelson Bay Town Centre as identified in the Site Identification Map at Appendix 2.
- Proponent:** Port Stephens Council
- Proposed changes:**
- Introduce Floor Space Ratio planning provisions and map;
 - Amendment to the Height of Building map;
 - Introduce Active Street Frontages planning provisions and map; and
 - Introduce minimum street frontage widths for sites in the Town Centre.

BACKGROUND

Nelson Bay is identified as a Strategic Centre in the Hunter Regional Plan 2036, with a number of directions referring to economic and tourism growth.

As the primary tourist centre of the Port Stephens Local Government Area and Service Centre of the Tomaree Peninsula, Nelson Bay contains considerable retail, commercial and service options; however the nearby Salamander Centre has become the focus for weekly retail shopping as well as being the location of a major library and community centre. This has resulted in a shift in Nelson Bay's retail floor space towards boutique and leisure based shopping, along with hospitality offerings such as cafes and dining options. Day-to-day and weekly household shopping has become a secondary focus of the Town Centre, however the recently opened Woolworths supermarket has increased this focus to some degree.

For tourists, Nelson Bay represents the entry point to the Port Stephens waterway and contains the highest concentration of short term accommodation and tourist facilities in the area. This

results in a high level of seasonal population variations, where low level activity on winter weekdays can contrast with large numbers of tourists visiting during the summer and Easter holidays and special event weekends.

As a tourism destination, Nelson Bay is in competition with other coastal centres in NSW and interstate, and increasingly overseas. To remain competitive in a market where decreasing transport costs make more distant destinations more accessible, Nelson Bay needs to be revitalised and provide a unique experience. The visual appearance and amenity of the Town Centre plays an important role in creating a unique, high quality and identifiable destination.

At the same time, Nelson Bay has a substantial residential population. Over the next 20 years, population and employment are expected to grow in the Tomaree Peninsula including Nelson Bay, which is a main service/tourist centre. Diversification of the economy beyond its high reliance on leisure based tourism will be important in providing for the resident population into the future. It is important that Nelson Bay offers a high amenity environment to residents in order to maintain its existing population and to attract new residents.

On 24 April 2012 Council adopted the Nelson Bay Town Centre and Foreshore Strategy 2012 (the 2012 Strategy), seeking to guide Nelson Bay towards becoming more attractive to tourists, the business community and residents. Since adoption however, there has been limited private investment in the town centre, despite this period being one of significant growth for the housing industry. A copy of the 2012 Strategy has been included as Appendix 3.

In response Council adopted the Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised implementation and delivery program (the Delivery Program) on 25 September 2018. The Delivery Program sought to review the 2012 Strategy and investigate why this limited investment and economic development had occurred, and how the town centre can be revitalised.

The Delivery Program includes 33 actions to encourage public and private investment and improve the amenity and vibrancy of the town centre. This approach responds to the community's identification that a clear strategy already exists for Nelson Bay, however some revisions would be required to encourage more private investment, such as amendments to planning provisions (e.g. maximum building height limits and the introduction of floor to space ratios) and better quality public spaces.

Delivery of the Actions listed in the Delivery Program will improve the attractiveness of the Town Centre to both tourists and the resident population, re-establishing Nelson Bay as the Strategic Centre on the Tomaree Peninsula.

The Community has been engaged throughout the process of reviewing the 2012 Strategy and developing the Delivery Program, including participation in online surveys, community drop-in sessions and stakeholder meetings. This proposal will deliver Actions 1, 2 and 7 of the Delivery Program.

SITE

The proposed amendments apply to land in the Town Centre which is consistent with the defined study area for the Delivery Program as shown in Figure 1 and the Site Identification Map at Appendix 2.

The boundaries of the Town Centre were expanded from the area defined in the 2012 Strategy under Action 9 of the Delivery Program. The resulting site encompasses the land zoned B2 Local Centre, most of the surrounding R3 Medium Density Residential zoned land and other key land identified through community consultation undertaken for the purposes of preparing the Delivery Program.



Figure 1 - Planning Proposal boundaries

PART 1 – OBJECTIVE OF THE PLANNING PROPOSAL

The Planning Proposal seeks to use a number of development planning provisions to achieve the following outcomes in the Town Centre:

- To provide for a diverse and compatible mix of land uses supported by sound planning policy to deliver high quality development and urban design outcomes;
- To continue to facilitate economic growth that contributes to long-term and self-sufficient employment locally;
- To provide opportunity for housing choice and support services tailored to the needs of the community;
- To deliver outcomes of the Hunter Regional Plan to grow the Port Stephens economy and tourism; and
- To delivery Action 1, 2 and 7 of the Delivery Program.

PART 2 – EXPLANATION OF THE PROPOSED PLANNING PROVISIONS

The objectives of this planning proposal will be achieved by the following amendments to the *Port Stephens Local Environmental Plan 2013* (PSLEP):

Floor Space Ratio

The Planning Proposal introduces floor space ratio (FSR) planning provisions in accordance with the adopted Delivery Program and for the purposes of controlling the bulk and scale of new development in the Town Centre.

The objectives of the new provisions are:

- to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality;
- to provide a suitable balance between landscaping and built form; and
- to minimise the effects of bulk and scale of buildings.

The floor space ratio controls are consistent with the outcomes identified in the Delivery Program for lower density development in the central core of the town centre to retain a 'village atmosphere' and facilitate a more human scale better view sharing. This is also consistent with the analysis set out in the Nelson Bay Public Domain Plan which identifies the area of the town centre where pedestrians and visitors are spending time, meeting, gathering, and walking.

The proposed amendments will achieve higher densities on the edges of the central village precinct. This will assist in view sharing, whilst still achieving consolidated development in the town centre and increasing feasibility in the centre.

The proposed controls for both FSR and height have been tested on selected sites in accordance with the Apartment Design Guide for the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and as set out in the Frequently Asked Questions – Nelson Bay Revised Implementation and Delivery Program at Appendix 15.

Whilst retaining lower heights in these areas of the town centre will likely have a positive impact towards addressing overshadowing and solar access (particularly in relation to the streetscape and areas where pedestrians will be spending time in the town centre) these matters will also be addressed in the development control plan provisions that will encourage design excellence outlined in the Delivery Program (Action 11)(e.g. The proposed objectives for upper storey setbacks) and addressed in the assessment of new development applications.

In addition, new developments for residential flat buildings will be referred to an Independent Urban Design Panel for review in accordance with the Delivery Program (currently new developments are referred to the Newcastle City Urban Design Panel, however Port Stephens Council will establish a Panel as one of the actions associated with the Delivery Program (Action 3).

Other actions in the Delivery Program that will address design excellence and promote positive outcomes that will work in conjunction with the proposed planning provisions include removing the uncertainty of the development incentives in the 2012 Strategy (Action 10) and providing an urban design education program for Council staff (Action 4). A Floor Space Ratio Map and floor space ratio provisions are proposed in accordance with Figure 2 below and the relevant map included as part of Appendix 4.

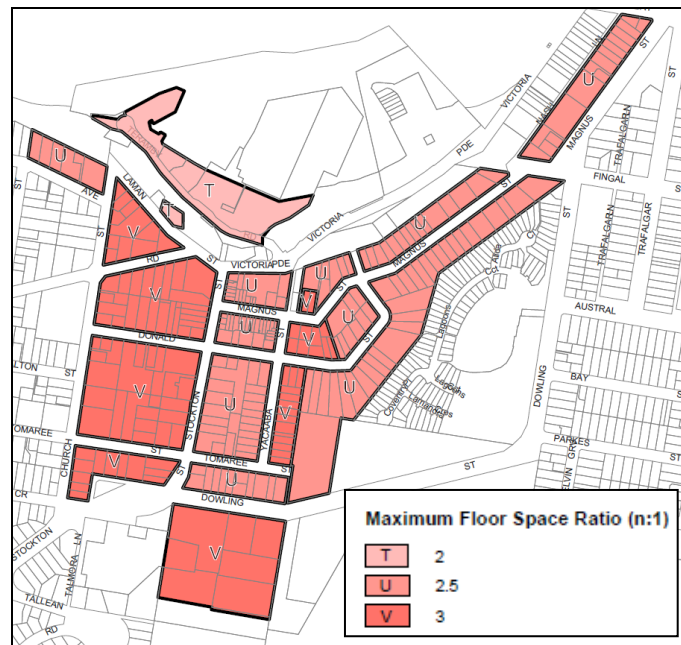


Figure 2 - Proposed Floor Space Ratio provisions

Height of Buildings

The Planning Proposal amends the existing Height of Buildings Map in accordance with the adopted Delivery Program and for the purposes of:

- Facilitating higher densities in the Town Centre to concentrate development rather than zoning further land for increased development;
- Increase the development feasibility of some sites in the Town Centre to attract investment and new development; and
- Retaining lower heights in the central core of the Town Centre to retain a village character in Nelson Bay and to promote view sharing.

The proposed amendments to building heights are also proposed to give effect to actions in the Hunter Regional Plan 2036 to create compact settlements that do not encroach onto sensitive land uses (Direction 21.4), and which require Council to 'investigate high density development that maintains and enhances the tourist, recreational and residential appeal of the centre' for Nelson Bay (p.65).

The proposed amendments are consistent with the outcomes identified in the Delivery Program to retain lower heights (17.5m / 5 storeys) in the central core of the town centre to retain a 'village atmosphere' and a more human scale in this precinct and to better facilitate view sharing. This is also consistent with the analysis set out in the Nelson Bay Public Domain Plan which identifies the area of the town centre where pedestrians and visitors are spending time, meeting, gathering, and walking.

The proposed amendments will achieve greater densities on the edges of the central village precinct, mirroring the topography of the town centre. This will assist in viewing sharing, whilst still achieving consolidated development in the town centre and increasing feasibility in the centre. This is also consistent with the objectives of the current Port Stephens Development Control Plan 2014 to ensure that buildings reinforce the natural amphitheatre landform of the town centre. Cross-sections of the town centre and foreshore demonstrating this landform have been included as Appendix 16.

The amendments to the existing Height of Buildings Map are proposed in accordance with Figure 4 below and the relevant map included as part of Appendix 4.

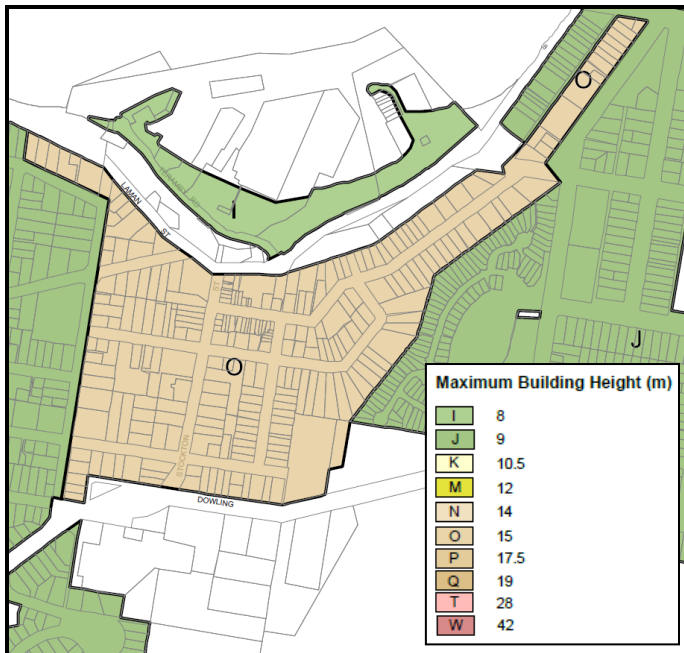


Figure 3 - Existing Building Height provisions

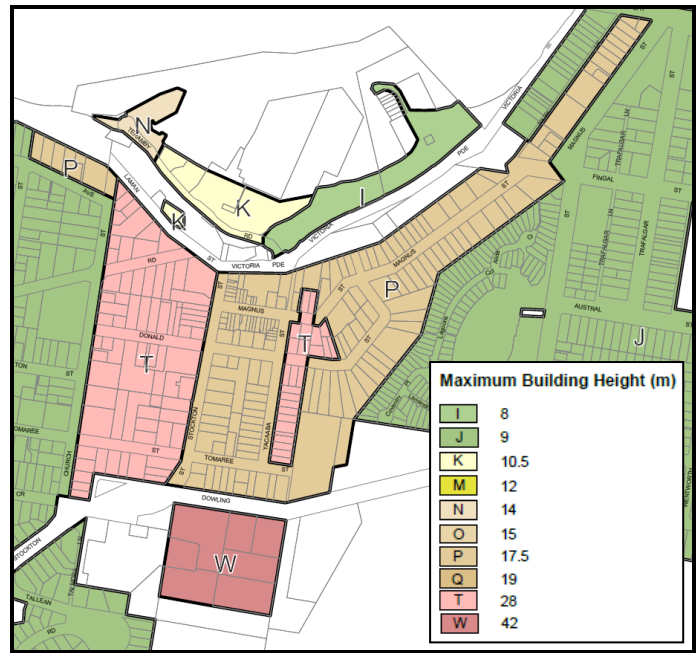


Figure 4 - Proposed Building Height provisions

Active Street Frontages

The Planning Proposal introduces provisions to require active street frontages along certain streets zoned B2 Local Centre in accordance with the adopted Delivery Program and for the purposes of providing people-orientated street frontages for new developments.

The objective of the new clause will be to promote uses that attract pedestrian traffic along certain ground floor street frontages in the Town Centre.

Active street frontages (where premises on the ground floor of a building facing the street are used for the purposes of business premises or retail premises) will be a requirement for new developments, including a change of use, along the parts of the streets in the commercial and retail parts of the Town Centre where the Delivery Program and Nelson Bay Public Domain Plan have identified key pedestrian linkages.

Active street frontages will not be required for any part of a building that is used for any of the following:

- entrances and lobbies (including as part of mixed use development);
- access for fire services; or
- vehicular access.

The active street frontage planning provisions will apply to land identified on an active street frontages map in accordance with Figure 5 below and the relevant map included as part of Appendix 4.

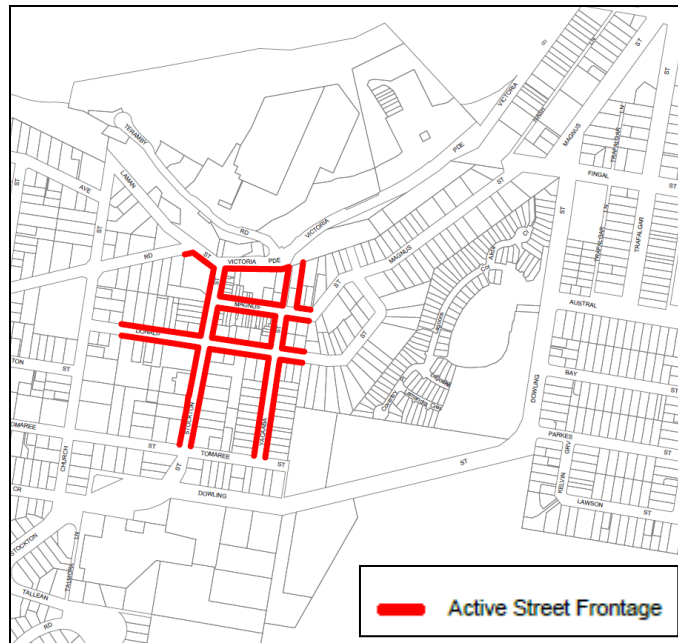


Figure 5 - Proposed Active Street Frontages

Minimum Building Street Frontage

The Planning Proposal introduces a requirement for new development in the Town Centre to have a minimum primary street frontage.

The objectives of the new clause are:

- to ensure that, visually, buildings have appropriate overall horizontal proportion compared to their vertical proportions;
- to provide appropriate dimensions and spacing to ensure adequate privacy between any residential component and the adjoining land use;
- to provide appropriate dimensions for the design of car parks levels and ensure access is reasonably spaced along roads and lanes;
- to encourage consolidation of lots to facilitate development of commercial office, business, residential and mixed use buildings provided for under the PSLEP.

The clause will apply to new development in the Town Centre on land zoned B2 Local Centre and R3 Medium Density Residential. The boundaries of the Town Centre are as specified in the Delivery Program and will be identified on the Precinct Areas Map in the PSLEP, in accordance with the relevant map included as part of Appendix 4.

Where the clause applies, new development must have a minimum primary street frontage of 15 metres or more, unless the physical constraints of the land (or the adjoining land) make it not possible for a building to be erected to meet that minimum width and the development is otherwise consistent with the aims and objectives of PSLEP.

Providing a minimum primary street frontage will complement other development standards to ensure appropriate vertical to horizontal proportions of new buildings in the town centre as set out in the Delivery Program.

PART 3 – JUSTIFICATION FOR THE PLANNING PROPOSAL

SECTION A – Need for the Planning Proposal

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

The Planning Proposal is the result of the strategic planning studies and reports that informed the 2012 Strategy and the studies and reports that updated that strategy as part of the adoption of the Delivery Program in 2018.

The studies and reports prepared for this purpose cover a range of matters including traffic and transport, car parking, public domain, and accessibility. Council also commissioned feasibility testing of selected residential sites in the town centre to examine the viability of various development heights and car parking configuration. This feasibility report was subsequently independently reviewed by a development economist. The feasibility analysis and third party review supports the building height planning provisions proposed in the Planning Proposal as outlined in the Delivery Program. A copy of the Feasibility Testing report is included as Appendix 6.

The Planning Proposal is necessary to give effect to the Delivery Program and relevant actions in the Hunter Regional Plan 2036.

The Delivery Program includes 3 Actions which identify necessary changes to PSLEP so as to achieve the objectives of the 2012 Strategy and the Delivery Program:

- Action 1 – Amend PSLEP to include a clause requiring activated street frontages.
- Action 2 – Amend PSLEP to include a clause requiring appropriate vertical to height proportions.
- Action 7 – Amend the PSLEP to include FSR requirements and to amend the existing Height of Buildings map.

The planning proposal will reinforce the destination as a regionally significant centre as identified in the Hunter Regional Plan 2036.

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 the only means to amend the Port Stephens Local Environmental Plan 2013 so as to provide certainty for the local community and landowners and deliver the outcomes of the Delivery Program.

Preparation of the Planning Proposal was endorsed by Council at its Ordinary Meeting on 25th September 2018. An excerpt of the meeting minutes is included as Appendix 7.

SECTION B – Relationship to Strategic Planning Framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

Hunter Regional Plan

The Hunter Regional Plan (HRP) applies to the Port Stephens Local Government Area (LGA) and is an applicable consideration for this planning proposal. The relevant actions of the HRP have been considered in the table below:

Action	Description	Comments
6.3	Enable economic diversity and	Nelson Bay is subject to highly seasonal

Action	Description	Comments
	new tourism options that focus in reducing the seasonal nature of tourism and its effects on local economy.	population variations, with many businesses experiencing large fluctuations in trade depending on the time of year. The planning proposal will provide increased opportunities for a more permanent resident population, and is anticipated to reduce the seasonality of commercial activity in the Town Centre. This will support local businesses and is anticipated to create demand for additional commercial and retail offerings, along with a corresponding increase in employment opportunities.
21.1	Promote development that respects the landscape attributes and the character of the metropolitan area, towns and villages.	The Nelson Bay Public Domain Plan has been prepared to deliver action 12 of the Delivery Program. The Public Domain Plan defines the desired character of public spaces in the Nelson Bay town centre and foreshore, reinforcing and building on the coastal elements found throughout the area. The planning proposal will complement the Public Domain Plan by providing appropriate planning provisions for new development outside of the public realm. The proposal introduces floor space ratio provisions, active street frontage requirements, and minimum building width provisions to respond to the desired built form character identified through public consultation for both the 2012 Strategy and the Delivery Program. The planning proposal responds to the topographical characteristics of the Town Centre (see Appendix 16).
21.4	Create a well-planned, functional and compact settlement pattern that responds to settlement planning principles and does not encroach on sensitive land uses, including land subject to hazards, on drinking water catchments or on areas with high environmental values.	The planning proposal will enable new development within the existing urban footprint, preserving the high environmental value of surrounding land. In conjunction with the Nelson Bay Public Domain Plan, the proposal will allow residents of new developments to experience functional movement through, and use of, the town centre. Residents within the town centre will be located within appropriate distances to commercial and retail premises so as to support a pedestrian environment, as envisaged in the Public Domain Plan.
21.6	Provide greater housing choice by delivering diverse housing, lot types and sizes, including small-lot housing in infill and greenfield locations.	The planning proposal will invigorate new development within the town centre, allowing for new diverse housing options to cater for the needs of the community. Recent development approvals granted within the town centre have shown diversity of dwelling size and configuration. It is anticipated that the proposal will enable similar developments throughout the town centre.

Action	Description	Comments
21.7	Promote new housing opportunities in urban areas to maximise the use of existing infrastructure.	Infill housing will be facilitated by the planning proposal, which will enable new development within the current urban footprint of the Nelson Bay town centre that utilises existing infrastructure. Concurrent delivery of works to address the outcomes of the Nelson Bay Public Domain Plan, Nelson Bay Independent Citizens Parking Panel report and Nelson Bay Traffic and Parking Study, will ensure that infrastructure continues to appropriately provide for the needs of the community.
23.1	Concentrate growth in strategic centres, local centres and urban renewal corridors to support economic and population growth and a mix of uses.	The planning proposal will enable new development within the town centre of Nelson Bay, which is identified under the HRP as a Strategic Centre. This will support economic growth as the demand for commercial and retail services increases.
23.2	Develop precinct plans for centres to take an integrated approach to transport, open space, urban form and liveable neighbourhoods, and investigate the capacity of centres to accommodate additional housing supply and diversity without compromising employment growth.	The Delivery Program and Public Domain Plan represents a precinct planning approach for Nelson Bay consistent with this action. This planning proposal constitutes the statutory process to address the urban form consideration for this action, and is being undertaken concurrently with a range of other Delivery Program actions such as the Nelson Bay Traffic and Parking Study, Nelson Bay Integrated Transport Plan, Independent Citizens Parking Panel, additional DCP controls for design excellence, Nelson Bay Public Domain Plan, review of the Nelson Bay Foreshore Plan of Management, review of facilities to support public events, extension of Yacaaba Street to Victoria Parade, and implementation of the Apex Park Masterplan. The planning proposal will specifically enable the redevelopment of sites within a Strategic Centre identified in the HRP. The planning proposal is supported by the range of actions listed above as part of a precinct planning approach.
LGA Narrative	Maintain Nelson Bay as one of the primary tourist centres for the region and a hub for the Tomaree Peninsula	The planning proposal will support new development in the town centre. Design excellence actions in the Delivery Program will ensure that new development stimulated by the planning proposal will enhance the public domain improvements delivered under the Nelson Bay Public Domain Plan. The parallel delivery of new development and public domain upgrades will revitalise the town centre, making it more attractive to residents, tourists and businesses.

Action	Description	Comments
		Revitalisation of, and expansion of businesses in, the town centre will reinforce Nelson Bay as a tourist centre and a hub for the Tomaree Peninsula.
LGA Narrative	Maintain retail and professional services for the surrounding communities.	The planning proposal is anticipated to facilitate new development that will provide residential opportunities in the town centre. This is anticipated to lead to an increase in economic activity, ultimately facilitating increased retail and commercial offerings. New developments are also expected to facilitate appropriate spaces for existing and new businesses in the town centre, supporting an expansion in retail and food and drink premises to cater for surrounding communities, as well as supporting the existing service based hub in the town centre. These active street frontages facilitated by the planning proposal will have a positive economic impact on the town centre.
LGA Narrative	Investigate opportunities for high-density development that maintains and enhances the tourist, recreational and residential appeal of the centre.	The planning proposal will facilitate new development within the town centre of Nelson Bay that will provide dwellings and tourist accommodation to support the needs of the local community and tourist industry. A range of building heights are proposed so as to maintain the village feel in the centre of the study area, whilst allowing for greater dwelling and tourist accommodation options in proximity to take advantage of new retail and commercial options. Concurrent works under the Nelson Bay Public Domain Plan and the Nelson Bay Integrated Transport Plan will ensure that an enhanced public realm experience will be available to residents and tourists, enhancing the appeal of the town centre.
LGA Narrative	Balance the mix of permanent residential and tourist accommodation to enhance the vibrancy of the centre and surrounds.	New development within the town centre will increase economic activity, drawing a greater variety of commercial and retail businesses, and making the town centre more attractive to the local community and tourists. Both dwellings and tourist and visitor accommodation are permissible in the town centre, with short term rental accommodation provisions in the <i>Port Stephens Local Environmental Plan 2013</i> providing flexibility in balancing the mix of permanent residential and tourist accommodation.

4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Integrated Strategic Plan (Port Stephens 2022)

The planning proposal is consistent with Port Stephens Community Strategic Plan as it will:

- Support sustainable business development in Port Stephens. (P1.1 – Strong Economy, vibrant local business, active investment)
- Support and deliver services that attract sustainable visitation to Port Stephens. (P1.2 – Strong Economy, vibrant local business, active investment)
- Provide land use plans, tools and advice that sustainably support the community. (P3.1 – Thriving and safe place to live)
- Enhance public safety, health and liveability through use of Council's regulatory controls and services. (P3.2 – Thriving and safe place to live)
- Support the amenity and identity of Port Stephens. (P3.3 – Thriving and safe place to live)

Port Stephens Planning Strategy (PSPS)

The PSPS identifies a significant projected increase in demand for housing and commercial/retail floor space in the Nelson Bay Town Centre to 2031. The Planning Proposal is consistent with the directions adopted by the PSPS to address this increased demand:

- A key element for the economic growth and revitalisation of Nelson Bay will be the likely need to intensify residential development in the Town Centre. Providing more diverse housing choice will assist in attracting permanent residents to the area, as well as supporting the Town Centre outside of the peak tourism season.
- There is insufficient capacity under current land use patterns to accommodate future demand resulting in a need for more intensive development of existing land.
- Development of the existing open car parks could provide additional car spaces, retail, commercial and residential usage and may also provide stimulus for rejuvenation elsewhere in the Town Centre.

Nelson Bay Town Centre and Foreshore Strategy 2012 and Progressing the Nelson Bay Town Centre and Foreshore Strategy: A revised delivery and implementation program 2018

The adoption of the Delivery Program on 25 September 2018 provided a clear nexus that prompted the preparation of this Planning Proposal. The relevant Actions contained within the Delivery Program were formed with the express undertaking to realise the objectives of the 2012 Strategy (as updated by the Delivery Program). Accordingly, the Planning Proposal is consistent with the 2012 Strategy.

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

There are no existing or draft State Environmental Planning Policies that prohibit or restrict the proposed development as outlined in this planning proposal. An assessment of relevant State Environmental Planning Policies against the planning proposal is provided in Table 1 below.

Table 1: Relevant State Environmental Planning Policies (SEPPs)	
SEPP	Consistency and Implications
SEPP No 44 Koala Habitat Protection	The Port Stephens Comprehensive Koala Plan of Management (CKPoM) has been prepared in accordance with Part 3 of SEPP 44, and is applicable in the Port Stephens Local Government Area. Schedule 2 of the CKPoM sets out the performance criteria for planning proposals, which have been

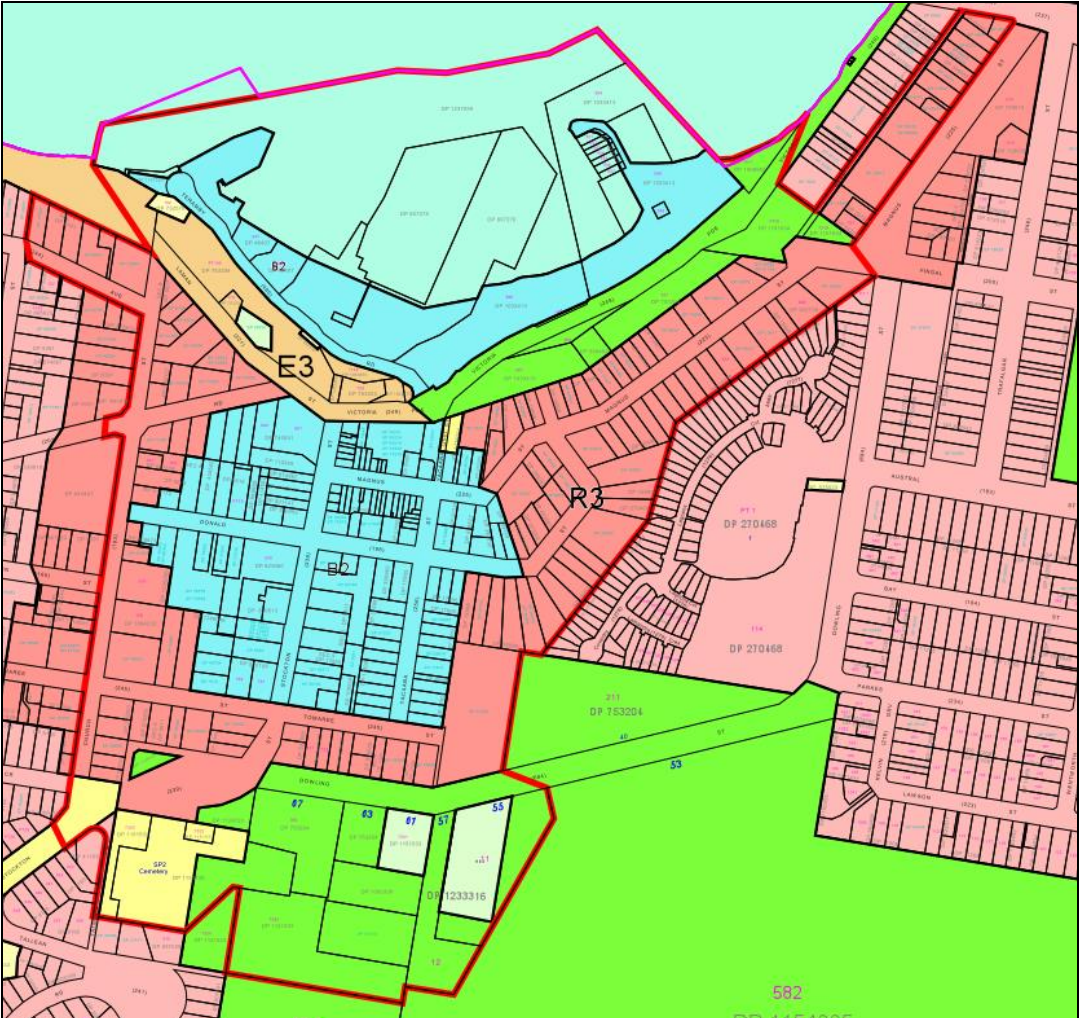
	<p>addressed below.</p> <p><i>a. Not result in development within areas of preferred koala habitat;</i> The proposed amendments to PSLEP do not apply to and will not facilitate development in the portions of the site mapped as containing preferred koala habitat.</p> <p><i>b. Allow only for low impact development within areas of Supplementary Koala Habitat and Habitat Linking Areas;</i> Whilst the proposed new and amended planning provisions do apply to portions of the site mapped as containing Supplementary Koala Habitat, it is noted that the relevant land does not contain any vegetation. Accordingly there are no anticipated impacts on areas of Supplementary Habitat or Habitat Linking Areas.</p> <p><i>c. Minimise the removal of any individual preferred koala food trees, where ever they occur on the site;</i> The Planning Proposal will not enable or facilitate the removal of any vegetation.</p> <p><i>d. Not result in development which would sever koala movement across the site generally and for minimising the likelihood of impediments to safe/unrestricted koala movement.</i> The Planning Proposal does not expand the boundaries of existing developed land and will not result in movement pathways for koalas being severed.</p> <p>The Planning Proposal is consistent with the CKPoM and therefore satisfies the provisions of this SEPP.</p>
<p>SEPP No 65 Design Quality of Residential Flat Development</p>	<p>Residential Flat Buildings are permissible with consent in the majority of the Town Centre and accordingly SEPP65 is a relevant consideration for this Planning Proposal. The Apartment Design Guidelines prepared under SEPP 65 include considerations for setting both height of building controls and floor space ratio controls, which have been addressed below.</p> <p><u>Height of Building Controls</u></p> <p>The proposed height of building provisions have been prepared with consideration to the necessary height allowance required per storey, so as to achieve an effective control on the number of storeys permitted within the different areas of the town centre. The resultant provisions include a variety of applicable maximum heights to take account of local topography and to maximise opportunities for view sharing and solar access. The height of building provisions have also been prepared in conjunction with relevant floor space ratios to maintain solar access, views and appropriate massing as observed from the public realm. The Planning Proposal is consistent with the considerations for setting height controls, contained within the Apartment Design Guidelines.</p> <p><u>Floor Space Ratio Controls</u></p> <p>A range of floor space ratio provisions have been proposed, giving consideration to the predominant existing lot dimensions of different parts of the Town Centre as well as the range of proposed building height provisions. This ensures that resultant buildings throughout the Town Centre will predominantly be capable of achieving the maximum gross floor area whilst not exceeding the building envelope set by existing setback controls</p>

	<p>and proposed height provisions. It is noted that a large portion of the Town Centre permits mixed use buildings. The proposed planning provisions relating to building width and active street frontages will provide appropriate controls to separately regulate the site coverage of commercial and residential portions of future developments. The Planning Proposal is consistent with the considerations for setting floor place ratio controls, contained within the Apartment Design Guidelines.</p> <p><u>Future Developments</u></p> <p>SEPP 65 also contains criteria for consideration for future development proposals; to achieve high quality built form outcomes. Future development applications will be assessed against these considerations on their merits.</p> <p>The planning proposal satisfies the provisions of this SEPP.</p>
SEPP (Coastal Management) 2018	<p>Part of the Town Centre is located within the Coastal Zone and so the provisions of this SEPP are an appropriate consideration for this Planning Proposal.</p> <p>The amendments to the PSLEP contained within the Planning Proposal relate to land in an urban context with an established street and pedestrian network. A variety of building height planning provisions have been proposed which decrease within foreshore areas so as to maintain visual amenity and scenic qualities of the coastal area.</p> <p>The proposed planning controls are also anticipated to revitalise the town centre and attract a greater population to enjoy the foreshore and coastal area, enforcing the aim of the SEPP to increase accessibility to and use of the coastal area.</p> <p>Given that the proposed controls relate to land which already contain improvements, the planning proposal is not likely to result in increased risk of coastal hazards.</p> <p>The planning proposal satisfies the provisions of this SEPP.</p>

6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

An assessment of relevant s.9.1 Ministerial Directions against the planning proposal is provided in Table 2 below.

Table 2: Relevant s9.1 Ministerial Directions	
Ministerial Direction	Consistency and Implications
1. EMPLOYMENT AND RESOURCES	
1.1 Business and Industrial Zones	<p>The Planning Proposal is consistent with the objective of supporting the viability of centres. It seeks to use a number of planning provisions to achieve better development outcomes, support opportunities for increased density and achieve the desired built form in the Town Centre.</p> <p>The planning proposal does not reduce the floor area for employment uses and related public services in business zones, rather it seeks to retain and increase the development potential of the areas and locations of existing</p>

	<p>business and commercial land use.</p> <p>The Planning Proposal is consistent with this direction.</p>
2. ENVIRONMENT AND HERITAGE	
2.1 Environment Protection Zones	<p>The Town Centre includes land zoned E3 Environmental Management and so this direction is a relevant consideration for this Planning Proposal.</p> <p>The land zoned E3 is occupied by Apex Park and the adjacent buildings comprising the Port Stephens Visitor Information Centre as shown in Figure 6 below.</p> <p>The Planning Proposal does not include any amendments to the PSLEP provisions relating to the E3 zoned land, and will not reduce the environmental protection standards that apply to that land.</p> <p>The Planning Proposal is consistent with this direction.</p>  <p>Figure 6 - Zoning Map</p>
2.2 Coastal Management	<p>The Port Stephens Local Environmental Plan includes existing provisions relating to the objects of the Coastal Management Act 2016 and related listed documents. This Planning Proposal will not affect these provisions, which will continue to operate in accordance with the objectives of this direction.</p> <p>Further, the Planning Proposal has been prepared to address actions 1, 2 and 7 of the Delivery Program, which updated the 2012 Strategy. The 2012</p>

Zones	<p>zoned land and land zoned B2 Local Centre where significant residential development is permitted.</p> <p>The planning proposal seeks to use a number of planning provisions to improve the viability of housing developments within the Town Centre, which will broaden the choice of building types and locations available in the housing market. In addition, the proposed provisions relate to the existing urban footprint of the Town Centre where developments can be serviced by existing infrastructure. This will reduce the demand to grow the urban footprint outside the Town Centre. Good design outcomes will be achieved as a consequence of the proposed planning provisions, which provide a framework for appropriate scaling and proportioning of buildings. It is also intended to supplement the provisions the subject of this Planning Proposal, with development controls that encourage appropriate setbacks and massing to ensure appropriate solar access, visual privacy and view sharing are considered when a development application is assessed. The development controls will be developed to deliver action 11 of the Delivery Program. The proposed amendments to the PSLEP do not include changes to land zoning or other provisions which would serve to reduce the permissible residential density of the land.</p> <p>The Planning Proposal is consistent with this direction.</p>
3.3 Home Occupations	<p>PSLEP includes Home Occupations as permissible without consent in both the R3 Medium Density Residential zone and B2 Local Centre zone where dwellings houses are permissible. The Planning Proposal will not amend this provision.</p> <p>The Planning Proposal is consistent with this direction.</p>
3.4 Integrating Land Use and Transport	<p>This direction applies because the Planning Proposal relates to land zoned for urban purposes.</p> <p>The proposed amendments to PSLEP will promote increased development density within the walking catchment of transport nodes (such as buses, taxi ranks and paths/cycleways and the like) in Nelson Bay. In addition, the proposed development controls will facilitate increased pedestrian access to the Town Centre where retail and service outlets are located, resulting in a reduced dependence on cars.</p> <p>In consideration of parking and transport matters in the Town Centre, Council commissioned a traffic and parking study which was completed in May 2013. A copy of the study is included at Appendix 9. The study undertook a review of the existing road and transport network and made recommendations to improve accessibility to the town centre and facilitate more efficient vehicle and pedestrian movement. In 2017 Council commissioned an update to the study to review more recent traffic and parking count data, and test the relevance of the recommendations. A copy of the study update is included as Appendix 10. The study update was identified in action 20 of the Delivery Program to develop solutions that improve wayfinding, traffic movement efficiency and car parking utilisation and turnover.</p> <p>Action 20 of the Delivery Program also requires the preparation of an integrated Transport Plan for Nelson Bay Town Centre that combines data contained within the updated traffic and parking study, the Pedestrian Access and Mobility Plan (included as Appendix 11), the Nelson Bay Public</p>

	<p>Domain Plan and the report of the Nelson Bay Citizens Parking Panel.</p> <p>The Nelson Bay Public Domain Plan has recently been exhibited and Council is currently considering the submissions received. The Public Domain Plan includes a signage and wayfinding strategy and provides specific design concepts which achieve outcomes of the updated traffic and parking study. The Public Domain Plan has been prepared with reference to Transport for NSW's Movement and Place Framework and identifies streets in the town centre where pedestrian movement will be prioritised as well as the streets that will be important corridors for public transport and cars, strengthens connections to parks and open spaces, and supports active movement via walking and cycling in and around the Town Centre. The Public Domain Plan delivers Action 12 of the Delivery Program and has been included as Appendix 12.</p> <p>Action 22 of the Delivery Program required the formation of an independent citizen's car parking panel, which was recently established. The panel prepared a report analysing the car parking needs of both the resident and tourist population, and making recommendations to Council on how car parking access and utilisation could be improved. A copy of the Nelson Bay Citizens Parking Panel Report has been included as Appendix 13.</p> <p>The above reports have been considered in the preparation of this Planning Proposal and support a revitalised and reinvigorated Town Centre.</p> <p>The Planning Proposal is consistent with this direction.</p>
4. HAZARD AND RISK	
4.1 Acid Sulfate Soils	<p>This direction applies as the site has been identified as potentially containing Class 1, 3, 4 and 5 acid sulfate soils, as shown in figure 8 below.</p> <p>PSLEP contains existing provisions to regulate works in acid sulfate soils, which are not proposed to be amended by this Planning Proposal. These provisions were developed in accordance with the Acid Sulfate Soils Guidelines referenced in this direction and satisfy the direction in this regard. In addition, the Planning Proposal does not propose an intensification of land uses on the site.</p> <p>The Planning Proposal is consistent with this direction.</p>

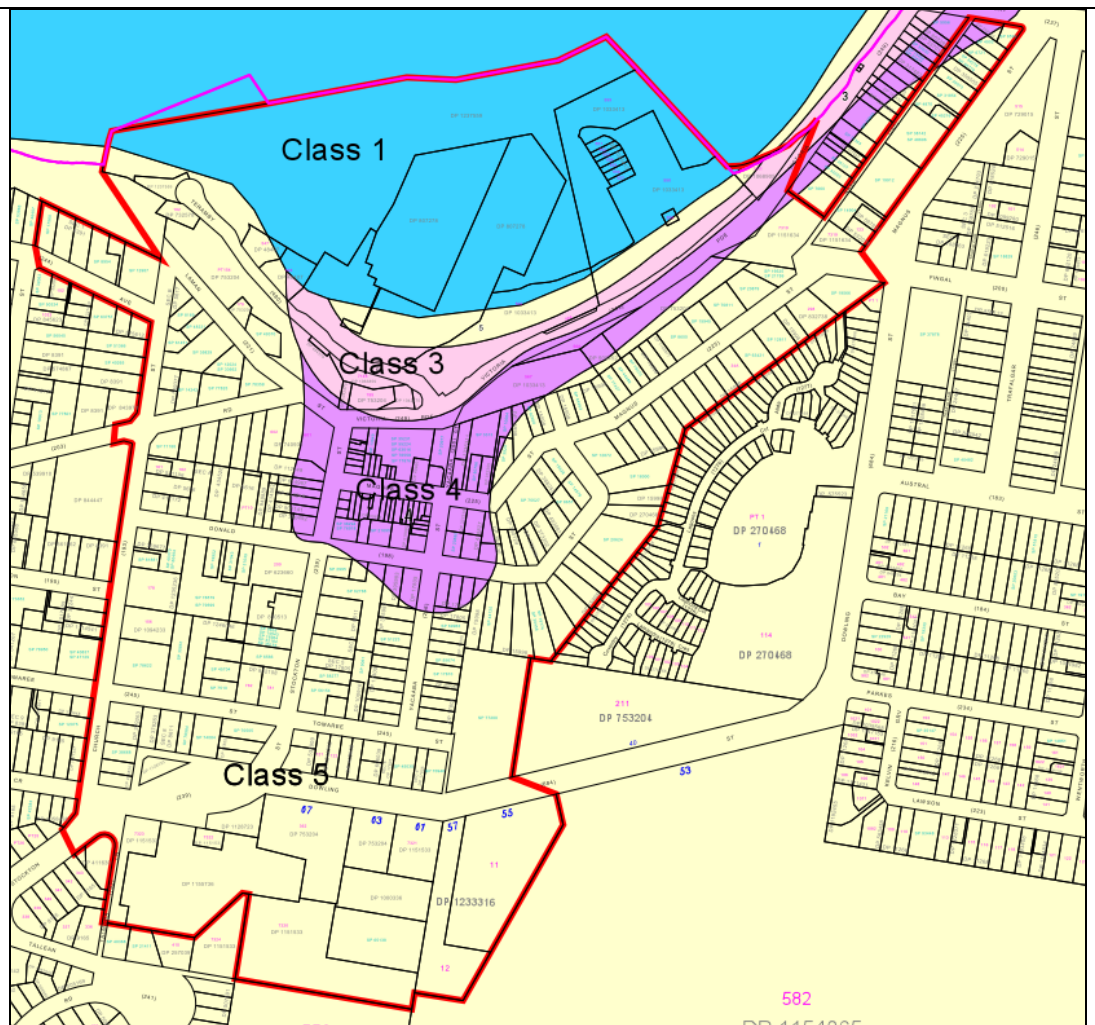


Figure 8 - Acid Sulfate Soils Map

4.3 Flood Prone Land

This direction applies as land located to the north of Teramby Road and Victoria Parade (Nelson Bay harbour and foreshore) is identified as high hazard flood fringe as shown in Figure 9 below.

The Planning Proposal includes an amendment to building heights permitted on a portion of the affected land which will permit an increase in the development of flood prone land. It is noted however that for the majority of affected land, either no building height increase is proposed, or the increase in permissible building height will allow for up to an additional 2.5m. Given that 2.5m of building height is generally not sufficient to contain an additional storey, this amendment is not considered to allow for a significant increase in development of the affected land.

The Planning Proposal will allow for up to 6m of additional building height on the remaining flood affected land. This increase is capable of containing two additional storeys compared to the current building height control. However the impacts of any flood experienced in the locality will be minimal given the small footprint of the land benefitting from this increase in building height. The increased development potential of this land is not a significant consideration with regard to flooding.

PSLEP contains existing provisions that give effect to and are consistent with the NSW Flood Prone Land Policy, which are not proposed to be amended.

The Planning Proposal is consistent with this direction.

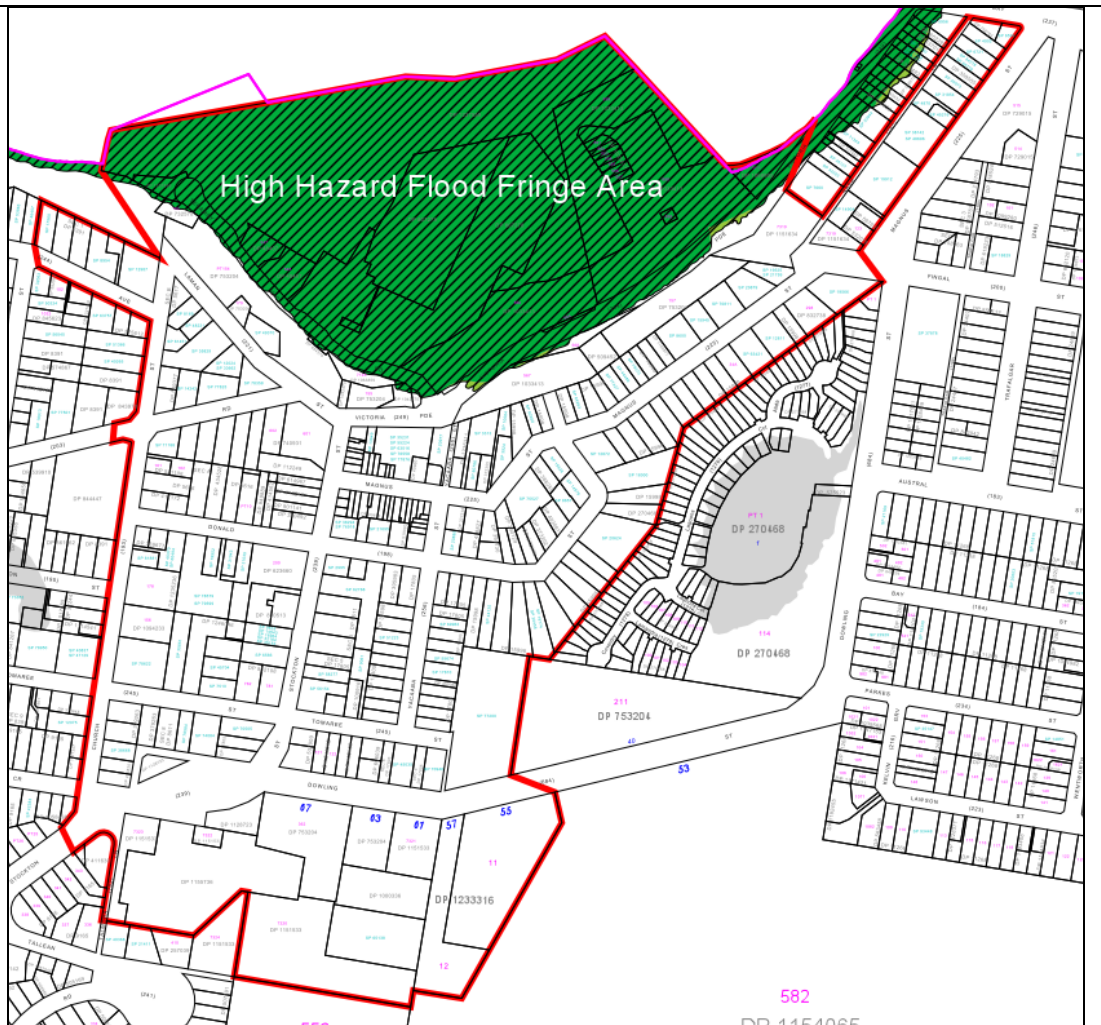


Figure 9 - Flood Prone Land Map

4.4 Planning for Bushfire Protection

This direction applies as a portion of the subject land is identified as being bushfire prone land as shown in Figure 10 below.

The Planning Proposal relates to the existing urban footprint which contains features to reduce the impact of bushfire on developed land, such as access roads, a suitable water supply and asset protection zones.

Consultation with the Rural Fire Service will be required to ensure compliance with relevant bushfire planning provisions and to satisfy the requirements of this Direction. Consultation will be sought following a Gateway Determination.

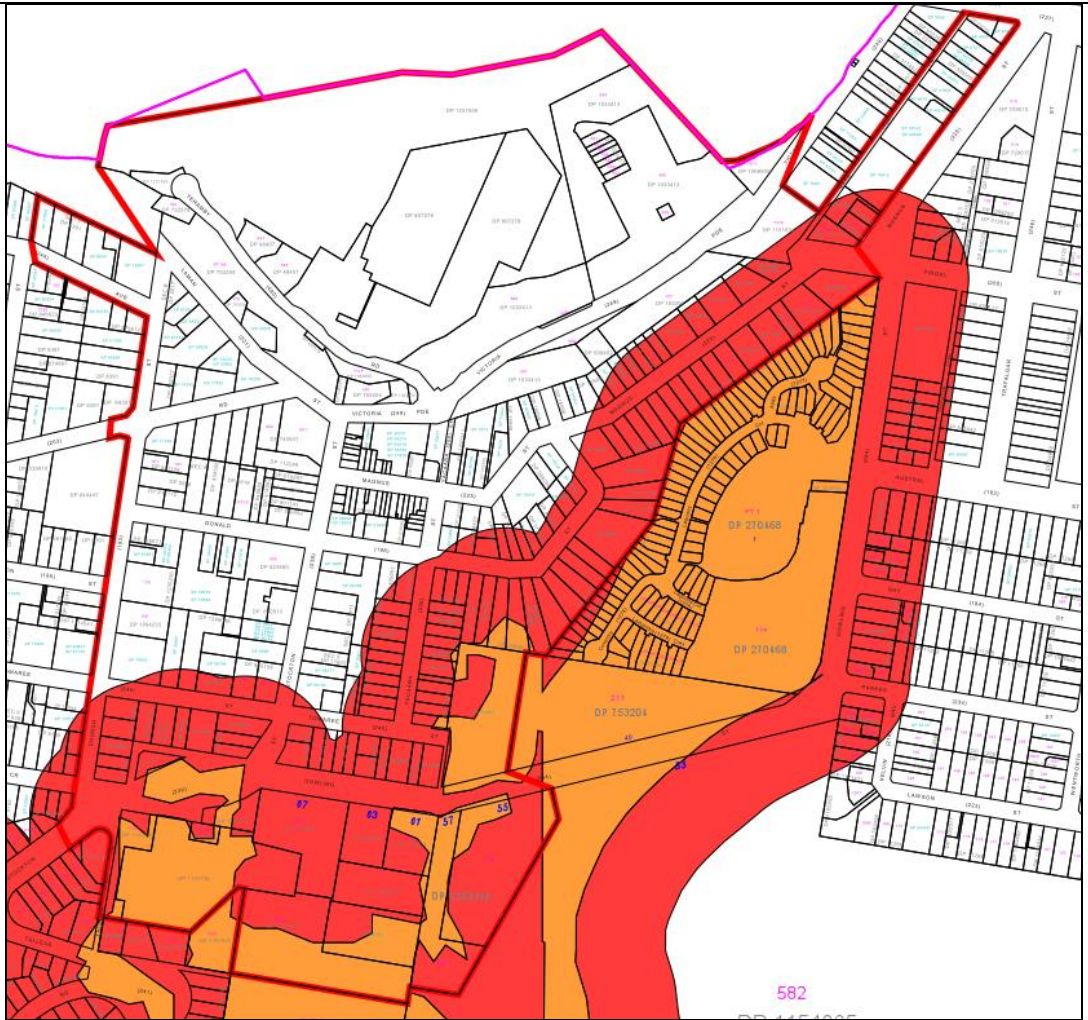


Figure 10 - Bushfire Prone Land Map

5. REGIONAL PLANNING

5.10 Implementation of Regional Plans

This direction applies as the site is located within the boundaries of the Hunter Regional Plan (HRP). As detailed under Section B(3) above, the planning proposal is consistent with the HRP as it will:

- Enable economic diversity and new tourism options that focus in reducing the seasonal nature of tourism and its effects on local economy.
- Create a well-planned, functional and compact settlement pattern that responds to settlement planning principles and does not encroach on sensitive land uses, including land subject to hazards, on drinking water catchments or on areas with high environmental values.
- Provide greater housing choice by delivering diverse housing, lot types and sizes, including small-lot housing in infill and greenfield locations.
- Promote new housing opportunities in urban areas to maximise the use of existing infrastructure.
- Concentrate growth in strategic centres, local centres and urban renewal corridors to support economic and population growth and a mix of uses.

The Planning Proposal is consistent with this direction.

Direction 6.1 Local Plan Making	<p>The Planning Proposal does not propose to include any new provisions requiring concurrence, consultation or referral of development applications to a Minister or public authority, and does not identify any development as designated development.</p> <p>The Planning Proposal is consistent with this direction.</p>
Direction 6.2 Reserving Land for Public Purposes	<p>The Planning Proposal does not include any provisions to create, alter or reduce existing zonings or reservations of land for a public purpose.</p> <p>The Planning Proposal is consistent with this direction.</p>

SECTION C – Environmental, Social and Economic Impact

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

The proposed new and amended provisions in PSLEP relate to land within the existing developed urban footprint, which contains only minor areas of high environmental value – see Figure 11 below.



Figure 11 - High Environmental Value Map

The proposed provisions will not increase the likelihood of development in areas that contain critical habitat or threatened species, populations or their habitats. Future proposed developments

will continue to be assessed for ecological impact in accordance with the existing controls contained within PSLEP and the *Biodiversity Conservation Act 2016*.

The Planning Proposal is unlikely to adversely affect any critical habitat, threatened species, populations or their habitats.

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

The proposed provisions will allow developments that would alter the local built environment. The package of proposed provisions will ensure that these changes result in appropriate future development in the town centre, with adequate building separation, proportions and massing. Further, proposed development controls will supplement the PSLEP provisions to improve aesthetics and building quality as viewed from the public realm. Further to this the Delivery Program includes Actions to establish an Independent Urban Design Panel (Action 3), provide Urban Design Training for Council staff (Action 4), and introduces a Clause 4.6 policy for assessment of exceptions to Development Standards (Action 8). Actions 4 and 8 have already been delivered, whilst Action 3 is currently being enacted. In conjunction with this Planning Proposal, these actions establish a design excellence framework for future development in the Town Centre. The Planning Proposal is considered to provide a positive environmental impact in this regard.

Given that the Planning Proposal relates to land within the existing urban footprint, there are no additional anticipated effects to the nature environment.

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

The amendments seek to provide a balance between views, solar access, maintaining prevailing winds and managing the scale of development, without restricting appropriate new development that meets feasibility requirements of the development industry. The introduction of Floor Space Ratio, Active Street Frontages, and minimum vertical to horizontal building width provisions will provide for good design and achieve the desired built form in Nelson Bay. A high quality Town Centre environment will improve the liveability of Nelson Bay and provide for the retail and service based needs of the community. Revitalisation of the Town Centre will also improve the attractiveness of Nelson Bay as a tourism destination into the future.

The Planning Proposal will increase the viability of new development within the Town Centre, providing housing opportunities and reducing the population seasonality that currently results from influxes of tourists to the area. New commercial opportunities will contribute to the creation of employment and job opportunities that improve the local economy, whilst additional housing options will increase accessibility to public transport and improve walkability within the Town Centre. The planning proposal will have positive social and economic effects by activating the Town Centre, increasing employment opportunities and increasing the consistency of consumer activity.

The amendments to PSLEP are also supported by a number of other actions under the Delivery Program, which will improve traffic and movement efficiency, improve parking utilisation, provide for public domain upgrades, and improve the quality of buildings and developments within the Town Centre. This coordinated approach to improvement in Nelson Bay will ensure positive social and economic impacts.

SECTION D – State and Commonwealth Interests

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

The Planning Proposal relates to land within the existing urban footprint which is currently serviced by reticulated water, sewer, electricity, telecommunications and public roads. Future developments

may require upgrading of the respective distribution networks, which can be determined at the time of development assessment.

Early consultation with relevant service providers has determined that a precinct wide review of existing service provisions would allow for a systematic approach to any required upgrades, reducing ad-hoc solutions that only serve individual developments. Further consultation with service providers following issue of a Gateway determination will facilitate this process.

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

Consultation with relevant government agencies has been undertaken as part of the preparation of the Delivery Program and more recently in the preparation of the Nelson Bay Public Domain Plan. The Planning Proposal has been prepared with reference to preliminary comments received from the NSW Department of Planning and Environment, Crown Lands and NSW Police.

Further consultation with relevant State and Commonwealth Agencies will be undertaken following a Gateway Determination.

PART 4 - MAPPING

The Planning Proposal will result in the following amendments to the maps included in PSLEP:

- Amend Height of Buildings Map HOB_005D and replace with the Height of Buildings Map included in Appendix 4;
- Amend Additional Permitted Uses Map, Precinct Areas Map, Waste or Resource Facility Map CL1_005 and replace with the Additional Permitted Uses Map, Precinct Areas Map, Waste or Resource Facility Map included in Appendix 4;
- Introduce the Floor Space Ratio Map FSR_005D included in Appendix 4; and
- Introduce the Active Street Frontages Map ASF_005D included in Appendix 4.

In addition to the above maps, the Planning Proposal is also supported by a Site Identification Map which has been included as Appendix 2. Copies of the existing PSLEP Maps to be replaced have also been included as Appendix 5.

PART 5 - COMMUNITY CONSULTATION

Consultation has been undertaken during preparation of the 2012 Strategy and more recently when developing the Delivery Program. The submissions received as a result of this process were incorporated into the outcomes and actions of the Delivery Program, including Actions 1, 2 and 7 which initiated this Planning Proposal.

Community and external stakeholder consultation has been ongoing since the preparation and exhibition of the initial Discussion Paper: Progress of the Nelson Bay Town Centre and Foreshore Strategy in the first half of 2017. This included community consultation initiatives such as:

- Surveys on Engagement HQ (an online consultation tool on Council's website);
- Letter drops to local businesses, special interest groups and other stakeholders; and
- Key stakeholder meetings, including with Tomaree Ratepayers and Residents Association (TRRA), Tomaree Business Chamber, local real estate agents, Destination Port Stephens, the Aboriginal Strategic Committee, the Nelson Bay Pop-Up Shop (Smart Art Program), the NSW Department of Planning and Environment and NSW Crown Lands.

A total of 82 individual and 67 survey submissions were made on the Discussion Paper that were considered in the preparation of the Delivery Program. This was previously reported to Council on 12 December 2017.

The draft Delivery Program was exhibited from 21 February 2018 to 4 April 2018.

A number of supporting documents were also exhibited with these documents, including an updated traffic and transport study, a report on the feasibility testing of residential development sites in Nelson Bay Town Centre, and an independent third party peer review of the feasibility testing.

The information was made publicly available on Council's website and Engagement HQ, notification letters were sent to businesses, key stakeholders and special interest groups, and public notices were published in the local newspaper. Social media promotions (Port Stephens Council website, Twitter, Facebook, LinkedIn) were conducted, and articles and interviews with the Mayor were published in the local newspaper.

More than 50 people attended a launch of the 'Nelson Bay Next' brand and over 30 people attended two 'Drop-In Sessions' held in Apex Park, Nelson Bay. Both events took place within the public exhibition period and the community could speak directly to Council Officers at the Drop-In Sessions. Councillors and Council Officers also spoke and answered questions at a TRRA meeting at the Nelson Bay Bowling Club within this period.

Following a review of the submissions received, the Delivery Program was reported to Council on 25 September 2018. A Community and Stakeholder Consultation Report was also submitted to Council, summarising the submissions received and staff responses to the matters raised. A copy of the Community and Stakeholder Consultation Report has been included as Appendix 14.

Additional community consultation will be undertaken following issue of a gateway determination.

PART 6 – PROJECT TIMELINE

The Planning Proposal is expected to be reported to Council following the completion of the public exhibition period.

The following timetable is proposed, subject to the requirements of the Gateway Determination:

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
<i>Gateway Determination</i>								
<i>Agency Consultation</i>								
<i>Public Exhibition</i>								
<i>Review of Submissions</i>								
<i>Council Report</i>								
<i>Parliamentary Counsel</i>								

**Appendix 1 – Progressing the Nelson Bay Town Centre and Foreshore Strategy:
A revised implementation and Delivery Program 2018**

Appendix 2 – Site Identification Map

Appendix 3 – Nelson Bay Town Centre and Foreshore Strategy 2012

Appendix 4 – Proposed PSLEP Maps

Appendix 5 – Existing PSLEP Maps

Appendix 6 – Nelson Bay Town Centre: Feasibility Testing of Residential Development Sites

Appendix 7 – Council Meeting Minutes Excerpt

Appendix 8 – Apex Park Masterplan

Appendix 9 – Nelson Bay Traffic and Parking Study 2013

Appendix 10 – Nelson Bay Traffic and Parking Study Update 2017

Appendix 11 – Pedestrian Access and Mobility Plan

Appendix 12 – Nelson Bay Public Domain Plan

Appendix 13 – Nelson Bay Citizens Parking Panel Report

Appendix 14 – Community and Stakeholder Consultation Report

**Appendix 15 – Frequently Asked Questions (FAQs) to Progressing the Nelson
Bay Town Centre and Foreshore Strategy: A Revised Implementation and
Delivery Program**

Appendix 16 – Cross Sections
