

Draft Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 – Amendment – Land west of Newline Road

Part 1 - Objectives or Intended Outcomes

The purpose of the Planning Proposal ("the Proposal") is to amend the Port Stephens Local Environmental Plan 2000 and the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 in order to:

1. Rezone land west of Newline Road from a rural to a conservation zone in order to protect the biodiversity significance of the land.
2. Provide for a small number of conservation residential lots in order to facilitate limited development that will support economically viable private ownership and conservation management of the land.
3. To ensure development does not occur on the land before conservation protection measures are in place.
4. Potentially provide a basis for the vegetation removal on certain lands zoned R1 and B4 within the Kings Hill Urban Release Area in further consultation with the Office of Environment and Heritage.
5. Specify minimum lot sizes for the rezoned land.

Part 2 - Explanation of Provisions

The Proposal is to rezone certain land between Newline Road and the Williams River from 1(a) Rural Agriculture Zone to E2 Environmental Conservation and E4 Environmental Living. This will enable the development of a small number of dwellings on land above the 1% flood AEP adjacent to Newline Road, and the conservation, rehabilitation and revegetation of land of biodiversity significance that is generally below the 1% AEP.

A primary outcome sought by this Planning Proposal is to protect the biodiversity significance of the land. A number of options are available, in addition to the protections inherent in the land use zone proposed for the significant land (E2 Environmental Conservation). Options for providing further protection of the land could include a voluntary planning agreement over the land, a voluntary conservation agreement over the land, and/or a specific clause placed in the Local Environmental Plan to require certain conservation measures to be undertaken before development consent can be granted.

The proponent of the rezoning has suggested a preferred option of a Voluntary Conservation Agreement under Section 69 of the National Parks and Wildlife Service Act 1974 be placed on part of the land in order to ensure that it is managed to protect its biodiversity significance in perpetuity. Under this option, land is proposed to remain in private ownership and it is intended that the future owners of the land will be responsible for its conservation management, and whatever option is chosen it will need to be capable of achieving this objective. The detailed conservation measures to be included in such an agreement will be determined at the development application/ subdivision stage, as is normal practice.

Discussions have been held with the Office of Environment and Heritage in this regard and further discussions will be held with OEH following the Gateway determination in order to refine and agree on a final option.

The State Government has verbally indicated that does not wish to take responsibility for the land as part of the conservation estate. This will be confirmed in writing during the consultation process as this Planning Proposal is progressed.

In order to achieve the above outcomes, it is proposed to amend the Port Stephens Local

Environmental Plan 2000 and the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010.

The Port Stephens Local Environmental Plan 2000 will be amended by virtue of Clause 1.8 of the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 which repeals all local environmental plans applying to the land to which the former Plan applies.

A major reason for amending the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 is that this LEP is based on the standard instrument and therefore will provide many of the supportive and definition clauses which would otherwise be repeated if the subject Planning Proposal was a "stand alone" amendment of the Port Stephens Local Environmental Plan 2000.

The E2 Environmental Conservation zone is already included in the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010. Furthermore, by adopting the standard instrument format, the subject Planning Proposal can utilise the E4 Environmental Living zone proposed in the draft Port Stephen Comprehensive Standard Instrument LEP, allowing a smooth transition when the comprehensive LEP is operational.

In addition, Council is keen to ensure the integrated planning of the Kings Hill Urban Release Area with the subject land adjacent. Inclusion of the subject land within Kings Hill will facilitate this process.

The Planning Proposal will amend the written instrument and the maps of the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 as follows.

Amendments to Port Stephens LEP (Kings Hill North Raymond Terrace) 2010

The Land Application Map (LAP 001) is amended to include the subject land (Lot 32 DP 586245, Part Lot 2 DP 37430, Lot 8 DP111433, and Lot 9 DP 111433), as shown in **Attachment 1**.

The Land Zoning Map (LZN 001) is amended to rezone Lot 32 DP 586245, Part of Lot 2 DP 37430, Lot 8 DP111433, and Lot 9 DP 111433 to E2 Environmental Conservation, and Part of Lot 2 DP 37430 to E4 Environmental Living as shown in **Attachment 2**.

The Lot Size Map (LSZ 001) is amended to show the land subject to this Planning Proposal with a 40 hectare minimum lot size for the E2 Zone excepting the area with a minimum lot size of 2500 square metres for the E4 zone on the elevated "development pad" west of New Line Road (within Part Lot 2 DP 37430), as shown in **Attachment 3**.

The Acid Sulphate Soils Map (ASS 001) is amended to include the land subject to this Planning Proposal, as shown in **Attachment 4**.

The Height of Buildings Map (HOB 001) is amended to include the land subject to this Planning Proposal. No maximum building height is proposed.

The Precincts Map (PRE 001) is amended to include the land subject to this Planning Proposal, as shown in **Attachment 5**. The subject land is shown as an additional Precinct.

The Site Identification Map (Site Identification Map – part of LZN 001) shows the land subject to this Planning Proposal, as shown in **Attachment 6**.

Amend **Clause 4.2A Erection of dwelling houses on land in certain rural land environmental protection zones**, to permit dwellings in the E4 environmental Living Zone.

Amend **Clause 4.6 – Exceptions to development standards**, to remove the drafting note to indicate that Zone E4 applies.

An additional zone is included in the Land Use Tables (Zone objectives and land use table)

E4 Environmental Living

1 Objectives of zone

(a) To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.

(b) To ensure that residential development does not have an adverse effect on those values.

2 Permitted without consent

Home occupations

3 Permitted with consent

Building identification signs; Business identification signs; Community facilities; Dual occupancies, Dwelling houses; Environmental protection works; Flood mitigation works; Home based child care, Home businesses; Home industries; Horticulture; Places of public worship; Recreation areas; Recreation facilities (outdoor); Roads; Tourist and visitor accommodation; Water reticulation systems

4 Prohibited

Backpackers' accommodation; Farm stay accommodation; Hotel or motel accommodation; Industries; Service stations; Serviced apartments; Warehouse or distribution centres; Any other development not specified in item 2 or 3

An option to protect the biodiversity significance of the land may include the inclusion of an additional clause to be inserted in Part 7 Additional Local Provisions of the Kings Hill LEP 2010.

An additional **Clause 7.7 Use of certain land west of Newline Road, Kings Hill, North Raymond Terrace**

- 1) This Clause applies to land at Lot 32 DP 586245, Part Lot 2 DP 37430, Lot 8 DP111433, and Lot 9 DP 111433 being land west of Newline Road, Kings Hill, North Raymond Terrace
- 2) Consent must not be granted to development unless the consent authority is satisfied, whether by the imposition of a condition or otherwise, that arrangements acceptable to the Council and the Office of Environment and Heritage have been made for the enforceable protection and management of that part of the land within the E2 Environmental Conservation Zone and E4 Environmental Living Zone.

The relevant Council reports and resolutions are at **Attachments 7 and 8** respectively. A location map is at **Attachment 9** and existing zoning (Port Stephens LEP 2000) map is at **Attachment 10**. The proposed zoning map is at **Attachment 2**.

Location

The existing Kings Hill Urban Release Area is located just to the north of Raymond Terrace in the Port Stephens Local Government Area (see **Attachment 9**). The Pacific Highway is to the east of Kings Hill, and Newline Road is to the west. This Planning Proposal seeks to extend the Port Stephens Local Environmental Plan (Kings Hill North Raymond Terrace) 2010 to the west of Newline Road in order to zone lands E2 Environmental Conservation and E4 Environmental Living.

The land affected by the Planning Proposal is Lot 32 DP 586245, Part of Lot 2 DP 37430, Lot 8 DP111433, and Lot 9 DP 111433 as shown in the map at **Attachment 1**. The area of the subject land is 119.85 ha. It is proposed to zone 117.4 ha E2 Environmental Conservation, and 2.44 ha E4 Environmental Living

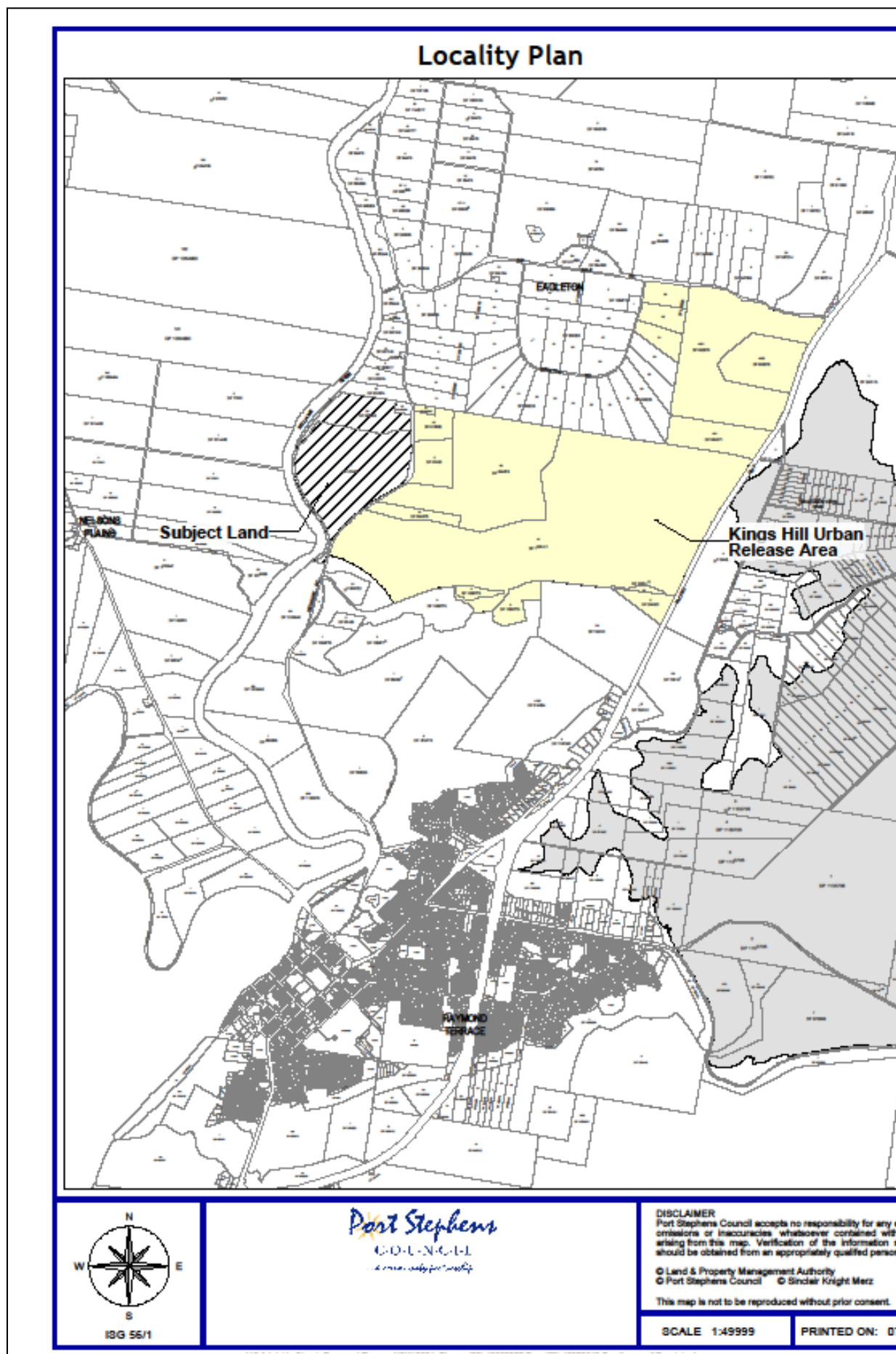


Figure 1: Subject land (hatched area) in relation to the Kings Hill Urban Release Area

Site description

Context

Kings Hill is a largely residential Urban Release Area, which will have a town centre in the south east and a number of smaller centres to meet the day to day needs of residents. The development area forms a "J" shape around a ridge which runs north south and which, along with a number of riparian corridors, is zoned E2 Environmental Conservation, as can be seen in the aerial photograph at **Figure 2**. Kings Hill is estimated to have around 4,500 dwellings or 11,700 residents at completion. The development of Kings Hill is expected to take some 25 years, at an average development rate of 180 dwellings per year.

Site

The proposed extension of the Port Stephens Local Environmental Plan (Kings Hill North Raymond Terrace) 2010 includes rural lands to the west, between Newline Road and the Williams River. This land is largely flood prone, being affected by the 1% AEP. The land contains areas of biodiversity significance adjacent to the Williams River and contains a SEPP 14 wetland. Most of the land is cleared of trees and used for extensive grazing; however some woodland and regeneration of native vegetation is evident. An area of higher land adjacent to Newline Road is not flood prone and appears capable of supporting dwellings on conservation lots.

A concept subdivision indicates that 3 lots of approximately 40 ha could be developed within the proposed E2 Environmental Conservation zone, and 4 lots of varying sizes between 2995 sq m and 8001 sq m could be developed in the E4 Environmental Living zone. The proposed location of the dwellings is not on prime (Class 1-3) agricultural land.

It is proposed to provide reticulated water and sewer infrastructure to the proposed dwellings. This infrastructure would be common to that supplying the Kings Hill Urban Release area.

It is anticipated that a single access would be provided from Newline Road. An additional 7 lots (or 11 dwellings if dual occupancies were developed on all lot E4 Zone) will not have a significant impact on the existing traffic volumes on Newline Road. Detailed traffic and access studies would be done at the subdivision development application stage. A preliminary traffic study has been done which indicates the traffic generation and feasibility of an intersection to Newline Road to service the development.

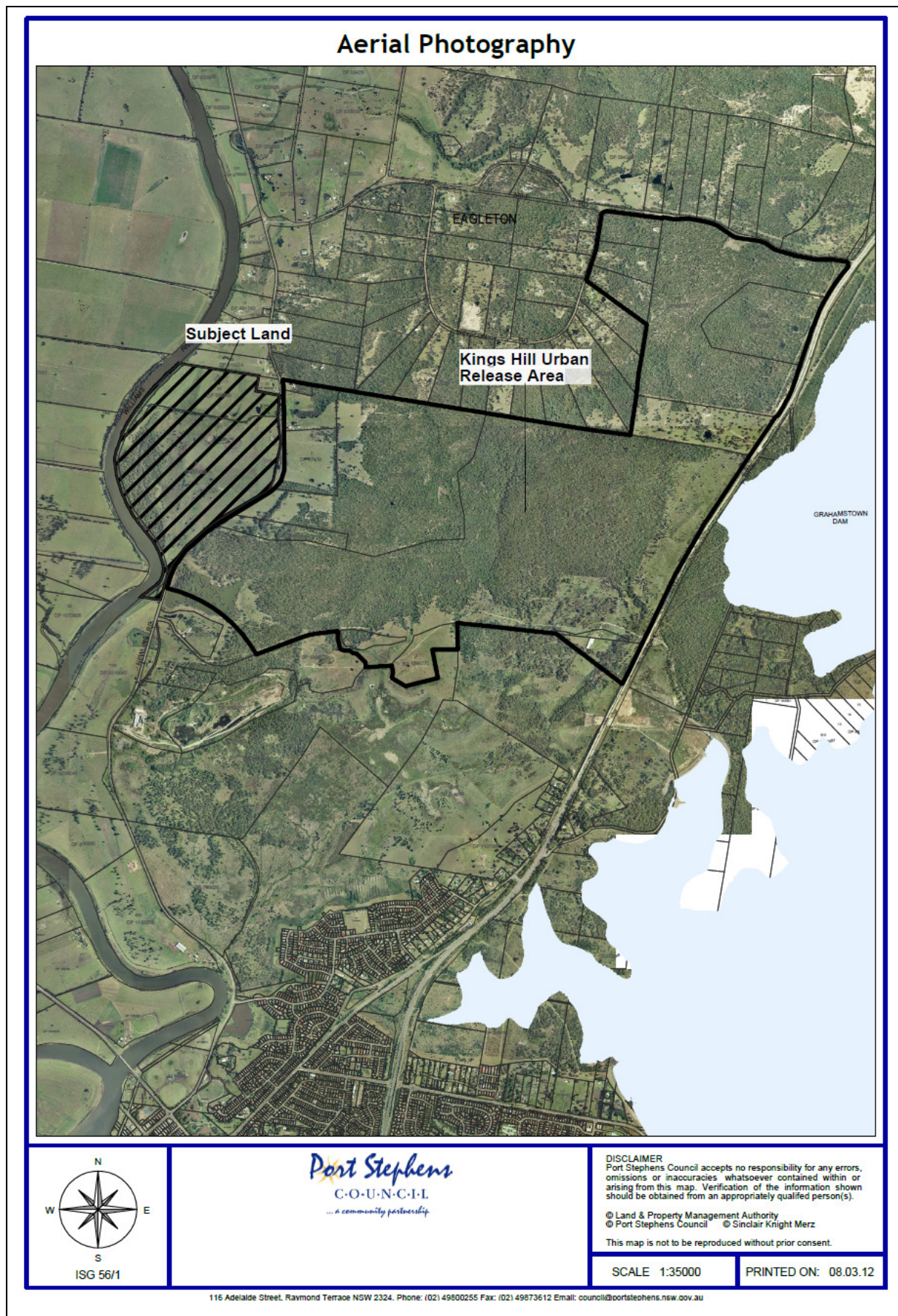


Figure 2: Aerial photograph showing the Subject Land

Current zoning

The Kings Hill Urban Release Area is zoned R1 General Residential, B2 Local Centre, B4 Mixed Use, E2 Environmental Conservation and E3 Environmental Management under the Port Stephens Local Environmental Plan (North Raymond Terrace Kings Hill) 2010. The land subject to this Planning Proposal is currently zoned 1(a) Rural Agriculture Zone under the Port Stephens Local Environmental Plan 2000.

Part 3 - Justification

Section A - Need for the planning proposal.

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

The Planning Proposal is an extension of the Kings Hill area that was rezoned in 2010. The Kings Hill Urban Release Area arose from a Local Environmental Study. The concept of urban development at Kings Hill is supported by the Lower Hunter Regional Strategy and the Port Stephens Planning Strategy. The objective of the Planning Proposal is to protect land of biodiversity significance, to permit greater housing diversity and market choice in the Kings Hill area, and to potentially facilitate urban development at Kings Hill by conserving land that has the potential to provide biodiversity offsets.

The Planning Proposal is adjacent to the western boundary of Kings Hill. The subject land forms a logical extension of the Kings Hill Urban Release Area because it will utilise the services and infrastructure to be provided to Kings Hill, will provide additional housing diversity and market choice to the Kings Hill development, and will conserve conservation lands that potentially can provide biodiversity offsets to permit development of urban zoned land at Kings Hill. Council is of the view that it is the highest and best sustainable use of the land.

The Planning Proposal seeks to rezone land zoned 1(a) Rural Agriculture Zone under the Port Stephens Local Environmental Plan 2000 to E2 Environmental Conservation and E4 Environmental Living under the Port Stephens Local Environment Plan (Kings Hill North Raymond Terrace) 2010. The proposed rezoning will protect land of biodiversity significance as well as provide additional conservation lands that could be potentially used to offset likely vegetation loss arising from the development of certain lands zoned R1 and B4 within the Kings Hill Urban Release Area. At the same time the proposal would permit limited "lifestyle" rural residential development on the proposed E2 and E4 zoned lands in locations that are not of high biodiversity significance.

The Planning Proposal also makes provision for an enforceable mechanism to protect the conservation status of the land to be in place before consent can be granted for development, and options for this mechanism will be finalised during the rezoning process following the Gateway determination.

Council considered the proposal is consistent with its overall strategy for Kings Hill- of developing a new urban area with a judicious balance between conservation, and urban development.

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

The Planning Proposal provides greater housing diversity and market choice in a location that can utilise the services and infrastructure that will be provided to the Kings Hill Urban Release area, thus achieving efficiencies in the provision of infrastructure. The topography of the subject land is such that potential dwelling footprints can be provided in a

consolidated location that is not flood prone or prime agricultural land or of biodiversity significance.

The proposed rezoning will enable an efficient and effective mechanism to achieve the long term conservation of the land and its biodiversity significance. The proponent aims to remove grazing from the land and to rehabilitate the land to enable its revegetation. The intention of the proponent is that the conservation qualities of the land will be required to be protected by Voluntary Conservation Agreements which are proposed to be attached to the title of the land. A number of alternative conservation options will be considered and finalised during the rezoning process as indicated in the attached correspondence from the Office of Environment and Heritage dated 29 February 2012.

It is proposed to subdivide the subject land into lots that include sufficient land for a dwelling on the higher land above the 1% flood AEP, while most of the land below the 1% flood AEP will remain undeveloped and be rehabilitated. The objective is to facilitate the management of the conservation qualities of the land by the private owners of the lots in perpetuity. The applicant has discussed this approach with the Office of Environment and Heritage and further consultation with the Office of Environment and Heritage will be necessary before this Planning Proposal is finalised. The Planning Proposal contains a possible clause requiring an enforceable mechanism to be in place to protect the conservation status of the land prior to development consent being granted, as an example of one option to protect the long term conservation values of the land beyond the protections provided by the E2 zoning of the land.

An E4 Environmental Living zone was chosen for the "smaller lot" component of the proposal following extensive internal discussions amongst Council staff. This zone was chosen on the basis of its compatibility with the zone hierarchy being developed for the draft Port Stephens Comprehensive Standard Instrument Local Environmental Plan. Consideration was given to the use of an R1 Residential zone with a specific minimum lot size, however this was rejected because of the range of uses permissible in the R1 zone and because the zone objectives were not consistent with the objectives of this Proposal. Consideration was also given to the use of an "RU" zone; however the zone objectives of the E4 zone provided a much better fit relative to those proposed for any "RU" zone, which tend to focus on "rural production" or "rural services" objectives.

The circumstances of this land- its biodiversity characteristics, its location adjacent to an existing residential zoned area and the ability to access urban services make it a relatively unique case that is unlikely to establish a precedent.

Section B - Relationship to strategic planning framework.

1. 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 Proposal is consistent with the Lower Hunter Regional Strategy's (LHRS) policies that encourage residential development and increased housing choice. It is also consistent with the Lower Hunter Conservation Plan. The Proposal will facilitate the delivery of housing on existing zoned land at Kings Hill by providing for compensatory habitat.

While the proposal could be viewed as a rural residential development, the proliferation of which is not encouraged by the Lower Hunter Environmental Strategy, the scale of rural residential development is minor- a likely 7 dwellings (or 14 dwellings if dual occupancies are developed on all 7 potential lots), and is a logical extension of an existing R1 residential zoned area to the east of Newline Road. Consequently this inconsistency is considered as minor.

The proposal is consistent with the objectives of the Lower Hunter Regional Strategy and the Lower Hunter Conservation Plan which seek to protect lands of biodiversity

significance within the Region by implementing an innovative mechanism to “fund” biodiversity investment along an important riparian corridor and the area surrounding a SEPP 14 wetland. The objectives of the Lower Hunter Conservation Plan to provide for long term sustainable management of lands of biodiversity significance are implemented by this Proposal.

2. 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 Port Stephens Futures Strategy which states that sustainability should be:

- The basis for planning the overall design of the new urban release areas, and
- The basis for planning a balance between development and environment in the Shire.

The following Future Strategy's strategic directions are relevant:

- Council should facilitate housing opportunities tailored to demographic structure and community needs demographic needs and affordability, and
- The unique coastal and natural environmental attributes of Port Stephens are protected and enhanced.

Council's Port Stephens Planning Strategy seeks to encourage a sufficient supply of a diverse range of housing in the Local Government Area (LGA) consistent with overall environmental and biodiversity protection measures. Kings Hill is an identified urban release area under Port Stephens Planning Strategy.

The Planning Proposal will facilitate the development of urban land at Kings Hill by potentially providing compensatory habitat.

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

SEPP (Affordable Rental Housing) 2009

Not applicable

SEPP (Exempt and Complying Development Codes) 2008

The proposal facilitates development on land to which the Exempt and Complying Development Code may be applied. It is consistent with the SEPP.

SEPP (Rural Lands) 2008

The Proposal seeks to rezone land zoned 1(a) Rural Agriculture Zone to E2 Environmental Conservation and E4 Environmental Living. The Plan does not seek to facilitate subdivision of rural zoned land. It is consistent with the SEPP.

It is considered that this Proposal is consistent with the Rural Planning Principles of State Environmental Planning Policy (Rural Lands) 2008 because it seeks to balance the social, economic and environmental interests of the community by protecting natural resources to maintain biodiversity, protect native vegetation and recognise the importance of water resources by protecting an important riparian area and SEPP 14 wetland. The proposal avoids development on constrained land. In addition, services and infrastructure will be readily available in association with adjacent urban development at Kings Hill.

In relation to the Rural Subdivision Principles of State Environmental Planning Policy (Rural Lands) 2008, the Port Stephens LEP 2000 does not currently allow subdivision in the 1(a) Rural Agriculture Zone for the purposes of a dwelling. However, the Draft Port Stephens LEP 2012 proposes a minimum lot size of 40 hectares in the RU1 Zone. The proposed lot size in the Proposal's E2 zone is consistent with the Draft Port Stephens LEP 2012. The E4 zone has a range of minimum lot sizes in the draft Port Stephens LEP 2012 depending on local circumstances, and it is considered that the minimum lot size of this Proposal is appropriate to the subject land. Accordingly, while not all of the proposed lots are consistent with current and proposed minimum lot size provisions, the overall framework of minimum lot sizes proposed for the land provides for dwelling opportunities that takes into account the natural and physical constraints and opportunities of the land, including the flood environment and existing vegetation."

SEPP (Infrastructure)

The proposal is consistent with this SEPP.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

Not applicable.

SEPP (Major Development) 2005

Not applicable.

SEPP (Building Sustainability Index: BASIX) 2004

The proposal is consistent with this SEPP.

SEPP (Housing for Seniors and People with a Disability) 2004

The Proposal is on land that adjoins land zoned primarily for urban purposes. However the proposed rezoning of the land to E2 Environmental Conservation or E4 Environmental Living is likely to bring the land under the provisions of Schedule 1 of the SEPP as "environmentally sensitive land". As a result, it is considered that the provisions of the SEPP are unlikely to apply to the subject land.

SEPP 71 (Coastal Protection)

The land is not affected by SEPP 71. It is consistent with the SEPP.

SEPP No. 65 - Design Quality of Residential Development

Not applicable.

SEPP No. 62 - Sustainable Aquaculture

Not applicable.

SEPP No. 64 - Advertising and Signage

The proposal is consistent with this SEPP.

SEPP No. 55 – Remediation of Land

There is no known contamination on the land. A 2005 preliminary examination by Douglas Partners of the higher "development pad" land where dwellings are likely to be located concluded that potential contamination issues are likely to be minor. They identified:

- An effluent treatment system associated with the existing dwelling
- Localised fill stockpiles
- Bonded fibro sheeting within galvanised sheds, and
- Localised hydrocarbon staining within galvanised sheds.

SEPP No. 44 – Koala Habitat Protection

The Proposal includes land identified as “preferred koala habitat” and “50 m buffer over cleared” by Port Stephens Council in the Koala Habitat Planning Map. The identified habitat areas are within the land proposed for conservation.

The identified habitat areas will increase in size as rehabilitation and restoration of the land proceeds. However in the unlikely event that they would be threatened by development, the requirements of the Port Stephens Koala Comprehensive Plan of Management would need to be met. The development pad on the higher land above the 1% AEP is shown as cleared on the Koala Habitat Planning Map.

The proposal is consistent with the SEPP.

SEPP No. 15 - Rural Land-Sharing Communities

Not applicable.

SEPP No. 50 - Canal Estates

Not applicable.

SEPP No. 53 - Metropolitan Residential Development

Not applicable.

SEPP No. 36 - Manufactured Home Estates

Not applicable.

SEPP No. 21 - Caravan Parks

Not applicable.

SEPP No. 33 - Hazardous and Offensive Development

Not applicable.

SEPP No. 32 - Urban Consolidation (Redevelopment of Urban Land)

Not applicable.

SEPP No. 30 - Intensive Agriculture

Not applicable.

SEPP No. 22 - Shops and Commercial Premises

No applicable.

SEPP No. 14 – Coastal Wetlands

The SEPP 14 wetland (No. 802) to the west of New Line Road will be rezoned from 1(a) Rural Agriculture Zone to E2 Environmental Conservation in order to protect its biodiversity status and to facilitate related rehabilitation and land management actions. The Proposal is consistent with the SEPP, and protection of the wetland.

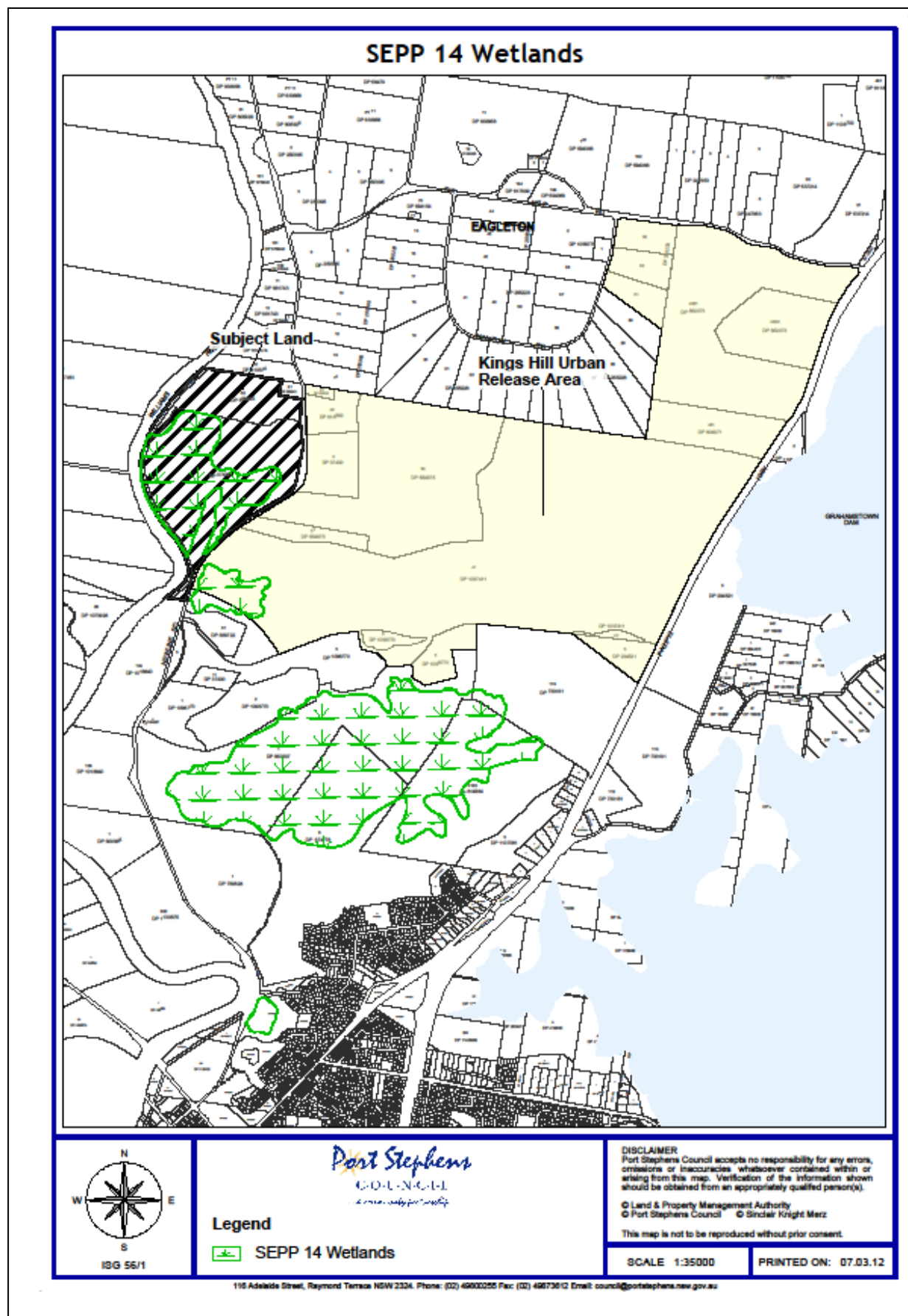


Figure 3: SEPP 14 wetlands

SEPP No. 9 - Group Homes

Not applicable.

SEPP No. 6 - Number of Storeys in a Building

The proposal is consistent with this SEPP.

SEPP No. 4 - Development without Consent and Miscellaneous Complying Development

Not applicable.

SEPP No.1 – Development Standards

SEPP 1 has been replaced by Clause 4.6 of the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010. Therefore the SEPP will now longer apply to the land if the Proposal proceeds.

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

1.1 Business and Industrial Zones

The objectives of this Direction are to:

- Encourage employment growth in suitable locations,
- Protect employment land in business and industrial zones, and
- Support the viability of identified strategic centres.

This Proposal does not reduce business or industrial zones.

1.2 Rural Zones

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

This Direction states that a planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. The Proposal rezones land from a rural zone to an environmental zone. Therefore, the Proposal is consistent with the Direction, as it does not apply in this case.

The land to the west of Newline Line Road is zoned 1(a) Rural Agriculture Zone. It is proposed to rezone this land E2 Environmental Conservation and E4 Environmental Living. A small area of this land adjacent to New Line Road is classified as Class 1-3 Prime Agriculture Land according to Port Stephens Council GIS mapping. The area of prime agricultural land is relatively small (approximately 50 hectares) and narrow. The land has been used for extensive grazing for many years and has not used for intensive agriculture. The proposed location of dwellings is not on prime agricultural land.

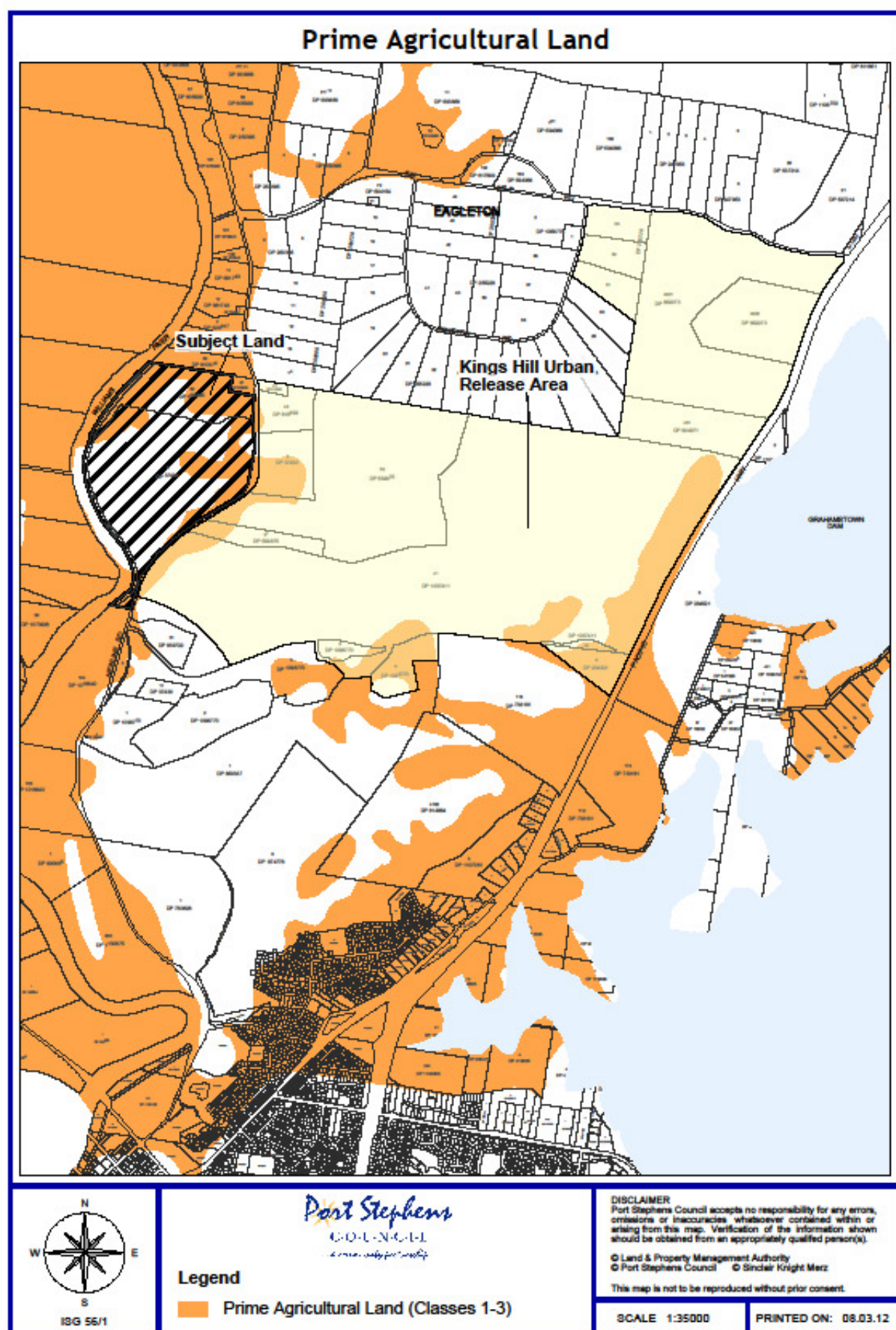


Figure 4: Prime agriculture land Class 1 – 3

1.3 Mining, Petroleum Production and Extractive Industries

The objective of this Direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

This Proposal is not believed to affect extractive resources. Consultation was carried out for the adjacent Kings Hill Urban Release Area and should the Gateway determination direct, further consultation will be carried out with the Department of Primary Industries.

1.4 Oyster Aquaculture

This proposal does not affect oyster aquaculture areas.

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.

It is considered that this Proposal is consistent with the Rural Planning Principles of State Environmental Planning Policy (Rural Lands) 2008 because it seeks to balance the social, economic and environmental interests of the community by protecting natural resources to maintain biodiversity, protect native vegetation and recognise the importance of water resources by protecting an important riparian area and SEPP 14 wetland. The proposal avoids development on constrained land. In addition, services and infrastructure will be readily available in association with adjacent urban development at Kings Hill.

In relation to the Rural Subdivision Principles of State Environmental Planning Policy (Rural Lands) 2008, the Port Stephens LEP 2000 does not currently allow subdivision in the 1(a) Rural Agriculture Zone for the purposes of a dwelling. However, the Draft Port Stephens LEP 2012 proposes a minimum lot size of 40 hectares in the RU1 Zone. The proposed lot size in the Proposal's E2 zone is consistent with the Draft Port Stephens LEP 2012. The E4 zone has a range of minimum lot sizes in the draft Port Stephens LEP 2012 depending on local circumstances, and it is considered that the minimum lot size of this Proposal is appropriate to the subject land. Accordingly, while not all of the proposed lots are consistent with current and proposed minimum lot size provisions, the overall framework of minimum lot sizes proposed for the land provides for dwelling opportunities that takes into account the natural and physical constraints and opportunities of the land, including the flood environment and existing vegetation."

2.1 Environment Protection Zones

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

The Proposal seeks to rezone environmentally sensitive land containing a SEPP 14 wetland from 1(a) Rural Agriculture Zone to E2 Environmental Conservation and E4 Environmental Living (the SEPP 14 wetland is proposed to be zoned E2 Environmental Conservation).

The Proposal is consistent with this SEPP.

2.2 Coastal Protection

The objective of this Direction is to implement the principles in the NSW Coastal Policy.

The land is not within the coastal zone.

2.3 Heritage Conservation

The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 contains provisions to facilitate the conservation of items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

No known items of European or indigenous heritage are located on the subject land. However, no specific indigenous archaeology study has been undertaken at this stage.

Given the location of the higher land overlooking the river floodplain it is important that investigations be taken when development is proposed to ensure that any potential items of indigenous heritage are located and appropriately conserved.

It is considered that the Proposal is consistent with this Direction.

2.4 Recreation Vehicle Areas

The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.

It is not proposed to enable a recreational vehicle area to be developed.

3.1 Residential Zones

The objectives of this Direction are:

- To encourage a variety and choice of housing types to provide for existing and future housing needs
- To make an efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services
- To minimise the impact of residential development on the environment and resource lands.

The Proposal facilitates the development of a limited quantity of low density lifestyle housing.

3.2 Caravan Parks and Manufactured Home Estates

The objectives of this Direction are to:

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

Caravan Parks are a not permissible land use under the Proposal.

It is considered that the Proposal is consistent with this Direction.

3.3 Home Occupations

The objective of this Direction is to encourage the carrying out of low-impact small businesses in dwelling houses.

The Proposal does not affect this matter.

3.4 Integrating Land Use and Transport

The objective of this Direction is to ensure that development:

- Improves access to housing, jobs and services by walking, cycling and public transport;
- Increases the choice of available transport and reducing dependence on cars;

- Reduces travel demand including the number of trips generated by development and the distances travelled, especially by car;
- Supports the efficient and viable operation of public transport services; and
- Provides for the efficient movement of freight.

The likely locations of dwellings within the subject land are within 400m of Newline Road and within 400m of the proposed main access intersection to a proposed residential area to the east of Newline Road. Should a bus service be available to the new residential area it is likely that it will utilise that intersection and consequently provide public transport access for the residents.

3.5 Development Near Licensed Aerodromes

The objectives of this direction are to:

- Ensure the effective and safe operation of aerodromes, and
- Ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and
- Ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

The Proposal will not create an obstruction to flying aircraft. The subject land is not affected by the ANEF 2012 or 2025.

3.6 Shooting Ranges

The objectives of this direction are to:

- Maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,
- Reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,
- Identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.

The site does not affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.

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 land may contain acid sulphate soils according to Port Stephens Council mapping. Figure 5 shows that land adjacent to the Williams River is Category 2 -Works below the natural ground surface. Further east and along a riparian corridor that crosses New Line Road in an easterly direction the land is Category 3 -Works beyond 1 m below natural ground surface. Another riparian corridor to the north that crossing New Line Road in an easterly direction is Category 4 -Works beyond 2m below natural ground surface. The balance of the land is category 5 - Works within 500m of an adjacent class.

The Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 contains provisions requiring appropriate measures to be taken at the development stage to avoid adverse impacts from the presence of acid sulphate soils.

4.2 Mine Subsidence and Unstable Land

The objective of this Direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

The land is unaffected by mine subsidence.

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.

Most of the land to the west of Newline Road is flood prone. There is an area of higher land suitable for dwellings located above the 1% AEP adjacent to Newline Road.

The Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 contains provisions to ensure flood free access for residents. Development is not proposed for flood prone areas.

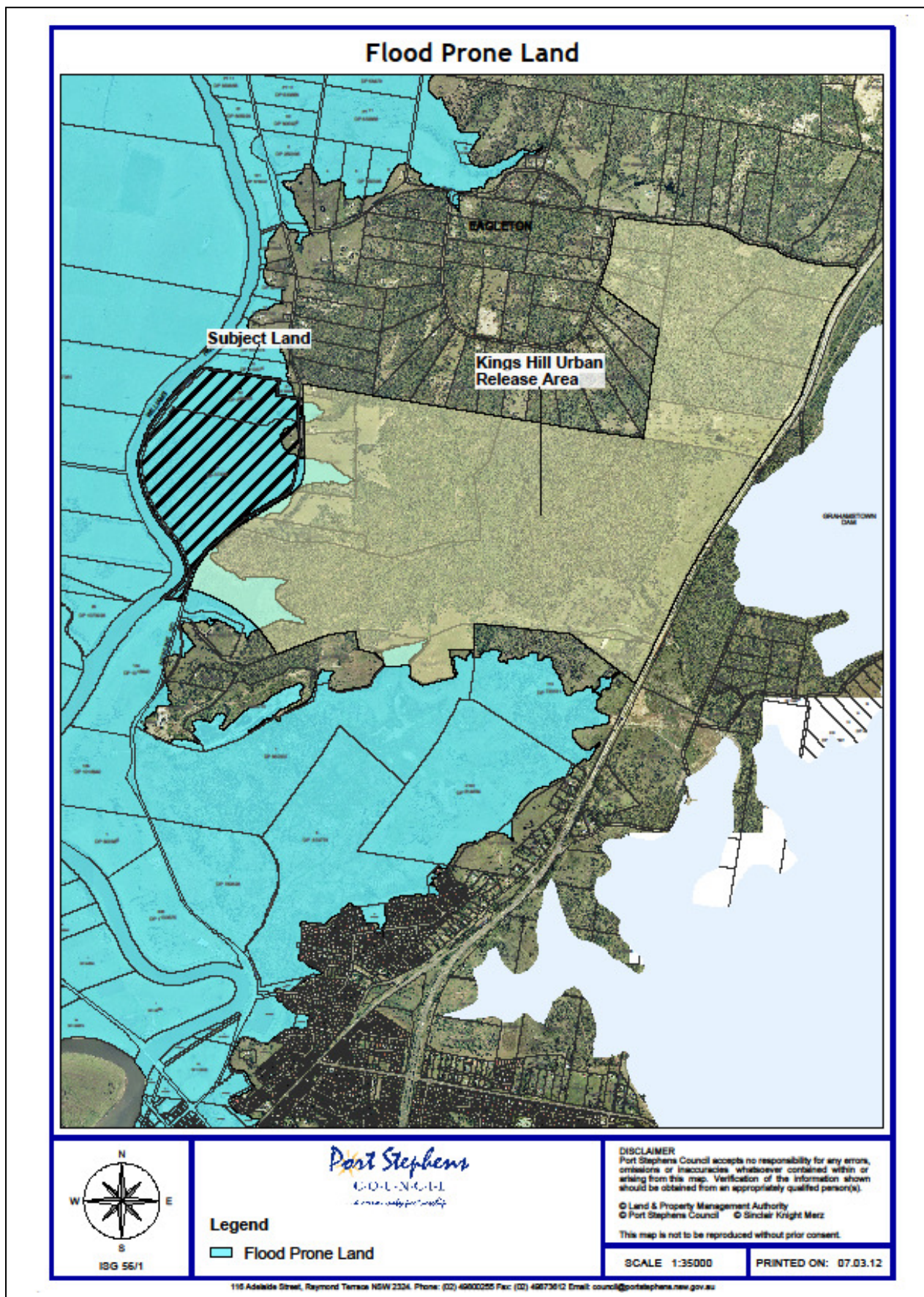


Figure 6: Land affected by the 1% AEP

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 Proposal includes bushfire prone areas. Any development will need to be consistent with the provisions of Planning for Bushfire Protection.

Consultation with the Rural Fire Service was carried out for the adjacent Kings Hill Urban Release Area and should the Gateway determination direct, further consultation will be carried.

The Proposal is consistent with this Direction.

5.1 Implementation of Regional Strategies

The Proposal is consistent with the Lower Hunter Regional Strategy.

5.2 Sydney Drinking Water Catchments

Not applicable.

5.3 Farmland of State and Regional Significance on the NSW Far North Coast

Not applicable.

5.4 Commercial and Retail Development along the Pacific Highway, North Coast

The objectives for managing commercial and retail development along the Pacific Highway are to:

- Protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route;
- Prevent inappropriate development fronting the highway
- Protect public expenditure invested in the Pacific Highway,
- Protect and improve highway safety and highway efficiency,
- Provide for the food, vehicle service and rest needs of travellers on the highway, and
- Reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.

This Direction applies to those council areas on the North Coast that the Pacific Highway traverses, being those council areas between Port Stephens Shire Council and Tweed Shire Council, inclusive.

The subject land is not adjacent to the Pacific Highway.

5.8 Second Sydney Airport: Badgerys Creek

Not applicable.

6.1 Approval and Referral Requirements

The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. The earlier example provided as a biodiversity conservation option- the proposed Clause 7.7 and the entries in Schedule 4- may involve the Office of Environment and Heritage in an approval role. However this draft clause is provided as an example only and the issue of the role of State agencies will be resolved as part of finalising the conservation mechanism following the Gateway determination. Council is committed to minimising approval and referral arrangements involving other agencies.

The intent of this Proposal is consistent with this Direction.

6.2 Reserving Land for Public Purposes

The objectives of this Direction are to:

- Facilitate the provision of public services and facilities by reserving land for public purposes, and
- Facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

The Proposal does not create a need to reserve land for public purposes or facilitate the removal of reservations of land for public purposes.

The Proposal is consistent with this Direction.

6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls.

The Proposal does not contain unnecessarily restrictive site specific planning controls.

The Proposal is consistent with this Direction.

Section C - Environmental, social and economic impact.

1. 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?

Critical habitat or threatened species, populations or ecological communities, or their habitats, will not adversely affected as a result of the Proposal. The subject land is largely devoid of woodland and is used for pasture. The removal of stock from the land combined with land rehabilitation and replanting will result in an improvement in the biodiversity status of the land.

Figure 7 shows that the western portion of the land is largely occupied by a Freshwater Wetland EEC accompanied by a narrow strip of Lower Hunter Dry Rainforest EEC adjacent to the Williams River. Two small areas of Swamp Sclerophyll EEC are located in the central east of the subject land. SEPP 14 wetland No 802 is shown bounded by a green line and includes much of the Freshwater Wetland EEC. The area proposed to be zoned E4 is located adjacent to Newline Road and is not affected by the EEC or SEPP 14 wetland. It is intended that a rehabilitation and vegetation management plan will be required to be lodged to Council's satisfaction for any development/subdivision application for the subject land.

The Proposal aims to provide additional protection for threatened species and areas of biodiversity significance by rezoning the environmentally significant land to E2 Environmental Protection. The proponent intends to rehabilitate the land and place a Voluntary Conservation Agreement over the land. The actual conservation mechanism will be determined through discussions with the Office of Environment and Heritage. A copy of correspondence from the Office of Environment and Heritage dated 29 February 2012 is attached to indicate the current status of these discussions, which will be progressed following the Gateway determination.

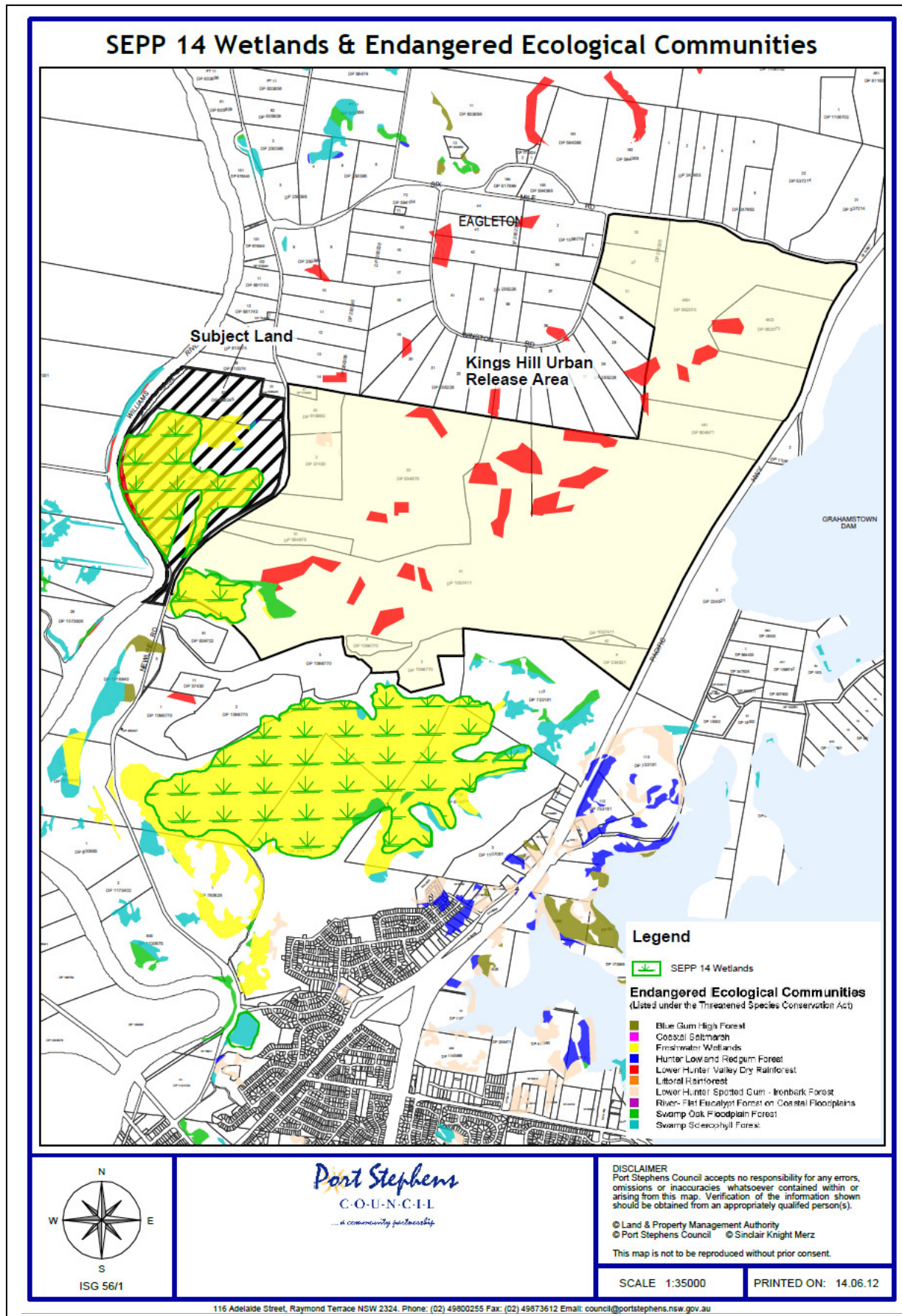


Figure 7: Endangered Ecological Communities and SEPP 14 Wetlands

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

The proposal is likely to have minimal environmental effects other than the above. Utility services will be provided as part of the overall Kings Hill development, including reticulated gas and water. There will be a limited amount of sealed surfaces as a result of development of the land- principally road access and surfaces associated with the development of 7-14 dwellings. Stormwater will be required to be treated to a satisfactory standard as part of any development/subdivision consent for the land and a concept stormwater strategy has been developed to demonstrate its feasibility. Dwellings will be required to meet BASIX standards, and public transport is likely to be available from Newline Road. The adjacent urban development at Kings Hill to the east is proposed to have a pedestrian and cycleway network in order to facilitate transport alternatives to the private motor vehicle. Council is unaware of any special development constraints of the land or likely significant environmental impacts other than those outlined in this Report.

An environmental assessment will be undertaken of the impacts of any development/subdivision application on the land and the Port Stephens Development Control Plan and related policy framework will apply, as appropriate. It is considered that any additional studies required are of a detailed nature and should be undertaken as the development/subdivision application stage to ensure their relevance and currency.

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

The social impacts of the Proposal are:

- Increased housing diversity.

The economic effects are:

- Potential employment creation associated with the construction and ongoing occupation of any dwelling on the site
- Infrastructure efficiencies achieved as a result of "connected" development.
- A very minor loss in agricultural land used for extensive grazing.

In summary the social and environment impacts of the Proposal are positive.

Section D - State and Commonwealth interests.

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

Water, sewer, electricity and telecommunication services can be provided to Kings Hill.

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

The Office of Environment and Heritage has been consulted on this Proposal and further discussions will be undertaken during the Planning Proposal process (see attached correspondence). No other agencies have been consulted on this Proposal, other than advice previously provided in association with the Kings Hill Urban Release Area adjacent to the east. Further consultation will be undertaken as specified in the Gateway determination.

Part 4 – Community Consultation

The Proposal will be exhibited in accordance with the requirements of the Environmental Planning and Assessment Act.

The exhibition period will be for the period specified by the Gateway Panel, and will include the availability of hard copy exhibition material at the Council library, the Council administration building and for download from the internet. Council recommends an exhibition period of 28 days.

Following the exhibition, the public submissions will be assessed, and a recommendation made to Council for their consideration.