

Planning and Assessment

IRF20/4479

Gateway determination report

LGA	Port Stephens
PPA	Port Stephens Council
NAME	Rezoning to enable rural residential subdivision and housing (38 homes)
NUMBER	PP_2020_PORTS_005_00
LEP TO BE AMENDED	<i>Port Stephens Local Environmental Plan 2013</i>
ADDRESS	610 Seaham Road, Nelsons Plains
DESCRIPTION	Lot 1 DP1191203
RECEIVED	21 September 2020
FILE NO.	IRF20/4479
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Site description

The site has a land area of approximately 38.9 hectares comprising of a single lot (Figure 1). The site is vacant but has been historically used for cattle grazing and contains scattered vegetation along its western frontage with Seaham Road.

The site slopes from west to east towards the Williams River. Two dams are located on first order watercourses originating from the property that cross the northern and eastern boundaries. An unformed road reserve extends along the southern boundary from Seaham Road to the Williams River.

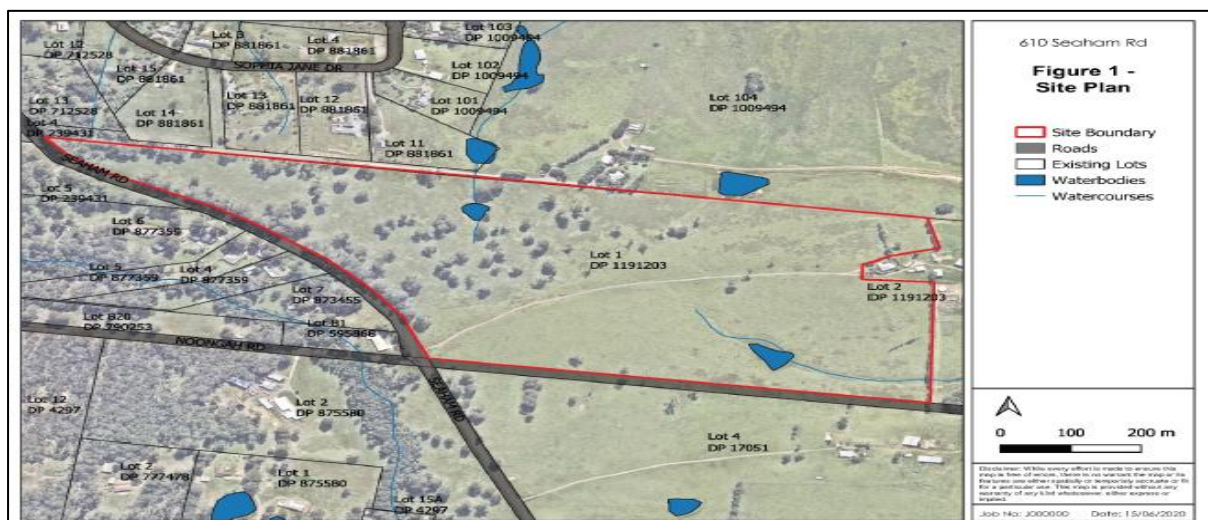


Figure 1 – Site Plan (outlined red)

1.2 Existing planning controls

The site is currently zoned RU1 Primary Production (Figure 2) and has a minimum lot size of 40ha (Figure 3) under the *Port Stephens Local Environmental Plan 2013*.

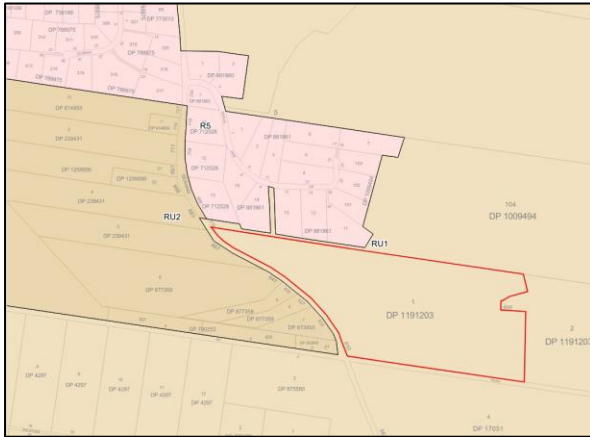


Figure 2 - Existing Land Zoning RU1

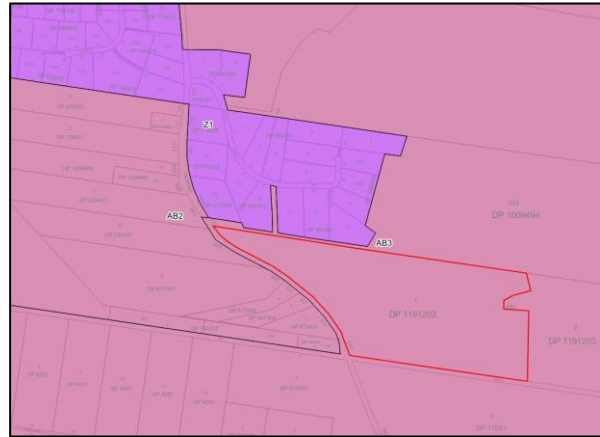


Figure 3 - Existing Lot Size 40ha

1.3 Surrounding area

The site is located on the eastern side of Seaham Road midway between the local centre of Seaham, approximately 5.5km to the north, and the strategic centre of Raymond Terrace, approximately 6km to the south.

The surrounding land use zones include:

- R5 Large Lot Residential zoned land with a 2ha minimum lot size to the north;
- RU2 Rural Landscape zoned land with a 20ha minimum lot size located west; and
- RU1 Primary Production zoned land with a 40ha lot size forms the balance of the agricultural precinct of Nelsons Plains.

Surrounding land uses are a mix of rural residential and larger agricultural allotments used for grazing. Poultry farms are located to the west and south of the site.

Two planning proposals in the vicinity of the site at 792 Seaham Rd and 22 Warrigal Close have received conditional Gateway determinations to proceed with rezoning RU1 Primary Production land to R5 Large Lot Residential and amend the minimum lot size from 40ha to 2ha (Figure 4).

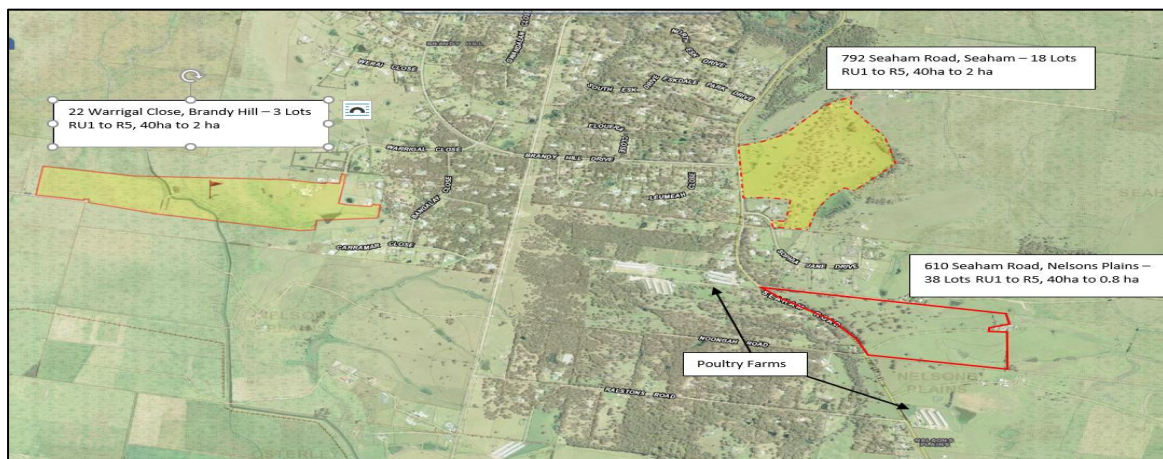


Figure 4 - Surrounding Land Uses (site outlined red)

2. PROPOSAL

2.1 Description of planning proposal

The planning proposal seeks to rezone land from RU1 Primary Production to R5 Large Lot Residential and reduce the minimum lot size from 40 hectares to 8,000m².

2.2 Objectives or intended outcomes

The intended outcome of the planning proposal is to enable rural residential subdivision for 38 additional housing lots at 610 Seaham Rd, Nelsons Plains.

2.3 Explanation of provisions

The planning proposal seeks to amend *Port Stephens Local Environmental Plan 2013* by:

- amending the Land Zoning Map from RU1 Primary Production to R5 Large Lot Residential (Figure 5); and
- amending the Lot Size Map from 40ha to 8,000m² (Figure 6).

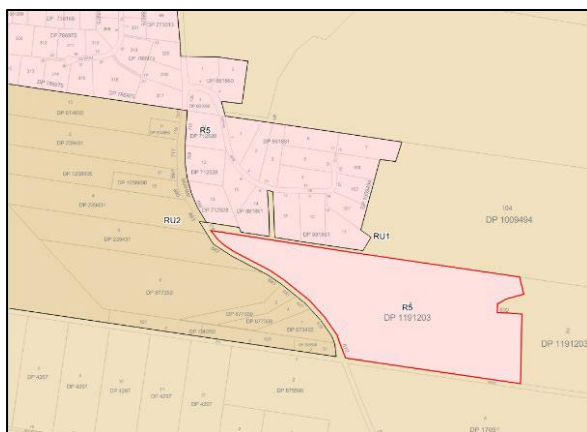


Figure 5 – Proposed R5 Large Lot Residential

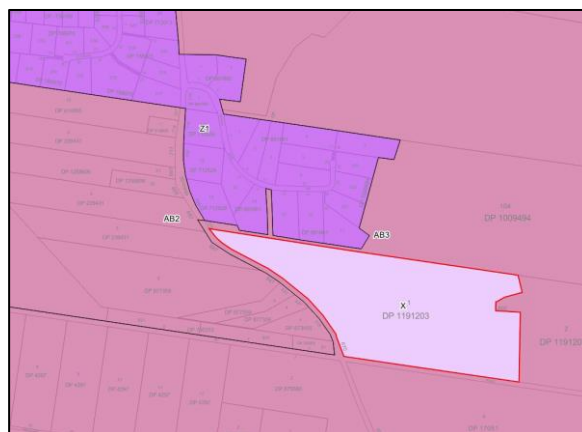


Figure 6 – Proposed 8,000m² minimum lot size

2.4 Mapping

The planning proposal seeks to amend Land Zoning Map – Sheet LZN_001 and Lot Size Map – Sheet LSZ_001 to enable the rezoning and lot size amendments.

However, Lot 1 DP1191203 is not fully contained within a single map sheet with the rear of the Lot 1 DP1191203 also located on LZN_001C and LSZ_001C. Council should update the planning proposal to identify LZN_001C and LSZ_001C will also be amended in addition to LZN_001 and LSZ_001 prior to community consultation.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is a result of the *Port Stephens Local Strategic Planning Statement* (LSPS) and the *Port Stephens Local Housing Strategy - 'Live Port Stephens'* (LHS).

Action 9.1 in the LSPS required Council to prepare a local housing strategy that includes assessment criteria for new rural residential development to protect existing and potential productive agricultural land.

On 14 July 2020, the *Port Stephens LHS* was adopted by Council and includes rural residential criteria. The planning proposal indicates that the proposed planning control changes are consistent with the criteria and provides the strategic context for the rezoning.

Amending the zone and the minimum lot size is the best means of enabling rural residential subdivision and housing on the site. Council considered utilising an additional permitted use provision to facilitate the rural residential subdivision, but this is not an exceptional circumstance to warrant its use.

Minimum Lot Size Consistency

The planning proposal seeks to allow the land to be developed for large lot residential purposes with minimum lot size controls lower than the minimum lot size in the existing R5 Large Lot Residential zone and two additional planning proposals in the surrounding area of Brandy Hill.

Analysis of existing lot size distribution within the Brandy Hill area (Figure 7) generally shows lots on the periphery of the R5 Large Lot Residential zone with an area of 1-2ha or above with lots less than 1ha generally clustered towards the eastern centre in Brandy Hill.

The planning proposals at 792 Seaham Rd and 22 Warrigal Close are currently proceeding with Gateway determinations and both proposed 2ha minimum lot sizes which are consistent with the existing 2ha development standard in the vicinity.

The subdivision distribution responds to potential land use conflicts by providing a buffer between the rural residential and agricultural land uses. The larger lots along the edge of the R5 Large Lot Residential zone also play a role in maintaining the scenic qualities and rural character of the area.

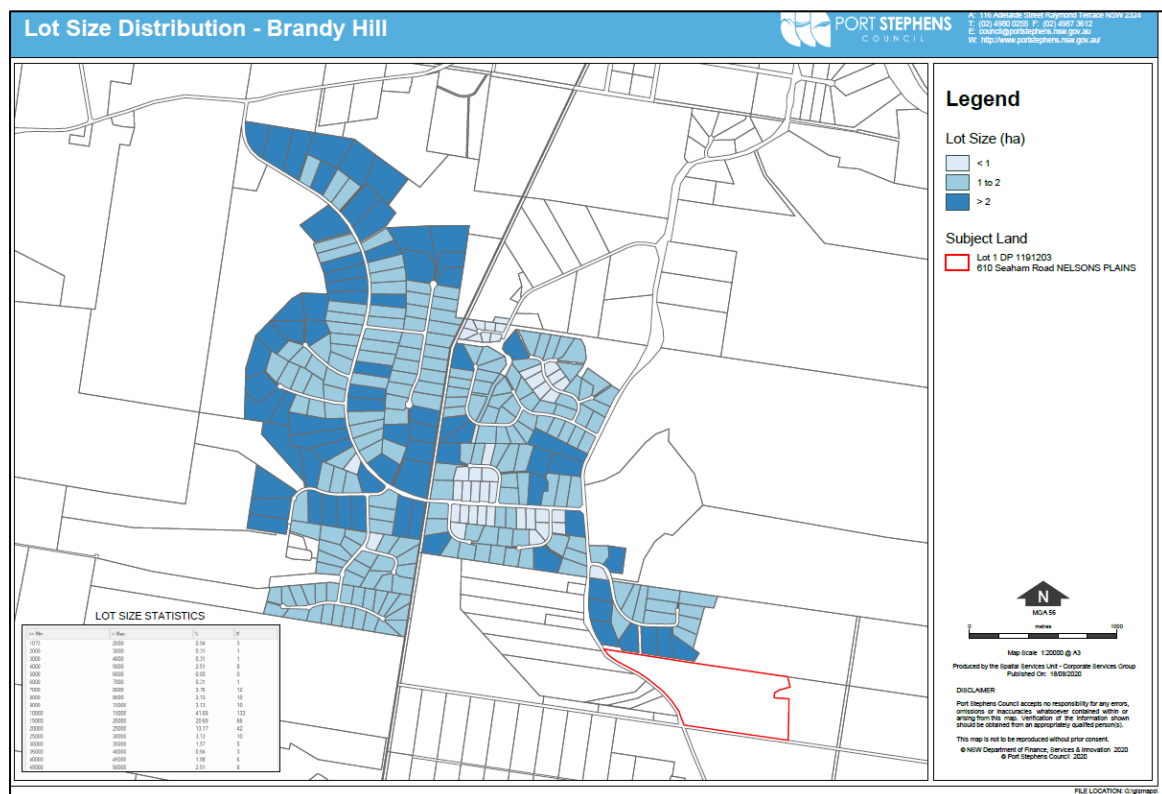


Figure 7 – Lot Size Distribution (site identified by red line)

Introducing a more intensive form via a minimum lot size of 8,000m² of large lot residential development on the periphery of the R5 Large Lot Residential zone may lead to land use conflict and a hard urban edge with surrounding primary production land.

The presence of poultry operations in proximity to this site highlights the importance of protecting both current agricultural production operations and future residential amenity.

The proposed minimum lot size of 8,000m² is also considered to be inconsistent with relevant strategic plans and section 9.1 Ministerial directions, which is outlined further below.

There is limited justification for the proposed minimum lot sizes being at variance to the existing subdivision pattern in the location and the proposed two other rural residential developments, which provides an appropriate response to potential land use conflicts and maintains the scenic qualities and rural character of the area. Therefore, a minimum lot size of 2ha should be applied to the site consistent with other land within Nelsons Plains/Brandy Hill.

4. STRATEGIC ASSESSMENT

4.1 State

There are no State level strategic plans which are specifically relevant to the planning proposal.

4.2 Regional / District

Hunter Regional Plan 2036

The *Hunter Regional Plan 2036* (HRP) provides high level directions for growth and change in the region. The site is not identified in the HRP as an area of regional significance for environmental or other purposes (Figure 8).

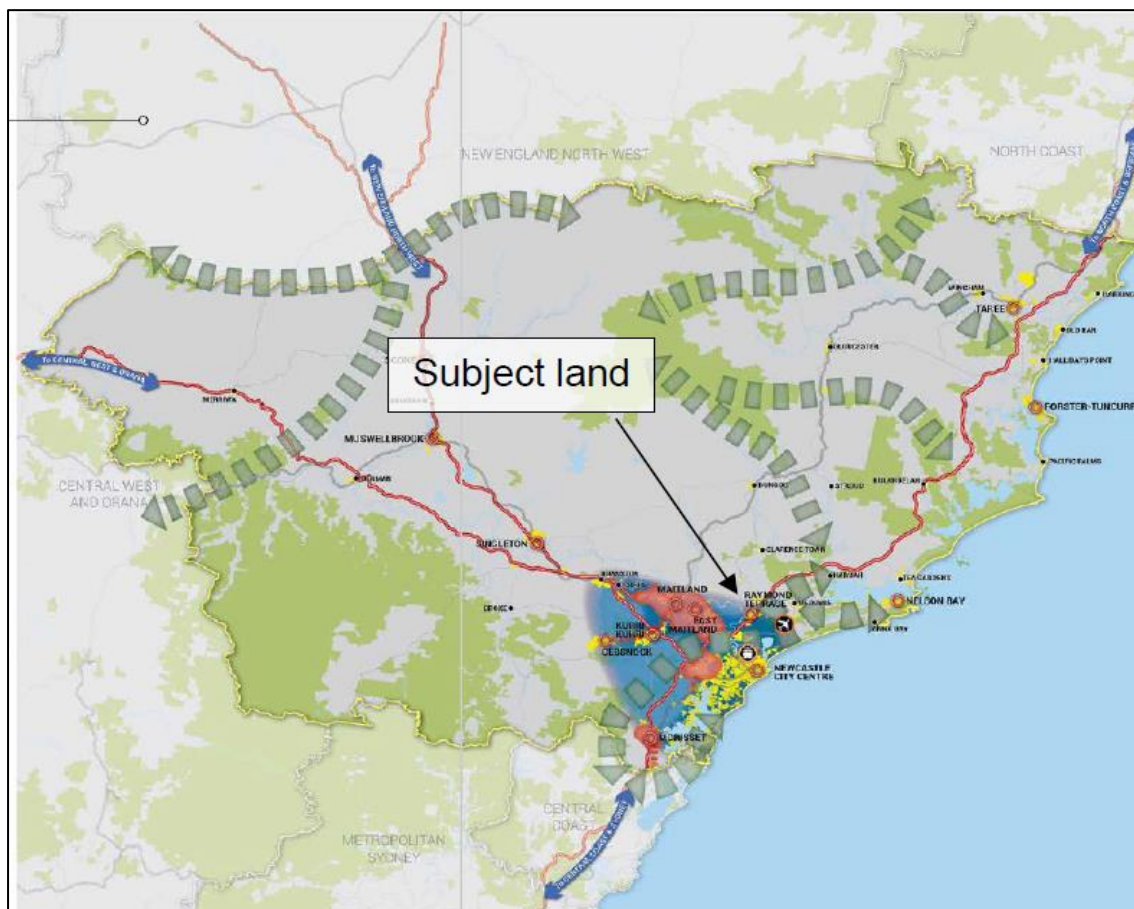


Figure 8 - Extract Hunter Regional Plan 2036

The following directions apply to planning proposal:

- *Direction 10 – Protect and enhance agricultural productivity*

Action 10.1 Protect locations that can accommodate agricultural enterprises from incompatible development.

There are existing poultry operations located in proximity to the site. These operations are part of a wider poultry industry that the Department of Primary Industries advised make up 76% of the total agricultural gross value of product in Port Stephens Local Government Area.

The NSW Government has a 'right to farm' policy. The concept of 'right to farm' has multiple facets but the common interpretation – and the one used in the policy - relates to a desire by farmers to undertake lawful agricultural practices without conflict or interference arising from complaints from neighbours and other land users.

Council has advised an odour assessment indicates impacts from the existing poultry industry can be mitigated.

Preliminary advice from the Department of Primary Industries noted the potential for land use conflict, the risk to the ongoing operation of adjoining farms and subsequent local and regional economic impacts. Inconsistency with the 'Buffer zones to reduce land use conflict with Agriculture' Interim Guidelines (DPI NSW, 2018), which recommends a separation distance of 1km between indoor poultry establishments and residential development was specifically noted.

The planning proposal with a minimum lot size of 8,000m² does not protect and enhance agricultural productivity and is inconsistent with the direction of the *Hunter Regional Plan 2036*.

- *Direction 22 – Promote housing diversity*

The planning proposal supports housing diversity by locating rural residential housing in proximity to an established rural residential area and within 10 minutes' drive of Raymond Terrace.

Action 22.5 of the regional plan requires councils to include guidance in local land use strategies for expanding rural villages and rural residential development and includes objectives to manage rural residential development by:

- not adversely impacting on important agricultural land;
- not impacting on drinking water catchments,
- not adversely resulting in greater natural hazard risk;
- occurring on land that is unlikely to be needed for urban development;
- contributing to the conservation of important biodiversity values; and
- facilitating the expansion of tourist development activities in agricultural lands.

The planning proposal is generally consistent with the action regarding the requirements for rural-residential developments.

Greater Newcastle Metropolitan Plan 2036

- *Strategy 18 - Deliver well-planned rural residential housing areas*

The objective of this strategy is to provide a consistent and balanced approach to rural residential development to minimise potential conflicts with productive rural areas and environmental assets.

The planning proposal is generally consistent with Action 18.1, which enables rural residential housing when the need is demonstrated through a local planning strategy endorsed by the Department of Planning and Environment, except for the following:

Table 1 – Inconsistency with GNMP 2036

Action	Planning Proposal response	DPIE response
2. Less intensive development will result in better management of the land.	<p>Consistent.</p> <p>Odour and ecological assessments prepared in support of the planning proposal demonstrate more intensive urban development is unlikely to result in better management of the land and potential environmental impacts. It is considered that rural residential housing on 8,000m² is an appropriate scale of development that will complement existing land uses and respond to the relevant characteristics of the subject land and its surrounds.</p>	<p>The planning proposal does not adequately address the Action.</p> <p>The established minimum lot sizes in Brandy Hill generally demonstrate that less intensive development along the zone boundary may result in better management of the land. In this regard, the lot sizes typically have an area of 1 to 2ha providing additional separation between primary production activities and residential development.</p> <p>The proximity of poultry farms to the site heightens the need to carefully consider the potential land use conflicts and adopt more appropriate larger lot sizes.</p>

The intention for rural residential development is generally consistent with the *Greater Newcastle Metropolitan Plan 2036*. However, the proposed minimum lot size is not considered to be consistent with the metropolitan plan.

4.3 Local

Port Stephens Local Strategic Planning Statement

The planning proposal gives effect to the *Port Stephens Local Strategic Planning Statement* (LSPS) and its planning priorities, including:

- Planning Priority 4 – Ensure suitable land supply; and
- Planning Priority 5 – Increase diversity of housing choice.

The planning proposal will increase the supply of land for residential housing and provide housing diversity located on larger lots that have a minimum lot size of 8,000m².

- Planning Priority 9 – Protect and preserve productive agricultural land and Action 9.1:
 - to prepare a local housing strategy that includes assessment criteria for new rural residential development to protect existing and potential productive agricultural land.

Port Stephens Local Housing Strategy

The Port Stephens Local Housing Strategy provides a guide to land use planning for new housing in Port Stephens. It has not been endorsed at this stage by the Department of Planning, Industry and Environment.

The strategy includes criteria that have been developed to identify key requirements and constraints that need to be addressed for rezoning requests proposing rural residential housing. Council considered the criteria and identified the planning proposal to be consistent with the location, exclusionary and management criteria in the strategy. However, the following criteria need further consideration:

Table 2 – Housing criteria assessment

Exclusionary Criteria	
Criteria	DPIE response
High biodiversity value land	<p>The proposal is not consistent as one endangered ecological community, potential habitat for threatened flora and fauna species and preferred koala habitat are identified in the ecological assessment to support the planning proposal.</p> <p>Consultation with the Biodiversity and Conservation Division on biodiversity matters should be undertaken.</p>
Important agricultural land	<p>The planning proposal relies on the classification of agricultural land as Biophysical Strategic Agricultural Land (BSAL) as the threshold for protecting land from potential residential development.</p> <p>Preliminary comments from the Department of Primary Industries raised concerns regarding the rural residential component of the Local Housing Strategy. The concerns identified:</p> <ul style="list-style-type: none"> • rural residential development severely impacts on availability of agricultural land; • BSAL maps do not solely identify important agricultural land in the State; and • BSAL land makes up 3.5% of the State and could not possibly meet the needs of the State for food and fibre production or support ongoing

	<p>employment in Port Stephens in agricultural industries.</p> <p>These concerns were also reflected in similar comments provided during agency consultation by Department of Primary Industries for the planning proposal at 22 Warrigal Close, Brandy Hill.</p> <p>In this regard, there is limited guidance on identifying land that may not be classified as BSAL but may still have regional agricultural value.</p> <p>Consultation with the Department of Primary Industries should be undertaken.</p>
Management Criteria	
Criteria	DPIE response
Flooding - Land that has the potential to be isolated in flood events, must demonstrate access to evacuation facilities via a public road that is given 24 hours warning of flood isolation.	<p>The site is isolated during the Probable Maximum Flood event.</p> <p>The planning proposal states that the exact warning time and mechanism to provide that warning can be managed through an appropriate management plan that would accompany any development application.</p> <p>Consultation with the Biodiversity and Conservation Division on flood matters should be undertaken.</p>
Bushfire	<p>Land identified as bush fire prone land must demonstrate consistency with <i>Planning for Bush Fire Protection 2019</i>.</p> <p>Consultation is required with the NSW Rural Fire Service before consistency can be determined.</p>
Environmentally Sensitive Land - Land that includes koala habitat areas and/or corridors, significant native vegetation, endangered ecological communities, threatened species or habitats must submit a preliminary ecological assessment.	<p>An ecological assessment recommended further investigations be carried out.</p> <p>Until this work is undertaken and assessed it is not possible to demonstrate consistency. Consultation with the Biodiversity and Conservation Division should also occur.</p>

Aboriginal Cultural Heritage	<p>A preliminary Aboriginal heritage assessment has been prepared and recommended a site assessment is to be conducted in consultation and collaboration with the Worimi Local Aboriginal Land Council.</p> <p>Consultation with the Worimi Local Aboriginal Land Council should be undertaken.</p>
Rural Land Resources - Land within 1km from existing agricultural industries (e.g. poultry farms) measured from property boundary to property boundary are requirement to provide expert reports (e.g. noise, odour, visual amenity and biosecurity risks etc.) to establish appropriate setbacks.	<p>The odour report provided identifies building envelopes on the closest lot to mitigate odour from nearby poultry operations. Consultation with the Department of Primary Industries should be undertaken.</p>

Draft Port Stephens Rural Residential Strategy 2015

The Port Stephens Local Housing Strategy requires planning proposals for rural residential development address the Draft Port Stephens Rural Residential Strategy 2015 (Draft Strategy) including any matters for investigation that have been identified relevant to the proposed land.

The site is located within Investigation Area 7 (Osterley/Nelsons Plains). The matters for investigation in the Draft Strategy and Council's response is provided in the planning proposal identifying a yield of 25 rural living lots with a variety of lot sizes, the minimum lot size being 1ha.

The yield proposed on this site is greater than the entire anticipated yield for Investigation Area 7 (Osterley/Nelson Plains).

The planning proposal indicates that a reduced lot size of 8,000m² is consistent with the Brandy Hill area and proposed mitigation measures can deal with potential odour impacts.

The location and intensity of development on the periphery of the R5 Large Lot Residential zone may have the potential to create ongoing land use conflicts with existing and future agricultural operations. The proposed 8,000m² minimum lot size is considered to be inconsistent with Draft Strategy.

4.4 Section 9.1 Ministerial Directions

1.2 Rural Zones

The objective of the direction is to protect the agricultural production value of rural land and requires that a planning proposal must not rezone land from rural to a residential zone.

The planning proposal indicates the inconsistency is justified as the amendments are in accordance with the *Hunter Regional Plan 2036* and the *Greater Newcastle Metropolitan Plan 2036* and will assist in meeting dwelling targets and provide increased housing diversity near the Raymond Terrace strategic centre.

The site is generally free of constraints that appear capable of resolution, such as flooding, bushfire and ecological matters. Whilst current agricultural activity is limited and the site is not identified on BSAL maps, it is zoned primary production and located in the vicinity of nearby poultry farms.

Further advice is required from the Department of Primary Industries prior to determining consistency with the direction.

1.5 Rural Lands

The objectives of the direction are to:

- protect the agricultural production value of rural land;
- facilitate the orderly and economic use and development of rural lands for rural and related purposes;
- assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State;
- minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses;
- encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land;
- support the delivery of the actions outlined in the New South Wales Right to Farm Policy.

The NSW Agriculture Commissioner made written representations to Council expressing concerns regarding the planning proposal due to the proximity of the site to nearby poultry farms, potential land use conflict and the viability of existing and future poultry operations.

Further advice is required from the Department of Primary Industries prior to determining consistency with the direction.

2.1 Environment Protection Zones

The preliminary ecological assessment identified one endangered ecological community, potential habitat for threatened flora and fauna species and preferred koala habitat on the site (Figure 9). However, due to the degraded condition of the native vegetation and cleared nature of the landscape these are considered unlikely to be significant. Council proposes further assessments to be prepared to understand the potential impacts on critical habitat or threatened species, populations or ecological communities or their habitats, including:

- BAM field survey;
- BAM calculations;
- Comprehensive Koala Plan of Management assessment; and
- Biodiversity Development Assessment Report.

Consultation is required with DPIE – Biodiversity Conservation Division before consistency with the direction can be determined.

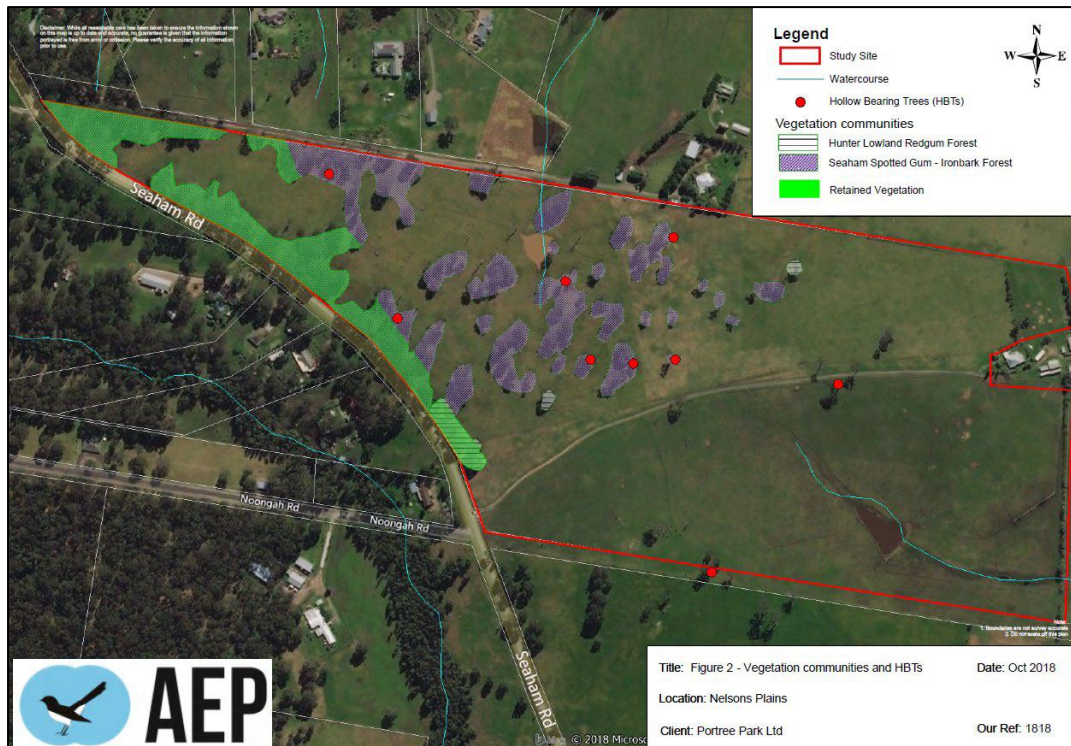


Figure 9 – Biodiversity mapping for the site (site outlined red)

2.3 Heritage Conservation

Council advised no items, areas, objects, or places of environmental heritage significance are located on or near the subject land.

A preliminary Aboriginal heritage assessment has been prepared in support of the planning proposal and recommended a site assessment is to be conducted in consultation and collaboration with the Worimi Local Aboriginal Land Council.

Consistency with the direction will be determined following consultation with the Worimi Local Aboriginal Land Council.

2.6 Remediation of Contaminated Land

The direction applies as development for agricultural activities is known to have been carried out on the land and is potentially an activity that may cause contamination. A preliminary investigation in accordance with the contaminated land planning guidelines is proposed to be undertaken to ensure the land is suitable in its contaminated state or will be suitable following remediation.

Consistency with the direction will be determined following the completion of the preliminary contamination investigation.

3.1 Residential Zones

The direction applies as it affects land within a proposed residential zone. The planning proposal is inconsistent as it does not make more efficient use of existing infrastructure and will increase the consumption of land on the urban fringe. The planning proposal notes that the inconsistency is justified as it is consistent with the *Hunter Regional Plan 2036* and *Greater Newcastle Metropolitan Plan 2036*.

Preliminary service advice from Hunter Water Corporation indicates the site can be adequately serviced by water with the extension of a water main located

approximately 130m north-west of the site. The site is not connected to sewer and on-site sewerage management systems will be required, consistent with the Nelsons Plains/Brandy Hill area.

There is existing rural residential development in the area and the two additional planning proposals for further expansion of rural residential housing choices in the area. Additionally, the intention for rural residential development is generally consistent with the *Hunter Regional Plan 2036* and *Greater Newcastle Metropolitan Plan 2036*. However, the proposed minimum lot size is not considered to be consistent with the regional and metropolitan plans.

Given the above, it is considered inconsistency with this direction to be minor.

3.4 Integrating Land Use and Transport

The direction applies as it creates a zone for large lot residential purposes. Council has acknowledged the planning proposal is inconsistent with the direction. The planning proposal will not ensure that there is a network of viable, mixed use centres closely aligned with the public transport system nor will it accommodate and create opportunities for business growth and service delivery.

The planning proposal notes it is justifiably inconsistent as it will assist in meeting the dwelling targets, reinforce the role of Raymond Terrace as a strategic centre by providing housing diversity within a short commute to Raymond Terrace as identified in the *Hunter Regional Plan 2036* and *Greater Newcastle Metropolitan Plan 2036*.

Given the existing rural residential development in the area and the two additional planning proposals for further expansion of rural residential housing choices in the area, it is considered inconsistency with this direction to be minor.

3.5 Development Near Regulated Airports and Defence Airfields

The planning proposal will create a zone on land near Williamtown RAAF Base / Newcastle Airport. Port Stephens Development Control Plan includes a height trigger map and requires referral of all structures higher than 45 metres to the Department of Defence (Figure 10). Council has advised it is unlikely development associated with large lot residential would exceed 45 metres.

Consultation with Newcastle Airport, Civil Aviation and Safety Authority (CASA) and the Commonwealth Department of Defence is required before consistency with the direction can be determined.

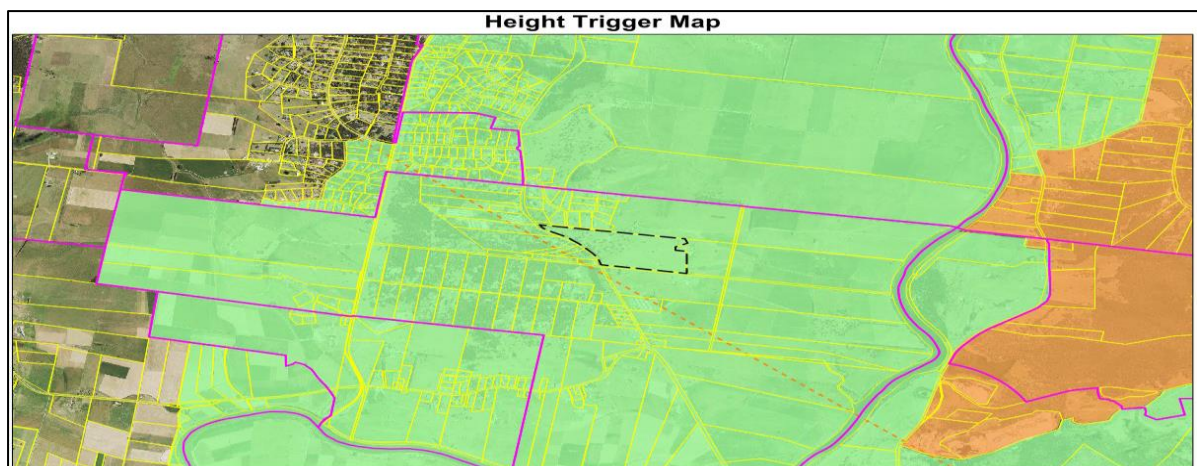


Figure 10 – Height Trigger Map (site identified by dashed black line)

4.1 Acid Sulfate Soils

The land is identified as having a probability of containing class 5 acid sulfate soils and is proposed to be zoned to R5 Large Lot Residential. The direction requires an acid sulfate soil study as land use intensification would occur.

The *Port Stephens Local Environmental Plan 2013* includes provisions that regulate development on acid sulfate soils therefore a study is considered unnecessary and is a matter that can be resolved at the development application stage. In this case, the inconsistency is considered of minor significance.

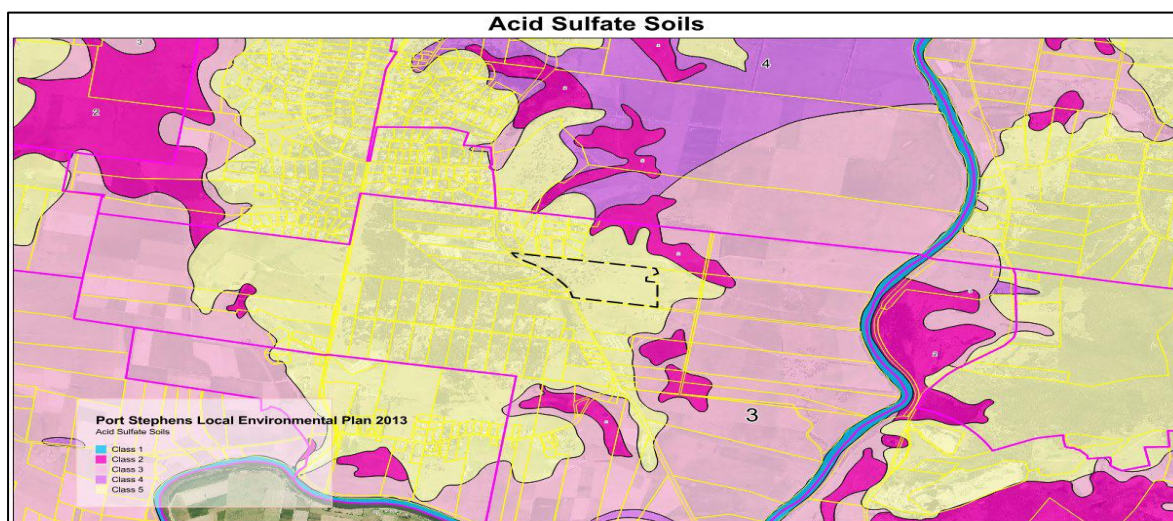


Figure 11 – Acid Sulfate Soils Map (site identified by dashed black line)

4.3 Flood Prone Land

The subject land is largely unaffected by flood prone land. Approximately 540m² of land in the south eastern corner of the site is within the low hazard flood fringe area (Figure 12). The planning proposal is inconsistent with the direction as it rezones land in a flood planning area from a rural to residential zone.

A flood access report indicates the site becomes isolated during major flooding events but there is sufficient land to provide on-site refuge on flood-free ground.

The report identifies the Williams River catchment as substantially large with an associated long response time and therefore adequate warning time exists to enable evacuation prior to the site being cut off.

Consultation with the Biodiversity and Conservation Division on flood matters is required before any inconsistency with the direction can be determined.

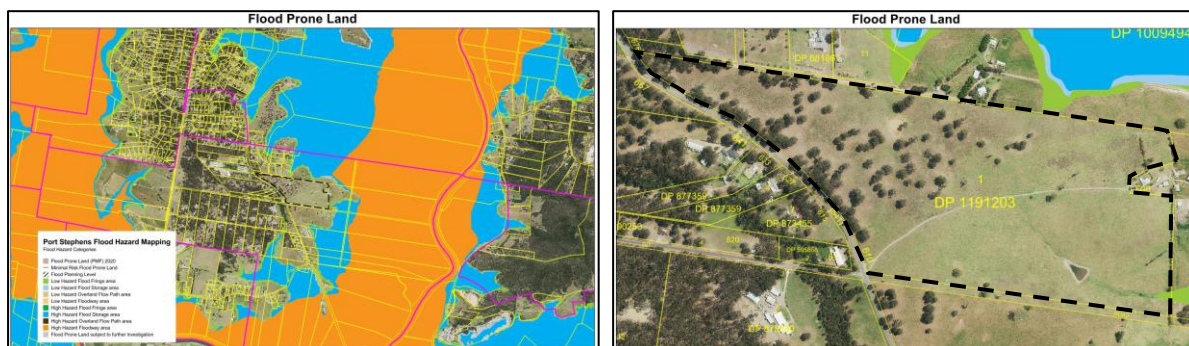


Figure 12 – Flood Prone Land (site identified by dashed black line)

4.4 Planning for Bushfire Protection

The planning proposal will affect land that is partly mapped as bushfire prone (Figure 13) and consultation with the NSW Rural Fire Service should occur before consistency with this direction can be determined.

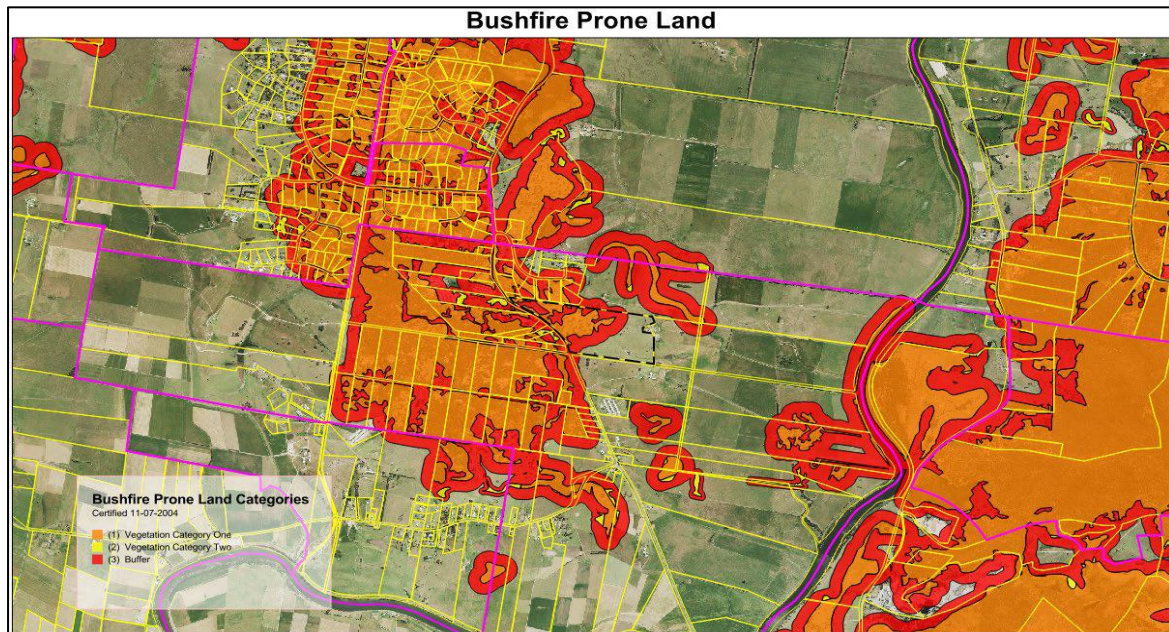


Figure 13 – Bushfire Prone Land (site identified by dashed black line)

5.10 Implementation of Regional Plans

As outlined above, the intention for rural residential development is generally consistent with the *Hunter Regional Plan 2036* and *Greater Newcastle Metropolitan Plan 2036*. However, the proposed minimum lot size is not considered to be consistent with the regional and metropolitan plans.

4.5 State environmental planning policies (SEPPs)

State Environmental Planning Policy (Koala Habitat Protection) 2019

The *Port Stephens Comprehensive Koala Plan of Management* (Plan of Management) maps the site as having an area of marginal koala habitat and linking marginal koala habitat.

The Plan of Management provides performance criteria for rezoning which are applicable to this planning proposal. The assessment indicates the area identified is not preferred koala habitat and it is proposed to include building envelopes to ensure habitat linking areas are maintained.

Further assessment is proposed to be undertaken to determine consistency and minimise the removal of any individuals or preferred koala food trees and to consider appropriate tree retention so as not to sever or impede koala movement across the site.

Consultation with the Biodiversity and Conservation Division to address these and other biodiversity matters is required.

State Environmental Planning Policy (Primary Production and Rural Development) 2019

One of the aims of the SEPP is to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources.

The land is not identified as Biophysical Strategic Agricultural Land (BSAL) and is not identified as State significant agricultural land in Schedule 1 of *SEPP (Primary Production and Rural Development) 2019*.

The intention for rural residential development is generally consistent with the *SEPP*. However, the proposed minimum lot size is not considered to be consistent with the aim of reducing land use conflict.

Consultation with the Department of Primary Industries is required regarding potential land use conflict from nearby poultry farms and supporting farmers in exercising their right to farm.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal will provide additional large lot residential development in Nelsons Plains and will assist in meeting local and regional dwelling demand and provide a variety of housing options.

The impact on adjoining and nearby agriculture operations needs to be determined following consultation with the Department of Primary Industries.

5.2 Environmental

The land uses surrounding the site include rural residential dwellings, cattle grazing activities and poultry farms. Introducing additional residential receivers by residential development may contribute to conflicting land use and management concerns.

An odour assessment lodged with the planning proposal identified varying levels of odour impact across the site from poultry farms with higher levels concentrated in the north-west portion of the subject land and along the Seaham Road frontage. The odour assessment recommends locating future development in areas below odour level 4 and restricting building envelopes to the rear of lots fronting Seaham Road to comply with the Environmental Protection Authority odour assessment criteria.



Figure 14 – Potential odour impacts (site and proposed lots identified by red lines)

5.3 Economic

The planning proposal has identified that any reduction in lot size can have negative social and economic outcomes. Increasing fragmentation of agricultural land may make it more difficult and expensive to consolidate larger, more economically viable parcels for agriculture, subsequently increasing land use conflicts.

This is the third planning proposal seeking to rezone primary production zoned land for large lot residential purposes in the area. There are likely to be similar proposals in the pipeline as the rural residential criteria envisages this development type on generally unconstrained rural land. There is also ongoing potential land use conflict for existing and future agricultural operations with diminishing supply of unconstrained rural land.

5.4 Infrastructure

Council has advised there is sufficient infrastructure capacity in the existing road networks to support the planning proposal.

An updated traffic assessment report will be provided to consider the impact of development on the local road network should the planning proposal proceed. Council should include consideration of other planning proposals in the vicinity of the site to consider the cumulative impacts of additional residential development on the road network.

6. CONSULTATION

6.1 Community

Port Stephens Council proposes to exhibit the planning proposal for one month. Given the nature of the issues and the matters raised by the relevant public authority for agriculture, the planning proposal should:

- be exhibited for at least 28 days; and
- a public hearing be held seeking community views on the proposed rural residential development and its interface with agricultural uses.

6.2 Agencies

Consultation is to be undertaken with the following agencies:

- Department of Primary Industries;
- Biodiversity and Conservation Division;
- Worimi Local Aboriginal Land Council;
- Newcastle Airport, Civil Aviation and Safety Authority (CASA) and Commonwealth Department of Defence;
- NSW Rural Fire Service; and
- Hunter Water Corporation.

7. TIME FRAME

Port Stephens Council has requested a 14 month timeframe to make the plan. The proposed timeframe is considered appropriate to account for the additional consultation requirements outlined in Section 6.1.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority. The NSW Agriculture Commissioner has made representations expressing concerns to Council regarding the planning proposal. Additionally, there are a number of outstanding potential inconsistencies with section 9.1 Ministerial directions.

It is considered Port Stephens Council should not be granted delegation to make the plan.

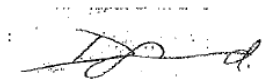
9. RECOMMENDATION

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

1. The planning proposal is to be updated prior to community consultation to:
 - (a) incorporate a 2 hectare minimum lot size consistent with the adjoining R5 Large Lot Residential zone;
 - (b) identify in the explanation of provisions that Map Sheets LZN_001C and LSZ_001C will also be amended; and
 - (c) include an updated assessment against the *State Environmental Planning Policy (Koala Habitat Protection) 2019*.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**;
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018); and
 - (c) public exhibition is to commence **by 1 December 2021**.
3. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Ministerial directions:
 - Department of Primary Industries;
 - Biodiversity and Conservation Division;
 - NSW Rural Fire Service;
 - Hunter Water Corporation;
 - Worimi Local Aboriginal Land Council; and
 - Newcastle Airport, Civil Aviation and Safety Authority (CASA) and Commonwealth Department of Defence.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

4. A public hearing is required to be held into the matter by Port Stephens Council under section 3.34(2)(e) of the Act following community consultation.
5. The time frame for completing the LEP is to be **14 months** following the date of the Gateway determination.



12/04/2021
Daniel Starreveld
Manager
Central Coast and Hunter Region



12/04/2021
Daniel Simpkins
Director
Central Coast and Hunter Region
Planning and Assessment

Assessment officer: Glenn Hornal
Senior Planning Officer, Central Coast and Hunter
Phone: 4345 4409