

Rezoning Review Briefing Report – RR-2025-11

Rezoning Review to seek to amend the Port Stephens Local Environmental Plan 2013 to facilitate a new residential development with supporting infrastructure at 196 Old Main Road and 263, 269, 271, 273, 293 and 321 Gan Gan Road, Anna Bay (584 dwellings)

Element	Description
Date of request	24 June 2025
Department ref. no	RR-2025-11 (PP-2024-2768)
LGA	Port Stephens
LEP to be amended	Port Stephens Local Environmental Plan 2013
Address	196 Old Main Road and 263, 269, 271, 273, 293 and 321 Gan Gan Road, Anna Bay
Reason for review	☒ Council notified the proponent it will not support the proposed amendment ☐ Council failed to indicate support for the proposal within 90/115 days, or failed to submit the proposal after indicating its support
Has council nominated PPA role	No, as Council has not supported the planning proposal (Attachment D1).
Consultation	Council as part of the scoping proposal process consulted with government agencies, including: • NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) - Biodiversity and Conservation Division (BCD) – know known as Conservation Programs, Heritage and Regulation (CPHR); • Transport for NSW (TfNSW); • NSW Rural Fire Service (RFS); • DPI (Fisheries); • Hunter Water Corporation; • Crown Lands; • Department of Education (DoE); • NSW State Emergency Service (SES); and • DCCEEW – Heritage, Anna Bay Drainage Union. A consolidated list of the pre-Gateway agency submissions received can be found at (Attachment B18).

Rezoning Review – Briefing Report

RR-2025-11 (PP-2024-2768)



Element	Description
	Agency concerns raised are discussed further in the Key Issues Section of this Report .
Political Donations	The proponent is not aware of any person who has financial interest in the application who has made a political donation or gift in the last two years.
Lobbyist Code of Conduct	The PPA team is not aware of any meetings or communication with registered lobbyists with respect to this planning proposal.
Brief overview of the timeframe/progress of the planning proposal	1 February 2024: Letter to Council requesting inclusion in the draft Housing Strategy. 7 March 2024: Preliminary consultation between Council and Proponent. 18 March 2024: Approval from the NSW Land and Environment Court for the subdivision of the existing lots into 34 residential lots and 5 residual allotments, provision of internal access roads, ancillary earthworks, stormwater management infrastructure including infiltration basins; and a bioretention basin at 263 - 321 Gan Gan Road, Anna Bay. 2 April to 29 April 2024: Public exhibition of draft Housing Strategy – the planning proposal sites are not included in the draft Housing Strategy. 23 April 2024: Proponent makes submission on exhibited draft Housing Strategy to include the sites as an Anna Bay Precinct housing investigation area. 25 June 2024: Local Housing Strategy is adopted – the sites are not included in the LHS because Council considered the site to have significant environmental, cultural and infrastructure constraints that could not be overcome during the lifetime of the strategy. 18 July 2024: Pre-lodgement meeting between Council and proponent. 20 December 2024: Planning Proposal lodged with council. 13 May 2025: Planning proposal is not supported at Council meeting. 24 June 2025: Rezoning Review request lodged. 1 October 2025: Rezoning Review fee paid by proponent and accepted by PPA team, acknowledgement letters sent.
Department contact:	Pat Connor – Senior Planning Officer, Planning Proposal Authority

Planning Proposal

Table 1. Overview of planning proposal

Element	Description
Site Area	125 ha
Site Description	The site includes 7 lots of in single ownership. The site consists of bushland with some cleared grass and market gardens in the northern and southern parts of the site. The site is located: • 15km south of the Pacific Highway; • 1km north from Tomaree National Park; • 800m northeast from the Anna Bay Town Centre; • 440m northeast from Anna Bay Public School; and • 970m northwest from Boat Harbour Town Centre. The nearest residential development is rural residential development immediately south of the site on Gan Gan Road (Figure 1). <u>Natural Hazards</u> The site is identified as: • having high hazard flooding affectation in a Probable Maximum Flood event (Attachment C); • is bushfire prone (Attachment C). <u>Biodiversity</u> The site is identified on the NSW Spatial Viewer's Biodiversity Values Map (Attachment C).
Proposal summary	The proposal seeks to amend the Port Stephens Local Environmental Plan 2013 to facilitate an expansion of the Anna Bay township. The proposed LEP amendments are identified in Table 2 of this report. <u>Development Concept Scheme</u> The planning proposal seeks to facilitate a development outcome (Figure 2), including: • 584 dwellings 476 lots; • 7 ha of public open space; • local streets with 3 access points (2 from Gan Gan Road and 1 from Frost Road); • pedestrian networks and cycling infrastructure; and • site stormwater management through widening Anna Bay Main Drain and multiple stormwater basins.

Rezoning Review – Briefing Report

RR-2025-11 (PP-2024-2768)

Element	Description
Relevant State and Local Planning Policies, Instruments	• Hunter Regional Plan 2041. • Port Stephens Local Strategic Planning Statement. • Port Stephens Local Housing Strategy. • Anna Bay Strategy and Town Plan 2008. • Relevant State Environmental Planning Policies (SEPP) include SEPP (Biodiversity and Conservation) 2021 and SEPP (Resilience and Hazards) 2021. • Relevant Section 9.1 Ministerial Directions include 3.1 Conservation Zones, 3.2 Heritage Conservation, 4.1 Flooding, 4.2 Coastal Management, 4.3 Planning for Bushfire Protection and 4.4 Remediation of Contaminated Land.



Figure 1. The site (source: Nearmaps)



Figure 2. Proposed Concept Scheme (source: Urban Design Report)

The planning proposal (**Attachment B1**) seeks to amend the Port Stephens Local Environmental Plan 2013 per the changes below.

Table 2. Current and proposed controls

Control	Current	Proposed
Zone	RU2 Rural Landscape (RU2) C3 Environmental Management (C3) R2 Low Density Residential (R2) (Figure 3)	R2 C3 RE1 Public Recreation (RE1) (Figure 3)
Maximum height of the building	R2 – 9m RU2 & C3 – N/A (Attachment C)	R2 – 9m C3 & RE1 – N/A (Attachment C)
Floor space ratio	N/A	N/A
Minimum lot size	C3 – 20ha RU2 - 4ha R2 – 500m ² (Figure 4)	500m ² on R2 1ha, 2ha, 4ha, 10ha on C3 (Figure 4)

Rezoning Review – Briefing Report

RR-2025-11 (PP-2024-2768)

Control	Current	Proposed
Urban Release Area – Part 6 of the LEP requires public utility infrastructure and a DCP to be in place prior to development consent	R2 – Yes RU2 & C3 – N/A (Attachment C)	R2 – Yes C3 & RE1 – N/A (Attachment C)
Wetland Provisions – Clause 7.9 requires consideration developments impact on wetland areas	Yes (Attachment C)	No change
Land Reservation Acquisition	N/A	Yes – RE1 (Attachment C)
Number of dwellings	Unknown	548 on 476 residential lots
Number of jobs	N/A	N/A

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

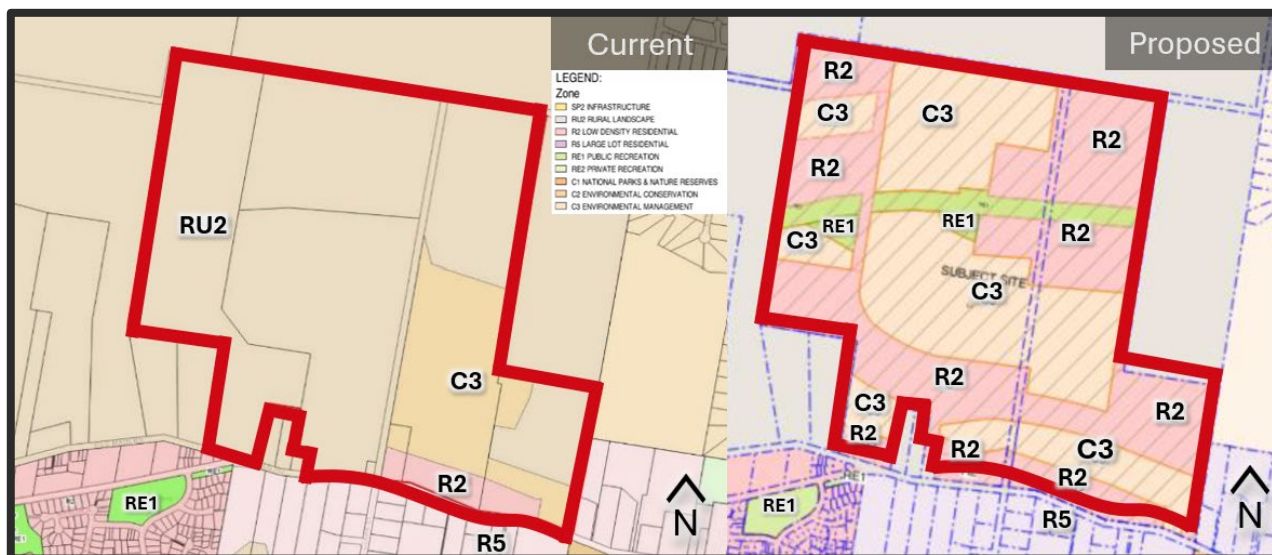


Figure 3. Current and Proposed zoning with the site highlighted red (source: Planning Proposal)



Figure 4. Current and proposed minimum lot size with the site highlighted red (source: Planning Proposal)

Council Decision - May 2025

Council Officer Recommendation

The Council officer's recommended that the proposal be refused for reasons including (**Attachments D2 and D3**):

- the site not being identified for housing in the LHS and HSP;
- its disruptions to high value vegetation and potential heritage impacts;
- within a high hazard flood storage area and will be identified as a Coastal Vulnerability Area by SEPP (Resilience and Hazards) 2021;
- would require significant fill and there is a lack of cumulative impact assessment due to the scale of the assessment.

Council Resolution

Council resolved to refuse in line with the Council officer recommendation (**Attachment D1**).

Key Issues

The following section summarises the key issues drawn from documents including the proponent's rezoning review request (**Attachment B**), Council's response to the rezoning review request (**Attachment D**), and the Council Meeting Agenda (**Attachment D2**).

Council notes the proponent has proposed amendments to the planning proposal which seek to address Council's concerns (**Attachments A2 to A7**). Council has not considered these proposed amendments as part of its pre-Gateway assessment process which it resolved to refuse in May 2025.

STRATEGIC MERIT

Issue – Alignment with Strategic Plans

Council view

- The planning proposal doesn't align with the Hunter Regional Plan, including being inconsistent with Objective 6 'Conserve heritage, landscapes, environmentally sensitive areas, waterways and drinking water catchments' and Objective 7 'Reach net zero and increase resilience and sustainable infrastructure' of the HRP'
- The planning proposal inconsistent with the LSPS with the is not identified for housing in the LHS and the intended development outcome would result in the removal of 32 hectares of vegetation mapped as having high biodiversity value.
- The planning proposal is inconsistent with the Anna Bay Strategy and Town Plan (ABSTP) as it seeks to rezone an extensive area of land for urban development north of the local ridgeline. This area is not mapped or identified for this purpose within the ABSTP.
- On 17 December 2024 DPHI conditionally endorsed the LHS. The DPHI endorsement letter (**Attachment F**) includes the following regarding greenfield sites that are not identified in the LHS for potential residential development:
 - *"Any consideration of additional greenfield land outside the strategic growth areas identified in the LHS should occur through regular reviews of the strategy or the strategy addendum process. A revised strategy or addendums should be submitted to the Department for review and approval before planning proposals are lodged for rezoning land not identified in the current strategy. It is considered this approach will best support the effective and efficient delivery of land supply and supporting infrastructure".*

Proponent view

- Objective 5 of the Hunter Regional Plan requires Council to plan for 11,100 dwellings and refers to a benchmark of 30% greenfield and 70% infill development. The planning proposal assists in addressing the housing targets and the greenfield 30% benchmark.
- The planning proposal is consistent with the ABSTP directions, including 'Protecting the landscape setting', 'Diversity and quality of dwellings', 'Improving recreation place and community facilities', 'Vegetation management' and 'Drainage and flood management'.
- The planning proposal is consistent with the LSPS as the proposed supply of dwellings on the site will increase housing supply, provide diversity of housing choice and assist in reducing the impacts on housing affordability. Further, the retention of significant areas of biodiversity and the introduction of accessible public open space areas on the site will assist in protecting the natural environment as well as providing green spaces for existing and future residents.
- The planning proposal will assist in meeting the shortfall in housing supply in the Port Stephens LGA that is not addressed in the LHS. In particular, the Planning Proposal enables potential for 584 new dwellings in Anna Bay that will address the 1,300 short from the Region Plan target and addresses the more recent increase in population projections for Port Stephens LGA.

SITE SPECIFIC MERIT

Issue – Flooding Impacts

Council view

- Seeks to rezone approx. 50 ha of land within a high hazard flood storage area for residential use.
- Requires placement of significant fill (2-3m above existing ground level) within flood prone land with overland flow paths and defined floodway.
- Lack of cumulative impact assessment as well as the extensive scale of the proposal within the Flood Planning Area.

CPHR view

- The proposal is not consistent with the Ministerial Direction 4.1 Flooding, which states that land must not be rezoned from rural to residential uses if it is within a Flood Planning Area.

SES view

- The flood risks of the Port Stephens region are so significant that any further development increases the burden on current and future communities and emergency services.
- This proposal is likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures.
- The proposal would further increase the complexity of flood operations for the Port Stephens, and directly transfer the risk to SES for warning, evacuation, and potentially rescue.
- Proceeding with the proposal is not recommended as this would increase the number and exposure of residents to flood risk.

Proponent view

- The proposal seeks to facilitate the delivery of new drainage infrastructure (**Attachment B21**), including:
 - Twelve stormwater basins for water quality treatment purposes and a number of swales discharging to existing / proposed channels; and
 - Widening of the Anna Bay Main Drain east to west through the centre of the site to increase flood storage
- There is no requirement in the Directions which prohibits the placement of fill within flood prone land.
- Flood modelling demonstrates that the proposed fill does not cause any adverse offsite flood impacts.
- Completed cumulative flood impact assessment demonstrates that fill associated with potential future development also does not cause any adverse offsite flood impacts.

Issue – Biodiversity

Council view

- The majority of the vegetation on site is an endangered ecological community (EEC) and the site provides habitat for a number of threatened species.
- The proposal does not sufficiently protect existing areas of environmental sensitivity through conservation zonings and does not comply with the requirement to not reduce the conservation standards of lands already zoned C3.
- The development of the site is considered likely to increase the operation of a number of key threatening processes.
- Additional impacts are likely to include degradation to adjacent retained native vegetation including EECs

CPHR view

- The Hunter Regional Plan requires strategic planning proposals to protect areas of High Environmental Values (HEV).
- A large number of threatened entities have been recorded within the site and impacts to them are proposed or considered highly likely to occur.
- The site contains wildlife corridors that link the Tomaree Peninsula with the Worimi Conservation Lands. Development in this area could considerably impact Koala and other fauna movement and conservation within the region.
- Indirect impacts from changes to hydrological conditions and impacts from edge effects are likely to: degrade the condition and integrity of retained and surrounding habitats, reduce the function of important wildlife corridors and impact biodiversity features essential to threatened entities, and have 'edge' effects.

Proponent view

- The planning proposal demonstrates consistency with Ministerial Direction 3.1 Conservation Zones.
- The Planning Proposal will retain and enhance 66.49 ha of threatened ecological community Coastal Swamp Sclerophyll Forest within the site.
- A total of 52.40ha will be zoned C3, which is an increase of 32.92 ha from the current zoned area.
- A BCAR (**Attachment B3**) and BDAR (**Attachment B4**) have been prepared in support of the Planning Proposal that considers biodiversity impacts, threatened entities, the CKPoM and wildlife corridors. The proposal seeks to minimise impacts on biodiversity by:
 - retaining 75.51ha of native vegetation for preferred koala habitat;
 - revegetating 6.72ha with structurally intact habitat;
 - delivering nine strategically identified fauna underpasses to facilitate the movement of koala throughout the site and adjoining habitat;
 - incorporating koala fencing and signage as part of future development; and
 - retaining 699 of the 816 specimens of *Eucalyptus robusta* (Swamp Mahogany).

Issue – Coastal Area Impacts

Council view

- The proposal is inconsistent with Direction 4.2 because it seeks to rezone approximately 50 ha of land to be identified as a Coastal Vulnerability Area (CVA) by SEPP (Resilience and Hazards) 2021.
- The introduction of the CVA mapping for the site is forthcoming with the finalisation Coastal Risk Planning Clause adopted by Council on 25 June 2024 and currently awaiting gazettal at the time of writing.
- Currently, the site is not mapped under the SEPP and lies outside the boundaries of the CMP. Once the proposal is finalised, the site may be included in the CVA mapping under the SEPP.

DPI (Fisheries)

- Expressed concerns about the potential for impact of the proposal on downstream local fisheries and oyster aquaculture in Port Stephens from acid sulfate soils impacts.

Proponent view

- The site is not identified on any of the below maps under the Resilience and Hazards SEPP 2021, including Coastal wetlands and littoral rainforests area map, Coastal vulnerability area map, Coastal environment area map and Coastal use area map.
- The nearest coastal wetland identified in the Resilience and Hazards SEPP is located approximately 600 m to the northeast of the site.
- The site is outside the boundaries of the Port Stephens Coastal Management Program.
- The site is identified on the coastal and tidal inundation map in the CMP however, the Flood Assessment report demonstrates that the proposed residential lots can be raised above the flood planning level (FPL) of 3.04m AHD, being the 1% AEP (with climate change) plus 0.5 m freeboard.
- The proposed residential areas are also flood free in all events up to and including the PMF.
- The proponent considers the Geotechnical and Acid Sulfate Soils Assessment report (**Attachment B8**) supporting the proposal identifies that future residential subdivision is likely to result in negligible impacts on the existing groundwater system and pose minimal environmental risk as a result of acid sulfate soils, subject to implementation of an acid sulfate soils management plan at the development application stage.

Issue – Traffic Impacts

Council view

- There is no justification provided for the traffic assignments assumed in the submitted report
- The road reserve of Frost Road is quite constrained, and it may not be possible to provide sufficient road widening to allow for construction of an auxiliary lane as proposed
- Significant upgrades would be required to manage the safety risk of traffic attempting to turn out of Frost Road onto Nelson Bay Road

TfNSW view

- Provide a Traffic and Transport Strategy in accordance with the LEP Making Guideline.

Proponent view

- The Traffic Impact Assessment (TIA) (**Attachment B20**) includes the following conclusions:
 - The Planning Proposal will not negatively impact the current traffic conditions.
 - The new access roads identified on the concept masterplan will be accessible by all users including emergency vehicles.
 - Active travel initiatives have been considered and may increase mode share for cycling with the area.

Other issues:

Issue – Aboriginal Cultural Heritage Impacts

Council considers that the submitted ACHAR (**Attachment B1**) addresses the significance of the local ridgeline area, but the proposed development outcome on the Aboriginal landscape demonstrates there may be significant heritage impacts that have not been addressed.

Proponent considers the demonstrates adequate cultural heritage impacts as demonstrated in the ACHAR and all recommendations to conserve objects and places of Aboriginal heritage significance have been considered.

Issue - Infrastructure

Council considers that the proposal has the potential to generate additional infrastructure requirements including sewer and water infrastructure through the provision of more than 500 dwellings and 1,400 additional residents. Should the proposal proceed, the Infrastructure Servicing Assessment would likely be sent to the relevant infrastructure service providers (such as Hunter Water Corporation) for further technical assessment. Council also considers the land identified for public open space is unsuitable because it's located along a linear drainage area, flood prone, within a bushfire asset protection zone and it is not rectangular in shape.

Proponent considers that the single ownership of the site means that new infrastructure can be delivered concurrently with new housing supply.

Attachments

Attachment A – Rezoning Review Cover Letter – June 2025

Attachment A1 – Rezoning Review Report – September 2025

Attachment A2 – Amended Urban Design Statement - June 2025

Attachment A3 – Flood Impact Risk Assessment - August 2025

Attachment A4 – Supplementary Flood Assessment - June 2025

Attachment A5 – Supplementary Biodiversity Advice - June 2025

Attachment A6 – Revised Strategic Bushfire Study - June 2025

Attachment A7 – Conceptual Stormwater Management Strategy – September 2025

Attachment B – Planning Proposal – December 2024

Attachment B1 – Aboriginal Cultural Heritage Assessment – October 2023

Attachment B2 – Agricultural Assessment & LUCRA – December 2024

Attachment B3 – Biodiversity Constraints Assessment Report – February 2023

Attachment B4 – Biodiversity Development Assessment Report – December 2024

Attachment B5 – Community Needs Assessment – December 2024

Attachment B6 – Conceptual Stormwater Management Strategy – December 2024

Attachment B7 – Flood Assessment – December 2024

Attachment B8 – Geotechnical & Acid Sulfate Soils Assessment – December 2024

Attachment B9 – Housing Needs Assessment – December 2024

Attachment B10 – Hydrogeological Assessment – December 2024

Attachment B11 – Infrastructure Servicing Assessment – December 2024

Attachment B12 – Locality Map – December 2024

Attachment B13 – Planning Proposal Application Form – January 2025

Attachment B14 – Planning Proposal Maps – December 2024

Attachment B15 – Planning Proposal Submission Form – Undated

Attachment B16 – Preliminary Site Investigation – December 2024

Attachment B17 – Riparian Management Strategy – December 2024

Attachment B18 – Scoping Proposal Feedback – July 2024

Attachment B19 – Strategic Bushfire Study – December 2024

Attachment B20 – Traffic Impact Assessment – December 2024

Attachment B21 – Urban Design Report – December 2024

Attachment B22 – Wetland Hydrodynamic Assessment – December 2024

Attachment C – Locality map, existing and proposed LEP maps – Undated

Attachment D – Councils response to Rezoning Review – October 2025

Attachment D1 – Council Ordinary Meeting Minutes – May 2025

Attachment D2 – Council Ordinary Meeting Agenda – May 2025

Attachment D3 – Council Assessment Report – May 2025

Attachment E – Scoping proposal agency feedback – July 2024

Attachment F – DPHI endorsement of Port Stephens Local Housing Strategy – December 2024

Rezoning Review – Briefing Report

RR-2025-11 (PP-2024-2768)



27 October 2025

Alexander Galea

Manager, Planning Proposal Authority

28/10/25

Louise McMahon

Director, Planning Proposal Authority

Assessment officer

Pat Connor

Senior Planning Officer, Planning Proposal Authority

8275 1191

© State of New South Wales through Department of Planning, Housing and Infrastructure 2025. The information contained in this publication is based on knowledge and understanding at the time of writing (October 2025). However, because of advances in knowledge, users should ensure that the information upon which they rely is up to date and to check the currency of the information with the appropriate departmental officer or the user's independent adviser.