



IRF 25/2693

Gateway determination report – PP-2025-874

Amendment to Port Stephens Local Environmental Plan 2013 to facilitate changes to Appendix 2 of State Environmental Planning Policy (Precincts – Regional) 2021 – Tomago Industrial site

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Tomago Industrial site Planning Proposal, Port Stephens Council dated October 2025
Port Stephens Council Strategic Planning Assessment Report including delegated authority to send for Gateway dated 27 November 2025

Strategic Bushfire Study – Tomago Industrial Planning Proposal prepared by Cool Burn Fire + Ecology dated March 2025

Tomago Estate Traffic Impact Assessment prepared by The Transport Planning Partnership dated 9 April 2025

Planning Proposal for the Tomago Industrial Site - Biodiversity review prepared by MC² Environmental Consulting dated 18 March 2025

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Port Stephens
PPA	Port Stephens Council
NAME	Amendment to Port Stephens Local Environmental Plan 2013 to facilitate changes to Appendix 2 of State Environmental Planning Policy (Precincts – Regional) 2021 – Tomago Industrial site
NUMBER	PP-2025-874
LEP TO BE AMENDED	State Environmental Planning Policy (Precincts – Regional) 2021 via Port Stephens Local Environmental Plan 2013
ADDRESS	The planning proposal applies to 17 allotments at Tomago Road, Tomago
DESCRIPTION	Lot 1 DP770610 Lot 1 DP833855 Lot 13 DP236073 Lot 1 DP535631 Part of Lot 14 DP258020 Part of Lot 7001 DP92615 Lot 1 DP229927 Lot 2 DP229927 Lot 2 DP833855 Lot 44 DP1109816 Lot 45 DP1109816 Lot 1001 DP1127780 Lot 1 DP1155307 Lot 22 DP1150980 Lot 212 DP1174939 Lot 211 DP1174939 Lot 210 DP1174939
RECEIVED	4/12/2025
FILE NO.	IRF25/2693

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

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The land is currently zoned IN1 General Industrial under the *State Environmental Planning Policy (Precincts – Regional) 2021* (Regional Precincts SEPP). The objective of the planning proposal is to update the zoning of the Tomago Industrial site to be consistent with surrounding employment lands and to review permissible land uses on the subject site.

Section 3.24(11) of the *Environmental Planning and Assessment Act 1979* permits an environmental planning instrument to be amended by a subsequent environmental planning instrument, whether of the same or a different type.

Councils cannot initiate an amendment to a SEPP. Council's planning proposal must therefore seek to amend the Port Stephens LEP 2013 to alter the Regional Precincts SEPP. Prior to exhibition, the planning proposal is to be amended to state that the proposal will amend the LEP in order to exact changes to the SEPP.

The proposal also includes the introduction of a new land use term 'Specialised Industrial Retail and Hire Premises' and intends to permit this type of development by listing it as an additional permitted use. However, the Department's Policy team does not support the inclusion of new definitions as the SEPPs and Standard Instrument – Principal LEP are intended to be the sole source of land use terms.

The intention of 'Specialised Industrial Retail and Hire Premises' can be accommodated by the existing land use definition of 'Specialised retail premises' with clarification provided via a new clause. The clause will apply to development for the purpose of specialised retail premises, being a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity that supports industrial and / or relevant activities, that requires:

- (a) a large area for handling, display or storage, or
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire.

Prior to exhibition, the planning proposal is to be amended to remove 'Specialised Industrial Retail and Hire Premises' as a proposed additional permitted use and to include a new clause clarifying the nature of 'Specialised retail premises' permitted in the zone.

Otherwise, the objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The broad intention of the planning proposal is to respond to current and emerging industrial land use trends. Table 3 details the proposed amendments to the Regional Precincts SEPP:

Table 3 Current and proposed controls

SEPP provision – Appendix 2 State significant precinct – Tomago Industrial site	Current	Proposed
Clause 2(1) Interpretation	The <i>State Environmental Planning Policy (Major Development) 2005 Tomago Industrial Land Zoning Map</i> currently zones the land IN1 General Industrial	The <i>State Environmental Planning Policy (Major Development) 2005 Tomago Industrial Land Zoning Map</i> is to zone the land E4 General Industrial
Clause 7(1)(a) Land Use Zones	IN1 General Industrial	E4 General Industrial
Clause 8 Zone IN1 General Industrial	Clause 8 Zone IN1 General Industrial	Clause 8 Zone E4 General Industrial
Clause 8(1) Zone IN1 General Industrial	The objectives of Zone IN1 General Industrial are as follows— (a) to provide for a wide range of industrial, warehouse and related land uses, (b) to provide suitable areas for those industries that need to be separated from other land uses, (c) to encourage employment opportunities, (d) to minimise any adverse effect of industry on other land uses and the environment, (e) to enable other land uses that provide facilities or services to meet the day to day needs of workers in the area	The objectives of the E4 General Industrial Zone are as follows – (a) to provide a range of industrial, warehouse, logistics and related land uses, (b) to ensure the efficient and viable use of land for industrial uses, (c) to minimise any adverse effect of industry on other land uses, (d) to encourage employment opportunities, (e) to enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers
Clause 8(2) Zone IN1 General Industrial	Development for any of the following purposes is permitted without consent within Zone IN1 General Industrial— environmental protection works	Development for any of the following purposes is permitted without consent within Zone E4 General Industrial— Nil

Clause 8(3) Zone IN1 General Industrial	Development for any of the following purposes is permitted with consent within Zone IN1 General Industrial— aquaculture; boat construction facilities; boat repair facilities; boat launching ramps; commercial port facilities; depots; drainage; earthworks; educational establishments; fill; freight transport facilities; hazardous industries; hazardous storage establishments; heavy industries; jetties; light industries; marinas; materials recycling or recovery centres; offensive industries; offensive storage establishments; office premises; signage; truck depots; vehicle body repair workshops; vehicle repair stations; warehouses or distribution centres; waste management facilities	Development for any of the following purposes is permitted with consent within Zone E4 General Industrial— Aquaculture; Boat building and repair facilities; Boat launching ramps; commercial port facilities; Crematoria; Depots; Drainage; Earthworks; Educational Establishments; Environmental facilities; Environmental protection works; Fill; Flood mitigation works; Freight transport facilities; General industries; Goods repair and reuse premises; hazardous industries; hazardous storage establishments; Heavy industrial storage establishments; Heavy industries; Industrial retail outlets; Industrial training facilities; Jetties; Landscaping material supplies; Light industries; Local distribution premises; Marinas; Materials recycling or recovery centres; Mortuaries; Neighbourhood shops; Offensive industries; Offensive storage establishments; Office Premises; Recreation facilities (indoor); Roads; Rural supplies; Service stations; Signage; Storage premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste management facilities; Water supply systems All of the additional land uses proposed to be included in the SEPP by this planning proposal (in bold above) are permitted in the E4 zone pursuant to the Port Stephens LEP 2013.
Clause 8(4) Zone IN1 General Industrial	Except as otherwise provided by Chapter 2, development is prohibited within Zone IN1 General Industrial unless it is permitted by subsection (2) or (3).	Prohibited – Any development not specified in item 2 or 3

Additional clause	N/A	As discussed in Section 1.2, the Gateway determination has been conditioned to remove the proposed additional permitted use and include a new clause that will apply to development for the purpose of specialised retail premises, being a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity that supports industrial and / or relevant activities, that requires: (a) a large area for handling, display or storage, or (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire. The specific terms of the clause will be determined by Parliamentary Counsel's Office at the LEP drafting stage. There may be opportunity to provide examples of goods that could be sold or hired at the specialised retail premises such as construction and earthmoving equipment; site infrastructure and accommodation; industrial tools and machinery; storage and logistics equipment; safety, testing and monitoring equipment; structural support equipment; and the like.
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Subject to changes to comply with the Gateway determination, the planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The Tomago Industrial site is a designated state significant precinct under the Regional Precincts SEPP. The precinct includes land zone IN1 General Industrial, E2 Environmental Conservation and SP2 Infrastructure (**Figure 1**). This planning proposal applies to 17 allotments zoned IN1 General Industrial (**Figure 2**). It does not affect the E2 or SP2 zoned land.

The land subject to this planning proposal has a combined area of 374.65 hectares. The site is located approximately 8 kilometres to the south-west of Raymond Terrace and 12 kilometres north-west of Newcastle in the Port Stephens local government area.

Access to the precinct is provided from Tomago Road which is a State classified road that generally runs in an east-west direction to the north of the site. Limited public transport facilities are provided within the vicinity of the land and limited pedestrian facilities are provided in the local area.

The precinct accommodates existing industrial uses (Westrac), undeveloped grasslands, a sparse distribution of shrubs and trees and unsealed vehicle accessways. The site is located within the extent of the Probable Maximum Flood (PMF) and the 1% Annual Exceedance Probability (AEP) flood events and is identified as a 'Flood Planning Area'.

The precinct is identified as being bushfire prone and there are mapped biodiversity values on the site. A portion of the precinct is mapped as coastal environment and coastal use area.

The State heritage listed 'Tomago House Chapel', including its landscape setting (State I104), is located within the precinct at Lot 1 DP 770610 but no changes to this item is proposed under the current application.

Rural and industrial land uses exist to the north of Tomago Road together with land zoned SP1 Hunter Water Corporation. Land to the east and south accommodates a conservation area and the RAMSAR-listed Hunter Wetlands National Park while the Hunter River bounds the site on the west.

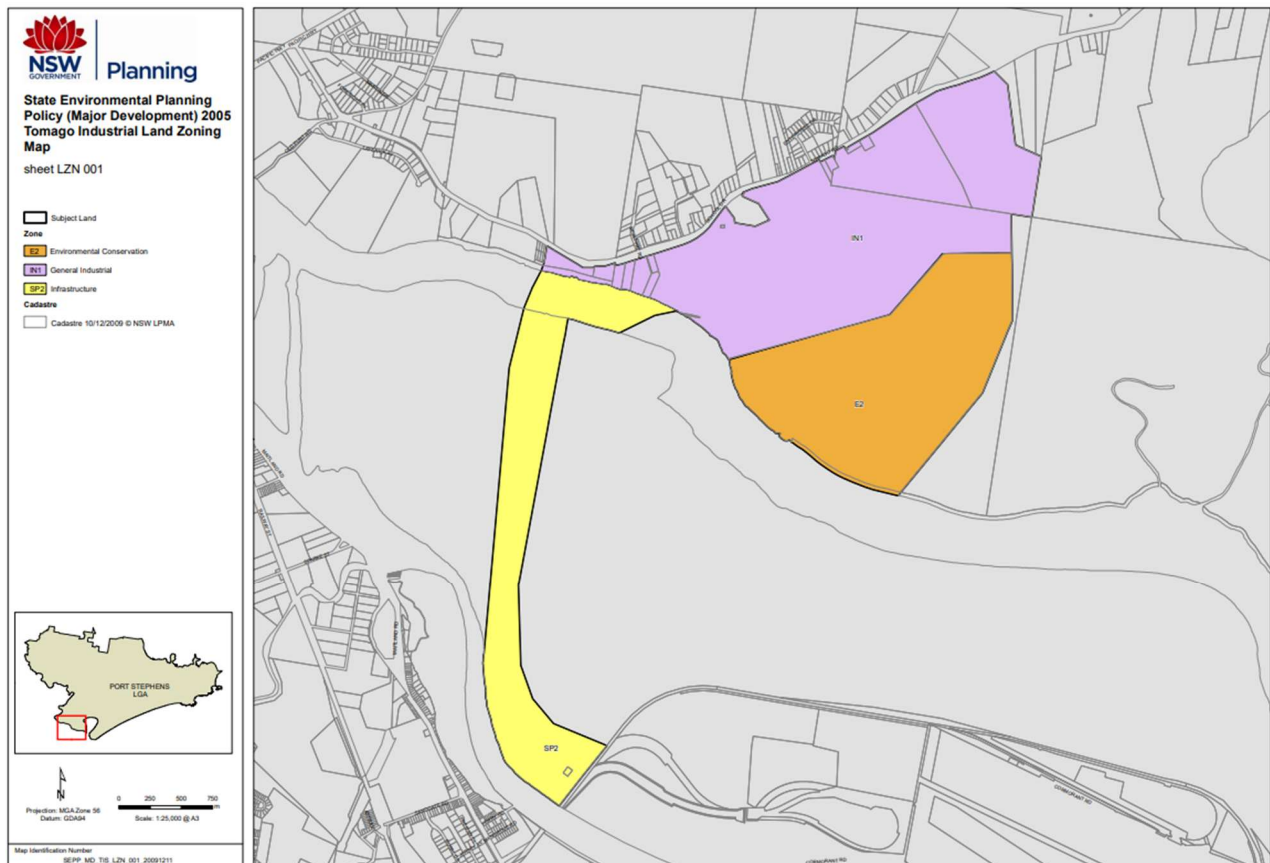


Figure 1 - Land zoning map (Source: SEPP (Precincts - Regional) 2021)



Figure 2 - The subject land (Source: Planning proposal)

1.5 Mapping

The planning proposal includes a proposed land zoning map (**Figure 3**).

The mapping is considered suitable for community consultation. Final maps will be required to be prepared to comply with the Department's Standard Technical Requirements prior to the plan being made.

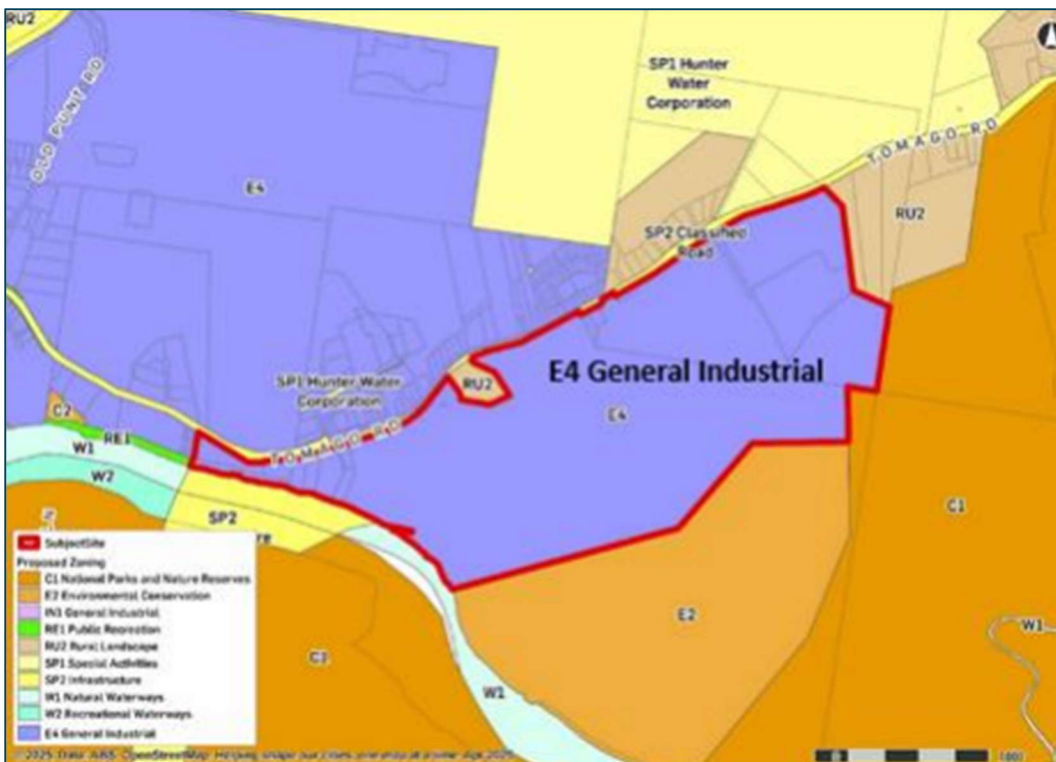


Figure 3 - Proposed land zoning map (Source: PP)

1.6 Background

The Tomago Industrial site was formerly identified as a State significant site under the then *State Environmental Planning Policy (Major Projects) 2005*, and the development was subsequently classified as a major project under the former Part 3A of the *Environmental Planning and Assessment Act 1979*.

Major project approval MP07_0086 (**Figure 4**) was approved by a delegate of the Minister for Planning on 7 August 2009. The consent permits the subdivision of land for industrial purposes, bulk earthworks across the site and the construction and operation of the Westrac facility.

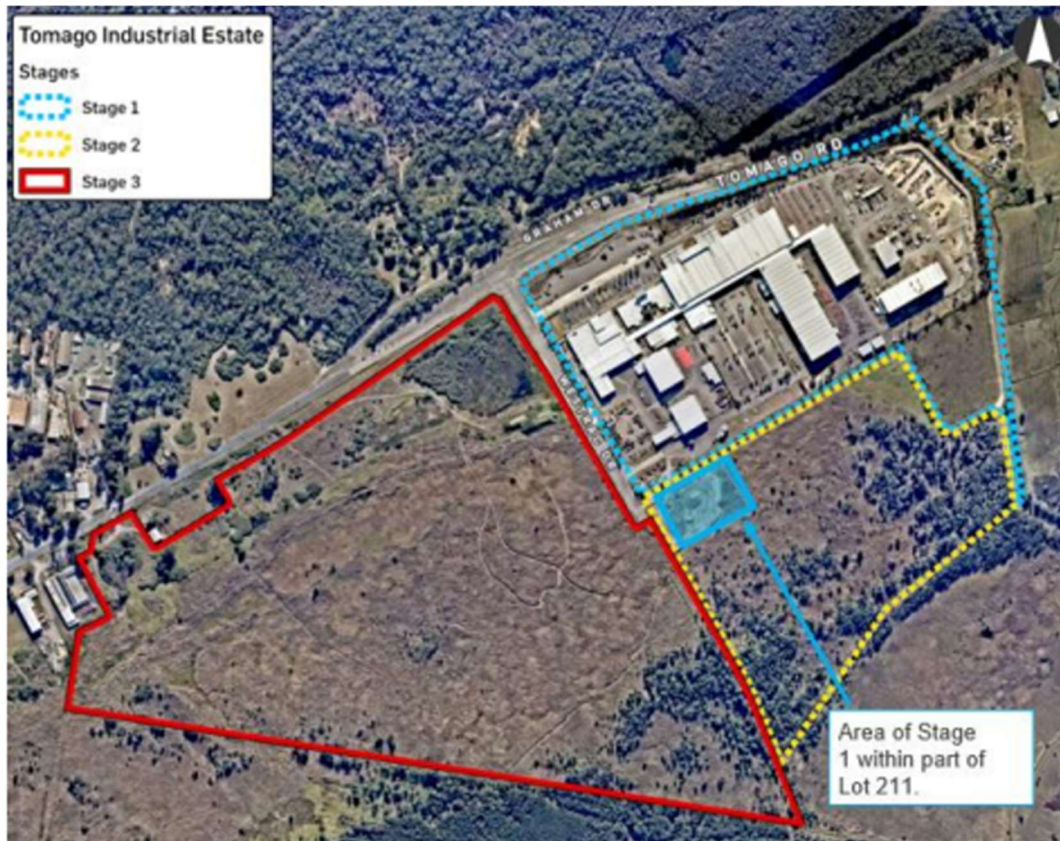


Figure 4 - Major project approval (MP07_0086) (Source: Planning proposal)

Major project approval MP10_0185 (**Figure 5**) was approved by a delegate of the Minister for Planning on 29 June 2014. The consent established the framework for the staged development of a business and industrial estate on land to the west of MP07_0086. The consent permits bulk earthworks across the site and construction of infrastructure to service the industrial park, including roads and drainage.



Figure 5 - Major project approval (MP10_0185) (Source: Planning proposal)

2 Need for the planning proposal

The planning proposal is not the result of a local strategic planning statement or Department-endorsed strategy. Rather, the proposal seeks to ensure that the planning provisions on the subject site align with surrounding employment lands as well as the intention of the Department's employment zone reform.

The planning proposal is considered to be the best means of amending the Regional Precincts SEPP to achieve the objectives and intended outcomes.

3 Strategic assessment

3.1 Regional Plan & Metropolitan Plan

The Hunter Regional Plan 2041 identifies Tomago as a significant employment land cluster and a priority location for future employment generating land uses.

The Greater Newcastle Metropolitan Plan 2036 identifies Tomago as a catalyst area, a place of metropolitan significance for advanced manufacturing and industry with an additional job target of 700 by 2036. Strategy 7 aims to respond to the changing land use needs of the new economy and action 7.2 states that the Department of Planning will work with Port Stephens Council to plan for the relocation of heavy industries from urban areas to industrial precincts such as Tomago.

It is noted that the remainder of the Tomago Industrial Precinct Catalyst Area identified under the Greater Newcastle Metropolitan Plan 2036 is already zoned E4 General Industrial. The proposal will ensure a consistent zoning across the precinct.

The planning proposal is considered to be consistent with the intention of the Regional and Metropolitan plans, as it responds to current and emerging industrial land use trends and reinforces the role of the land as a significant employment area.

3.2 DPHI draft Statewide Policy for Industrial Lands

The Department's draft Statewide Policy for Industrial Lands is presently on exhibition until February 2026. The proposal is not inconsistent with the draft Policy as it supports a broad range of industries and employment opportunities and maintains the strategic network importance of the land.

3.3 Local

The proposal confirms that it is consistent with the strategic direction detailed in the following local plans and endorsed strategies:

Table 4 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	The LSPS recognises Tomago's role as a catalyst area employment centre, identified for significant growth and investment over the next 20 years. The planning proposal is directly consistent with Priority 1: Support the growth of strategic centres and major employment areas and Priority 2: Make business growth easier.
Port Stephens Centres and Employment Land Study (2024)	The Port Stephens Centres and Employment Land Study has been adopted by Council although it has not been endorsed by the Department. The Strategy designates Tomago as a strategic industrial estate, the highest order industrial precinct in the local government area. The planning proposal responds to the priority to explore opportunities for industrial subdivision in Tomago to ensure land is being maximally utilised.

3.4 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant section 9.1 Directions except as discussed below:

Table 5 Section .1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.1 Conservation Zones	Justifiably inconsistent	This direction requires that a planning proposal include provisions that facilitate the protection and conservation of environmentally sensitive areas. Although the proposal does not include specific biodiversity provisions this matter was considered during the assessment of MP07_0086 and MP10_0185. Furthermore, a biodiversity review prepared in support of the proposal concludes that the proposed additional land uses generally do not pose a higher risk of indirect biodiversity impacts than the existing base case scenario under the IN1 General Industrial zone.

		As the planning proposal does not seek to increase the area of land that can be disturbed and does not reduce the existing conservation standards that apply to the land, there are no further direct impacts anticipated by this proposal. Any inconsistency with the terms of this direction is considered to be of minor significance.
3.2 Heritage Conservation	Justifiably inconsistent	This direction requires that a planning proposal must contain provisions that facilitate the conservation of heritage and Aboriginal cultural significance. The State heritage listed 'Tomago House Chapel', including its landscape setting (State I104), is located within the precinct at Lot 1 DP770610. Although this planning proposal does not include provisions that facilitate the conservation of this heritage item this is considered to have been achieved during the initial rezoning of the land. Future built form applications in proximity to Tomago House will be required to include a Heritage Impact Statement and heritage management plan which will ensure heritage values are maintained. Any inconsistency with the terms of this direction is considered to be of minor significance.
4.1 Flooding	Justifiably inconsistent	This direction applies to a planning proposal that creates, removes or alters a zone or provisions that affects flood prone land. The subject land is affected by flooding as detailed in Section 1.4 of this report. Although the proposal does not include provisions to give effect to the NSW Flood Prone Land Policy, the principles of the Floodplain Development Manual or the Considering flooding in land use planning guideline 2021, flooding was comprehensively considered during the assessment of MP07_0086 and MP10_0185. However, it is noted that the planning proposal seeks to permit flood mitigation works, which are designed to alter flood regimes. Specific proposals for this land use will require detailed assessment at the development application stage. Any inconsistency of the planning proposal with this direction is considered to be of minor significance.
4.3 Planning for Bushfire Protection	Unresolved	This direction is relevant to the proposal as the application affects land mapped as bushfire prone. The direction provides that Council must consult with the Commissioner of the NSW Rural Fire Service (RFS) after a Gateway determination is issued and before community consultation is undertaken. Until consultation has been undertaken, the direction remains unresolved.

4.5 Acid Sulfate Soils	Justifiably inconsistent	The subject land has the potential to be affected by acid sulfate soils and the planning proposal does not consider the Acid Sulfate Soils Planning Guidelines. The planning proposal is not expected to result in an intensification of land uses. Furthermore, the Port Stephens LEP 2013 contains suitable provisions (Clause 7.1) to ensure that this matter can be appropriately considered and addressed as part of any future development application. Any inconsistency with the terms of this direction is considered to be of minor significance.
5.1 Integrating Land Use and Transport	Justifiably inconsistent	This direction is relevant to the planning proposal as it will alter a zone and provisions relating to urban land. The proposal is inconsistent with the terms of this direction as it does not specifically consider Improving Transport Choice – Guidelines for planning and development (DUAP 2001) and The Right Place for Business and Services – Planning Policy (DUAP 2001). A Traffic Impact Assessment has been completed in support of the planning proposal. Although the majority of additional permissible land uses are unlikely to generate materially different traffic volumes or characteristics to the existing base case scenario, the following uses may generate traffic of a different character: • environmental facilities • neighbourhood shops • goods repair and reuse facilities • takeaway food and drink premises • service stations. These land uses are more likely to attract the general public, whereas traffic associated with the base case scenario would be predominantly industrial in character. Nevertheless, the Traffic Impact Assessment concludes that the traffic aspects of the planning proposal are considered to be satisfactory. Any inconsistency with the terms of this direction is considered to be of minor significance.

3.5 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all relevant SEPPs, including the Regional Precincts SEPP.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 6 Environmental impact assessment

Environmental Impact	Assessment
Biodiversity	Although a large portion of the Tomago Industrial site is mapped as exhibiting biodiversity values these are largely contained within the environmental zone. The site has been environmentally assessed and approved with conditions for both on-site and off-site offsets as part of the major project approvals MP07_0086 and MP10_0185. Nevertheless, a biodiversity review has been prepared in support of the proposal. The review determined that the proposed amendments do not pose a higher risk of indirect biodiversity impacts than the existing base case scenario and suggests environmental controls to manage the limited circumstances where greater impacts may occur. It is considered appropriate that any such controls be implemented through development consent conditions at the development application stage as potential impacts will be unique for each proposed development.
Coastal management	The subject land is classified as a coastal use area and as being within the coastal environment area under the <i>Coastal Management Act 2016</i> and chapter 2 of the <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>. Although the planning proposal will not enable an increased development footprint or more intensive land-use on the subject site, an assessment checklist for planning proposals has been submitted with the application in accordance with the requirements of the NSW Coastal Design Guidelines 2023. The assessment demonstrates that future built forms are capable of achieving consistency with the legislation.
Noise & light	The additional land uses sought by the planning proposal are unlikely to generate higher noise levels or light emissions than that of the base case scenario. Furthermore, MP07_0086 includes noise limits which future land uses will be required to adhere to.
Air pollutants	The planning proposal includes certain land uses (such as general industry and crematoria) which may generate air pollution due to their use of combustion processes. However, other industrial activities that involve combustion are already permissible under the base case scenario. Although the planning proposal does not inherently pose a higher risk of air pollution, air quality management will be a key consideration for certain land uses during the development application process.
Contamination	Although the planning proposal is not expected to increase risk by introducing more sensitive land uses or involve higher indirect impacts, potential for contamination will be required to be considered at the development application stage.

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 7 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	The planning proposal has the potential to assist in the creation of employment opportunities in the Tomago region, which has the capacity to service the wider population in the Newcastle, Hunter and Port Stephens catchments. Although the planning proposal includes alterations to permissible land uses on the subject site, the industrial nature of the precinct and the intensity of the risk profile is expected to remain largely unaltered.
Economic	The Tomago Industrial site is an important employment centre, identified for significant growth and investment over the next 20 years. The planning proposal responds to current and emerging industrial land use trends to ensure that the site is utilised for its highest and best use.

4.3 Infrastructure

As outlined throughout this report, there is not expected to be any significant change in demand for public infrastructure as a result of this planning proposal.

5 Consultation

5.1 Community

The planning proposal does not specifically state a community consultation timeframe.

The planning proposal is categorised as standard under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

Council has nominated a number of public agencies to be consulted on the planning proposal.

As the proposal will not enable an increased development footprint it is considered satisfactory that consultation be limited to the NSW Rural Fire Service, and that they be given 30 working days to comment.

6 Timeframe

Council proposes a ten month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as standard.

A LEP timeframe of 9 months in line with the Department's commitment is recommended to reduce processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

As the planning proposal will amend a State Environmental Planning Policy it is considered appropriate that the Department retain its delegation as the local plan-making authority.

8 Assessment summary

The planning proposal is supported to proceed with conditions as:

- it will not enable an increased development footprint
- the risk profile and intensity of land uses remain largely unchanged, with detailed assessment of potential impacts (e.g. biodiversity, flooding, traffic, servicing) to be undertaken at the DA stage
- it is consistent with the Regional Plan's priorities and objectives to support growth in employment uses and respond to changing opportunities.

Based on the assessment outlined in this report, the proposal must be updated prior to community consultation to:

- state that it seeks to amend the Port Stephens LEP 2013 in order to alter the Regional Precincts SEPP
- remove 'Specialised Industrial Retail and Hire Premises' as a proposed additional permitted use and include a new clause clarifying the nature of 'Specialised retail premises' permitted in the zone.

9 Recommendation

It is recommended the delegate of the Secretary:

- agree that any inconsistencies with section 9.1 Directions 3.1 Conservation Zones, 3.2 Heritage Conservation, 4.1 Flooding, 4.5 Acid Sulfate Soils and 5.1 Integrating Land Use and Transport are minor or justified
- note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unresolved and will require justification.

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

The following conditions are recommended to be included on the Gateway determination:

1. Prior to community consultation, the planning proposal is to be updated to:
 - state that it seeks to amend the Port Stephens LEP 2013 in order to alter the Regional Precincts SEPP
 - remove 'Specialised Industrial Retail and Hire Premises' as a proposed additional permitted use and include a new clause clarifying the nature of 'Specialised retail premises' permitted in the zone.
2. Consultation is required with the NSW Rural Fire Service.
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, it is recommended that the Department retain delegation as the local plan-making authority and that a LEP timeframe of nine months be included on the Gateway determination.



17/12/2025

(Signature)

(Date)

Lucy Walker
Manager, Hunter and Northern Region



18/12/25

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