



Rural Economic Development Planning Proposal

**Proposed amendment to Port Stephens Local
Environmental Plan 2013**



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ATTACHMENTS

ATTACHMENT 1 – Notice of Motion
ATTACHMENT 2 – Place Score Summary

VERSION CONTROL

Version	Date	Details
1	June 2021	Planning proposal (PP) as submitted for gateway determination
2	March 2022	<p>PP revised by Council to address matters raised in the DPE Gateway determination and by State agencies. The main changes include:</p> <ul style="list-style-type: none">• Updated the proposed additional objective• Clarified the proposed increased footprint will only apply to the RU1 Primary production and RU2 Rural Landscape zones• Removed reference to section 9.1 Ministerial direction 3.3 Home Occupations• Additional analysis provided to respond to 9.1 Ministerial directions• Farm stay accommodation proposed to increase from 6 to 12 bedrooms instead of 6 to 20• Removed 'Garden centres' and 'Information and educational facilities' from the proposed additional land uses to be permitted in the RU1 zone• Miscellaneous provision 5.5 proposed to be incorporated to restrict the total floor area of secondary dwellings in rural zones to 100sqm or 40% of the total floor area of the principal dwelling• Updated to include responses to State agency comments• Revised timeframe

FILE NUMBERS

Council: 58-2021-3-1

Department: PP-2021-4405

SUMMARY

Subject land: Land zoned RU1 Primary Production and RU2 Rural Landscape in the *Port Stephens Local Environmental Plan 2013* (LEP).

Proponent: Port Stephens Council

Proposed changes: The planning proposal seeks to amend the permitted uses within the RU1 Primary Production and RU2 Rural Landscape land use zones and make amendments to the additional local provisions under the LEP.

Specific amendments to the LEP are proposed as follows:

- Amendment to the RU1 Primary Production (RU1) Zone and the RU2 Rural Landscape (RU2) Zone Objectives to incorporate:
 - *To facilitate a variety of tourist and visitor land uses that complement and promote a stronger rural sector appropriate for the area.*
- Amendments to clause 5.4(2) and 5.4(3) to facilitate home business and home industries in the RU1 and RU2 zones by increasing the maximum floor areas for these uses in these zones from 50 to 200 square metres.
- Include General Industry and Heavy Industry as prohibited land uses in the RU1 and RU2 zones.
- Amendment to clause 5.4(5) to increase the maximum number of bedrooms that can be provided as farm stay accommodation in rural areas from 6 to 12.
- Amendments to permit artisan food and drink industries, charter and tourism boating facilities, secondary dwellings, recreation facilities (outdoor), rural supplies and research stations with consent on land zoned RU1 Primary Production.
- Amendments to permit artisan food and drink industries, charter and tourism boating facilities, function centres, garden centres, high technology industries, mortuaries, research stations, restaurants and cafes, secondary dwellings, recreation facility (indoor), recreation facility (major) and rural supplies with consent on land zoned RU2 Rural Landscape.
- Amendment to restrict the total floor area of secondary dwellings in rural zones to 100sqm or 40% of the total floor area of the principal dwelling.

Purpose: The planning proposal seeks to amend the LEP to give effect to priorities to make business growth easier, support tourism development and attract events in Port Stephens.

The planning proposal is responding to the Port Stephens Local Strategic Planning Statement (LSPS), adopted in July 2020. The planning proposal will give effect to actions 3.2, 3.3 and 9.2 in the LSPS, to facilitate land uses that can support the tourist and visitor economy, including enabling farm gate sales, and to review local plans to encourage niche commercial, tourist and recreation activities that complement and promote agricultural industries.

The planning proposal also gives effect to a Notice of Motion dated 14 July 2015 (**ATTACHMENT 1**).

BACKGROUND

In recent years, farmers and farming communities have faced a number of challenges including prolonged drought, land fragmentation and declining terms of trade. Farming communities have had to deal with the unprecedented bushfires of Summer 2019-20 and the economic impacts from COVID-19, including travel and trade restrictions, cancellation of regional events and temporary closure of local businesses.

The Department of Planning and Environment (DPE) has recently proposed changes to simplify the planning process and approval pathways for small business activities and

low-impact agricultural development on NSW farms. The changes seek to respond to natural disasters such as droughts and bushfires, as well as the impacts of COVID-19, by supporting the recovery of regional communities and encouraging industries that are supplementary to, or based on, agriculture, such as agritourism.

Agritourism is a tourism-related experience or product that connects agricultural products, people or places with visitors on a farm or rural land for enjoyment, education, or to participate in activities and events. Agritourism activities include direct shopfront outlets with produce tasting, regional markets, farm and winery tours, cooking classes, food and wine festivals, farm stays, restaurants sourcing local produce, self-picking experiences and farm-gate sales, as well as farm stay, camping and other on-farm accommodation, farm tours and activities, and events based on farms, such as weddings.

Agritourism is a growing sector of both the Australian and NSW economies, worth more than \$2 billion in NSW on 2014-15 and is expected to be worth \$18.6 billion in Australia in 2030, up from \$10.8 billion in 2018. Since identifying it as a key sector for the state economy, Tasmania has grown agritourism into a sector worth \$1.1 billion annually. With more than 12 times the land area and 14 times the population, agritourism presents a multi-billion dollar opportunity for the NSW economy.

The amendments proposed to the NSW planning system are informed by the NSW Government's Making Business Easier Program and state-wide agritourism project, led by the NSW Small Business Commission and Service NSW. The proposed amendments aim to make it easier for farmers to establish new complementary businesses on their land, through:

- Supporting more farm stays by:
 - Amending the existing definition of 'farm stay accommodation' in the Standard Instrument LEP Order; and
 - Introducing an optional clause that councils can choose to adopt in their local plans to manage any impacts;
- Enabling events on farms by introducing a new definition for 'farm events';
- Facilitating farm gate businesses by introducing:
 - A new definition for 'farm gate activities', and
 - An optional clause that councils can choose to adopt in their local plans;
- Introducing fast-track approval pathways (exempt and complying development) for agritourism, provided certain development standards are met;
- Allowing other low impact agricultural activities as exempt or complying development, such as small processing plants where certain development standards are met; and
- Making minor changes to existing planning controls to make them more effective, such as increasing the separation required for rural dwellings from intensive livestock agriculture, if carried out as complying development.

Amendments are proposed to the Standard Instrument (Local Environmental Plans) Order 2006 (Standard Instrument LEP Order), State Environmental Planning Policy (Primary Production and Rural Development) 2019 (PPRD SEPP) and State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

(Codes SEPP). Fast track approval pathways, known as exempt and complying development, will also be established for these types of agritourism.

While the above amendments represent a positive change, Council considers that they do not extend far enough in supporting rural landholders to generate an income. The proposed amendments by the State only apply to land which is currently being utilised for agricultural purposes, or land which is normally used for agricultural purposes but that is currently not producing due to drought. However, within Port Stephens there are many landowners with land zoned for agriculture, who do not currently, and have not for a number of years, used the land for agricultural purposes.

The planning proposal seeks to address this issue and support agritourism and other economically viable land uses compatible with agricultural land use zones to stimulate economic development and facilitate home businesses and home industries in rural areas.

The planning proposal will leverage the increase in domestic tourism to Port Stephens as a result of the COVID-19 pandemic by enabling agritourism and other activities in rural areas to diversify our tourism market. The planning proposal creates opportunities for local rural businesses to reach a tourist and visitor market that has previously been confined to the coastal parts of the local government area or to surrounding local government areas that already have established rural tourism markets, such as Maitland and Cessnock.

The planning proposal also includes items that will increase the viability of rural land for economic development more generally. This includes opportunities for landholders to open home businesses, which have become increasingly popular since the COVID-19 pandemic. These economic opportunities will reduce the demand for further fragmentation of rural land for residential subdivision and will facilitate greater opportunities for rural landholders located around Nelson Bay Road, where the economic viability of some properties has been adversely affected by per- and polyfluoroalkyl Substances (PFAS) contamination.

The implementation of this planning proposal will be supported by a Place Plan to facilitate agritourism and economic development in the west of Port Stephens. Place planning recognises the knowledge and strengths of local communities, aims to build community capacity and bring together Port Stephens Council, business and residents in planning and delivering desired outcomes.

The Place Plan will communicate the State reforms for agritourism and the changes facilitated by this planning proposal to help residents and landholders understand the opportunities for economic development now available in our rural areas.

The Place Plan and this planning proposal responds to the outcomes of a recent place census where communities in rural areas of Port Stephens told us they wanted more support for economic development and tourism opportunities, small business, activated riverfronts, destinations and things to do, such as a heritage trail and farmers markets, farm gate trails, and community events (**ATTACHMENT 2 - Place Score Summary**).

The Place Plan will include actions for economic development and events that empower the community and local businesses to make spaces more inviting and create opportunities for businesses, residents, and visitors to participate in events that bring people together.

PART 1 – Objectives or intended outcomes

The objectives of this planning proposal are to:

- Support agritourism and other economically viable land uses compatible with agricultural land use zones;
- To stimulate economic development in rural areas; and
- Facilitate home businesses and home industries in rural areas.

The proposed changes will increase opportunities for landowners to maximise the economic potential of their rural land, without restricting agricultural uses. The changes will also support a diversified tourism economy in Port Stephens.

PART 2 – Explanation of provisions

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

1. Amend RU1 Primary Production Zone Objectives

Existing Zone Objectives	Proposed Zone Objectives
<p>RU1 Primary Production</p> <ul style="list-style-type: none"> • <i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i> • <i>To encourage diversity in primary industry enterprises and systems appropriate for the area.</i> • <i>To minimise the fragmentation and alienation of resource lands.</i> • <i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i> 	<p>RU1 Primary Production</p> <ul style="list-style-type: none"> • <i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i> • <i>To encourage diversity in primary industry enterprises and systems appropriate for the area.</i> • <i>To minimise the fragmentation and alienation of resource lands.</i> • <i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i> • <i>To facilitate a variety of tourist and visitor land uses that complement and promote a stronger rural sector appropriate for the area.</i>

2. Amend RU2 Rural Landscape Zone Objectives

Existing Zone Objectives	Proposed Zone Objectives
RU2 Rural Landscape <ul style="list-style-type: none"> <i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i> <i>To maintain the rural landscape character of the land.</i> <i>To provide for a range of compatible land uses, including extensive agriculture.</i> 	RU2 Rural Landscape <ul style="list-style-type: none"> <i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i> <i>To maintain the rural landscape character of the land.</i> <i>To provide for a range of compatible land uses, including extensive agriculture.</i> <i>To facilitate a variety of tourist and visitor land uses that complement and promote a stronger rural sector appropriate for the area.</i>

3. Amend permitted with consent and prohibited land uses in the RU1 Primary Production Land Use Table

Existing Land Use Table	Proposed Land Use Table
<u>Permitted with consent</u> <i>Agriculture; Airstrips; Animal boarding or training establishments; Aquaculture; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Cellar door premises; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Group homes; Helipads; Home-based child care; Home businesses; Home industries; Intensive livestock agriculture; Jetties; Landscaping material supplies; Open cut mining; Plant nurseries; Recreation areas; Roads; Roadside stalls; Rural industries; Tourist and visitor accommodation; Turf farming; Water recreation structures; Water supply systems</i>	<u>Permitted with consent</u> <i>Agriculture; Airstrips; Animal boarding or training establishments; Aquaculture; Artisan food and drink industries; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Cellar door premises; Charter and tourism boating facilities; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Group homes; Helipads; Home-based child care; Home businesses; Home industries; Intensive livestock agriculture; Jetties; Landscaping material supplies; Open cut mining; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Research stations; Roads; Roadside stalls; Rural industries; Rural supplies; Secondary dwellings; Tourist and visitor accommodation; Turf farming; Water recreation structures; Water supply systems</i>

<u>Prohibited</u> <i>Backpackers' accommodation; Hotel or motel accommodation; Serviced apartments; Any other development not specified in item 2 or 3</i>	<u>Prohibited</u> <i>Backpackers' accommodation; General Industry; Heavy Industry; Hotel or motel accommodation; Serviced apartments; Any other development not specified in item 2 or 3</i>
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4. Amend permitted with consent and prohibited land uses in the RU2 Rural Landscape Land Use Table

Existing Land Use Table	Proposed Land Use Table
<u>Permitted with consent</u> <i>Agriculture; Airstrips; Animal boarding or training establishments; Aquaculture; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Cellar door premises; Cemeteries; Community facilities; Correctional centres; Crematoria; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Group homes; Helipads; Home-based child care; Home businesses; Home industries; Information and education facilities; Jetties; Landscaping material supplies; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Tourist and visitor accommodation; Turf farming; Veterinary hospitals; Water recreation structures; Water supply systems</i>	<u>Permitted with consent</u> <i>Agriculture; Airstrips; Animal boarding or training establishments; Aquaculture; Artisan food and drink industries; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Cellar door premises; Cemeteries; Community facilities; Charter and tourism boating facilities; Correctional centres; Crematoria; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Function centres; Garden centres; Group homes; Helipads; High technology industries; Home-based child care; Home businesses; Home industries; Information and education facilities; Jetties; Landscaping material supplies; Mortuaries; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Restaurants and cafes; Roads; Roadside stalls; Rural industries; Rural supplies; Secondary dwellings; Tourist and visitor accommodation; Turf farming; Veterinary hospitals; Water recreation structures; Water supply systems</i>
<u>Prohibited</u> <i>Backpackers' accommodation; Hotel or motel accommodation; Serviced</i>	<u>Prohibited</u> <i>Backpackers' accommodation; General Industry; Heavy Industry; Hotel or motel accommodation; Serviced apartments;</i>

<i>apartments; Any other development not specified in item 2 or 3</i>	<i>Any other development not specified in item 2 or 3</i>
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‘General Industry’ and ‘Heavy Industry’ land uses are proposed to be included as prohibited land uses in the RU1 and RU2 zones in order to provide clarity. In certain circumstances previous interpretations of the LEP have led to certain industrial land uses to be carried out in locations where this type of development was considered to be prohibited.

The proper approach to characterising development is to determine whether the development fits a defined purpose specified in the land use table. If it does, it does not matter that the development may fit other land uses defined in the relevant instrument (i.e., LEP Dictionary) that may be prohibited as innominate or unspecified purposes in the zone.

As a result, certain industrial uses need to be expressly prohibited in the land use tables for the RU1 and RU2 zones.

- Amend the LEP to allow Home Businesses to have a larger floor area in the RU1 Primary Production and RU2 Rural Landscape zones

Existing clause	Proposed additional clause
<p>Clause 5.4(2) Home Businesses</p> <p><i>If development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than 50 square metres of floor area.</i></p> <p>Note: No change to the existing clause is proposed</p>	<p>Home Businesses in the RU1 Primary Production and RU2 Rural Landscape zones</p> <p><i>If development for the purposes of a home business is permitted under this Plan in the RU1 Primary Production or RU2 Rural Landscape zones, the carrying on of the business must not involve the use of more than 200 square metres of floor area.</i></p>

- Amend the LEP to allow Home Industries to have a larger floor area in the RU1 Primary Production and RU2 Rural Landscape zones

Existing clause	Proposed additional clause
<p>Clause 5.4(3) Home industries</p> <p><i>If development for the purposes of a home industry is permitted under this Plan, the carrying on of the home industry must not involve the use of more than 50 square metres of floor area.</i></p> <p>Note: No change to the existing clause is proposed</p>	<p>Home Industries in the RU1 Primary Production and RU2 Rural Landscape zones</p> <p><i>If development for the purposes of a home industry is permitted under this Plan in the RU1 Primary Production or RU2 Rural Landscape zones, the carrying on of the home industry must not involve the use of more than 200 square metres of floor area.</i></p>

7. Amend Clause 5.4(5) to increase the maximum number of bedrooms for Farm Stay Accommodation

Existing clause	Proposed clause
Clause 5.4(5) Farm stay accommodation <i>If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 6 bedrooms.</i>	Clause 5.4(5) Farm stay accommodation <i>If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 12 bedrooms.</i>

PART 3 – Justification

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

The planning proposal has been prepared in response to State Government reforms, a Port Stephens Visitor Survey, the impacts of bushfires, drought and COVID-19, and the desire to increase tourism within rural areas, away from the coast.

State Government reforms

The planning proposal has resulted from the following State Government studies:

- NSW Government Explanation of Intended Effect - Agritourism and small-scale agricultural development
- Small Business Commissioner's work on agritourism

These documents propose amendments to the NSW planning system to better enable agritourism and small-scale agricultural development to be approved. The proposed amendments to the Standard Instrument LEP Order, PPRD SEPP and the Codes SEPP are intended to support the recovery and resilience of regional communities and farming by growing emerging industries that are supplementary to or based on, agriculture.

Farmers are increasingly seeking options to diversify their income stream or value-add to their core agricultural business to make it more resilient and profitable. Agritourism would allow farmers to diversify their income from farming businesses while maintaining primary production on the land as the principal use.

The planning proposal has been informed by the NSW Government's Making Business Easier Program and wide agritourism project, led by the NSW Small Business Commission and Service NSW.

NSW Visitor Economy Strategy 2030

In response to the COVID-19 pandemic the NSW Visitor Economy Strategy 2030 was developed by NSW Government to replace the 2030 Visitor Economy Action Plan. The strategy has five core strategic pillars:

- Road to recovery
- Build the brand
- Showcase our strengths
- Invest in world class events
- Facilitate growth

Growing the visitor economy of regional NSW is a key to priority of the strategy. The COVID-19 pandemic has created a positive legacy for the visitor economies for regional NSW by encouraging Sydneysiders and NSW residents to travel domestically. The Strategy states that NSW's strengths today include world class food and drink, including winery, brewery and distiller experiences, agritourism and world class dining in spectacular settings. The aim is for NSW to focus on its existing strengths, therefore Council aims to promote and encourage agritourism land uses.

The planning proposal aims to provide landowners with the opportunity to diversify their income streams in rural areas. An increase in agritourism land uses will increase domestic tourism to regional areas in Port Stephens, which will assist in achieving the regional overnight visitor targets identified in the Strategy.

Port Stephens Visitor Survey 2021

In March, April and May 2021 Council conducted a monthly visitor survey with visitors who had stayed in the Port Stephens area the previous month, in order to establish what people enjoyed about their visit and things which could be done better. In terms of the highlights experienced by visitors, the majority related to tourist attractions and the coastline, and included activities such as the ferry to Tea Gardens, accommodation, eating out, camel rides, quad biking, tobogganing and sand boarding, dolphin and whale watching tours, the beaches and Oakvale Wildlife Park.

The responses to survey questions indicate that 'tours and attractions', 'parks and beaches' and 'food and dining' met and exceeded expectations of visitors. When asked about things which could be improved on, evening entertainment was mentioned.

Port Stephens accommodates a wide variety of beaches and tourist attractions which make it an appealing holiday destination for people from Sydney and further afield. However, while existing tourist attractions will keep pulling in visitors, there is potential to extend this tourist offering further inland, away from the coastline, through the promotion of agritourism.

At present, the majority of attractions are based around the water, the beaches or the Hunter Valley wine region. The planning proposal aims to increase the tourism potential of rural areas in Port Stephens.

Rural Lands Strategy 2011

The Strategy relates to the rural lands within Port Stephens. At the time of the Strategy, the rural lands had a population of 12,713 people, representing 21.5% of the population.

The Strategy was prepared as an outcome from the Port Stephens Rural Lands Study, which provided all the details of the rural environment. The Strategy makes recommendations for the strategic direction of the rural lands of the Port Stephens LGA and how they are to be managed over the next 10-20 years.

The Strategy states that the growth management philosophy for the rural land are to:

- Limit expansion to the towns which have the capacity for growth;
- Encourage a wide range of agricultural and other complementary rural uses such as tourism having regard to environmental impact;
- Ensure that communities have an adequate level of facilities and services to ensure a good quality of life for all residents; and
- Embody the concepts of:
 - Ecologically sustainable development; and
 - Catchment management, including the actions in the Hunter and Central Rivers Catchment Action Plan.

The planning proposal gives effect to the following specific actions from the Strategy:

- Ensure that there is adequate provision for tourist facilities;
- Focus economic development on the key sectors of Tourism and Agriculture;
- Facilitate a wider tourism focus for the rural lands;
- Promote and support the rural culture of the LGA; and
- Support cultural and tourist activities which promote rural heritage e.g. local shows, agricultural days, heritage tourist trails etc.

Port Stephens Commercial & Industrial Land Study 2010

The Port Stephens Commercial and Industrial Lands Study aimed to establish a commercial hierarchy for the Port Stephens LGA, provide a strategic framework to inform the new LEP, provide a framework that establishes the relationship of industrial areas to commercial areas with specific consideration being given to bulky goods retailing, develop individual profiles for each commercial centre and identify capacity and trends of centres to facilitate future growth.

The Study states that within the Hunter region the shift from a traditional primary and secondary economic base to a service based economy is being encouraged by the NSW government through job growth, investment and economic development. Key industries in the area include mining, agriculture and tourism.

Tourism is a major industry in Port Stephens and draws considerable expenditure from outside of the study region. The planning proposal seeks to facilitate agritourism land uses to stimulate the economy in rural areas.

Port Stephens Economic Development and Tourism Strategy 2018-2020

The Port Stephens Economic Development and Tourism Strategy was adopted by Council in 2018. The Strategy provides strategic direction to deliver the following key priority projects:

- making business growth easier
- attracting events that drive economic outcomes
- increasing overnight visitor spend
- creating people friendly spaces

The Strategy estimates that the total tourism output in Port Stephens is \$435 million. The Strategy suggests that there is a need to develop more of a regional approach to tourist packaging and marketing and emphasises the need to develop clusters such as arts/crafts, food and wine, ecotourism, backpacker, agritourism and aboriginal tourism.

The Strategy acknowledges that there are opportunities to leverage the proximity to major global gateways, as well as the attractive and valuable natural environment and coastal and rural settings, can generate economic growth and diversity. The planning proposal is consistent with the Strategy as it will facilitate agritourism land uses and provide more flexibility for home businesses and home industries in rural areas.

Port Stephens Council Place Score Liveability 2020

In September 2020, Port Stephens Council conducted a place census (**ATTACHMENT 2 - Place Score Summary**). Over 3,700 people responded and told us what they value and how they rate their neighbourhoods. The Rural West received a score of 58/100. The national average is 67. The census also collected ideas from the community to improve their localities. Some of the suggestions received in the Rural West include the following:

- More support for tourism operators;
- Recognition of the tourism opportunities;
- Better access to the rivers for kayaks;
- Community garden projects;
- Cultural heritage trail from Hinton with signage;
- More community events for all ages;
- Farm gate trails; and
- Farmers markets.

The planning proposal will facilitate new tourism opportunities in the Rural West by permitting with consent artisan food and drink industries, charter and tourism boating facilities, function centres, garden centres, secondary dwellings, and major and indoor recreation facilities.

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.

Section B – Relationship to strategic planning framework

Q3. Will the planning proposal give effect to the objectives and actions of the Hunter Regional Plan or Greater Newcastle Metropolitan Plan (or any exhibited draft plans that have been prepared to replace these)?

The planning proposal will give effect to the objectives and actions of the Hunter Regional Plan and Greater Newcastle Metropolitan Plan 2036 as identified below.

The Greater Newcastle Metropolitan Plan 2036 (2018)

The Greater Newcastle Metropolitan Plan 2036 (GNMP) applies to part of the Port Stephens LGA. The GNMP sets out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens communities, which make up Greater Newcastle.

Strategy 13 of the GNMP aims to protect rural amenity outside urban areas and states that agricultural production will remain integral to the supply of Greater Newcastle's fresh food. Action 13.1 of the GNMP sets out that Councils will align local plans to:

- enable the growth of the agricultural sector by directing urban development away from rural areas and managing the number of new dwellings in rural areas;
- *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; and*
- *protect and preserve productive agricultural land to support the growth of agricultural industries and keep fresh food available locally.*

The planning proposal supports the aims of the GNMP by providing rural landowners with opportunities to diversify their income streams to support agricultural land uses and facilitates new commercial, tourist and recreation activities in rural areas.

The Hunter Regional Plan 2036 (2016)

The Hunter Regional Plan 2036 (HRP) identifies a regional priority for Port Stephens to *"leverage proximity to major global gateways – and its attractive and valuable natural environment and coastal and rural communities – to generate economic growth and diversity"*.

Additionally, the HRP indicates that the Hunter will undergo a transition in the context of a changing industry environment, particularly in mining and power generation and emerging trends in agribusiness. The planning proposal is consistent with Direction 6 of

the GNMP to grow the economy of midCoast and Port Stephens. It will facilitate Action 6.3 *“enable economic diversity and new tourism opportunities that focus on reducing the impacts of the seasonal nature of tourism and its effect on local economies”* as it will facilitate additional tourism opportunities in rural areas that are less reliant on warm weather.

The Planning Proposal is consistent with the HRP 2036 as it will support the development of future agribusiness industries.

Q4. Will the planning proposal give effect to a council’s endorsed local strategic planning statement, or another local strategy or strategic plan?

Port Stephens Local Strategic Planning Statement (2020)

The Port Stephens Local Strategic Planning Statement 2020 (LSPS) identifies the 20-year vision for land use in Port Stephens and sets out social, economic and environmental planning priorities for the future.

Port Stephens currently supports a range of economic activities comprising agriculture and aquaculture, manufacturing, tourism and defence, construction and a mix of retail and small businesses. The local economy includes over 4,500 actively trading businesses, with most growth currently occurring in the manufacturing, tourism and defence sectors.

The LSPS states that opportunities should be explored for existing agricultural businesses to capitalise on complementary uses such as artisan food premises, boutique breweries and wedding reception venues, which can provide supplementary income for landowners.

The planning proposal is consistent with:

- **Action 3.2 – Facilitate programs for business to encourage accessible tourism across Port Stephens** as will enable the development of a more diverse range of tourist industries within the LGA
- **Action 3.3 – Investigate opportunities to facilitate land uses that can support the tourist and visitor economy, including enabling farm gate sales along the Nelson Bay Road corridor and areas for boat and caravan storage in suitable locations** as it will facilitate additional land uses within the RU1 and RU2 rural zones to support tourism, provide additional floor space for home businesses and home industries and enable rural landowners to diversify their income
- **Action 9.2 – Review local plans to encourage niche commercial, tourist and recreation activities that complement and promote agricultural industries** as the preparation of this planning proposal incorporated a review of permissible land uses in the RU1 and RU2 zones and will facilitate additional tourism land uses in those zones

Council is currently in the process of preparing a Place Plan to support and communicate State reforms that support agritourism and these local amendments that facilitate economic development in the rural areas of Port Stephens. The Place Plan aligns with actions in Council's LSPS as outlined above and the Port Stephens Economic Development Strategy and Our Incredible Place: Events, Arts and Cultural Strategy.

Port Stephens has been recognised as a strategic location for economic growth, with a regionally significant tourist and visitor economy. The planning proposal aims to give effect to priorities to make business growth easier, support tourism development and attract events.

Port Stephens Economic Development and Tourism Strategy 2030 (2021)

The planning proposal aims to implement the strategic outcomes of the Port Stephens Economic Development and Tourism Strategy 2030 (EDTS), which describes a tourism and events policy to support a more diverse tourist and visitor economy across Port Stephens.

The Port Stephens EDTS was originally implemented in 2018 to support local economic growth from 2018 to 2020 and is currently being updated. The strategic outcomes of the EDTS are as follows:

- Making business growth easier
- Increase overnight visitor spend
- Attract events that drive economic benefit
- Create people friendly and vibrant spaces

Port Stephens is recognised as one of the key regional tourism destinations in NSW and previously attracted a broad range of domestic and international visitors each year. During the year ending September 2017, Port Stephens welcomed 2,170,700 domestic visitor nights, 723,500 day visitors and 198,600 international visitor nights. These visitors spent an estimated \$534 million (or almost \$1.5 million per day) across the LGA and directly employed approximately 2,221 people.

The EDTS states that tourism was predicted to increase by 1.9% p.a. for domestic markets and 5.4% p.a. for international markets between 2016-17 and 2026-27. However, these predictions were made prior to the COVID-19 pandemic. Despite the lack of international visitors, COVID-19 has resulted in more Australians travelling domestically. Port Stephens is ideally positioned to leverage this increased domestic tourist demand, and eventually, international tourist demand, through the development of high quality tourism products and experiences that increase overnight visitor spend during low and shoulder periods.

The planning proposal will assist in the creation of more rural tourist attractions, increasing the desirability of the area from a tourist perspective.

Our Incredible Place: A Strategy for Events, the Arts, and Culture in Port Stephens

Our Incredible Place was adopted by Council on 24 November 2020. The Strategy sets Council's strategic direction for events, arts and culture in Port Stephens. The strategy provides the framework to:

- Create vibrant spaces that enhance a sense of place
- Support the liveability and wellbeing of the Port Stephens community
- Attract and support events and cultural initiatives that create economic growth
- Build capacity across the local community

The Strategy identifies cultural precincts within the LGA, including Precinct 1 - Where Three Rivers Meet, and says the following:

“Water runs through vast farming properties and small historical towns in this Precinct. Experience restored wooden bridges and heritage community halls and houses. The Woodville shop is Australia’s oldest continually running business still carrying on the same services it was licensed for in 1844. Residents are intensely proud of their rural environment and the stories from the past as well as opportunities for events and activities for the future.”

The planning proposal will give effect to Council's Our Incredible Place strategy, by permitting uses that support tourism and the visitor economy including function centres, artisan food and drink industries, and restaurants and cafes.

Live Port Stephens Local Housing Strategy (2020)

Live Port Stephens is the overarching strategy to guide land use planning for new housing in Port Stephens and aims to:

- Ensure suitable land supply
- Improve housing affordability
- Increase diversity of housing choice
- Facilitate liveable communities

In 2018, Port Stephens was the third fastest growing LGA in the Hunter (behind Maitland and Cessnock). The population grew from approximately 64,300 in 2008 to 72,700 in 2018, an increase of 13%.

The planning proposal is consistent with:

- **Priority 2.3 – Reduce the cost of new housing** as it will permit secondary dwellings in the RU1 and RU2 zones. Secondary dwellings are eligible for a contributions discount and are more affordable than dual-occupancies
- **Priority 3.2 – Encourage a range of housing types and sizes** as it will permit secondary dwellings in the RU1 and RU2 zones and encourage smaller homes

The planning proposal is consistent with Live Port Stephens as it will facilitate a more affordable type of housing in rural zones and encourage a wider diversity of homes.

Port Stephens Community Strategic Plan 2018 – 2028 (2018)

The purpose of the Community Strategic Plan (CSP) is to:

- Identify community aspirations and priorities over the next ten years
- Outline Council's role in delivering these priorities
- Identify and plan for the needs of an ageing population
- Work with other governments and agencies to achieve our community's priorities
- Provide for community participation in decision making
- Provide a basis of accountability and consistency in reporting

The CSP has four focus areas as follows:

- Focus Area 1 Our Community – Port Stephens is a thriving and strong economy respecting diversity and heritage
- Focus Area 2 Our place – Port Stephens is a liveable place supporting local economic growth
- Focus Area 3 our Environment – Port Stephens environmental is clean, green, protected and enhanced
- Focus Area 4 Our Council – Port Stephens Council leads, manages and delivers valued community services in a responsible way

The planning proposal will give effect to P1 of the CSP which wants a strong economy, vibrant local businesses, active investment and an adaptable, sustainable and diverse economy.

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

An assessment of the relevant State Environmental Planning Policies (SEPPs) against the planning proposal is provided in the table below.

Table 2 – Relevant State Environmental Planning Policies

SEPP	Consistency and Implications
SEPP (Koala Habitat Protection) 2020	Land subject to the planning proposal, including RU1 and RU2 land are likely to provide habitat for koalas. The SEPP will continue to apply to any relevant development applications to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population.
SEPP (Koala Habitat Protection) 2021	Koala SEPP 2021 does not apply to land zoned RU1 Primary Production, RU2 Rural Landscape or RU3 Forestry in the Port Stephens LGA.

SEPP	Consistency and Implications
SEPP (Activation Precincts) 2020	<p>This SEPP applies to Special Activation Precincts (SAPs). The Williamstown SAP is located in the Port Stephens LGA. Some of the land surrounding the Williamstown SAP is zoned RU2 Rural Landscape and will be affected by this planning proposal.</p> <p>The Williamstown SAP investigation area comprises just over 10,000ha, incorporating the existing RAAF Base, Newcastle Airport and Astra Aerolab precinct as well as the rural suburbs of Williamstown, Fullerton Cove and Salt Ash.</p> <p>Land constraints in the vicinity of the SAP have previously acted as a barrier to development. Due to issues such as contamination, flooding and drainage, the land surrounding the SAP is not able to be utilised for agricultural purposes.</p> <p>The facilitation of additional land uses will allow landowners to potentially diversify income streams, benefiting from and supporting the Williamstown SAP and the Nelson Bay Road corridor which is the gateway to Newcastle and the regional tourism hub of the Tomaree Peninsula.</p>
SEPP (Primary Production and Rural Development) 2019	<p>The objectives of the Primary Production and Rural Development SEPP include the facilitation of orderly economic use and development of lands for primary production, and to reduce land use conflict by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources</p> <p>The planning proposal promotes the orderly and economic use of rural land, particularly by supporting additional viable uses for rural land in Port Stephens that are compatible with agriculture and primary production. These economic opportunities will reduce the demand for further fragmentation of rural land for residential subdivision and will facilitate greater opportunities for rural landholders located around Nelson Bay Road, where the economic viability of some properties has been adversely affected by per- and polyfluoroalkyl Substances (PFAS) contamination.</p> <p>The planning proposal includes changes that will align the uses permitted in the rural areas of Port Stephens with the rural areas in neighbouring local government areas and in other parts of the State.</p>
SEPP (Coastal Management) 2018	<p>The Coastal management SEPP is applicable as there are areas of land zoned RU2 Rural Landscape located within the coastal zone.</p> <p>The Planning Proposal will assist in facilitating a framework for land use planning, while also ensuring environmental assets of the coast are protected.</p>

SEPP	Consistency and Implications
SEPP (Affordable Rental Housing) 2009	<p>The planning proposal will remain consistent with the SEPP and continue to achieve the aims of the policy.</p> <p>Enabling secondary dwellings in the RU2 zone is consistent with the SEPP.</p>
SEPP Infrastructure 2007	Any infrastructure requirements resulting from future land uses as a result of the planning proposal will be assessed at the DA stage.

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 3 – Relevant Ministerial Directions

Ministerial Direction	Consistency and Implications
Focus Area 1: Planning Systems	
1.1 Implementation of Regional Plans	<p>Consistent.</p> <p>The planning proposal is consistent with the HRP and gives effect to Direction 6 under Goal 1, which is to grow the economy of Mid-Coast and Port Stephens. At present, the area's economy and employment base are largely service-based and highly seasonal, reflecting its tourism economy and ageing population.</p> <p>The planning proposal will enable those based in rural areas to diversify their income stream through the inclusion of additional permitted uses within the RU1 and RU2 zones, thereby expanding the economy and employment base.</p> <p>The planning proposal is consistent with the HRP as it will support the development of future agribusiness industries.</p>
1.3 Approval and Referral Requirements	<p>Consistent.</p> <p>The planning proposal would not impact development assessment.</p>
Focus Area 3: Biodiversity and Conservation	
3.2 Heritage Conservation	<p>Consistent.</p> <p>Any proposed future development which applies to a heritage item, is in the vicinity of a heritage item, or is located in a</p>

	heritage conservation area, will require a Heritage Assessment to be submitted with the development application.
Focus Area 4: Resilience and Hazards	
4.3 (4.1) Flooding	<p>Consistent.</p> <p>This direction applies as the planning proposal affects land in flood prone land.</p> <p><i>(1) A planning proposal must include provisions that give effect to and are consistent with:</i></p> <ul style="list-style-type: none"> <i>(a) the NSW Flood Prone Land Policy,</i> <i>(b) the principles of the Floodplain Development Manual 2005, (c) the Considering flooding in land use planning guideline 2021, and</i> <i>(d) any adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the Floodplain Development Manual 2005 and adopted by the relevant council.</i> <p><i>(2) A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Business, Industrial or Special Purpose Zones.</i></p> <p>The planning proposal does not propose to rezone any land within the flood planning area.</p> <p><i>(3) A planning proposal must not contain provisions that apply to the flood planning area which:</i></p> <ul style="list-style-type: none"> <i>(a) permit development in floodway areas,</i> <i>(b) permit development that will result in significant flood impacts to other properties,</i> <i>(c) permit development for the purposes of residential accommodation in high hazard areas,</i> <i>(d) permit a significant increase in the development and/or dwelling density of that land,</i> <i>(e) permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,</i> <i>(f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent,</i> <i>(g) are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the</i>

	<p><i>provision of road infrastructure, flood mitigation infrastructure and utilities, or</i></p> <p><i>(h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.</i></p> <p>The planning proposal will not alter provisions that would permit any of the above listed developments or circumstances in the flood planning area.</p> <p><i>(4) A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:</i></p> <p><i>(a) permit development in floodway areas,</i></p> <p><i>(b) permit development that will result in significant flood impacts to other properties,</i></p> <p><i>(c) permit a significant increase in the dwelling density of that land,</i></p> <p><i>(d) permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,</i></p> <p><i>(e) are likely to affect the safe occupation of and efficient evacuation of the lot, or</i></p> <p><i>(f) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities.</i></p> <p>The planning proposal will not alter provisions that would permit any of the above listed developments or circumstances in areas between the flood planning area and probable maximum flood.</p> <p>The planning proposal is not site specific, nor does it rezone land. Any subsequent proposed development will be required to address flooding on a site specific basis at the development assessment stage.</p>
4.2 Coastal Management	<p>Consistent.</p> <p>This direction applies as there are areas of land zoned RU2 Rural Landscape located within the coastal zone.</p> <p>The direction provides that a planning proposal must not rezone land which would enable increased development or more intensive land-use on land:</p> <p><i>(a) within a coastal vulnerability area identified by the State Environmental Planning Policy (Coastal Management) 2018; or</i></p>

	<p><i>(b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken:</i></p> <p><i>(i) by or on behalf of the relevant planning authority and the planning proposal authority, or</i></p> <p><i>(ii) by or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority.</i></p> <p><i>A planning proposal must not rezone land which would enable increased development or more intensive land-use on land within a coastal wetlands and littoral rainforests area identified by chapter 3 of the State Environmental Planning Policy (Resilience and Hazards) 2021.</i></p> <p>The planning proposal does not propose to rezone land.</p>
4.3 Planning for Bushfire Protection	<p>Consistent.</p> <p>This direction applies as the planning proposal affects land that is mapped as bushfire prone land.</p> <p><i>(1) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 3.34 of the Act, and prior to undertaking community consultation in satisfaction of clause 4, Schedule 1 to the EP&A Act, and take into account any comments so made.</i></p> <p>Formal consultation with the Rural Fire Service was undertaken with no objections raised.</p> <p><i>(2) A planning proposal must:</i></p> <p><i>(a) have regard to Planning for Bushfire Protection 2019,</i></p> <p><i>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</i></p> <p><i>(c) ensure that bushfire hazard reduction is not prohibited within the APZ.</i></p> <p><i>(3) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</i></p> <p><i>(a) provide an Asset Protection Zone (APZ) incorporating at a minimum:</i></p> <p><i>(i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and</i></p> <p><i>(ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,</i></p>

	<p><i>(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,</i></p> <p><i>(c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,</i></p> <p><i>(d) contain provisions for adequate water supply for firefighting purposes,</i></p> <p><i>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</i></p> <p><i>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</i></p> <p>The planning proposal is not site specific, nor does it rezone land. Any subsequent proposed development will be required to address risk to bushfire, and demonstrate consistency with Planning for Bushfire Protection 2019 during the development assessment stage.</p>
4.4 Remediation of Contaminated Land	<p>Consistent.</p> <p>The planning proposal applies to land on which development for agricultural activities is known to have been carried out and is therefore potentially contaminated.</p> <p>A planning proposal must not permit a change of zoning on potentially contaminated land unless:</p> <p><i>(a) the planning proposal authority has considered whether the land is contaminated, and</i></p> <p><i>(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</i></p> <p><i>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.</i></p> <p>The planning proposal does not propose to rezone land.</p>
4.5 Acid Sulfate Soils	<p>Consistent.</p> <p>This direction applies as some of the land zoned RU1 and RU2 in Port Stephens has a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.</p>

	<p><i>(1) The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Planning Secretary when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</i></p> <p><i>(2) When a relevant planning authority is preparing a planning proposal to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:</i></p> <p><i>(a) the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Planning Secretary, or</i></p> <p><i>(b) other such other provisions provided by the Planning Secretary that are consistent with the Acid Sulfate Soils Planning Guidelines.</i></p> <p><i>(3) A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director-general prior to undertaking community consultation in satisfaction of clause 4 of Schedule 1 to the Act.</i></p> <p><i>(4) Where provisions referred to under 2(a) and 2(b) above of this direction have not been introduced and the relevant planning authority is preparing a planning proposal that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the planning proposal must contain provisions consistent with 2(a) and 2(b).</i></p> <p>The planning proposal is consistent with the direction, as the proposal does not rezone land, and is not site specific, and therefore any subsequent proposed development will be required to address the potential for acid sulfate soil during the development application stage.</p>
Focus Area 5: Transport and Infrastructure	
5.3 Development Near Regulated Airports and Defence Airfields	<p>This direction applies as Newcastle airport is located next to land zoned RU2 Rural Landscape that will be impacted by the planning proposal.</p> <p>The direction requires a planning proposal that sets controls for the development of land near a regulated airport or defence airfield to refer the planning proposal to the relevant authorities. This planning proposal will expand the uses permitted in rural zones, including the zones around the Newcastle airport however it does not set new controls for the development of the land (e.g. height or minimum lot size). Therefore the proposal need not be referred.</p>

	Existing clause 7.5 of the LEP will satisfy the requirement in 5.3(4) of the direction.
Focus Area 9: Primary Production	
9.1 Rural Zones	<p>Consistent.</p> <p>The planning proposal will not rezone any rural land. The planning proposal aims to support agritourism and other economically viable land uses to stimulate economic development and facilitate home businesses and home industries in rural areas.</p> <p>The use of rural land for agritourism will ensure that any future land uses are compatible with agriculture, in order to ensure it is protected from other development pressures which may be incompatible with agricultural land uses.</p>
9.2 Rural Lands	<p>Consistent.</p> <p>This direction applies because the proposal will affect rural zoned land.</p> <p><i>A planning proposal must:</i></p> <p><i>(a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Planning Secretary, and any applicable local strategic planning statement</i></p> <p>The planning proposal is necessary to implement the recommendations of the Port Stephens Rural Lands Study and Strategy. It is consistent with the HRP and the GNMP, which has considered the objectives of this direction. The proposal is also consistent with the LSPS.</p> <p><i>(b) consider the significance of agriculture and primary production to the State and rural communities</i></p> <p>The planning proposal will support agriculture and primary production by facilitating alternative income streams to support agricultural land uses. These economic opportunities will reduce the demand for further fragmentation of rural land for residential subdivision and improve the viability of agricultural production. It will also facilitate greater opportunities for rural landholders located around Nelson Bay Road, where the economic viability of some properties has been adversely affected by per- and polyfluoroalkyl Substances (PFAS) contamination.</p> <p><i>(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</i></p>

	<p>Much of the Port Stephens LGA, including land zoned RU1 and RU2 contain important environmental values. Any proposed development in the RU1 and RU2 zones will be subject to detailed assessment that considers environmental values.</p> <p><i>(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</i></p> <p>Much of the Port Stephens LGA, including land zoned RU1 and RU2 have considerable natural and physical constraints. Any proposed development in the RU1 and RU2 zones will be subject to detailed assessment that considers natural and physical constraints.</p> <p><i>(e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</i></p> <p>The planning proposal seeks to facilitate additional land uses within the rural zones to support rural economic activities including enabling farm gate sales and other forms of agritourism, and to encourage niche commercial, tourist and recreation activities that complement and promote agricultural industries.</p> <p><i>(f) support farmers in exercising their right to farm</i></p> <p>The planning proposal would not result in any impact to the Right to Farm Act 2019 which protects existing agricultural industries from nuisance complaints.</p> <p><i>(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 use</i></p> <p>The planning proposal seeks to facilitate additional land uses that are compatible with and support rural land use.</p> <p><i>(h) consider State significant agricultural land identified in chapter 2 of the State Environmental Planning Policy (Primary Production) 2021 for the purpose of ensuring the ongoing viability of this land</i></p> <p>The planning proposal seeks to support rural landholders by expanding rural zones to include other uses that facilitate economic development in these zones. The planning proposal includes changes that will align the uses permitted in the rural areas of Port Stephens with the rural areas in neighbouring local government areas and in other parts of the State.</p>
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	<p>These land uses will not impact the long-term potential for agricultural productivity on land or surrounding areas.</p> <p><i>(i) consider the social, economic and environmental interests of the community</i></p> <p>The planning proposal responds to feedback received from the Port Stephens Council Place Score Liveability Survey conducted in 2020, as well as the Port Stephens Visitor Survey conducted in 2021. Community responses requested additional tourism opportunities and activities and more community events.</p> <p>The planning proposal will facilitate additional tourism opportunities. The planning proposal also includes items that will increase the viability of rural land for economic development more generally. This includes opportunities for landholders to open home businesses, which have become increasingly popular since the COVID-19 pandemic.</p>
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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?

Any future development occurring on RU1 and RU2 zoned land as a result of the planning proposal will be require a Development Assessment (DA) or Complying Development Certificate (CDC). Any potential environmental impacts will be required to be assessed at this stage.

Additionally, the Biodiversity Conservation Division of the department of Planning and Environment had no objections or concerns regarding the planning proposal.

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

There are no readily identifiable environmental impacts as a result of the inclusion of expanded land uses within the RU1 and RU2 zones. Any potential impacts would vary from site to site and would be addressed at the DA stage.

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

The planning proposal would result in positive social and economic impacts through permitting expanded land uses within the RU1 and RU2 zoned land. The aim of the

proposed amendment is to provide rural landowners, as well as farmers, with additional opportunities for economic development.

The planning proposal seeks to support agritourism and other economically viable land uses compatible with agricultural land use zones to stimulate economic development and facilitate home businesses and home industries in rural areas. Agritourism is a growing sector of both the Australian and NSW economies, worth more than \$2 billion in NSW in 2014-15 and is expected to be worth \$18.6 billion in Australia in 2030, up from \$10.8 billion in 2018.

The planning proposal will facilitate home businesses and home industries in rural zones by increasing the maximum floor areas for these uses in the RU1 and RU2 zones. It will permit additional uses in the RU1 zone such as artisan food and drink industries, charter and tourism boating facilities and secondary dwellings to support farmers and grow the agritourism industry in Port Stephens. It will also permit additional uses in the RU2 zone such as restaurants and cafes, function centres, information and education facilities, secondary dwellings, and recreation facilities (indoor and major) in order to stimulate economic growth and the agritourism industry.

These economic opportunities will facilitate greater opportunities for rural landholders located around Nelson Bay Road, where the economic viability of some properties has been adversely affected by per- and polyfluoroalkyl Substances (PFAS) contamination.

The planning proposal includes changes that will align the uses permitted in the rural areas of Port Stephens with the rural areas in neighbouring local government areas and in other parts of the State. This will enable Port Stephens to compete and grow a viable rural economy in our region.

The proposed changes will increase opportunities for landowners to maximise the economic potential of their rural land, without restricting agricultural uses. The changes will also support a diversified economy in Port Stephens.

Section D – State and Commonwealth interests

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

The adequacy of public infrastructure to support any additional development that may result from the planning proposal can be addressed at the DA stage.

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

NSW State Government recently released the Agritourism and small-scale agriculture development Explanation of Intended Effect (EIE). The EIE proposes amendments to the NSW planning system to better enable 'agritourism' and small-scale agricultural development to be approved. It also seeks to respond to natural disasters such as droughts and bushfires, and to simplify planning approvals for development or activities that have no or low environmental impact.

The EIE outlines the intended effect of proposed amendments to:

- the Standard Instrument (Local Environmental Plans) Order 2006 (Standard Instrument LEP Order),
- the State Environmental Planning Policy (Primary Production and Rural Development) 2019 (PPRD SEPP), and
- the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP).

In recent years, NSW farmers have faced many challenges including prolonged drought, land fragmentation and declining terms of trade, as well as unprecedented bushfires and economic impacts arising from COVID-19. The EIE states that with changes in markets, diminishing wholesale returns from traditional agricultural production and the seasonal nature of many agricultural industries, some traditional farms can no longer remain viable by simply providing food for wholesale markets. There is scope for the planning framework to better support farmers' ability to innovate and diversify from purely primary production to other forms of value adding or complementary agribusiness/agritourism.

The following amendments are proposed to the NSW planning system to facilitate agritourism:

- Farm stay accommodation – to support more farm stay accommodation amendments are proposed to the existing definition of 'farm stay accommodation'
- Farm events – to remove existing barriers and support farm events amendments are proposed to introduce a new definition for 'farm events'
- Farm gate activities – to enable farm gate businesses to be established, amendments are proposed to introduce a new definition for 'farm gate activities'.

Exempt and complying development pathways will also be established.

Certainty, confidence and consistency in the planning framework will support investment in agritourism. A robust and flexible land use planning framework can provide strategic direction and a streamlined and efficient process for facilitating land uses that supplement agricultural industries.

The proposed changes seek to:

- Support investment in farms seeking supplementary incomes through other uses on the land
- Facilitate a simple and streamlined approach to gaining approval for uses supplementary to primary production
- Support farmers during times of hardship and following disaster events
- Reduce land use conflicts

To date, many regional businesses have experienced difficulties in setting up agritourism businesses as:

- There is a lack of guidance to understand the planning approvals process
- It can be costly and time consuming to obtain approval

- Some requirements have not kept up with contemporary practices
- Some existing land use definitions and standards are inappropriate for the proposed use.

As a result, the following amendments are proposed to the NSW planning system to facilitate agritourism:

- Farm stay accommodation: amending the existing definition for farm stay accommodation in the Standard Instrument LEP Order
- New land use terms: introducing two new land use terms for farm gate activities and farm events in the Standard Instrument LEP Order. Including the new term in the Standard Instrument LEP Order will automatically introduce the term into all Standard Instrument LEPs
- New optional LEP clauses - introducing new optional clauses for farm stay accommodation and farm gate activities that councils can apply where a development application is required
- New approval pathways - providing exempt and complying development approval pathways in the Codes SEPP for agritourism activities where certain development standards are met
- Small-scale processing plants - allowing the establishment of small-scale processing plants as complying development for meat, dairy and honey where certain development standards are met
- Rebuilding of farm infrastructure - allowing the reconstruction of farm buildings and other structures as exempt development following natural disaster, where constructed to the same size and contemporary building standards including the Building Code of Australia and relevant Australian Standards.
- Stock containment lots - updating and rationalising existing controls for stock containment lots to reflect current practice, and ensuring stock containment areas used temporarily, such as during drought, do not impact negatively on surrounding uses.
- Farm dams - clarify terminology used in the planning system and provide a consistent approval process across the state
- Biosecurity - updating development standards for poultry farms and pig farms to align with separation distances required under biosecurity standards
- Rural dwelling setbacks - updating controls that allow dwellings on rural lots as complying development to ensure enough separation from adjacent primary production enterprises.
- Recreational beekeeping – providing exempt development pathway for recreational beekeeping to improve certainty.

These changes will allow small-scale agritourism development and other small-scale agricultural activities to occur on land where the primary use of the land is agriculture. While these proposed amendments are supported, it is considered that they do not go far enough in addressing the problem in Port Stephens, as the proposed amendments only apply to those using their land for agricultural purposes. Given the existing fragmented nature of rural land in Port Stephens, the number of rural lots that are not

currently operational agricultural enterprises and increasing development pressure it is necessary to make the amendments in this planning proposal to achieve the intent of the State reforms. The objectives of this planning proposal are consistent with the State reforms.

Consultation has been undertaken with the following public authorities:

- NSW Rural Fire Service;
- Biodiversity Conservation Division;
- Heritage NSW;
- NSW Local Land Services;
- Transport for NSW;
- Hunter Water Corporation; and
- Department of Primary Industries - Agriculture

The NSW Rural Fire Service, Biodiversity Conservation Division, Heritage NSW, NSW Local land Services made no recommendations or objections to the planning proposal.

Submissions from Transport for NSW, Hunter Water Corporation and the Department of Primary Industries - Agriculture are detailed below.

Table 4: Summary of agency submissions

Agency	Comment	Response
Transport for NSW	The submission identified a potential concern relating to traffic impacts due to the proposed increased floor area of home businesses and home industries in the RU1 and RU2 zone as these uses could be carried out as exempt development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.	Home industries and home businesses can be undertaken through exempt development but under the Port Stephens LEP must not involve <i>“interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise”</i> .
Hunter Water Corporation	The submission recommends reviewing the Port Stephens Development Assessment Framework (DAF) to assess existing controls relating to drinking water protection and how the framework can be applied to the proposed additional land uses.	These items have been logged to be included in the next review of the DAF.
	The submission noted increasing the maximum	The planning proposal has been amended to propose an increase

	number of bedrooms permitted as farm stay accommodation may pose a risk to water quality where existing farm stay accommodation is located within the Hunter Water Special Areas.	from 6 to 12 bedrooms instead of 6 to 20 bedrooms at farm stay accommodation.
	The submission recommended prohibiting garden centres, mortuaries, rural supplies and recreation facilities in the direct hydrological catchment of Grahamstown Dam and the draw zones of the Tomago and Tomaree Borefields. The submission was supportive of these uses in rural lands outside of the abovementioned catchments.	Port Stephens Council is currently working with Hunter Water to determine an appropriate mechanism to manage risks to water quality in the direct hydrological catchment of Grahamstown Dam and the draw zones of the Tomago and Tomaree Borefields.
Department of Primary Industries - Agriculture	The submission objected to the introduction of garden centres and information and education facilities in the RU1 Primary Production zone due to unsuitability.	The planning proposal has been amended to remove garden centres and information and education facilities from the proposed additional uses in the RU1 Primary Production zone.
	The submission objected to the introduction of recreation facilities (outdoor) in the RU1 Primary Production zone due to unsuitability, however noted they may be appropriate in some circumstances.	A review of the existing land uses permitted with consent in the RU1 zone across the State was undertaken to inform the planning proposal. Many NSW councils were found to already permit recreation facilities (outdoor) into the RU1 zone.
	The submission recommended undertaking a review of land uses permitted with consent in the RU1 Primary Production zone.	A review of the existing land uses permitted with consent in the RU1 zone was undertaken during the preparation of this planning proposal.
	<p>The submission objected to the introduction of the following land uses in the RU2 Rural Landscape zone due to unsuitability:</p> <ul style="list-style-type: none"> • Garden centres; • High technology industries; • Mortuaries; 	A review of the existing land uses permitted with consent in the RU2 zone across the State was undertaken to inform the planning proposal. Garden centres, high technology industries, mortuaries, recreation facilities (indoor), and recreation facilities (outdoor) are permitted with consent across many NSW councils, including neighbouring

	<ul style="list-style-type: none"> • Recreation facilities (indoor); and • Recreation facilities (outdoor); 	councils with competing tourist industries.
	The submission objected to the introduction of secondary dwellings (granny flats) in both the RU1 Primary Production and RU2 Rural Landscape zone as dual occupancies are already permitted.	Permitting secondary dwellings in the RU1 and RU2 zone will not result in an intensification of development as dual occupancies and secondary dwellings are mutually exclusive. Permitting secondary dwellings will allow landholders access to a discount on developer contributions that is not available for dual-occupancies and encourage smaller homes.
	The submission noted the proposed maximum number of bedrooms permitted for farm stay accommodation could conflict with farming businesses.	The planning proposal has been amended to propose an increase from 6 to 12 bedrooms instead of 6 to 20 bedrooms at farm stay accommodation.
	The submission objected to the proposed additional zone objective for the RU1 Primary Production and RU2 Rural Landscape zone.	A review of existing zone objectives for the RU1 and RU2 zones across the State was undertaken to inform the planning proposal. Many NSW councils, including neighbouring councils with competing tourist industries, have this objective.

PART 4 – Mapping

No amendments to the existing mapping are required.

PART 5 – Community consultation

Community consultation will be undertaken in accordance with the Gateway determination, which requires the planning proposal be made publicly available for a minimum of 28 days.

Notice of the public exhibition period will be placed in the local newspaper, The 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: 18A Sturgeon Street, Raymond Terrace

- Tomaree Library: 7 Community Close, Salamander Bay
- Mobile Library (various locations)
- Online [here](#)

PART 6 – Project timeline

The planning proposal will be completed within the timeframes listed below:

	Nov 2021	Dec 2021	Jan 2022	Feb 2022	Mar 2022	Apr 2022	May 2022	Jun 2022	Jul 2022
<i>Agency Consultation</i>									
<i>Public Exhibition</i>									
<i>Council Report</i>									
<i>Parliamentary Counsel</i>									

MINUTES ORDINARY COUNCIL - 14 JULY 2015

NOTICE OF MOTION

ITEM NO. 1

**FILE NO: PSC2015-01000/514
TRIM REF NO: PSC2015-01021**

**PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2013 AMENDMENT -
DEPOTS ON RURAL LAND**

COUNCILLOR: MAYOR BRUCE MACKENZIE

THAT COUNCIL:

- 1) Prepare a report identifying the merits of a planning proposal to amend the land use table in part 2 of the Port Stephens Local Environmental Plan 2013 such that depots and or transport depots and or truck depots are permissible uses in the RU1 and RU2 zones.
- 2) Provide appropriate recommendations for any relevant DCP controls relating to depots, transport depots and truck depots in both industrial zones and rural zones.

**ORDINARY COUNCIL MEETING - 14 JULY 2015
MOTION**

203	<p>Mayor Bruce MacKenzie Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Prepare a report identifying the merits of a planning proposal to amend the land use table in part 2 of the Port Stephens Local Environmental Plan 2013 such that depots and or transport depots and or truck depots are permissible uses in the RU1 and RU2 zones.2) Provide appropriate recommendations for any relevant DCP controls relating to depots, transport depots and truck depots in both industrial zones and rural zones.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan, Sally Dover, Ken Jordan, Paul Le Mottee, John Morello and Steve Tucker.

Those against the Motion: Cr Geoff Dingle.

BACKGROUND REPORT OF: Tim Crosdale – Strategy and Environment Section Manager

BACKGROUND

The purpose of this notice of motion is for Council to investigate the merits of enabling depots, transport depots or truck depots on land zoned Primary Production RU1 and Rural Landscape RU2 within the Port Stephens Local Government Area.

The definition of the three types of land uses within the Port Stephens Local Environmental Plan 2013 (PSLEP2013) is reproduced below:

depot means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use, but does not include a farm building.

transport depot means a building or place used for the parking or servicing of motor powered or motor drawn vehicles used in connection with a business, industry, shop or passenger or freight transport undertaking.

truck depot means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.

The relative differences in land uses, and their suitability within RU1 and RU2 zones, will need to be considered during the preparation of a Planning Proposal. Across NSW there are over 90 LGA's which enable at least one type of depot permissible in one or more rural zones. As such, there is a level of permissibility of this land use within rural zones across the State, subject to consideration of local planning provisions.

Currently in Port Stephens the various depot land uses are generally contained within General Industrial, Light Industrial and Working Waterfront (IN1, IN2 & IN4), Business Development (B5) and Public Recreation (RE1) zones. Issues including the capacity of these land zones to meet demand for depot land uses, and the hierarchy of industrial land uses (i.e. the most appropriate use of industrial land), would need to be considered as part of the planning proposal.

It is acknowledged that the various depot land uses have the potential to adversely affect rural lands primarily through effect on the amenity of existing rural areas. This potential for land use conflict will need to be considered in the planning proposal, including whether sufficient controls can be utilised to mitigate potential impacts. Other controls such as land use separation through maintenance of existing zoning could also remain for all or some of the depot land uses in the RU1 and RU2 zones.

The specification of detailed controls could be achieved through the Development Control Plan by specifying objectives and controls to minimise potential impacts of these additional land uses. These controls may include details relating to hours of operations, noise, visual amenity, distance to existing dwellings, fuel storage, spillage and traffic matters such as the types of roads suitable for the carriage of trucks and plant, the nature of driveways that must be utilised in different speed zones and any

MINUTES ORDINARY COUNCIL - 14 JULY 2015
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other relevant matter. Recommendations detailing these controls will be drafted and reported back to Council.

There being no further business the meeting closed at 6.33pm.

Rural West

Liveability Index 2020



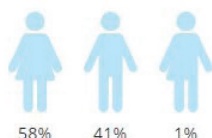
In September 2020 we teamed up with Place Score to complete our first ever place census. Over 3,700 people told us what they value and how they rate their neighbourhood.

The results allows us to focus on the things most valuable to our community. It helps us plan and make decisions that will have the biggest impact on your wellbeing.

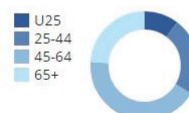
145

responses from
Rural west

Gender



Age



Liveability is simply what a place is like to live in — a liveable place is a healthy place.

Liveability is influenced by safety, the natural environment, infrastructure, accessibility, things to do, attractiveness and inclusivity.

Rural west



Port Stephens



National Average



OUR TOP 5 RURAL WEST VALUES

These are the things most important to Rural west residents in their ideal neighbourhood:



Elements of natural environment — 71%



General condition of public open space (street trees, footpaths, parks etc) — 62%



Walking/jogging/bike paths that connect housing to communal amenity (shops, parks) — 55%



Sense of neighbourhood safety (from crime, traffic, pollution) — 54%



Locally owned and operated businesses — 54%

In Rural west and surrounding suburbs your ideal neighbourhood has:

- locally owned and operated businesses that provide the community with their daily needs
- well maintained and managed public domain; footpaths, parks, roads and other public assets
- easy to access shared community amenities, like the local shops, on foot or bike

OUR STRENGTHS

These are the things you care about most and say are performing well. We must continue to celebrate and protect these.



Sense of personal safety (for all ages, genders, day or night)



Overall visual character of the neighbourhood



Physical comfort (including noise, smells, temperature)



Elements of natural environment (natural features, views, vegetation, topography, water, wildlife etc)



Sense of neighbourhood safety (from crime, traffic, pollution etc)

OUR LIVEABILITY PRIORITIES

These are the things most important to you and are underperforming. We must work to improve these.



Walking/jogging/bike paths that connect housing to communal amenity (shops, parks)



Spaces suitable for specific activities or special interests (entertainment, exercise, dog park, BBQs)



General condition of public open space (street trees, footpaths, parks)



Protection of the natural environment



Landscaping and natural elements (street trees, planting, water features)



Evidence of recent public investment (roads, parks, schools)



Access and safety of walking, cycling and/or public transport (signage, paths, lighting)



Quality of public space (footpaths, verges, parks)



Evidence of community activity (volunteering, gardening, art, community-organised events)



Evidence of Council/government management (signage, street cleaners)



Amount of public space (footpaths, verges, parks)



Spaces for group or community activities and/or gatherings (sports, picnics, performances)



Things to do in the evening (bars, dining, cinema, live music)



Local history, historic buildings or features



Local businesses that provide for daily needs (grocery stores, pharmacy, banks)



Free places to sit comfortably by yourself or in small groups



Spaces suitable for play (from toddlers to teens)

