

ATTACHMENTS UNDER SEPARATE  
COVER

ORDINARY COUNCIL MEETING  
12 APRIL 2016



**PORT STEPHENS**  
C O U N C I L



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**Further Information:**

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**ITEM 1 - ATTACHMENT 1 PLANNING PROPOSAL****FILE NUMBERS**

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**Council:** PSC2014-02879  
**Department:** PP\_2014\_PORTS\_006\_00

**SUMMARY**

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**Subject land:** 1519 Richardson Road, Salt Ash (Pauls Corner)  
**Addresses:** 1) Lot 20 & 23, DP 240103 - 1515 & 1519 Richardson Rd, Salt Ash; 2) Lot 6 & 7, DP 240103 - 5 & 7 Salt Ash Ave, Salt Ash; and 3) Lot 1, DP158268 – 3 Salt Ash Ave, Salt Ash.  
**Proponent:** Environment Property Services (EPS)  
**Landowner:** Mr George and Mr Peter Boshev  
**Total Area:** 1.96 Hectares  
**Existing Zoning:** RU2 Rural Landscape  
**Existing Minimum Lot Size:** AB2 – 20 Hectares  
**Proposed Zoning:** B1 Neighbourhood Centre  
**Proposed Minimum Lot Size:** No Minimum Lot Size  
**Proposed Height of Building:** 9m  
**Proposed Clause:** Restrict gross floor area of single premises to 500m<sup>2</sup> and the total floor space of the development to be no greater than 2,100m<sup>2</sup>

**BACKGROUND**

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In June 2014, Council received a request to amend the Port Stephens Local Environmental Plan 2013 at 1519 Richardson Road, Salt Ash and 3, 5 & 7 Salt Ash Avenue, Salt Ash known as 'Paul's Corner' (the subject site). The request was to amend the zoning from RU2 Rural Landscape to B1 Neighbourhood Centre to cater for additional small scale retail, business and community uses for the local community and passing commuters.

An initial review of the Port Stephens Planning Strategy (PSPS) identified that the subject site as a 'Smaller Village Centre' whose demand for commercial floor space is forecast to increase by 450m<sup>2</sup> from the existing 1,800m<sup>2</sup>. This increased demand would primarily be the result from increased vehicle movements along Richardson and Nelson Bay Roads.

A closer examination indicated that the existing floor space was not 1,800m<sup>2</sup> as detailed in the Port Stephens Commercial and Industrial Lands Study, but closer to 962m<sup>2</sup>. This miscalculation was the result of building overhangs (i.e. awnings) being calculated as leasable floor space and means that the justification for an additional 1,288m<sup>2</sup> already existed.

The PSPS assumed that the subject site could cater for an increase of 450m<sup>2</sup> under existing-use rights based on the recommendations of the Commercial and Industrial Lands Study. The study stated that demand could easily be accommodated on the two lots which currently host the petrol station and other retail. These lots should constitute the extent of the centre.

**ITEM 1 - ATTACHMENT 1 PLANNING PROPOSAL**

A planning proposal was lodged with Council on 15 August 2014, accompanied by an Economic Impact Assessment (EIA). The EIA considered that an expanded centre of 2,500m<sup>2</sup>, including approximately 2,162m<sup>2</sup> of retail floor area highlights that no centre would experience an impact greater than 1.1% and this is a very small loss that will be quickly won back in 12 months.

An Independent Review of the EIA generally agreed with the assumptions contained in the Assessment in relation to retail turnover, inflation and assumed growth rate of daily traffic volumes (Macro Plan. 2014). However, the Independent Review identified an error in the calculations of the forecast traffic volumes, which resulted in an estimated demand closer to 1,870m<sup>2</sup>, rather than 2,162m<sup>2</sup>. The proponent responded by extending its traffic forecasts to 2034, which lead to a revised 2,100m<sup>2</sup>.

This demand cannot be accommodated on the current site, so the proposal is seeking to replace the existing zoning over the current site and extend over the adjoining lot. This zoning will permit, subject to development consent for a variety of commercial uses, such as a pharmacy, newsagent, liquor store or grocery store each with a single commercial premise no greater than 500m<sup>2</sup> and a combined floor space no greater than 2,100 m<sup>2</sup>.

This request has planning merit, given that the Port Stephens Commercial and Industrial Lands Study estimated 2,250m<sup>2</sup> for the subject site, a difference of less than 150m<sup>2</sup> that is justified by the updated EIA that has been provided by the Proponent.

At its 28 October 2014 Meeting, Council resolved to seek a gateway determination. A gateway determination was requested by Council on 3 November 2014 and then received by the Department of Planning and Environment on 9 December 2014. This planning proposal has been placed on public exhibition from 7 January 2015 until 4 March 2015 in accordance with the gateway determination.

Seven government agencies were consulted during the exhibition period, including:

1. NSW Trade and Investment – Mineral resources and Energy (T&I);
2. NSW Department of Primary Industries – Agriculture (DPI);
3. NSW Office of Environment and Heritage (OEI);
4. NSW Roads and Maritime Services (RMS);
5. NSW Rural Fire Service (RFS); and
6. NSW Environmental Protection Agency (EPA).

No objections were received from these government agencies and no submissions were received from members of the community throughout this public exhibition period. In late 2015, land was identified within the Williamstown Contamination Investigation Area as provided as **Figure 1 – Williamstown Contamination Investigation Area Map** (page 7).

A referral was subsequently provided to the EPA and Council requested that the proponent update their contamination assessment under State Environmental

**ITEM 1 - ATTACHMENT 1 PLANNING PROPOSAL**

Planning Policy No 55 – Remediation of Land. These investigations did not identify any information that would halt the rezoning of land. This planning proposal was reported back to Council on 12 April 2016.

**SITE**

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The site totals 1.96Ha and is located on the north-eastern corner of Nelson Bay and Richardson Road, Salt Ash. The lots are legally described as Lot 1, DP 158268 and Lots 6, 7, 20 & 23, DP 240103.

Since the 1990s, the site has operated as a service station, shops and restaurant, which consists of a petrol service station, groceries store, bakery and restaurant, butchers and takeaway, bottle shop and greengrocer with ancillary parking areas. These existing services cater for the local community and traffic along Nelson Bay and Richardson Roads.

Approximately half of the site is developed with commercial stores and petrol station, an on-site sewerage system, a gas storage facility and visitor car parking.

The majority of Lots 7 and 23, DP 240103 are vacant managed land with Lot 7 containing the sites that contain on-site sewerage infrastructure.

**Figure 1 – Aerial Map** (page 5) and **Figure 2 – Street Map** (page 6) provide contextual illustrations of the Subject Site – 1519 Richardson Road, Salt Ash.

**PART 1 – Objective of the proposed Local Environmental Plan**

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The objective of this proposal is to enable the commercial expansion of the existing centre to cater for the identified increase in commercial floor space demand.

**PART 2 – Explanation of the provisions to be included in proposed LEP**

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The objective of this Proposal will be achieved by:

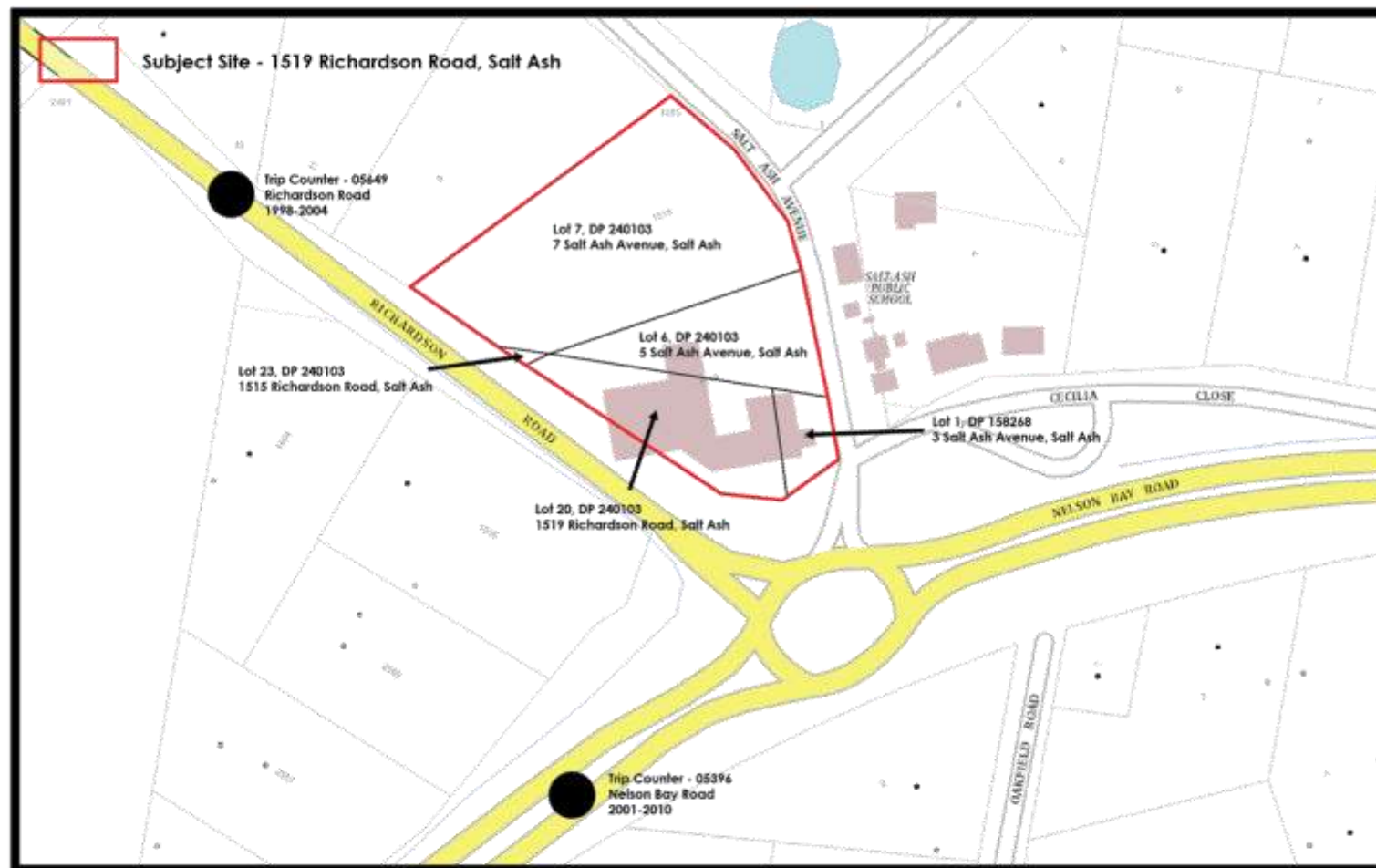
- Amending the land zone map LZN\_004 for the subject site to replace the Zone RU2 Rural Landscape with Zone B1 Neighbourhood Centre in accordance with **(Attachment 1)**
- Amending the lot size map LSZ\_004 for the subject site to remove the lot size of AB2 -20Ha in accordance with **(Attachment 2)**
- Amending the height of building map HOB\_004 for the subject site to include 9m height of building limit **(Attachment 3)**
- Amending the additional permitted uses map CL1\_004 for the subject site to include the additional permitted use of restricting single commercial premises to 500m<sup>2</sup> and total floor space to 2,100m<sup>2</sup> **(Attachment 4)**
- Insert the following under Part 7 - Additional local provisions:

FIGURE 1 – Aerial Map



Source: Six Maps. 2014

FIGURE 2 – Street Map



Source: Six Maps. 2014



FIGURE 3 – Williamstown Contamination Investigation Area



Source: EPA NSW, 9 October 2015

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7.20 Maximum gross floor area for single commercial premises and total commercial premises at Richardson Road, Salt Ash

1. This clause applies to land on the corner of Richardson Road and Salt Ash Avenue, Salt Ash, being Lot 1, DP 158268 and Lots 6, 7, 20 & 23, DP 240103
2. The objective of this clause is to ensure that the size and range of uses at the subject site are consistent with the hierarchy of centres within Port Stephens
3. Development consent must not be granted for the purpose of a single commercial premises on the site to which this clause applies unless the consent authority is satisfied that the gross floor area of the premises will not exceed 500m<sup>2</sup>
4. Development consent must not be granted for the purpose of commercial premise on the site to which this clause applies unless the consent authority is satisfied the combined gross floor area will not exceed 2,100m<sup>2</sup>

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**PART 3 – Justification for the Planning Proposal****SECTION A – Need for the Planning Proposal****Is the planning proposal a result of any strategic study or report?**

This proposal is consistent with the identification of the site as a smaller village centre within the Port Stephens Planning Strategy (PSPS), which broadly reflects the floor space forecast of 2,250m<sup>2</sup> provided by the Port Stephens Commercial and Industrial Lands Study.

The commercial floor space of 2,162m<sup>2</sup> sought by the proposal was further supported by an Economic Impact Assessment (EIA). The EIA considered that an expanded centre of 2,500m<sup>2</sup>, including approximately 2,162m<sup>2</sup> of retail floor area highlights that no centre would experience an impact greater than 1.1% and this is a very small loss that will be quickly won back in 12 months.

An Independent Review of the EIA generally agreed with the assumptions contained in the Assessment in relation to retail turnover, inflation and assumed growth rate of daily traffic volumes (JLL. 2014). However, the Independent Review identified an error in the calculations of the forecast traffic volumes, which resulted in an estimated demand closer to 1,870m<sup>2</sup>, rather than the 2,162m<sup>2</sup>. The Proponent responded by extending the traffic forecasts to 2024, a period of 20 years, which led to a revised demand forecast of 2,100m<sup>2</sup>.

This request has planning merit, given that the Port Stephens Commercial and Industrial Lands Study estimated 2,250m<sup>2</sup> and the floor space limits of 500m<sup>2</sup> per commercial premises and 2,100m<sup>2</sup> in total will ensure that the Site maintains its position as a 'Smaller Village Centre' within the centres hierarchy.

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

**ITEM 1 - ATTACHMENT 1 PLANNING PROPOSAL**

The Proposed can only be achieved through an amendment to the Port Stephens Local Environmental Plan 2013.

**SECTION B – Relationship to Strategic Planning Framework****4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**Lower Hunter Regional Strategy

The Proposal is consistent with the poly-centric hierarchy employed by the Lower Hunter Regional Strategy. The identification of the subject site as a smaller village centre within the Port Stephens Planning Strategy (PSPS) is consistent with this approach, which is underpinned by the Port Stephens Commercial and Industrial Lands Study. This Proposal does not undermine this hierarchy.

Draft Hunter Regional Plan

The draft plan highlights the need for local planning to consider where retail space can be developed, having regard for current supply and demand for new space. The proposal is consistent with the Port Stephens Planning Strategy and the Port Stephens Commercial and Industrial Lands Study. An Economic Impact Assessment identified a need for the additional commercial floor space and shows that the demand cannot be accommodated on the current site under existing use rights.

**5. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?**Port Stephens 2023: Delivery Program/Operational Plans

The relevant directions of the Port Stephens Integrated Planning Framework are:

- 11.1.1.1 Review and prepare statutory plans (Local Environmental Plan, Development Control Plan and Planning Proposals)
- 11.1.1.4 Prepare and review strategic land use strategies, policies and plans.

The administration of this Proposal is consistent with the recommendations of the Lower Hunter Regional Strategy and Port Stephens Planning Strategy.

Port Stephens Planning Strategy (PSPS)

The PSPS identifies the Site as a 'smaller village centre' which is generally defined as a strip or cluster of shops with services available to local residents of the surrounding neighbours or communities and meets their day to day needs. This increase in commercial space does not place the centre higher within this Centres Hierarchy, but rather reflects the role of the Site in catering for increased traffic volumes. The site's location on the corner of Nelson Bay and Richardson Road exposes it to high levels of passing traffic. The PSPS contains traffic forecast data, which is expected to increase to 57,245 vehicle movements by 2031.



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These figures were reinforced through a recent request to the Roads and Maritime Services for updated traffic count data. The two trip counters of relevance: 1) 05649 – Richardson Road and 2) 05396 – Nelson Bay Road have not been updated since the production of the Port Stephens Planning Strategy in 2011.

**Figure 2 – Street Map** (page 6) identifies the trip counters that have been used to calculate the traffic forecasts.

Port Stephens Commercial and Industrial Lands Study

The Commercial and Industrial Lands Study, which was undertaken to inform the PSPS identifies Salt Ash as:

*'a centre located on Nelson Bay Road opposite the local public school. The anchor of the centre is the large petrol station. In total, there are around 1,800m<sup>2</sup> of occupied floor space in this centre. The nearest centre with a full-line supermarket is Medowie. Salt Ash benefits from being highly visible and easily accessible for through traffic travelling between the peninsulas and Newcastle'*

*'no plans for increased residential density in the areas surrounding the centre, any increases in demand is likely to come from the additional passing traffic as development on the peninsula occurs. Floor space demand is forecast to increase by 450m<sup>2</sup> between 2009 and 2013, which is likely to be easily accommodated on the two lots which currently host the petrol station and other retail. These lots constitute the extent of the centre'*

A closer examination of the existing floor space indicated it was not 1,800m<sup>2</sup>, but closer to 962m<sup>2</sup>. This was the result of the building overhangs (i.e. awnings), being calculated as leasable floor space and meant that the justification for an additional 1,288m<sup>2</sup> already existed.

The PSPS assumed that the subject site could cater for an increase of 450m<sup>2</sup> under existing-use rights based on the recommendations of the Commercial and Industrial Lands Study that demand 'could easily be accommodated on the two lots which currently host the petrol station and other retail. These lots should constitute the extent of the centre'.

Further economic justification was sought by requesting that the Proponent complete an Economic Impact Assessment.

Retail Potential and Impact Assessment (EIA) – 1519, Richardson Road, Salt Ash

The Jones Lang Lasalle. 2014, 'Paul's Corner: Retail Potential and Impact Assessment' considered an expanded centre of 2,500 m<sup>2</sup>, including approximately 2,162m<sup>2</sup> of retail floor area and concluded that impacts on existing centres would not be greater than 1.1%, which is considered negligible.

An Independent Review of the EIA indicated that they generally agreed with the assumptions contained in the Assessment in relation to retail turnover, inflation and

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assumed growth rate of daily traffic volumes (p.2). However, the Independent Review identified an error in the calculations of the forecast traffic volumes, which resulted in an estimated demand closer to 1,870 m<sup>2</sup>, rather than 2,162 m<sup>2</sup>. The Proponent responded by extending its traffic forecasts to 2034, a period of 20 years, which lead to a revised demand of 2,100 m<sup>2</sup>.

**6. Is the planning proposal consistent with applicable state environmental planning policies?**

There are no existing or draft State Environmental Planning Policies that prohibit or restrict the proposed development as outlined in this planning proposal. An assessment of relevant State Environmental Planning Policies against the planning proposal is provided as follows:

SEPP 44 (Koala Habitat Protection)

This SEPP requires that consideration is provided to the protection of koala habitat. Council's Natural Resources Unit identified that the site is not identified as koala habitat and in turn the proposal is not inconsistent with the Comprehensive Koala Plan of Management (CKPoM), which provides local guidance to this SEPP.

SEPP 55 (Remediation of Land)

This SEPP provides state-wide planning controls for the remediation of contaminated land. Land must not be developed if it is unsuitable because it is contaminated.

A contamination assessment was undertaken to determine the suitability of the site for uses permitted under the B1 Neighbourhood Centre Zone. The contamination assessment concludes that the site is suitable for rezoning, however, further investigation will be required at the development assessment stage should a sensitive land use, such as a childcare facility, be proposed. Remediation work or design considerations may be required to ensure that the site is suitable for sensitive developments.

This contamination assessment was also referred to the EPA given the site's identification with the Williamstown Contamination, which results from a toxic leak at the Williamstown Air Force base that was identified in October 2015. These contamination assessments did not identify any information that would halt the rezoning of land.

SEPP (Rural Lands) 2008

Refer to s117 Direction – 1.5 Rural Lands

**Section 117 Ministerial Directions****7. Is the planning proposal consistent with applicable Ministerial Directions?**

The following s117 Ministerial Directions are applicable to the planning proposal:

- 1.1 Business and Industrial Zones – Consistent
- 1.2 Rural Zones – Inconsistent
- 1.3 Mining, Petroleum and Extractive Industries –Inconsistent
- 1.5 Rural Lands – Inconsistent

**ITEM 1 - ATTACHMENT 1 PLANNING PROPOSAL**

- 2.1 Environment Protection Zones – Consistent
- 2.2 Coastal Protection – Consistent
- 2.3 Heritage Protection – Consistent
- 2.4 Recreation Vehicle Areas – Consistent
- 3.1 Residential Zones – Consistent
- 3.2 Caravan Parks and Manufactured Home Estates – Consistent
- 3.4 Integrating Land Use and Transport – Consistent
- 3.5 Development near Licensed Aerodromes - Consistent
- 3.6 Shooting Ranges - Consistent
- 4.1 Acid Sulphate Soils – Consistent
- 4.3 Flood Prone Land – Inconsistent
- 4.4 Planning for Bushfire Protection – Consistent
- 5.1 Implementation of Regional Strategies – Consistent
- 6.1 Approval and Referral Requirements – Consistent

The inconsistencies listed above are considered to be of minor significance as outlined below.

#### 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 is consistent with this Direction as it proposes new employment lands within a centre that is identified by the Port Stephens Planning Strategy, which is guided by the centres approach outlined in the Lower Hunter Regional Strategy. This Proposal will not undermine the role of the existing centres hierarchy due to the limited scale and scope of commercial activity being cater for.

#### 1.2 Rural Zones

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

This proposal is inconsistent with this Direction as it seeks to rezone land from a rural zone to a business zone. This inconsistency is of minor significance as the Site has limited agricultural value and an logical extension of an existing neighbourhood centre. This is consistent with the demand identified by the Commercial and Industrial Lands Study, which informed the PSPS. The NSW Department of Primary Industries – Agriculture (DPI) did not raise any concerns regarding the planning proposal as the site has limited value as rural lands.

#### 1.3 Mining, Petroleum and Extractive Industries

The objective of this Direction is to ensure that the rezoning of land does not prohibit the mining of coal or other minerals, production of petroleum or extractive materials. Half of the site is already developed for business land uses and the site is located close to rural residential development, which means it is unlikely that the site is suitable for any surface mining or extractive industry. In addition, the site is not known to contain any resources of coal, other minerals or extractive materials of State or Regional Significance. The NSW Department of Trade and Investment –

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Mineral resources and Energy (T&I) did not raise any concerns regarding this planning proposal.

This proposal is not inconsistent with this direction given that the nature of existing development already restricts the potential development of mining, petroleum production and extractive industries. The concurrence of the Director General is requested.

#### 1.5 Rural Lands

The objective of this Direction is to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.

This proposal is inconsistent with this Direction as it seeks to rezone land from a rural zone to a business zone. This inconsistency is believed to be of minor significance as the Site has limited agricultural value and is the logical extension of the existing centre. The NSW Department of Primary Industries – Agriculture (DPI) did not raise any concerns regarding the planning proposal.

This inconsistency is considered to be of minor significance and the concurrence of the Director General is not required.

#### 4.3 Flood Prone Land

The objectives of this Direction are to ensure that development:

- 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 the consideration of the potential flood impacts both on and off the subject land

The proposal is not inconsistent with this direction even though it is located within the Flood Planning Area. The inconsistency with this direction is considered to be of minor significance because:

- The existing finished floor levels are 2.25 AHD and the 100 year ARI flood level is estimated at 1.79AHD. No issues have been experienced on this site
- The site is identified as low hazard flood storage area
- Council Flooding Engineers identified how development may impact on drainage patterns can be provided post-gateway. This would include similar information to a stormwater drainage plan, such as:
  - Location and type of detention system
  - Demonstrated volume for maximum AEP
  - Pipes, pits, overland flow and discharge access points
  - Orifice type, location and screening facility
  - Slope/gradient of the land
  - Post-development flows equal to pre-development flows

**ITEM 1 - ATTACHMENT 1 PLANNING PROPOSAL**

The concurrence of the Director General is not required as it is in accordance with the Floodplain Risk Management Plan and is of minor significance.

**SECTION C – Environmental, Social and Economic Impact****8. 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?**

No. Due to the existing development and managed lands there is no likelihood of impact on threatened species, populations or ecological communities or their habitats on the site. This has been confirmed by Council's Natural Resources Unit.

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

No. There are no other likely environmental effects identified in informal guidelines, codes or policies that have been produced by public authorities that have not already been addressed in the State or Local Strategic Framework.

**10. Has the planning proposal adequately addressed any social and economic effects?**

Yes. The proposal broadly implements the Port Stephens Planning Strategy and is supported by an Economic Impact Assessment, which has been independently reviewed.

**SECTION D – State and Commonwealth interests****11. Is there adequate public infrastructure for the planning proposal?**

The proposal is located within existing infrastructure, such as public transport, major roadways and has access to most utilities. Liaison with the relevant infrastructure, utility, service and other relevant public authorities will be guided by the gateway determination.

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

In accordance with the Gateway Determination the proposal was exhibited from Wednesday, 7 January 2015 until Wednesday, 4 March 2015 during normal business hours at the following locations:

- Council's Administration Building, 116 Pacific Highway, Raymond Terrace.
- Raymond Terrace Library, Port Stephens Street, Raymond Terrace.
- Port Stephens Council Website <[www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)>

No concerns were raised through the submissions received from the Department of Primary Industries, NSW Trade and Investment, Hunter Water Corporation and the Rural Fire Services. The following matters were raised by those other agencies:

**ITEM 1 - ATTACHMENT 1 PLANNING PROPOSAL****Office of Environment & Heritage (OEH)**

## OEH Comment:

OEH acknowledges that the site is predominantly managed lawns with occasional trees. However, OEH are not satisfied that the planning proposal will have no impacts on threatened species as a number of species listed under the *Threatened Species Conservation Act 1995* and the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* have been recorded on the site, including the koala, have been recorded on the site. OEH identifies that the site contains a number of *Eucalyptus robusta*, which is a 'preferred koala feed tree' and as such council needs to be satisfied that the proposal is consistent with the Port Stephens Comprehensive Koala Plan of Management (CKPoM).

## Council Response:

Council's Natural Resources Unit advised that the site is not identified as koala habitat and the proposal is therefore not inconsistent with the CKPoM. Impacts on koala feed trees will be considered through a future development application.

**Roads and Maritime Services (RMS)**

## RMS Comment:

RMS did not object to the planning proposal, but provided the following advice:

- RMS do not have any proposal to acquire any part of the site;
- A Traffic Impact Assessment will be required for a development application;
- No additional accesses will be granted off Richardson Road; and
- Entrance to the site to accommodate additional traffic should be considered further along Salt Ash Road to minimise the possibility of congestion extending out into the Nelson Bay/Richardson Road roundabout.

## Council Response:

RMS comments will be considered in a future development application.

**Environment Protection Authority (EPA)**

## EPA Comment:

The EPA has provided comments due to the site's location within the Williamstown RAAF Base Perfluorooctanesulfonic (PFOS) Investigation Area.

The EPA notes that the "*Report on Preliminary Site Investigation and Targeted Site Investigation*" does not reference PFOs and therefore there is a potential inadequacy in the contamination assessment. It was advised that any change to activity permitted on a property should not allow anything which would increase the risk of movement of groundwater off the property. The EPA further advised that based on their available knowledge, the identification of PFOs in groundwater under

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the site should not preclude the proposed small scale expansion of business activities on the site following rezoning. However, the EPA understands that the general locale can be subject to water ponding and/or flooding and recent testing has identified that PFOs has been found in some floodwaters. Proposals should not be permitted that might increase the risk of potential exposure pathways due to the activities on site, especially for sensitive individuals such as children.

**Council Response:**

A development application will need to consider PFOS contamination, particularly for sensitive land uses, such as a childcare facility if proposed. Design of any new development will need to demonstrate that surface water has been adequately considered and managed on site to minimise water ponding on the site.

**Part 4 - Mapping**

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The relevant maps are included as Attachments 1-4. Contextual maps for incorporated throughout the Proposal.

**Part 5 - Details of Community Consultation**

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The proposal was exhibited for a period of 28 days, from Wednesday, 7 January to Wednesday, 4 February 2015 during normal business hours at the following locations:

- Council's Administration Building, 116 Pacific Highway, Raymond Terrace,
- Raymond Terrace Library, Port Stephens Street, Raymond Terrace,
- Port Stephens Council Website <[www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)>

No objections were raised in the seven responses received from those listed state government agencies. No submissions were received from the community.

**Part 6 – Project timeline**

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The proposal is to be reported to the Council Meeting of 26 April 2016. Pending Council's resolution to exercise its delegation and make the plan the proposal will be forwarded to NSW Parliamentary Counsel.

The proposal has and will follow the following timeframe:

	<b>OCT 14</b>	<b>DEC 14</b>	<b>FEB 15</b>	<b>APR 16</b>	<b>MAY 16</b>
<b><i>Council Report</i></b>					
<b><i>Gateway Determination</i></b>					
<b><i>Public Exhibition</i></b>					
<b><i>Council Report</i></b>					
<b><i>Parliamentary Counsel</i></b>					

**Attachments**

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Attachment 1 – LZN\_004 – Proposed Zoning

Attachment 2- LSZ\_004 – Proposed Lot Size Map

Attachment 3 – HOB\_004 - Proposed Height of Building Map

Attachment 4 – CL1\_004 – Proposed Additional Permitted Uses Map

Attachment 5 – Gateway Determination

Attachment 6 – NSW Trade and Investment – Mineral resources and Energy

Attachment 7 – Department of Primary Industries (Agriculture)

Attachment 8 – Office of Environment & Heritage

Attachment 9 – Roads & Maritime Services

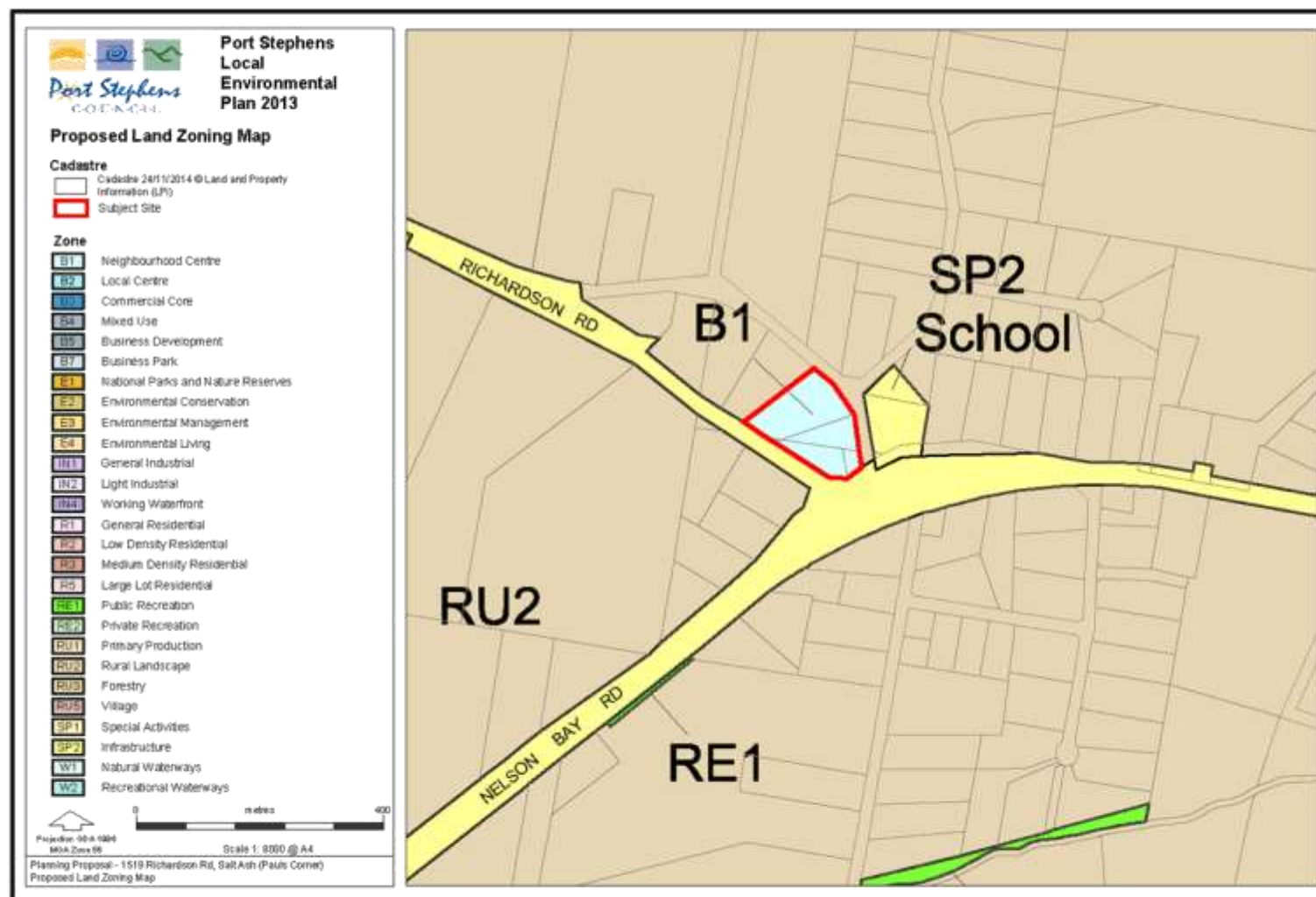
Attachment 10 – Hunter Water Corporation

Attachment 11 – Rural Fire Services

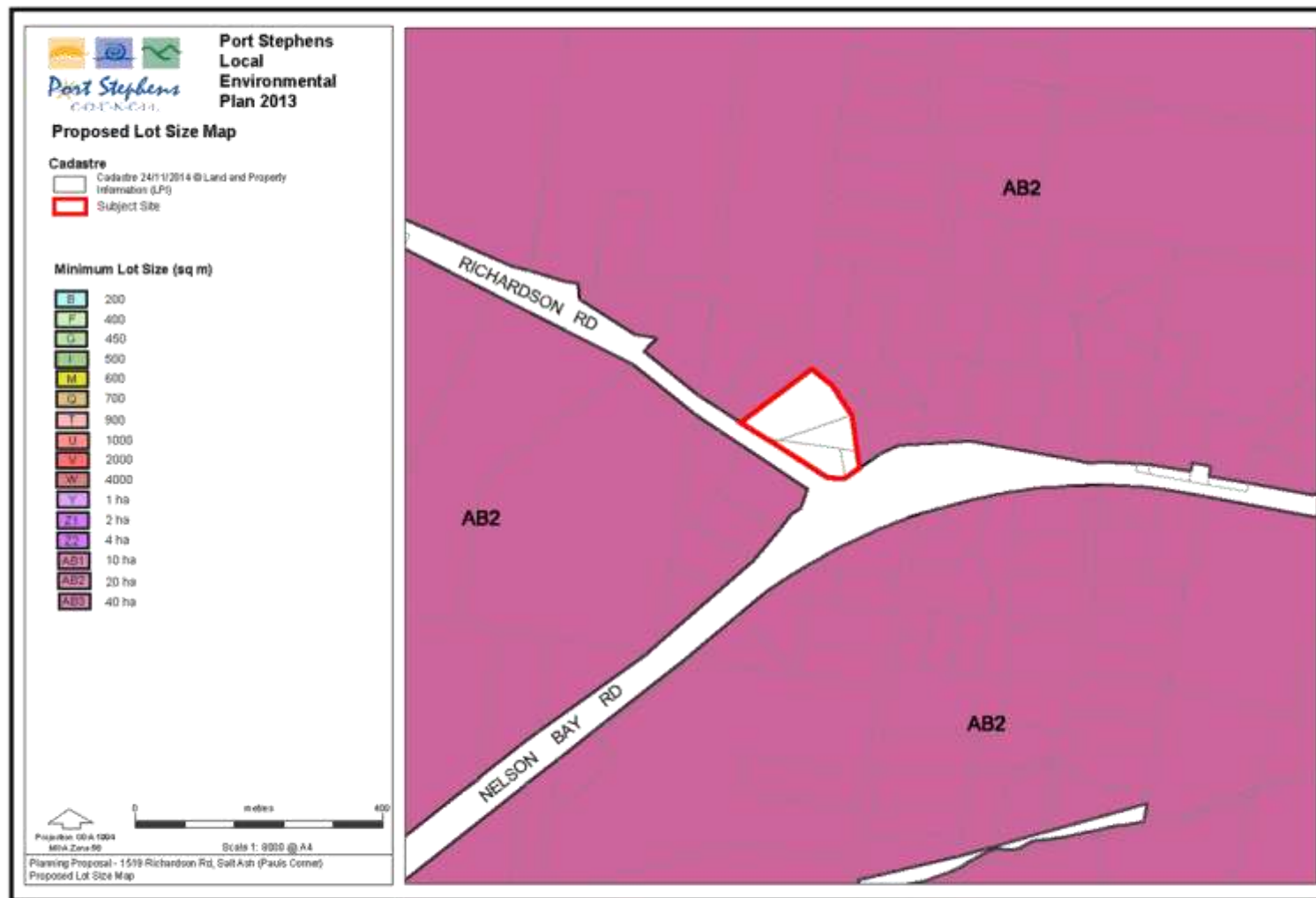
Attachment 12 – Environmental Protection Authority



Attachment 1 – LZN\_004 – Proposed Zoning

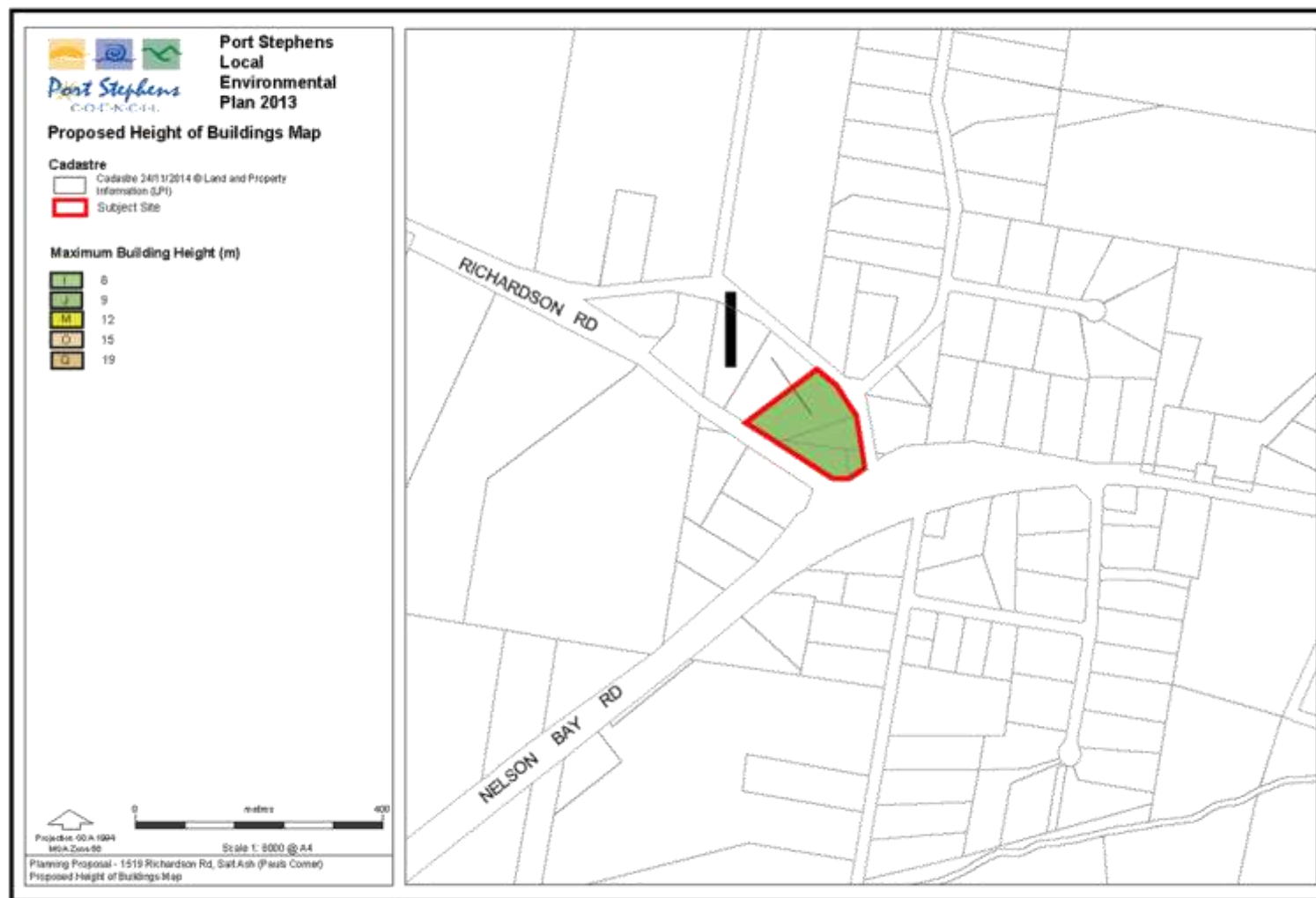


Attachment 2 – LSZ\_004 – Proposed Lot Size Map



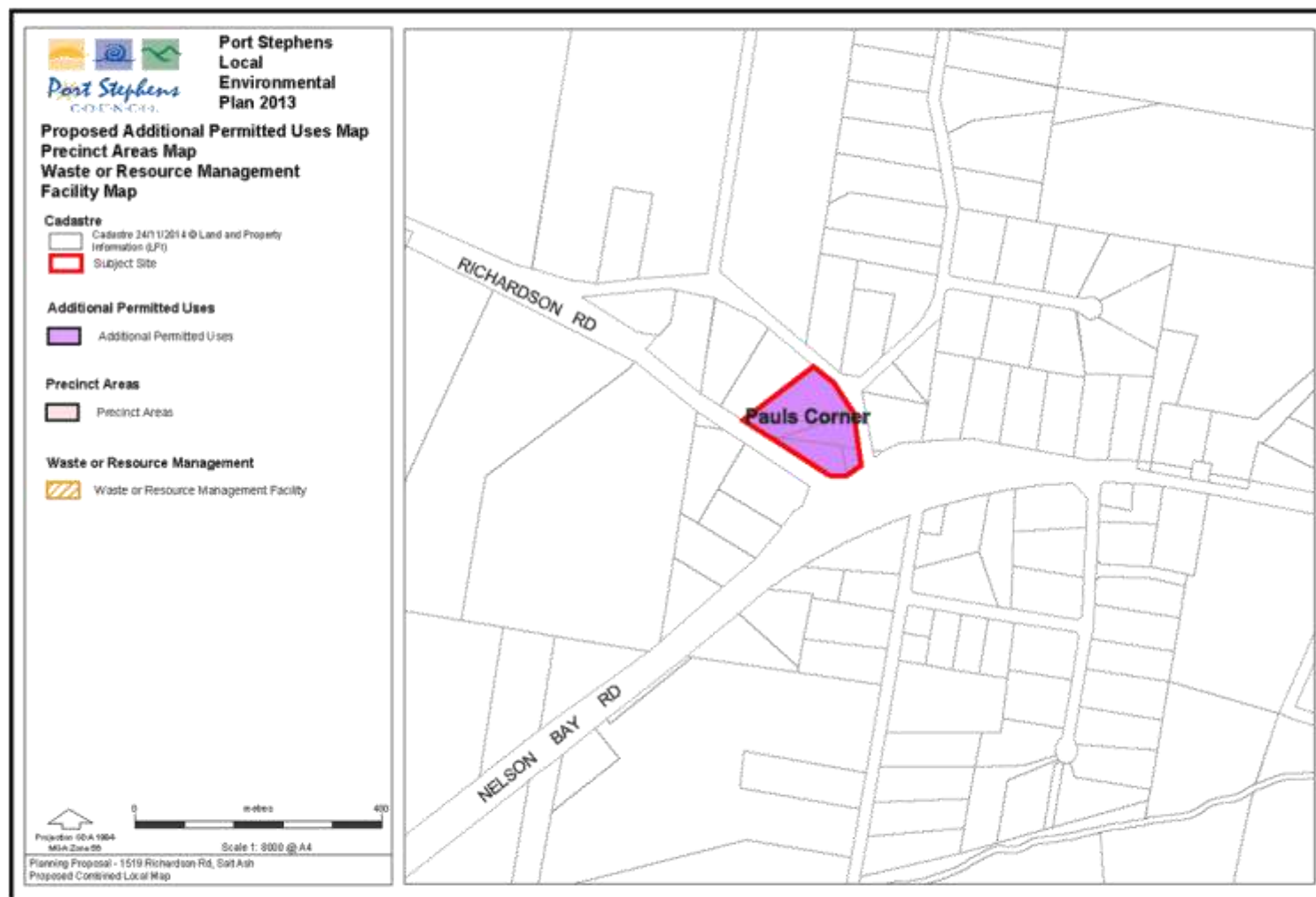
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Attachment 3 – HOB\_004 – Proposed Height of Building Map

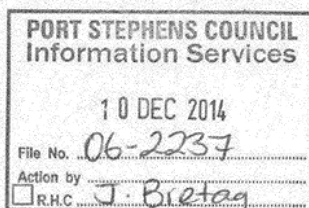


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Attachment 4 – CL1\_004 – Proposed Additional Permitted Uses Map



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**ITEM 1 - ATTACHMENT 1 PLANNING PROPOSAL****Attachment 5 – Gateway Determination****Planning &  
Environment**

Mr Wayne Wallis  
General Manager  
Port Stephens Council  
PO Box 42  
RAYMOND TERRACE NSW 2324

Our ref: PP\_2014\_PORTS\_006\_00 (14/18557)  
Your ref: PSC2013-01904

Att: Mr Jeffrey Bretag

Dear Mr Wallis,

**Planning Proposal to amend Port Stephens Local Environmental Plan 2013**

I am writing in response to your Council's letter dated 3 November 2014 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone land at 1519 Richardson Road, Salt Ash.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed the planning proposal's inconsistency with S117 Direction 4.3 Flood Prone Land is of minor significance. No further approval is required in relation to this Direction.

Council may still need to obtain the Department's approval to comply with the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

The Minister delegated plan making powers to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to

Hunter and Central Coast Region - Hunter Office - Level 2 26 Honeysuckle Drive (PO Box 1226) Newcastle NSW 2300  
Phone 02 4904 2700 Fax 02 4904 2701 Website [planning.nsw.gov.au](http://planning.nsw.gov.au)

**ITEM 1 - ATTACHMENT 1      PLANNING PROPOSAL**

meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Attached for your assistance is a simplified guide to the plan making process and reporting requirements to ensure that the LEP Tracking System is kept updated.

Should you have any questions regarding this matter, I have arranged for Paul Maher from the Hunter office to assist you. Mr Maher can be contacted on (02) 4904 2719.

Yours sincerely,



9 December 2014

**David Rowland  
General Manager  
Hunter and Central Coast Region  
Planning Services**





Planning &  
Environment

Gateway Determination

*Planning Proposal (Department Ref: PP\_2014\_PORTS\_006\_00): to rezone land from RU2 Rural Landscape to B1 Neighbourhood Centre to allow limited future expansion of the commercial floor space through suitable controls.*

I, the General Manager, Hunter and Central Coast Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Port Stephens Local Environmental Plan (LEP) 2013 to rezone land from RU2 Rural Landscape to B1 Neighbourhood Centre to allow limited future expansion of commercial floor space through suitable controls should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Planning & Infrastructure 2013)*.
2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
  - NSW Trade and Investment – Mineral Resources and Energy - Regional Infrastructure and Services Division (S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries)
  - Department of Primary Industries – Agriculture (S117 Direction 1.2 Rural Zones)
  - Office of Environment & Heritage – (S117 Direction 5.1 Implementation of Regional Strategies)Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. Once the consultation is undertaken with the public authorities, and information is provided, Council is to update its consideration of S117 Directions.
3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
4. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 9<sup>th</sup> day of December 2014.



David Rowland  
General Manager  
Hunter and Central Coast Region  
Planning Services  
Department of Planning and Environment

Delegate of the Minister for Planning

**Planning &  
Environment****WRITTEN AUTHORISATION TO EXERCISE DELEGATION**

Port Stephens Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2014_PORTS_006_00	Planning proposal to rezone land from RU2 Rural Landscape to B1 Neighbourhood Centre to allow limited future expansion of the commercial floor space through suitable controls

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guideline for the preparation of local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 9<sup>th</sup> December 2014



David Rowland  
General Manager  
Hunter and Central Coast Region  
Planning Services  
Department of Planning and Environment



**Delegated plan making reporting requirements**

(Attachment 5 from "A guide to preparing local environmental plans)

**Notes:**

- The department will fill in the details of Table 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the Department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department with the RPA's request to have the LEP notified

**Table 1 – To be completed by the Department**

Stage	Date/Details
Planning Proposal Number	PP_2014_PORTS_006_00
Date Sent to Department under s56	26/11/2014
Gateway determination date	

**Table 2 – To be completed by the RPA**

Stage	Date/Details
Dates draft LEP exhibited	
Date of public hearing (if held)	
Date sent to PCO seeking Opinion	
Date Opinion received	
Date Council Resolved to Adopt LEP	
Date LEP made by GM (or other) under delegation	
Date sent to Department requesting notification (hunter@planning.nsw.gov.au)	
Brief Description of Purpose of planning proposal	

**Table 3 – To be completed by the Department**

Stage	Date/Details
Notification Date and details	

**Additional relevant information:**

**PLAN MAKING PROCESS POST GATEWAY – FOR DELEGATED MATTERS****1. Post Exhibition Review**

- Any unresolved s117 directions must be finalised before progressing with LEP
- If planning proposal is revised, council is to email a copy of the revised proposal to the regional planning team - [hunter@planning.nsw.gov.au](mailto:hunter@planning.nsw.gov.au) under Section 58(2) of the Act prior to requesting LEP to be made.
- If changes to planning proposal are substantial then may no longer be authorised by the Gateway determination and a Gateway amendment may be required before LEP is made. Councils are encouraged to contact regional planning team to seek advice before finalising the LEP under delegation.

**2. Legal Drafting of the LEP**

- Council's request to draft and finalise the plans should be made as soon as possible to ensure timeframes are met.
- Council should upload the maps and GIS data directly to the department's FTP site ([ftp://lepup:lep\\_upload@203.3.194.247/](ftp://lepup:lep_upload@203.3.194.247/)). Once uploaded Council should email [hunter@planning.nsw.gov.au](mailto:hunter@planning.nsw.gov.au) and advise maps are available for checking. Any questions about uploading can be directed to Brent Condliffe or Noo Porima ph 9228 6542.
- Unless otherwise negotiated the department will only undertake a technical review of any maps, to ensure they comply with LEP mapping technical guidelines.
- No maps or mapping/GIS data is to be sent directly to PCO.
- The request for legal drafting should be send to PCO at [parliamentary.counsel@pco.nsw.gov.au](mailto:parliamentary.counsel@pco.nsw.gov.au) including the planning proposal, a copy of the gateway determination and details of any change to the proposal arising from the gateway determination. The name and contact details of the council contact officer should also be supplied.
- A copy of the request to PCO should also be forwarded to the department for administrative purposes only – [hunter@planning.nsw.gov.au](mailto:hunter@planning.nsw.gov.au)


**3. Making of the draft LEP s59**

- Council's delegate resolves to finalise the LEP by signing the instrument (see example below).
- If council's delegate decides not to make plan or defer a matter, council should liaise with regional team for assistance.
- Council must also notify PCO if plan not proceeding

**4. Notification of LEP**

- Council advises and requests the department to make the plan, email request to [hunter@planning.nsw.gov.au](mailto:hunter@planning.nsw.gov.au) and the following documents to be provided for notification
  1. Signed LEP - which includes full name of LEP and PCO file reference
  2. Signed map cover sheet and associated maps,
  3. Name and position of the delegate who signed the LEP and date,
  4. Completed Attachment 5 - delegated plan making reporting template,
  5. Copy of council's assessment (s 59 report) which is usually the council report/minutes
  6. PC opinion
- Request to [hunter@planning.nsw.gov.au](mailto:hunter@planning.nsw.gov.au) by Tuesday of the week will enable notification by Friday.

Example of signature front page

  
Fred Smith  
General Manager

As delegate for the Minister for Planning  
12/12/14

**Attachment 6 – NSW Trade and Investment – Mineral resources and Energy**

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**From:** [Shayne Kneen](#)  
**To:** [Jeffrey Bretag](#)  
**Subject:** TRIM: Re: Planning Proposal - 1519 Richardson Road, Salt Ash (Your File # PSC2014-02879) - GSNSW response  
**Date:** Thursday, 22 January 2015 11:47:56 AM

---

Dear Mr Bretag,

Thank you for the opportunity to provide advice on the above matter. This is a response from the New South Wales Department of Trade and Investment – Geological Survey of New South Wales (GSNSW).

The GSNSW have no resource issues to raise concerning the above matter (Your File #: PSC2014-02879).

Queries regarding the above information, and future requests for advice in relation to this matter, should be directed to the GSNSW Land Use team at [landuse.minerals@trade.nsw.gov.au](mailto:landuse.minerals@trade.nsw.gov.au)

Regards

Shayne Kneen | Geoscientist - Minerals and Land Use Assessment  
NSW Trade and Investment | Resource and Energy Division  
| Geological Survey of NSW  
516 High Street | Maitland NSW 2320  
PO Box 344 | Hunter Region Mail Centre NSW 2310  
T: 02 4931 6731 | F: 02 4931 6726 | E: [shayne.kneen@trade.nsw.gov.au](mailto:shayne.kneen@trade.nsw.gov.au)  
W: [www.trade.nsw.gov.au](http://www.trade.nsw.gov.au)

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**Attachment 7 – Department of Primary Industries (Agriculture)**



OUT15/2483

Jeffrey Bretag  
Port Stephens Council  
PO Box 42  
RAYMOND TERRACE NSW 2324

Dear Mr Bretag

**Section 117 Direction 1.2 Rural Zones – Response to Planning Proposal – 1519 Richardson Road, Salt Ash**

I refer to your letter dated 17 December 2014 regarding the above mentioned planning proposal to rezone land from RU2 Rural Landscape to B1 Neighbourhood Centre to allow limited future expansion of the commercial floor space through suitable controls.

The Planning Proposal acknowledges an inconsistency between the Proposal and the 1.2 Rural Zones Direction in Section 117(2) of the *Environmental Planning and Assessment Act 1979*.

The Section 117 Direction 1.2 Rural Zones applies when a planning proposal affects land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). As the proposal intends to affect lots within the RU2 Rural Landscape (Lots 6, 7, 20, 23, DP 240103; and Lot 1, DP 158268) and alter the rural zone boundary, S117 Direction 1.2 applies in this case.

The Department of Primary Industries, Agriculture NSW, has been asked to comment on the effect of the Planning Proposal on the rural landscape.

Section 117 Directions for 1.2 Rural Zones

The objective of the Rural Zones Direction is "to protect the agricultural production value of rural land". According to Section 117(2) of the *Environmental Planning and Assessment Act 1979*, a planning proposal may be inconsistent with the terms of this direction if inconsistency is:

- justified by a strategy or study that gives consideration to the objectives of this direction;
- is in accordance with the relevant Regional or Sub-Regional Strategy; or
- is of minor significance.

Justification offered

The Port Stephens Planning Strategy 2011, and Commercial & Industrial Lands Study 2010 upon which the Strategy relies, recognised that an expansion of retail space was forecast to occur at the Salt Ash site but indicated that the expansion would be contained within the current lots and not encroach on adjoining agricultural land. As such, there is no reference to adjoining agricultural land or the objectives of this direction at the Salt Ash site in either the Strategy or the Study.

For reasons explained in the Proposal, the forecast demand for retail space has been recalculated and is determined to be greater than the area contained within the current lots. Additional land in

GPO Box 5477, Sydney NSW 2001, Australia  
Level 48 MLC Centre, 19 Martin Place, Sydney NSW 2000  
Tel: 02 9338 6666 Fax: 02 9338 6890 www.dpi.nsw.gov.au ABN: 72 189 919 072

**ITEM 1 - ATTACHMENT 1      PLANNING PROPOSAL**

the RU2 Zone is identified to be necessary to satisfy the expansion. However, as neither the Study nor Strategy give consideration to adjoining land nor the objectives of this direction, they do not appear to be justification for the inconsistency in accordance with Section 117 of the EP&A Act.

Inconsistency of minor significance

Assuming that the proposed Forecast Demand in the Planning Proposal is accepted, the proposed expansion will necessarily extend beyond the current lots and will encroach on adjoining agricultural land. While the encroachment and rezoning of this land from RU2 Rural Landscape to B1 Neighbourhood Centre is a loss of Rural Landscape in the Salt Ash area, it is acknowledged that the site is constrained by roads to the north and south, and that the site is of an area of less than 2ha.

Accordingly, Agriculture NSW accepts that this proposal will have only a minor impact on the agricultural production value of land within the Port Stephens Local Government Area.

Council is encouraged to consider in future cases the objectives of the Rural Zones Direction.

Should you wish to discuss any matters raised in relation to agricultural issues, please contact Marion Winkler on ph 9842 8607 or by email at [marion.winkler@dpi.nsw.gov.au](mailto:marion.winkler@dpi.nsw.gov.au).

Yours sincerely



Marion Winkler  
**Acting Resource Management Officer (Land Use)**

4 February 2015



ITEM 1 - ATTACHMENT 1 PLANNING PROPOSAL

Attachment 8 – Office of Environment & Heritage



Office of  
Environment  
& Heritage

Your reference: PSC2014-02879  
Our reference: DOC15/1811-01  
Contact: Ziggy Andersons, 4908 6820

Mr Wayne Wallis  
General Manager  
Port Stephens Council  
PO Box 42  
RAYMOND TERRACE NSW 2324

Attention: Jeffrey Bretag

Dear Mr Wallis

RE: PLANNING PROPOSAL – 1519 RICHARDSON ROAD SALT ASH – PORT STEPHENS LGA

I refer to your letter dated 17 December 2014 requesting comment from the Office of Environment and Heritage (OEH) regarding the above mentioned planning proposal. It is noted that this planning proposal received a Gateway Panel determination on 10 December 2014. OEH understands that the proposal is to amend the zoning from R2 Rural Landscape to B1 Neighbourhood Centre to cater for additional small scale retail, business and community uses for the local community and passing commuters. OEH has reviewed the planning proposal and has provided comments below.

OEH acknowledges that the site is predominantly managed lawns with occasional trees. However, OEH is not entirely satisfied that there will be no impacts to threatened biodiversity as stated in Section C point 8 of the planning proposal. This is due to the site containing a number of records of species listed under the NSW *Threatened Species Conservation Act 1995* (TSC Act) as well as the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* listed Koala. There is also a relatively recent record (2009) of the TSC Act listed Little Lorikeet. The site contains numerous *Eucalyptus robusta* which is a 'preferred Koala feed tree' as per the Port Stephens Comprehensive Koala Plan of Management 2002 (CKPoM). As such OEH recommends that the proponent should at least ensure that the proposal is compliant with the Port Stephens CKPoM.

If you have any enquiries concerning this advice, please contact Ziggy Andersons, Conservation Planning Officer, on 4908 6820.

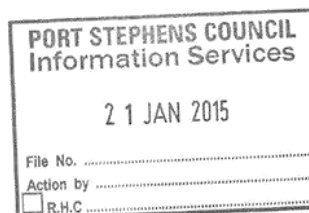
Yours sincerely



15 JAN 2015

KAREN THUMM  
Acting Senior Team Leader Planning, Hunter Central Coast Region  
Regional Operations

PO Box 488G Newcastle NSW 2300  
117 Bull Street, Newcastle West NSW 2302  
Tel: (02) 4908 6800 Fax: (02) 4908 6810  
ABN 30 841 387 271  
www.environment.nsw.gov.au



**Attachment 9 – Roads & Maritime Services**



7 May 2015

SF2014/157658  
CR2015/001061  
CR2015/001114  
TR

General Manager  
Port Stephens Council  
DX 21406  
RAYMOND TERRACE

**Attention: Mr Jeffrey Bretag**

**NELSON BAY ROAD (B63): PLANNING PROPOSAL FOR "PAULS CORNER" 1519 RICHARDSON Road, SALT ASH, LOT 1 DP 158268, LOTS 6, 7, 20 & 23 DP 240103 1519 RICHARDSON ROAD, SALT ASH**

Dear Mr Bretag,

I refer to your email dated 12 March 2015 regarding the subject proposal/ Traffic Impact Assessment forwarded to Roads and Maritime Services for comment. I apologise for the delay in responding.

Roads and Maritime understands that the development is for the rezoning of the site to include the future expansion of the site to include more variety in services. Part of these works will be the addition of the existing service station of two bowzers. No additional accesses are being sort of Richardson Road or Nelson Bay Road.

**Roads and Maritime Responsibilities**

Transport for NSW and Roads and Maritime's primary interests are in the road network, traffic and broader transport issues. In particular, the efficiency and safety of the classified road network, the security of property assets and the integration of land use and transport.

In accordance with the *Roads Act 1993*, Roads and Maritime has powers in relation to road works, traffic control facilities, connections to roads and other works on the classified road network. Nelson Bay Road (B63) is a classified (State) road and Richardson Road (MR104) is a classified (State) road. Roads and Maritime concurrence is required for connections to the road with Council consent, under Section 138 of the Act. Salt Ash Road is a local road. Council is the roads authority for these roads and all other public roads in the immediate area. Should road works be required on the classified (State) road, Roads and Maritime would exercise the functions of roads authority under Sections 64 and 71 of the Act.

**Roads and Maritime Response and Requirements**

Roads and Maritime has reviewed the information provided and has no objections to the planning proposal.

**Roads and Maritime Services**

59 Darby Street, Newcastle NSW 2300 | Locked Bag 2030 Newcastle NSW 2300 DX7813 Newcastle  
T 02 4924 0240 | F 02 4924 0342 | E [Development.Hunter@rms.nsw.gov.au](mailto:Development.Hunter@rms.nsw.gov.au)

[www.rms.nsw.gov.au](http://www.rms.nsw.gov.au) | 13 22 1

**ITEM 1 - ATTACHMENT 1      PLANNING PROPOSAL**

**Advice to Council**

- Roads and Maritime has no proposal that requires any part of the property.
- Traffic Impact Assessment will be required for all future development applications.
- No additional accesses will be granted off Richardson Road
- Entrance to the site to accommodate additional traffic be considered further north along Salt Ash Road to minimise the possibility of congestion extending out into the Nelson Bay Road/Richardson Road roundabout.

On Council's determination of this matter, it would be appreciated if a copy of the Notice of Determination is forwarded to Roads and Maritime for record and / or action purposes.

Please contact me on 4924 0688 if you require further advice.

Yours sincerely



Tim Browne  
Manager, Land Use Assessment  
Hunter Region



**ITEM 1 - ATTACHMENT 1      PLANNING PROPOSAL**

**Attachment 10 – Hunter Water Corporation**

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**From:** [Zoe Rogers](#)  
**To:** [Jeffrey Bretag](#)  
**Subject:** TRIM: RE: 1519 Richardson Road, Salt Ash - Planning Proposal  
**Date:** Thursday, 12 February 2015 3:56:10 PM

---

Hi Jeff,

1519 Richardson Road is not in our drinking water catchment (by about 125m) – just letting you know that we won't be commenting.

Cheers,

**Zoe Rogers** | Water Quality Scientist | Water Resource Planning | Hunter Water Corporation

36 Honeysuckle Drive Newcastle West NSW 2300 | PO Box 5171 HRMC 2310

T 02 4979 9548 | F 02 4979 9711 | [Zoe.Rogers@hunterwater.com.au](mailto:Zoe.Rogers@hunterwater.com.au)

**My office hours: Thursday & Friday 9:00am – 5:00pm**

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ITEM 1 - ATTACHMENT 1 PLANNING PROPOSAL

Attachment 11 – Rural Fire Services



NSW RURAL FIRE SERVICE



The General Manager  
Port Stephens Council  
PO Box 42  
RAYMOND TERRACE NSW 2324

Your reference: PSC2014-02879  
Our reference: LEP/0102  
DA14122495200 KV  
30 January 2015

Attention: Jeffrey Bretag

Dear Sir/Madam

**Planning Instrument for Planning Proposal 1519 Richardson Road Salt Ash 2318**

I refer to your letter dated 17 December 2014 seeking advice for the above Planning Instrument in accordance with the *Environmental Planning and Assessment Act 1979*.

The NSW Rural Fire Service (NSW RFS) notes that the planning proposal seeks to amend *Port Stephens Local Environmental Plan 2013* at 1519 Richardson Road Raymond Terrace known as 'Paul's Corner' to amend zoning from R2 Rural Landscape to B1 Neighbourhood Centre to cater to additional small scale retail, business and community uses.

Based upon a preliminary assessment of the documentation received for the planning proposal, it is advised that the NSW RFS raises no concerns for the proposed rezoning for commercial uses with regard to bush fire matters.

It is recommended to consider the aim and objectives of *Planning for Bush Fire Protection 2006* in relation to access, water and services, emergency planning and landscaping/vegetation management for future development on the subject lots to ensure a better bush fire outcome.

For any queries regarding this correspondence please contact Kalpana Varghese on 1300 NSW RFS.

Yours sincerely

  
Catherine Ryland  
Team Leader, Development Assessment and Planning  
Customer Service Centre East

Postal address

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service  
15 Carter Street  
LIDCOMBE NSW 2141

T (02) 8741 5555  
F (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)



Attachment 12 – Environmental protection Authority



Our reference: DOC15/528159-04; EF14/502  
Contact: Jocelyn Karsten (02) 4908 6865  
Electronic correspondence to: [hunter.region@epa.nsw.gov.au](mailto:hunter.region@epa.nsw.gov.au)

Port Stephens Council  
PO Box 42  
RAYMOND TERRACE NSW 2324

Attention: Mr Jeffrey Bretag

Dear Mr Bretag

**REZONING PROPOSAL FROM RURAL LANDSCAPE TO NEIGHBOURHOOD CENTRE  
1515 AND 1519 RICHARDSON ROAD AND 3, 5 AND 7 SALT ASH AVENUE, SALT ASH**

Reference is made to your email and attached documents for the proposed rezoning on Richardson Road and Salt Ash Avenue, Salt Ash, received by the Environment Protection Authority (EPA) on 23 December 2016. Council has sought the EPA's comments on the proposal given its location within the Williamstown RAAF Base Perfluorooctanesulfonic acid (PFOS) Investigation Area.

As you are aware, the EPA is not a consent authority for this proposal, nor does it have expertise in planning. The EPA has provided the comments below to assist Port Stephens Council (PSC) in its assessment of this rezoning proposal. The EPA's comments relate specifically to potential contamination of groundwater and surface waters in the area by the substance known as PFOS and how this might be relevant to the proposal. The EPA provides no other comments on this proposal and expects that PSC as the consent authority will make its own determinations into other relevant issues, including consulting with other state government authorities where necessary.

The following advice is based on the EPA's current understanding of the PFOS issue in the Williamstown area. Given the dynamic nature of the issue, should there be delays in determining this application following the receipt of EPA advice, the EPA recommends Council further consult with the EPA to determine whether any revised advice needs to be provided.

The EPA has reviewed the "Report on Preliminary Site investigation and Targeted Site Investigation" for contamination under the site, which has been prepared by a geotechnical consultancy firm. This report is dated November 2015. This report states "The assessment was undertaken with reference to NSW EPA Guidelines for Consultants Reporting on Contaminated Sites (August 2011) and the National Environment Protection (Assessment of Site Contamination) Measure 1999 (Amendment Measure 2013) (NEPM) and the NSW EPA Technical Note: Investigation of Service Station Sites (April 2014)." The report makes no reference to PFOS and concentrates on hydrocarbon contamination from the former (and current) service station and potential contaminants from an on-site wastewater disposal system. Given the report was finalised in November 2015, the EPA considers it would be reasonable that the report would also have investigated and reported on PFOS issues. The EPA suggests to PSC there is a potential

PO Box 488G Newcastle NSW 2300  
Email: [hunter.region@epa.nsw.gov.au](mailto:hunter.region@epa.nsw.gov.au)  
117 Bull Street, Newcastle West NSW 2302  
Tel: (02) 4908 6800 Fax: (02) 4908 6810  
ABN 43 692 285 758  
[www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

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Page 2

inadequacy in the contamination assessment which may need to be rectified prior to final determination of the proposal.

Any change to activity permitted on a property should not allow anything which would increase the risk of movement of groundwater off the property.

The EPA notes the proposed rezoning is to allow a neighbourhood centre (to cater for additional small scale retail, business and community uses for the local community and passing commuters). Based on the knowledge available to the EPA at present, the identification of PFOS in groundwater under the site should not preclude the activities the EPA understands as likely following rezoning. The EPA understands that the general locale can be subject to water ponding and/or flooding and recent testing has identified that PFOS has been found in some floodwaters. Proposals should not be permitted that might increase the risk of potential exposure pathways due to the activities onsite, this is especially the case for sensitive individuals like children.

If you require any further information regarding this matter please contact Jocelyn Karsten on (02) 4908 6865.

Yours sincerely



29.1.16

**PETER JAMIESON**  
Head Regional Operations Unit – Hunter  
Environment Protection Authority

cc [ken.phelan@planning.nsw.gov.au](mailto:ken.phelan@planning.nsw.gov.au)

37



# Planning Proposal – Boundary realignments

Proposed amendment to Port Stephens Local  
Environmental Plan 2013 – Boundary Realignments



**ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL - BOUNDARY REALIGNMENTS.****FILE NUMBERS**

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**Council:** PSC2015 - 01491  
**Department:** 15/16521

**SUMMARY**

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**Subject land:** Port Stephens Local Government Area  
**Proponent:** Port Stephens Council  
**Address:** The planning proposal applies to land within certain zones in the Port Stephens Local Government Area.

**BACKGROUND**

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This planning proposal has been prepared by Port Stephens Council in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Environment (DP&E) Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

The planning proposal outlines the effect of, and justification for proposed changes to the Port Stephens Local Environmental Plan (PSLEP 2013). The aim of the planning proposal is to:

- allow certain boundary realignments to occur without development consent; and
- to facilitate minor boundary realignments that do not satisfy exempt provisions on lots where one or more resultant lots do not meet the minimum lot size as shown on the Lot Size Map, where the objectives of the relevant zone can be achieved and does not result in the creation of any additional lots or dwelling entitlements.

The planning proposal seeks to implement a Notice of Motion (dated 10 February 2015) by amending the PSLEP 2013 by adding exempt development provisions for certain boundary realignments and amending Part 4 by adding exceptions to minimum lot sizes for boundary realignments.

The current restrictions imposed on boundary realignments results in illogical development outcomes in many instances, where boundaries on the map do not relate to topographical or physical features of the land.

Boundary realignments on undersized lots are not currently a permissible form of development under the PSLEP 2013. Certain boundary realignments that meet a number of conditions, are permitted under the State policy – SEPP (Exempt and Complying Codes) 2008 without the requirement for gaining a development consent.

However, under the SEPP a boundary realignment on a lot or lots that do not meet the minimum lot size must result in each undersized lot increasing in

**ITEM 2 - ATTACHMENT 1      PLANNING PROPOSAL - BOUNDARY  
REALIGNMENTS.**

size at the completion on the subdivision (Clause 2.75(b)(iii)) . The requirement for all undersized lots to increase in size is, in most circumstances, numerically impossible. For this reason, the SEPP is impractical and cannot be used for the logical boundary realignment of undersized lots.

As such, Council is seeking to include certain boundary realignments in Schedule 2 – Exempt Development to enable these boundary realignments to occur without development consent.

In addition to allowing certain boundary realignments to occur without consent, the planning proposal seeks to permit, with consent, certain boundary realignments that do not meet the minimum lot size as shown on the Lot Size Map. Currently, such boundary realignments are not permissible under Clause 4.1(3) of the PSLEP 2013. The proposed amendment will allow for a merits based assessment of logical boundary realignment for lots that do not meet the minimum lot size.

Council considers the key issue in approval of such boundary realignment subdivisions is not the size of the initial or resultant lots, and whether they are larger or smaller than the minimum lot size on the Lot Size Map, but the potential impacts of the boundary adjustment, regardless of what zone applies to the land.

There are a number of standard clauses which have been used by various Councils to address the 'boundary realignment issue' in their Standard Instrument Local Environmental Plans and Port Stephens, via this planning proposal, is seeking a similar clause that allows greater flexibility and the facilitation of more desirable planning outcomes.

**PART 1 – Objective of the proposed Local Environmental Plan  
Amendment**

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The objectives of the planning proposal are:

- to allow certain boundary realignments to occur without development consent; and
- to facilitate minor boundary realignments that do not satisfy exempt provisions on lots where one or more resultant lots do not meet the minimum lot size as shown on the Lot Size Map, where the objectives of the relevant zone can be achieved and does not result in the creation of any additional lots or dwelling entitlements.

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**PART 2 – Explanation of the provisions to be included in proposed LEP**

The planning proposal aims to amend the Port Stephens Local Environmental Plan 2013 as follows:

- Adding the following to Schedule 2 Exempt Development:

**Realignment of Boundaries**

The Realignment of Boundaries pursuant to this Clause:

- a) must be of minimal environmental impact, and
- b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the Threatened Species Conservation Act 1995 or the Fisheries Management Act 1994), and
- c) cannot be carried out in a wilderness area (identified under the Wilderness Act 1987), and
- d) cannot be carried on land on which a heritage item or draft heritage item is situated.

This Clause applies to land in the following zones:

- i. RU1 Primary Production,
- ii. RU2 Rural Landscape,
- iii. RU3 Forestry,
- iv. E2 Environmental Conservation,
- v. E3 Environmental Management or
- vi. E4 Environmental Living.

The subdivision of land, for the purpose only of any one or more of the following, is exempt development specified for this clause:

- a) widening a public road,
- b) a realignment of boundaries:
  - i. that will not create additional lots or the opportunity for additional dwellings,
  - ii. that will not create a resultant lot that is more than 15% different in area to any lot;
  - iii. that will not result in one or more lots that are smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned (unless the original lot or lots are already smaller than the minimum size),
  - iv. will not alienate water resources or access to water for agriculture, and



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- v. that will not adversely affect the provision of existing services on a lot, and that will not result in any increased bush fire risk to existing buildings,
  - c) rectifying an encroachment on a lot,
  - d) creating a public reserve,
  - e) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.
- Adding to Part 4 Principal Development Standards:

**Boundary adjustments in certain rural and environmental protection zones**

- (1) The objective of this clause is to facilitate boundary adjustments between lots where one or more resultant lots do not meet the minimum lot size but the objectives of the relevant zone can be achieved.
- (2) This clause applies to land in the following zones:
  - i. RU1 Primary Production;
  - ii. RU2 Rural Landscape;
  - iii. RU3 Forestry;
  - iv. R5 Large Lot Residential;
  - v. E2 Environmental Conservation;
  - vi. E3 Environmental Management; or
  - vii. E4 Environmental Living.
- (3) Despite clause 4.1(3), development consent may be granted to subdivide land by way of a boundary adjustment between adjoining lots where one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land if the consent authority is satisfied that:
  - a) The subdivision will not create additional lots or the opportunity for additional dwellings, and
  - b) The number of dwellings or opportunities for dwellings on each lot after subdivision will remain the same as before the subdivision, and
  - c) The potential for land use conflict will not be increased as a result of the subdivision, and
  - d) If the land is in Zone RU1 Primary Production, RU2 Rural Landscape or Zone R3 Forestry – the subdivision will not have a significant adverse effect on the agricultural viability of the land, and
  - e) If the land is in Zone E2 Environmental Conservation, Zone E3 Environmental Management or E4 Environmental Living – the subdivision will result in the continued protection and long-term maintenance of the land.

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- (4) Before determining a development application for the subdivision of land under this clause, the consent authority must consider the following:
- a) The existing uses and approved uses of other land in the vicinity of the subdivision,
  - b) Whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,
  - c) Whether or not the subdivision is likely to be incompatible with a land use on any adjoining land,
  - d) Whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land, and
  - e) Whether or not the subdivision will alienate water resources or access to water for agriculture,
  - f) Whether or not the subdivision is likely to have a significant adverse impact on the environmental values of the land.
- (5) This clause does not apply:
- a) In relation to the subdivision of individual lots in a strata plan or community title scheme, or
  - b) If the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.

**PART 3 – Justification for the Planning Proposal**

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**SECTION A – Need for the Planning Proposal**

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

The planning proposal is the result of a Notice of Motion to Council on 10 February 2015, in which Council resolved to immediately prepare the planning proposal.

A copy of the Notice can be found at **ATTACHMENT 1**.

The planning proposal is not considered to be linked directly to any study or report. However, the need for flexibility in regards to undersized lots is consistent with the historic pattern of development within Port Stephens and has been occurring for many years under previous planning instruments.

By enabling greater flexibility in regards to boundary realignment, Council will be able to facilitate more desirable planning outcomes.

Currently, Council can consider certain boundary realignment applications under Clause 4.3 of PSLEP 2013 and "minor boundary realignments" under the *State Environmental Planning Policy Exempt & Complying Development 2008* (Code SEPP). However, the provisions of Clause 4.3 and the Code SEPP are generally restricted to allotments that can satisfy the minimum lot size provisions in the specified zone.

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Under Clause 4.6 of PSLEP 2013 consent cannot be granted to boundary realignments where more than one lot is less than the minimum standard or where any proposed lot is less than 90% of the standard (for example, where the minimum lot size is 40ha, a lot cannot be created that is less than 36ha). Clause 12 of Port Stephens LEP 2000 did allow boundary realignments on undersized lots, such as those described by the proposed clause.

Since PSLEP 2013 has come into effect, Council has encountered situations where reasonable variations to the lot size have been proposed but these cannot be approved because the variation is greater than that permitted.

The need for Council to enable boundary realignments under certain circumstances where one or both lots do not meet the minimum lot size is based on the need to facilitate sound planning outcomes. For example, in a rural zone a boundary alignment is sought to where one or both lots are undersized. The realignment may be sought for a variety of reasons such as improved access, compliance with recently surveyed lot boundaries indicating encroachment of house or garage onto adjoining allotment etc. Flexibility is sought in these types of scenarios to enable boundary realignments which have planning merit, but will not result in any additional lots or dwelling entitlements.

Importantly, the intent of the boundary realignment clause is not to permit any additional lots or dwelling entitlements other than those that already exist.

In addition to the proposed Part 4 amendment, the planning proposal seeks to include exempt provisions that will negate the need for a development application for minor boundary realignments that have minimal environmental impacts, such as where it will not create a resultant lot that is more than 15% different in area to at least one pre-existing lot, the widening a public road or rectifying an encroachment.

The proposed exempt provision will address the issues of the impracticable SEPP, while upholding its integrity and intentions. Such boundary realignments were exempt development under repealed provisions.

The planning proposal seeks to ensure that minor, exempt boundary adjustments can result in lots smaller than the initial lot, on the basis that it is the potential impact of such boundary realignments that is crucial, not the initial or resultant lot size.

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

Under PSLEP 2013 there is limited flexibility for undersized lots in certain zones, despite being permissible under previous planning instruments.

Council considers that the planning proposal is the most effective means of facilitating the objectives as identified in Part 1. Amendments to PSLEP 2013

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in accordance with this planning proposal will enable Council to facilitate logical planning outcomes which have strategic merit.

It is noted that a number of other Standard Instrument LEPs contain similar provisions to address the issues outlined in this planning proposal.

**SECTION B – Relationship to Strategic Planning Framework**

*3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?*

The planning proposal will potentially reduce the number of development applications being considered by Council and will enable a merits based assessment for appropriate boundary realignments on rural land that do not meet minimum lot size requirements. This will support agricultural and environmental outcomes, and this is consistent with the Lower Hunter Regional Strategy.

*4. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?*

Community Strategic Plan 2023

The proposal is consistent with the Community Strategic Plan 2023 as it will provide a practical solution for the assessment of development applications.

Port Stephens Planning Strategy

Council's Port Stephens Planning Strategy recognises the importance of rural land in the LGA. It seeks to ensure that current and future agriculture is not compromised by the fragmentation of rural land. The PSPS also recognises the significance of environmentally sensitive land within the LGA. The planning proposal will not compromise the integrity of rural or environmental land in the LGA as it provides strict parameters for the proposed exempt development and consideration of boundary realignments on lots that are below the minimum lot size.

*5. Is the planning proposal consistent with applicable state environmental planning policies?*

There are no existing or draft State Environmental Planning Policies that prohibit or restrict the proposed amendments as outlined in this planning proposal. An assessment of relevant State Environmental Planning Policies against the planning proposal is provided below.

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Table A: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
<b>SEPP (Rural Lands) 2008</b>	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	The planning proposal includes provision to ensure that exempt development can only be undertaken where it does not adversely impact on rural land or agricultural activities.
<b>SEPP (exempt and complying development codes) 2008</b>	This Policy aims to provide streamlined assessment processes for development by identifying types of exempt and complying development that have minimal impact.	<p>The planning proposal seeks to add exempt provisions to the LEP, which are in addition to the SEPP. It is considered that the SEPP is impractical for to use for land that is below the minimum lot size as a requirement that all lots increase in size at the completion of the subdivision.</p> <p>The proposed provisions ensure that exempt development would be of minimal impact.</p> <p>The planning proposal would result in the LEP being inconsistent with State Policy. Further consultation will be required with the Department of Planning on this matter.</p>

6. *Is the planning proposal consistent with applicable Ministerial Directions?*

The planning proposal is consistent with all applicable Ministerial Directions with the exception of Direction 4.3 Flood Prone Land. An assessment of the Planning Proposal against the relevant s.117 Directions is provided in the following table:

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<b>Ministerial Direction</b>	<b>Aim of Direction</b>	<b>Consistency and Implications</b>
<b>1. EMPLOYMENT AND RESOURCES</b>		
<b>1.2 Rural Zones</b>	The objective of this direction is to protect the agricultural production value of rural land.	<p>Subdivision of land below the minimum lot size will only be granted where no additional dwelling entitlement is created, the potential for land use conflict will not be increased and if the agricultural viability of the land will not be adversely affected.</p> <p>It is considered that the proposal is consistent with this direction as it will not adversely affect the agricultural production value of the land or create increased density.</p>
<b>1.5 Rural Lands</b>	The objective of this direction is to protect the agricultural production value of rural and facilitate the orderly and economic development of rural lands for rural and related purposes.	The planning proposal includes provisions to ensure that there is no increased dwelling density in rural zones.
<b>2. ENVIRONMENT AND HERITAGE</b>		
<b>2.1 Environmental Protection Zones</b>	The objective of this direction is to protect and conserve environmentally sensitive areas.	<p>Development will only be exempt where there is minimal environmental impact and cannot be carried out in critical habitat of an endangered species, population or ecological community or in a wilderness area.</p> <p>The planning proposal is consistent with this direction.</p>
<b>2.2 Coastal Protection</b>	The objective of this direction is to implement the principles in the NSW Coastal Policy.	Development undertaken through the proposed provisions would be of minimal significance.

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<b>2.3 Heritage Conservation</b>	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The proposed exemptions do not apply to land on which an item of heritage significance is located.
<b>3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT</b>		
<b>3.1 Residential Zones</b>	Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.	The proposed exemptions do not apply to residential land.
<b>4. HAZARD AND RISK</b>		
<b>4.4 Planning for Bushfire Protection</b>	The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.	Boundary realignment will only be exempt if it will not result in any increased bush fire risk to existing property.
<b>5. REGIONAL PLANNING</b>		
<b>5.1 Implementation of Regional Strategies</b>	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The planning proposal will support agricultural and environmental outcomes, and this is consistent with the Strategy.
<b>6. LOCAL PLAN MAKING</b>		
<b>6.2 Reserving Land for Public Purposes</b>	The objectives of this direction are to facilitate the provision of public services and facilities by reserving	The planning proposal includes a provision to allow boundary realignment to be exempt

## ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL - BOUNDARY REALIGNMENTS.

	land for public purposes, and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	development where it widens a public road or creates a public reserve.  The planning proposal will facilitate the provision of public services and facilities by reserving land for public purposes.
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### SECTION C – Environmental, Social and Economic Impact

*7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No. The planning proposal includes provisions that minimise environmental impacts by including considerations regarding the environmental values, heritage significance and natural and physical constraints of the land.

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

No additional environmental effects are anticipated as a result of this amendment. The proposed clause ensures that environmental impacts are given due consideration.

*9. Has the planning proposal adequately addressed any social and economic effects?*

The planning proposal will have minimal social or economic impacts.

### SECTION D – State and Commonwealth interests

*10. Is there adequate public infrastructure for the planning proposal?*

The amendment does not warrant changes to the delivery of public infrastructure.

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

#### Agency consultation

In accordance with the Gateway determination dated 1 December 2015, consultation was required to be undertaken with the Office of Environment and Heritage and the Department of Primary Industries (Agriculture). In addition, Council received comments from the Department of Primary Industries (Water) and the Department of Industry – Resources & Energy.



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Agency comments are outlined below. As detailed below, an amendment has been made to the planning proposal due to comments received from the DPI (Agriculture).

*Office of Environment and Heritage*

OEHL have advised that while there are potential impacts from the proposal on biodiversity, Aboriginal cultural heritage, flooding and coastal processes, there are sufficient checks and balances to deal with these matters should they arise. OEHL do not object to the planning proposal but note concern about its application.

A copy of OEHL correspondence is located in the planning proposal at **ATTACHMENT 1**.

*Comment:* Noted.

*Department of Primary Industries (Agriculture)*

The DPI (Agriculture) advised that rural subdivision should be assessed in accordance with the DPI 'farm subdivision assessment guideline'. It was further recommended that the proposed amendment include a provision to ensure that the boundary realignment will not alienate water resources for agriculture.

A copy of DPI (Agriculture) correspondence is located in the planning proposal at **ATTACHMENT 3**.

*Comment:* the proposed provision ensures that the potential impacts are considered in the assessment of boundary realignments. The provision is consistent with the 'farm subdivision assessment guideline' as it requires thorough consideration of predominant and preferred land uses on and in the vicinity of the development.

It is considered that the inclusion of a provision regarding access to water resources for agriculture has merit. The proposal has therefore been amended to include an additional provision, in both Schedule 2 Exempt Development and Part 4 Principal development standards. The amended clause is detailed in **ATTACHMENT 4**.

*Department of Primary Industries (Water)*

DPI Water has no objections to the proposed amendment but provided the following comment for Council's consideration and information:

- If there are existing dams located on the lot where the boundary realignment is occurring and the lot size is reduced, the resultant lot may have dams that are greater than the Maximum Harvestable Right Dam Capacity. The landowner may need to modify the dams or apply for a licence issued under the *Water Management Act 2000*.

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A copy of DPI (Water) correspondence is located in the planning proposal at **ATTACHMENT 5**.

*Comment:* the landowner is responsible for ensuring compliance with the *Water Management Act 2000* and may need to undertake appropriate action, such as reducing the size of a dam, to ensure compliance with the Act.

*Department of Industry – Resources & Energy*

The Department of Industry has advised that the planning proposal is consistent with the Mining SEPP and *Section 117(2) Direction No. 1.3 – Mining, Petroleum and extractive Industries*. They further advise that when determining boundary adjustments, Council should refer to the Mineral Resource Audit to determine the location and nature of mines, quarries and significant mineral resources when considering developments 'in the vicinity' of the proposal.

A copy of the Department of Industry – Resources & Energy is located in the planning proposal at **ATTACHMENT 6**.

*Comment:* Noted. The Mineral Resource Audit will be used in the determination of future development applications for boundary realignments undertaken via the proposed clause.

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**Part 4 – Mapping**

The planning proposal does not seek any amendments to the Port Stephens Local Environmental Plan 2013 mapping.

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**Part 5 – Community Consultation**

In accordance with the Gateway determination, the planning proposal is classified as low impact and must be made publically available for a period of 14 days.

The planning proposal will be exhibited from the 11<sup>th</sup> of February to the 26<sup>th</sup> of February 2016.

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**Part 6 – Project Timeline**

The project is expected to be completed within 12 months from Gateway Determination. The following timetable is proposed:

	<b>Task Description</b>	<b>Estimated Timeline</b>
1.	Report to Council	April 2016
2.	Legal drafting and making of the plan	April – May 2016

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REALIGNMENTS.**

**ATTACHMENT ONE**

Notice of Motion – 10 FEBRUARY 2015

**ORDINARY COUNCIL – 10 FEBRUARY 2015**

**NOTICE OF MOTION**

ITEM NO.    2

FILE NO: A2004-0217 &  
PSC2009-06567

**PLANNING PROPOSAL TO AMEND THE LEP – EXEMPT DEVELOPMENT –  
REALIGNMENT OF BOUNDARIES**

**MAYOR BRUCE MACKENZIE**

**THAT COUNCIL:**

- 1) Resolve to immediately prepare a Planning Proposal to amend the LEP to include the following:

Add to Schedule 2 Exempt Development:

**Realignment of Boundaries**

The Realignment of Boundaries pursuant to this Clause:

- a) must be of minimal environmental impact, and
- b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the Threatened Species Conservation Act 1995 or the Fisheries Management Act 1994), and
- c) cannot be carried out in a wilderness area (identified under the Wilderness Act 1987).
- d) cannot be carried on land on which a heritage item or draft heritage item is situated.

This Clause applies to land in Zones:

- i. RU1 Primary Production,
- ii. RU2 Rural Landscape,
- iii. RU3 Forestry,
- iv. RU4 Primary Production Small Lots,
- v. RU6 Transition,
- vi. R5 Large Lot Residential,
- vii. E2 Environmental Conservation,

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**ITEM 2 - ATTACHMENT 1      PLANNING PROPOSAL - BOUNDARY  
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**ORDINARY COUNCIL – 10 FEBRUARY 2015**

- viii. E3 Environmental Management or
- ix. E4 Environmental Living.

The subdivision of land, for the purpose only of any one or more of the following, is exempt development specified for this clause:

- a) widening a public road,
- b) a realignment of boundaries:
  - i. that will not create additional lots or the opportunity for additional dwellings, and
  - ii. that will not create a resultant lot that is more than 15% different in area to at least one pre-existing lot
  - iii. that will not result in one or more lots that are smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned (unless the original lot or lots are already smaller than the minimum size), and
  - iv. that will not adversely affect the provision of existing services on a lot, and
  - v. that will not result in any increased bush fire risk to existing buildings,
- c) rectifying an encroachment on a lot,
- e) creating a public reserve,
- d) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

Add to Part 4 Principal Development Standards

**Exceptions to minimum subdivision lot size for lot boundary adjustments in certain Rural, Residential and Environmental Zones.**

The objective of this clause is to facilitate boundary adjustments between lots if one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land and the objectives of the relevant zone can be achieved.

- 1) This clause applies to land in the following zones:

**ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL - BOUNDARY REALIGNMENTS.****ORDINARY COUNCIL - 10 FEBRUARY 2015**

- i. RU1 Primary Production,
  - ii. RU2 Rural Landscape,
  - iii. RU3 Forestry,
  - iv. RU4 Primary Production Small Lots,
  - v. RU6 Transition,
  - vi. R5 Large Lot Residential,
  - vii. E2 Environmental Conservation,
  - viii. E3 Environmental Management or
  - ix. E4 Environmental Living.
- 2) Despite clause 4.1, development consent may be granted to subdivide land by adjusting the boundary between adjoining lots if one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land, and the consent authority is satisfied that:
- a) the subdivision will not create additional lots or the opportunity for additional dwellings, and
  - b) the number of dwellings or opportunities for dwellings on each lot after subdivision will be the same as before the subdivision, and
  - c) the potential for land use conflict will not be increased as a result of the subdivision, and
  - d) if the land is in a rural zone, the agricultural viability of the land will not be adversely affected as a result of the subdivision.

**BACKGROUND REPORT OF: MATTHEW BROWN – DEVELOPMENT ASSESSMENT AND COMPLIANCE SECTION MANAGER, DEVELOPMENT SERVICES****BACKGROUND**

Boundary realignments are not currently a permissible form of development under the Port Stephens Local Environmental Plan 2013 (PSLEP 2013). Rather, boundary realignments are permitted under the State policy – SEPP (Exempt and Complying Codes) 2008. The State policy permits boundary realignments without the requirement for gaining a development consent, however only when a number of conditions can be met.

Changes to the State policy over time has seen a continued restriction on the scenarios where boundary realignments can be carried out, to the extent that proposals once considered to be straight-forward developments are no longer permissible.

**ITEM 2 - ATTACHMENT 1      PLANNING PROPOSAL - BOUNDARY  
REALIGNMENTS.****ORDINARY COUNCIL – 10 FEBRUARY 2015**

The restrictions imposed on boundary alignments results in impractical development outcomes in many instances, where boundaries on the map do not relate to topographical or physical features of the land. Consequently, public confidence in the planning process can be negatively impacted.

To restore a practical outcome based solution, Council has the option to prepare a planning proposal to introduce permissibility for boundary realignments under the PSLEP 2013, such as described in the resolution above.

It is noted that the above resolution addresses those boundary realignments permissible without consent. In addition the above resolution also provides for Council to consider a planning proposal to address those boundary realignments that do not meet the above stated criteria, allowing a merits based assessment to be carried out via a development application.

The standard process for proposed amendments to the PSLEP 2013 is approval from the Department of Planning and Environment subject to the review of the Planning Proposal. At this stage it is unclear on the Department's position on the proposed amendment which will be established through consultation with the Department through the preparation of the Planning Proposal.

It is noted that in the planning framework there is generally a requirement for local environmental plans to maintain consistency with State policy. In this instance, the consistency between the State policy and the proposed amendments to the PSLEP 2013 would need to be established with the Department of Planning and Environment. This may require lobbying of the State Government to change the State policy to provide for consistency with the proposed amendment to the PSLEP 2013.

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL - BOUNDARY  
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ATTACHMENT TWO

Gateway Determination – 1 DECEMBER 2015



Mr Wayne Wallace  
General Manager  
Port Stephens Council  
PO Box 42  
Raymond Terrace NSW 2324

Our ref: 15/16521  
Your ref: PSC2015-01491

Attention : Ms Sarah Connell

Dear Mr Wallace

**Planning Proposal to amend Port Stephens Local Environmental Plan 2013**

I am writing in response to your Council's letter dated 28 October 2015 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to insert boundary realignment provisions to the Port Stephens Local Environmental Plan 2013.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

The amending local environmental plan is to be finalised within nine months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made to the Department at least six weeks prior to the projected publication date.

The Minister's plan making powers were delegated to council in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided not to issue an authorisation for Council to exercise delegation to make this plan in this instance.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Department of Planning & Environment  
Level 2, 26 Honeysuckle Drive, Newcastle NSW 2300 | PO Box 1226 Newcastle NSW 2300 | T 02 4904 2700 | F 02 4904 2701 |  
[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)



**ITEM 2 - ATTACHMENT 1      PLANNING PROPOSAL - BOUNDARY  
REALIGNMENTS.**

Should you have any questions regarding this matter, I have arranged for Mr Ben Holmes from the Hunter office to assist you. Mr Holmes can be contacted on (02) 4904 2709.

Yours sincerely,



1-12-2015

**Ashley Albury  
A/ General Manager, Hunter and Central Coast Region  
Planning Services**

Encl: Gateway determination



ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL - BOUNDARY REALIGNMENTS.



**Gateway Determination**

***Planning Proposal (Department Ref: PP\_2015\_PORTS\_009\_00): to insert boundary realignment provisions into the Port Stephens LEP 2013.***

I, the Acting General Manager, Hunter and Central Coast Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Port Stephens Local Environmental Plan (LEP) 2013 to insert boundary realignment provisions should proceed subject to the following conditions:

1. Council is to amend the exempt provision detailed in the Explanation of Provisions to:
  - (a) remove reference to the R5 Large Lot Residential zone; and
  - (b) change the requirement which specifies how the extent in variation is determined by deleting the reference to "at least one pre-existing lot" and replacing it with "any lot".
2. Council is to amend the explanation of provisions for the local clause to use the latest clause settled with Parliamentary Counsel and including the zones proposed by Council. A copy of this clause is attached.
3. Council is to update the planning proposal to refer to Council's Community Strategic Plan 2023.
4. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
  - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Planning & Infrastructure 2013)* and must be made publicly available for a minimum of **14 days**; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Planning & Infrastructure 2013)*.
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
  - Office of Environment and Heritage
  - Department of Primary Industries (Agriculture)

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

ITEM 2 - ATTACHMENT 1      PLANNING PROPOSAL - BOUNDARY  
REALIGNMENTS.

6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
7. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated *1<sup>st</sup> December 2015*



Ashley Albury  
A/ General Manager, Hunter and  
Central Coast Region  
Planning Services  
Department of Planning and  
Environment

Delegate of the Minister for Planning

ITEM 2 - ATTACHMENT 1      PLANNING PROPOSAL - BOUNDARY  
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**Boundary adjustments in certain rural and environmental protection zones**

- (1) The objective of this clause is to facilitate boundary adjustments between lots where one or more resultant lots do not meet the minimum lot size but the objectives of the relevant zone can be achieved.
- (2) This clause applies to land in the following zones;  
*Council to list relevant zones here*
- (3) Despite clause 4.1 (3), development consent may be granted to subdivide land by way of a boundary adjustment between adjoining lots where one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land if the consent authority is satisfied that:
  - (a) the subdivision will not create additional lots or the opportunity for additional dwellings, and
  - (b) the number of dwellings or opportunities for dwellings on each lot after subdivision will remain the same as before the subdivision, and
  - (c) the potential for land use conflict will not be increased as a result of the subdivision, and
  - (d) if the land is in Zone RU1 Primary Production, RU2 Rural Landscape or Zone RU3 Forestry—the subdivision will not have a significant adverse effect on the agricultural viability of the land, and
  - (e) if the land is in Zone E2 Environmental Conservation, Zone E3 Environmental Management or E4 Environmental Living —the subdivision will result in the continued protection and long-term maintenance of the land.
- (4) Before determining a development application for the subdivision of land under this clause, the consent authority must consider the following:
  - (a) the existing uses and approved uses of other land in the vicinity of the subdivision,
  - (b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,
  - (c) whether or not the subdivision is likely to be incompatible with a land use on any adjoining land,
  - (d) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
  - (e) whether or not the subdivision is likely to have a significant adverse impact on the environmental values of the land.
- (5) This clause does not apply:
  - (a) in relation to the subdivision of individual lots in a strata plan or community title scheme, or
  - (b) if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL - BOUNDARY  
REALIGNMENTS.

ATTACHMENT THREE

Correspondence from Office of Environment & Heritage (18 December  
2015)



Your reference: PSC2015-01491  
Our reference: DOC15/491885-1  
Contact: Ziggy Andersons, 4927 3151

Mr Wayne Wallis  
General Manager  
Port Stephens Council  
PO Box 42  
RAYMOND TERRACE NSW 2324

Attention: Sarah Connell

Dear Mr Wallis

**RE: PLANNING PROPOSAL - PROPOSED AMENDMENT TO PORT STEPHENS LOCAL  
ENVIRONMENTAL PLAN 2013 – BOUNDARY REALIGNMENTS**

I refer to your email dated 3 December 2015 seeking advice from the Office of Environment and Heritage (OEH) under section 54(2)(d) of the *Environmental Planning and Assessment Act 1979* in regard to the above planning proposal. OEH has reviewed the planning proposal and provides the following comments.

OEH notes that there are potential impacts from this proposal to biodiversity, Aboriginal cultural heritage, flooding and coastal processes. The type and scope of these impacts has not been thoroughly explored in the planning document, however, there appear to be sufficient checks and balances to deal with these matters should they arise. As such, OEH has no objection to this proposal but has some reservations over how this proposed amendment may be applied and resulting impacts addressed.

If you have any enquiries concerning this advice, please contact Ziggy Andersons, Conservation Planning Officer, on 4927 3151.

Yours sincerely



18 DEC 2015

**RICHARD BATH**  
Senior Team Leader Planning, Hunter Central Coast Region  
Regional Operations

Locked Bag 1002 Dangar NSW 2309  
Level 4/26 Honeysuckle Drive Newcastle NSW 2300  
rog.hcc@environment.nsw.gov.au  
ABN 30 841 387 271  
www.environment.nsw.gov.au

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL - BOUNDARY  
REALIGNMENTS.

ATTACHMENT FOUR

Correspondence from Department of Primary Industries – Agriculture  
(29 January 2016)



Department of  
Primary Industries

OUT16/3324

Sarah Connell  
Strategic Planner  
Port Stephens Council

29 January 2016

Dear Sarah,

**Proposed amendment to Port Stephens Local Environmental Plan 2013 –  
Boundary Realignments - Comments**

Thank you for your email dated 2 December 2015 giving the NSW Department of Primary Industries (DPI) Agriculture an opportunity to provide comment on the Proposed Amendment to Port Stephens Local Environmental Plan 2013 – Boundary Realignments.

DPI Agriculture has reviewed the proposed amendment with the follow recommendations for inclusion:

- Boundary realignment will not alienate water resources or access for agriculture.
- Realignment on RU1 Primary Production and RU2 Rural Landscape Lots are in line with the guidelines for farm subdivision:  
([http://www.dpi.nsw.gov.au/data/assets/pdf\\_file/0005/313565/farm-subdivision-assessment-guideline.pdf](http://www.dpi.nsw.gov.au/data/assets/pdf_file/0005/313565/farm-subdivision-assessment-guideline.pdf))

Please do not hesitate to contact DPI should you have any questions.

Kind Regards,



Helen Squires  
Resource Management Officer

NSW Department of Primary Industries, Agricultural Land Use Planning Unit  
Locked Bag 21, Orange NSW 2800 Tel: 02 6391 3494 Fax: 02 6391 3551  
Email: [landuse.ag@dpi.nsw.gov.au](mailto:landuse.ag@dpi.nsw.gov.au) [www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au)

ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL - BOUNDARY  
REALIGNMENTS.

ATTACHMENT FIVE

Correspondence from Department of Primary Industries – Water (15  
January 2016)



Department of  
Primary Industries  
Water

General Manager  
Port Stephens Council  
PO Box 42  
Raymond Terrace, NSW 2337  
Via email: [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)

Contact: Kerry Lee  
Phone: 02 4904 2666  
Email: [Kerry.lee@dpi.nsw.gov.au](mailto:Kerry.lee@dpi.nsw.gov.au)

Our ref: V15/2812#73  
Your ref: PSC2015-01491

Attention: Sarah Connell

Dear Ms Connell

**Planning Proposal – Amend Port Stephens LEP 2013 – Boundary Realignments**

I refer to your email dated 2 December 2015 requesting comments on a planning proposal to amend the Port Stephens LEP 2013 to allow certain boundary realignments to occur without development consent. DPI Water has reviewed the planning proposal and has no objections to the proposed amendment but provides the following comment for Council's consideration and information:

- If there are existing dams located on the lot where the boundary realignment is occurring and the lot size is reduced, the resultant lot may have dams that are greater than the Maximum Harvestable Right Dam Capacity. The landowner may need to modify the dams or apply for a licence issued under the *Water Management Act 2000*.

If you require further information please contact Kerry Lee, Water Regulation Officer on (02) 4904 2666.

Yours sincerely



Alison Collaros  
Senior Water Regulation Officer  
15 January 2016



ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL - BOUNDARY  
REALIGNMENTS.

**ATTACHMENT SIX**

Correspondence from Department of Primary Industries – Resources &  
Energy (18 January 2016)



18<sup>th</sup> January 2016

Sarah Connell  
Strategic Planner  
Port Stephens Council  
116 Adelaide Street  
Raymond Terrace NSW 2324

Emailed: [Sarah.Connell@portstephens.nsw.gov.au](mailto:Sarah.Connell@portstephens.nsw.gov.au)

Your Reference: PSC2015 - 01491  
Our Reference (TRIM): OUT15/35224

Dear Ms Connell

**Re: Planning Proposal to Amend Port Stephens LEP 2013 – Boundary  
Realignments**

Thank you for the opportunity to provide advice on the above matter. This is a response from NSW Department of Industry – Geological Survey of New South Wales (GSNSW).

**Specific Issues**

GSNSW understands the Planning Proposal seeks to amend Schedule 2: Exempt Development of the Port Stephens Local Environmental Plan 2013 (PSLEP 2013) to allow certain boundary realignments to occur without development consent and to facilitate minor boundary realignments to existing lots in certain circumstances, which are less than the minimum lot size as shown on the Lot Size Map and that do not result in the creation of any additional lots or dwelling entitlements. The proposal relates to rural (RU1, RU2, RU3), environmental (E2, E3, E4) and residential (R5) zones.

Council has identified that the key issue in approving boundary alignments are the potential impacts, rather than the zoning or resultant lot sizes, and propose in Part 4 – Principal Development Standards: (4), to consider potential incompatibility with existing and approved land uses in the vicinity when determining boundary adjustments. GSNSW notes intensification of residential dwellings is not an outcome of this proposal.

The Port Stephens LGA has a diverse range of regionally significant extractive and industrial mineral deposits and operations. By virtue of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (Mining SEPP), mining and extractive industries are permissible with development consent on land zoned for rural (and industrial) purposes. Additionally the Mining SEPP requires a compatibility test for proposed developments in the vicinity of significant mineral resources, quarries or mines. Though not identified in the proposal, the proposal is consistent with the Mining SEPP through Part 4 (4) a), b) and c).

NSW Department of Industry, Skills and Regional Development  
RESOURCES & ENERGY DIVISION  
PO Box 344 Hunter Region Mail Centre NSW 2310  
Tel: 02 4931 6666 Fax: 02 4931 6726  
ABN 51 734 124 190  
[www.industry.nsw.gov.au](http://www.industry.nsw.gov.au)



ITEM 2 - ATTACHMENT 1 PLANNING PROPOSAL - BOUNDARY REALIGNMENTS.

*Section 117(2) Direction 1.3 - Mining, Petroleum Production and Extractive Industries* (s.117) applies when a planning authority prepares a planning proposal that would have the effect of restricting or prohibiting the development of State or regionally significant mineral resources through permitting incompatible developments. When determining boundary adjustments, Council should refer to the Mineral Resource Audit (MRA) – Port Stephens LGA, conducted under s.117 of the *Environmental Planning & Assessment Act 1979* and delivered updated to Council in July 2014. The MRA is a spatial planning tool describing the location and nature of mines, quarries and significant mineral resources of State or regional significance and can be used to consider developments "in the vicinity" when applying the Mining SEPP. Though not identified in Council's proposal, the proposal is consistent with s.117 Direction 1.3 through consideration of potential land use issues via Part 4 (4) a), b) and c).

**Geoscience Information Services**

The GSNSW has a range of online data available on line through the following website address:

<http://www.resources.nsw.gov.au/geological/online-services>

This site hosts a range of data to enable research into exploration, land use and general geoscience topics. Additionally, the location of exploration and mining titles in NSW may be accessed by the general public using the following online utilities:

1. **MinView** allows on-line interactive display and query of exploration tenement information and geoscience data. It allows spatial selection, display and download of geological coverages, mineral deposits and mine locations, geophysical survey boundaries, drillhole locations, historical and current exploration title boundaries and other spatial datasets of New South Wales. This online service is available at:  
<http://www.resources.nsw.gov.au/geological/online-services/minview>
2. **NSW Titles** enables the public to access and view frequently updated titles mapping information across NSW. This online service is available at:  
<http://nswtitles.minerals.nsw.gov.au/nswtitles/>

Queries regarding the above information, and future requests for advice in relation to this matter, should be directed to the GSNSW Land Use team at [landuse.minerals@industry.nsw.gov.au](mailto:landuse.minerals@industry.nsw.gov.au).

Yours sincerely



Cressida Gilmore  
Team Leader - Land Use

**ITEM 3 - ATTACHMENT 1      SANDY POINT/CONROY PARK FORESHOER  
EROSION AND DRAINAGE MANAGEMENT PLAN.**



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**Sandy Point/Conroy Park Foreshore  
Erosion and Drainage Management Plan**

Prepared for	Port Stephens Council
Prepared by	Dr David Wainwright, Doug Lord and Benjamin Crawley Whitehead & Associates Environmental Consultants Pty Ltd & Coastal Environment Pty. Ltd.  197 Main Road CARDIFF NSW 2285
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**ITEM 3 - ATTACHMENT 1 SANDY POINT/CONROY PARK FORESHOER  
EROSION AND DRAINAGE MANAGEMENT PLAN.**

1415: Sandy Point/ Conroy Park Foreshore Erosion and Drainage Management Plan

**Document Control Sheet**

Document and Project Details					
Document Title:	Sandy Point/Conroy Park Foreshore Erosion and Drainage Management Plan				
Author:	David Wainwright (W&A) / Doug Lord (CE) / Benjamin Crawley (W&A)				
Project Manager:	David Wainwright				
Date of Issue:	02/02/2016				
Job Reference:	Report_1415_002_03_Final.docx				
Synopsis:	The Sandy Point / Conroy Park Foreshore Erosion and Drainage Management Study aims to identify a preferred solution for the management of the shoreline between The Anchorage Marina and Bagnalls Beach in Corlette, on the southern side of Port Stephens. The consideration of various management options, community consultation, and conceptual designs and costs are discussed.				
Client Details					
Client:	Port Stephens Council				
Primary Contact:	Philippa Hill				
Document Distribution					
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Doug Lord			David Wainwright		

**Disclaimer**

The information contained in this report is based on independent research undertaken by David Wainwright and Ben Crawley of Whitehead & Associates Environmental Consultants Pty Ltd (W&A), and Doug Lord of Coastal Environment Pty. Ltd. To our knowledge, it does not contain any false, misleading or incomplete information. Recommendations are based on an appraisal of the site conditions subject to the limited scope and resources available for this project, and follow relevant industry standards. We highlight that the coastal zone is a highly dynamic environment, particularly in areas where processes are causing ongoing notable erosion. Accordingly, the relevance of this plan will decrease with time and the results should be considered in this light.

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Whitehead & Associates Environmental Consultants

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