

Planning Proposal – Wattle/Holdom Road, Karuah

Background

This Planning Proposal seeks to rezone part of the subject land to accommodate residential development and rezone the remaining land to environmental protection zone in order to manage the environmental qualities of the land.

The planning proposal is in response to a 'deferred matter' under Port Stephens LEP 2000 (Amendment No. 24) in which the subject land was not rezoned as the environmental offsets were not finalised. Given that the environmental offsets are not yet finalised, this planning proposal will enable progression of the rezoning as a fresh planning proposal and will not be restricted by the timeframe of the gateway determination for Amendment No. 24.

Part 3 of the EPA Act does not provide Council, as the relevant planning authority, any mechanism to resolve the biodiversity offsets so it is difficult to ensure an outcome within the timeframe specified by the gateway determination.

Part 1 - Objectives or Intended Outcomes

The purpose of the planning proposal is amend the Port Stephens Local Environmental Plan 2000 to rezone the subject land from zone 1(a) Rural Agriculture to part 2(a) Residential and part 7(a) Environmental Protection. The planning proposal will allow for some residential development with consent and the conservation of land of environmental value.

Part 2 - Explanation of Provisions

The planning proposal seeks to amend the Port Stephens Local Environmental Plan 2000 as shown on the zoning plan in attachment one, being:

- 2(a) Residential Zone; and
- 7(a) Environmental Protection Zone.

The proposed 7(a) zoned land followed the 1% flood level and SEPP 14 wetlands buffer to protect the environmental attributes.

Location

The land affected by the Port Stephens Local Environmental Plan 2000 – Wattle/Holdom Road is shown on the Locality Plan in **Figure 1**.

Current zoning

The subject land is currently zoned 1(a) Rural Agriculture under the Port Stephens Local Environmental Plan 2000. A copy of the current zoning plan is shown in attachment 2.

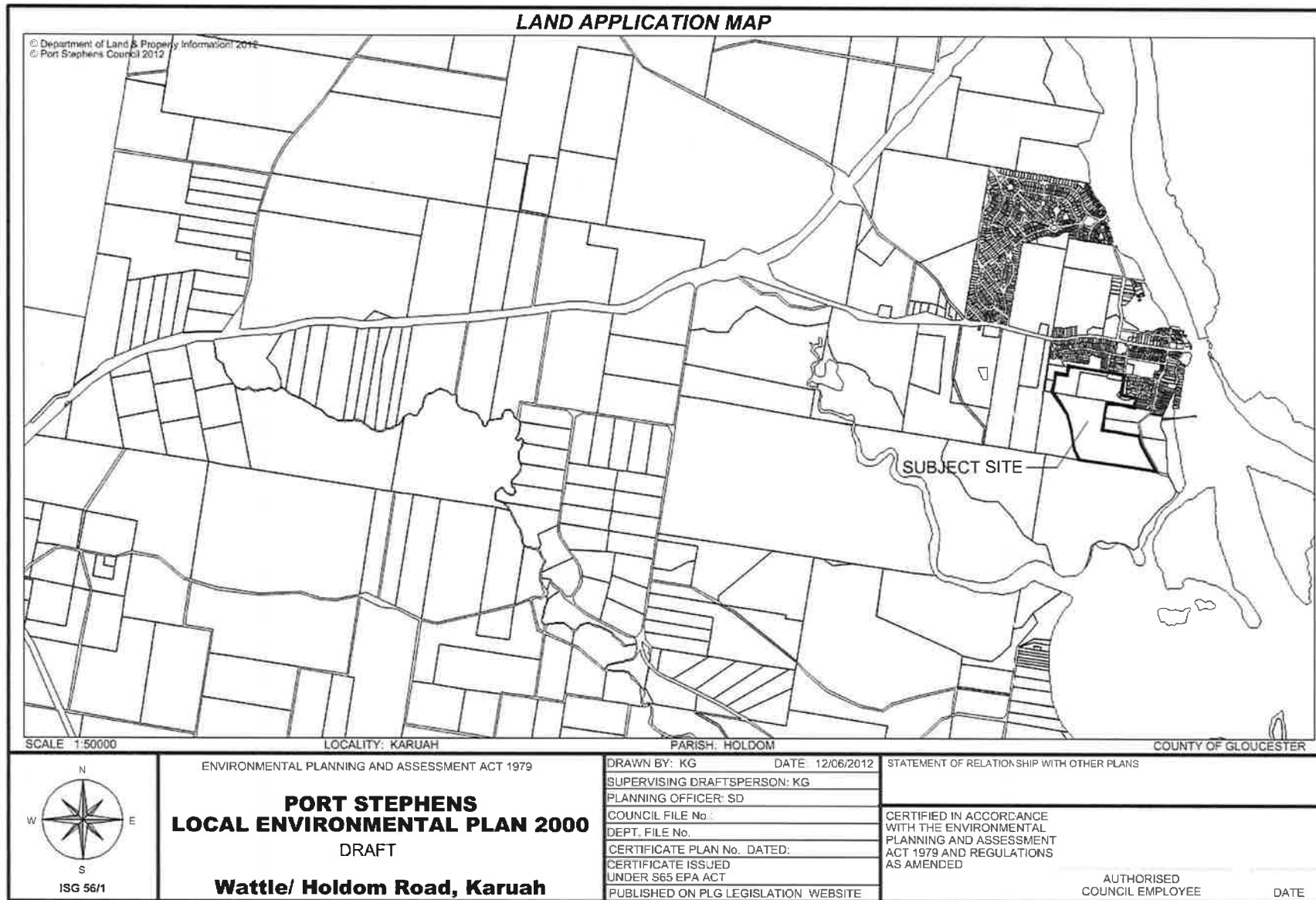


Figure 1: Locality Plan

Part 3 - Justification

Section A - Need for the planning proposal.

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

The subject land has been identified, or is adjacent to land suitable for future investigation in the Lower Hunter Regional Strategy (2006), Port Stephens Planning Strategy (2011) and the Karuah Local Area Plan (2003).

The planning proposal will facilitate the logical expansion of the existing Karuah urban area to accommodate additional lots to meet future growth identified in the LHRS.

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

The Planning Proposal seeks to rezone land which is currently identified as a 'deferred matter' under Port Stephens LEP 2000 (Amendment No. 24). In making Amendment No. 24, the Minister deferred the inclusion of the land subject to this planning proposal (the deferred portion) until such time that environmental offsets have been resolved. Upon resolution of the offsets, Council is to submit a planning proposal requesting that the 'deferred matter' be finalised.

However, given the delays in finalising the environmental offsets for this area, a fresh planning proposal is considered to be the most effective means of achieving the intended outcomes as this will allow sufficient time for the land holders and OEH to finalise environmental offset arrangements without being constrained by the timeframe specified in the gateway determination for Amendment No. 24.

Residential development of the land cannot be achieved without an amendment to the Port Stephens LEP 2000.

Section B - Relationship to strategic planning framework.

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The subject land is located within the future urban release area for Karuah under the Lower Hunter Regional Strategy (2006).

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

The proposal is consistent with Council's Integrated Strategic Plan (Port Stephens 2022) which states that Council should provide for a range of lot sizes and housing types to respond to demographic needs and housing affordability.

The draft Port Stephens Planning Strategy seeks to encourage a sufficient supply of a diverse range of housing in the Local Government Area (LGA).

The subject land has been identified as land suitable for future investigation in the Port Stephens Planning Strategy (2011) and the Karuah Local Area Plan (2003).

The subject land is identified in the Karuah Local Area Plan as a potential residential

development site. The proposal establishes links with the existing street network and is an efficient and appropriate use of the land considering the principles of the Port Stephens Planning Strategy.

Residential development in this area is likely to strengthen the social and economic viability of Karuah through increasing housing choice and the overall population of Karuah. The site is 600m from the town centre and therefore will provide economic and social support for the town centre.

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

SEPP 44 Koala Habitat Protection

Internal consultation has indicated that the site is not affected by Preferred or Supplementary Koala habitat nor is it a Koala Linking Area. However there are individual Koala Flood Trees and it is recommended that these trees be protected through the development application process and the Port Stephens Koala Plan of Management.

The proposal is consistent with the SEPP.

SEPP (Rural Lands) 2008

The Proposal seeks to rezone land zoned 1(a) Rural Agriculture to 2(a) Residential and 7(a) Environmental Protection. The planning proposal does not seek to facilitate subdivision of rural zoned land and is consistent with the SEPP.

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

1.2 Rural Zones

The objective of this direction is to protect the agricultural production value of rural land.

Although the planning proposal seeks to rezone rural land to a residential zone, the subject land has been identified as suitable for future investigation in the Lower Hunter Regional Strategy (2006), Port Stephens Planning Strategy (2011) and the Karuah Local Area Plan (2003).

As such, the planning proposal is considered to be consistent with this direction.

1.5 Rural Lands

The objectives of this direction are to protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes.

The planning proposal is justified as it is identified in the LHRS, Port Stephens Planning Strategy and the Karuah Local Area Plan, which give consideration to this direction. As such, the planning proposal is considered to be consistent with this direction.

2.1 Environment Protection Zones

The objective of this direction is to protect and conserve environmentally sensitive areas.

The proposal does affect environmental sensitive lands. Environmental offsets are being finalised with the Office of Environmental and Heritage regarding the impacts of development on the lands at Kings Hill. Council does not have any mechanism under Part 3 of the EP&A Act to resolve this matter.

In addition, environmentally significant land, being that below the 1% AEP and SEPP 14 wetlands will be rezoned environmental protection in order to protect and manage their environmental attributes.

Figure 2 shows flood prone land and SEPP 14 wetlands.

3.2 Caravan Parks and Manufactured Home Estates

The objectives of this direction are:

- to provide for a variety of housing types, and
- to provide opportunities for caravan parks and manufactured home estates.

Caravan Parks are a permissible land use in the Rural 1(a) Zone but are not permissible in the 2(a) Residential Zone.

The planning proposal is justified as it is identified in the LHRS, Port Stephens Planning Strategy and the Karuah Local Area Plan, which give consideration to this direction.

As such, the planning proposal is considered to be consistent with this direction.

4.1 Acid Sulphate Soils

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.

The subject land contains potential acid sulphate soils. However, the Port Stephens LEP 2000 contains provisions to manage acid sulphate soils.

4.3 Flood Prone Land

The objectives of this Direction are:

- To ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005
- To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

The planning proposal does not seek to rezone flood prone land for residential purposes. The planning proposal seeks to rezone land below the 1% AEP to an environmental protection zone.

As such, the planning proposal is considered to be consistent with this direction.

Figure 2 shows the extent of Flood Prone Land.

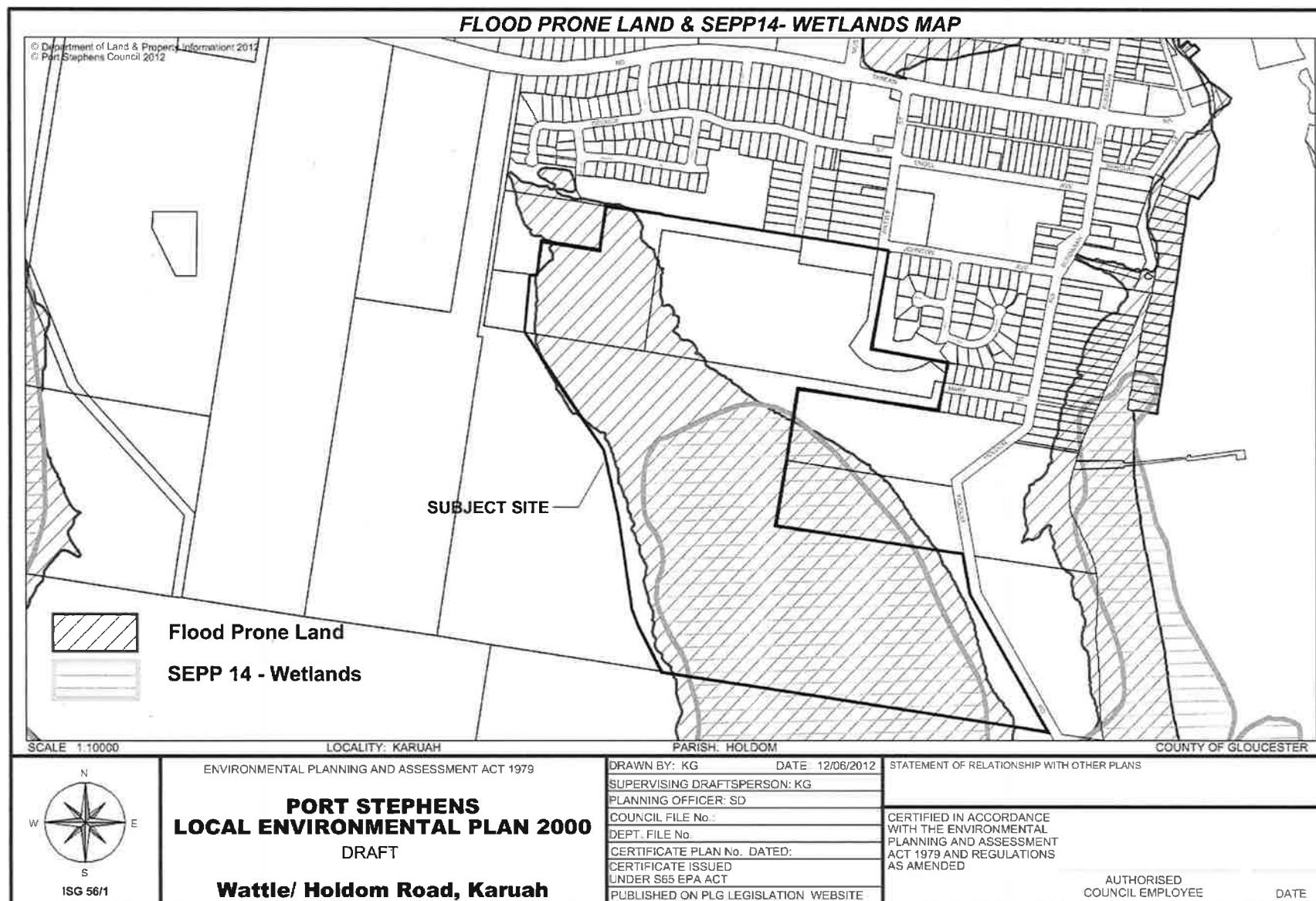


Figure 2: Flood Prone Land and SEPP 14 Wetlands

4.4 Planning for Bushfire Protection

The objectives of this Direction are to protect life, property and the environment from bushfire hazards, by discouraging the establishment of incompatible land uses in bushfire prone areas and to encourage sound management of bushfire prone areas.

The planning proposal contains bushfire prone land. Future development will need to be consistent with Planning for Bushfire Protection.

5.1 Implementation of Regional Strategies

The proposal is consistent with the Lower Hunter Regional Strategy.

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 proposal may impact on critical habitat or threatened species, populations or ecological communities, or their habitats. However, environmental offsets for future development will be resolved prior to this planning proposal being submitted to the Minister for making.

It is anticipated that ongoing consultation with the Office of Environment and Heritage will be undertaken during the progression of the planning proposal.

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

An existing SEPP 14 wetland and appropriate buffer will be zoned 7(a) Environmental Protection in order to manage the environmentally significant aspects of the site.

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

The subject land is identified in the Karuah Local Area Plan as a potential residential development site. The proposal establishes links with the existing street network and is an efficient and appropriate use of the land considering the principles of the Port Stephens Planning Strategy.

Residential development in this area is likely to strengthen the social and economic viability of Karuah through increasing housing choice and the overall population of Karuah. The site is 600m from the town centre and therefore will provide economic and social support for the town centre.

Section D - State and Commonwealth interests.

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

Water, sewer, electricity and telecommunication services can be provided to the subject land.

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

Consultation with relevant authorities was undertaken prior to finalisation of the Port Stephens Local Environmental Plan 2000 (Amendment No.24), of which this land was included.

On 16 June 2005 Council undertook consultation with the following agencies:

- Department of Infrastructure, Planning and Natural Resources (now Department of Planning and Infrastructure)
- Roads and Traffic Authority (now Roads and Maritime Authority)
- Rural Fire Service
- Hunter Water Corporation
- Department of Environment, Climate Change and Water (now Office of Environment and Heritage)
- Hunter-Central Rivers Catchment Management Authority
- State Emergency Services
- Energy Australia
- Department of Education and Training
- Great Lakes Council
- NSW Department of Primary Industries – Agriculture
- NSW Department of Primary Industries – Fisheries

These agencies were re-notified following changes made to the draft Plan, being the inclusion of Lot 1 DP 749565 and to rezone land subject to the 1% flood and SEPP 14 wetlands to 7(a) Environmental Protection to protect environmental outcomes.

With the exception of DECCW (OEH), no agency raised significant issues during the consultation.

OEH, being the agency responsible for administering the Threatened Species Conservation Act, sought to impose requirements on land holders to secure environmental offsets prior to the draft Plan proceeding. During further consultation, OEH agreed to consider mechanisms to secure adequate environmental off-sets from individual land owners on their merits, in lieu of a collective offset.

Council considered OEH requirements and was satisfied that the agreement reached between OEH and land holders provided a way forward for the draft Plan to progress. The nature and timing of securing environmental off-sets under the TSC Act is outside of Council's control as the plan making process under Part 3 of the Environmental Planning and Assessment Act does not provide Council with any mechanism to resolve these matters. It is noted that one land holder was able to secure environmental offsets for their parcel of land.

The draft Plan was subsequently submitted to the Minister for Planning on 7 June 2010 with a request that the plan be made, noting the outstanding OEH objection.

Notwithstanding, on 10 January 2011, the Minister notified Council that the Plan was made under section 59 of the Act. In making the Plan, the Minister deferred the inclusion of the land subject to this planning proposal (the deferred portion) until such time that environmental offsets for the deferred portion have been resolved.

The land owners are currently holding discussions with OEH regarding environmental offsets for the deferred matter. OEH have advised that while they are satisfied with the proposed offsets and negotiations are progressing, finalisation of the conservation agreement could take up to 18 months.

This matter will be finalised prior to submitting the planning proposal to the Minister with

a request that the plan be made.

Given that consultation with government agencies was undertaken on Amendment No.24 to the Port Stephens LEP 2000, it is considered that no further consultation is required.

Part 4 – Community Consultation

As this land was included in Amendment No. 24, which was exhibited for twenty eight (28) days from 5 July 2007 to 2 August 2007 and re-exhibited from 9 August 2007 to 6 September 2007 (due to incorrect deposited plan numbers during the original exhibition), in accordance with the Department's s65 Certificate under previous plan-making requirements. Ten (10) submissions were received from members of the public. The main issues raised in the submissions were:

- Concern regarding if there is a need for additional residential land;
- Wanting a reduction in density and the number of lots in Karuah;
- Concern over lack of community input and the exhibited material;
- Traffic impacts;
- Noise pollution associated with additional residential development;
- Environmental impacts such as mosquitoes, SEPP 14 wetlands;
- Provision of infrastructure in the rezoning request;
- Concern over loss of habitat;
- Request removal of Lot 2 DP 748343 from the draft Plan as concerns were expressed over inclusion. Concern property is being used as an offset for adjoining development;
- Bushfire risk
- The majority of development in the western areas of Port Stephens will be catered for at Kings Hill

No changes were made to the draft Plan following its exhibition.

Council considered the submissions made and concluded that the draft Plan is consistent with the LHRS and the Port Stephens Community and Infrastructure Strategy (2007) (now subsided). Additional residential land in proximity to the Karuah town centre will enable more efficient use of existing infrastructure associated with the development of land will be provided by the developer under Section 94 contributions. Residential land is not likely to result in high levels of noise. Traffic implications will need to be considered in further detail at the development application stage. Approximately 70% of the area to be rezoned will be rezoned to 7(a) Environmental Protection.

Accordingly, it is considered that this Planning Proposal does not require additional community consultation.