



Planning Proposal at  
**25 Castaway Close, Boat Harbour, NSW, 2316**  
to reduce the Minimum Lot Size from  
**4,000sqm to 2,000sqm**  
and amend part of the Land Use Zone from  
**R5 – Large Lot Residential to E2 – Environmental Conservation**

Prepared by Perception Planning Pty Ltd for Mr. Martin and Mrs. Belinda Redriff



**27 July 2018**

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## PROPOSAL DETAILS

The following provides a summary of the particulars relating to this proposal:

<b>Local Government Area:</b>	Port Stephens Council
<b>Name of Draft LEP:</b>	Port Stephens Local Environmental Plan (the LEP) 2013 (Draft Amendment No. X)
<b>Address:</b>	25 Castaway Close, Boat Harbour, NSW, 2316 (the site)
<b>Site Area:</b>	5,993sqm
<b>Legal Description:</b>	Lot 6, DP 1015409
<b>Land Owner:</b>	Mr. Martin and Mrs. Belinda Redriff
<b>Applicant:</b>	Perception Planning on behalf of the landowners
<b>PP Job No:</b>	JOOOO50
<b>Author:</b>	Jeffrey Bretag, Principal Planner, Perception Planning
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. List of Studies to be Provided</li><li>2. Existing Land-Use Zone Map</li><li>3. Proposed Land-Use Zone Map</li><li>4. Existing Minimum Lot Size Map</li><li>5. Proposed Minimum Lot Size Map</li><li>6. Supporting Reports to be Provided</li><li>7. Site Photos</li><li>8. Pre-Lodgement Meeting Request (Under Separate Cover)</li><li>9. Pre-Lodgement Meeting Notes (Under Separate Cover)</li><li>10. Bushfire Threat Assessment (Under Separate Cover)</li><li>11. Ecological Assessment (Under Separate Cover)</li><li>12. Dial Before You Dig Inquiry (Under Separate Cover)</li><li>13. Flood Planning Certificate (Under Separate Cover)</li><li>14. Application Form (Under Separate Cover)</li><li>15. Further Information Response (Under Separate Cover)</li></ol>

## BACKGROUND

A request for a Pre-Lodgement Meeting was sent from Perception Planning Pty Ltd to Port Stephens Council on 29 September 2017 (**ATTACHMENT 8**).

A Pre-Lodgement Meeting took place at Council on 10 October 2017. A record of this meeting was provided to Perception Planning on 19 October 2017 (**ATTACHMENT 9**).

The record of this meeting identified that the following would need to be provided:

1. Planning Proposal is to be in accordance with the NSW Department of Planning and Environment, 2016, 'A Guide to Preparing Planning Proposals';
2. Council has a preference for the re-zoning to be addressed on a precinct basis as opposed to on an individual site-by-site basis;
3. Planning Proposal is to address the s117 Ministerial Directions under the Environmental Planning and Assessment Act 1979 (EP&A Act);
4. Flora and Fauna Report that address the Port Stephens Council, 2002, 'Comprehensive Koala Plan of Management (CKPoM);

5. Bushfire Threat Assessment, which identifies likely Asset Protection Zones (APZs) and any impacts on Flora and Fauna;
6. Traffic Report, which addresses road layout, traffic generation and road impacts;
7. Drainage Report, which identifies the Flood Planning Level (FPL), drainage flow paths and legal discharge points; and
8. Category B – Rezoning Fees. being: 1) \$5,319; 2) \$10,640; and 3) \$5,319.

Following this meeting, a phone call between Jeffrey Bretag of Perception Planning and Matthew Borsato of Port Stephens Council took place to explain that the applicant would not be providing a Traffic or Drainage Report prior to Gateway Determination.

This approach has been taken given the minor nature of the proposal, which will only eventuate in one additional lot. This approach is consistent with other proposals that have recently considered by Council for two lot subdivisions, being 111 South Street, 1C Sylvan Avenue and 74 South Street, Medowie. A list of supporting studies to be provided pre and post gateway is provided (**ATTACHMENT 1**).

A Bushfire Threat Assessment (**ATTACHMENT 10**) and Ecological Assessment (**ATTACHMENT 11**) have informed the contents of this proposal. The remainder of this proposal follows the template provided by the NSW Department of Planning and Environment, 2016, 'A Guide to Preparing Planning Proposals'.

A Site Inspection with Council Officers took place with Council Officers on 29 June 2017 and a further information response was provided to Council on 23 July 2018 (**ATTACHMENT 15**). The key matters raised in this response were summarised as follows:

1. Environment - The proposal will facilitate the protection & conservation of the watercourse and associated riparian corridor that is located on the northern part of the site.
2. Flooding - No landfill is proposed and therefore no displacement of water. A building envelope has been identified that is above the Flood Fringe as identified by Council.
3. Existing Zoning – The existing zoning does not provide for the adequate protection of the riparian corridor, not does it allow for a Torrens Title Subdivision
4. Local Area Considerations – The proposal is consistent with adjoining landowners' and Council's expectations that two dwelling footprints will be situated on each lot under the current planning controls. The site constraints do not allow for further development.

## SITE DESCRIPTION

The site is located within Anna Bay, which is 51km (48 minutes' drive) to the north of Newcastle and 9.3km (10 minutes' drive) to the south of Nelson Bay

Anna Bay is identified as a centre of 'local significance' under the NSW Department of Planning, 2016, Hunter Regional Plan. The Port Stephens Council, 2011, Port Stephens Planning Strategy identifies Anna Bay as a 'town centre'. A town centre is defined by the Strategy as containing shopping and business for the surrounding district, including health and professional services mixed with medium density housing (**FIGURE 1**).

The SGS, 2010, 'Port Stephens Commercial and Industrial Lands Study' identified Anna Bay to contain a population of around 2,500 people and 7,373sqm of occupied commercial

floorspace. This floorspace includes an Independent Grocers Australia (IGA) supermarket of around 500sqm, a Tavern, Service Station and other local stores.

Land to the north of the town centre, known as 'Anna Bay North' received a gateway determination from the NSW Department of Planning and Environment on 28 February 2012. To date, this proposal has not been able to proceed due to drainage and flooding characteristics. The recently completed Jacobs, 2017, Anna Bay and Tilligerry Creek Flood Study identified the flood problem areas and provided some recommendations that may assist with this proposal.

The site is located 3.1km (5 minutes' drive) to the east of the Anna Bay Town Centre. The area is characterised by a mix of zones (i.e. Rural, Environmental, Recreational, Residential) and a range of minimum lot sizes (i.e. 500sqm, 4,000sqm, 1ha, and 4ha) (**FIGURE 1**). This area sits outside of the Anna Bay Strategy and Town Plan and it is therefore understood that no strategic approach has informed this land-use diversity.

This area is characterised by low density residential to the east and south, being detached housing on 600sqm lots and with existing rural holdings to the north. Further to the north, along Gan Gan Road are a number of caravan parks for tourism purposes (**FIGURE 2**).

The site has a total area of 5,993sqm and is largely cleared, although some scattered remnant native trees occur on the northern half. These trees are located within a natural drainage line, which has not been identified as a 'natural watercourse' by the NSW Office of Water, but has been identified as Flood Prone Land. This remnant vegetation has also resulted in the site being identified as Bushfire Prone Land.

The Jacobs, 2017, Anna Bay and Tilligerry Creek Flood Study identifies a 'trapped low point' at the intersection of Gan Gan Road and Blanch Street, which is just to the north of the Site (**FIGURE 5**). The Study identifies that this could be mitigated by an 'upgrade/supplement existing, underperforming pipe outlet' (p. 112).

These key characteristics of the land, being flooding, vegetation and bushfire have informed the proposal. Photos of the site are provided as (**ATTACHMENT 6**).

## **PART 1 – OBJECTIVE**

The objective of the planning proposal is to assist the NSW Government in achieving their infill residential housing target and green/blue grid for Port Stephens as identified in the Draft Newcastle Metropolitan Plan through allowing a two lot rural residential subdivision and environment protection lands at 25 Castaway Close, Boat Harbour.

## **PART 2 – EXPLANATION OF PROVISIONS**

The proposed objective will be achieved by:

- Amending the LEP Land Zoning Map (LZN\_005C\_020) (**ATTACHMENT 2**) from Part R5 – Large Lot Residential to Part E2 – Environmental Conservation at 25 Castaway Close, Boat Harbour in accordance with the proposed Land Zoning Map (**ATTACHMENT 3**); and



FIGURE 1 – Anna Bay Map



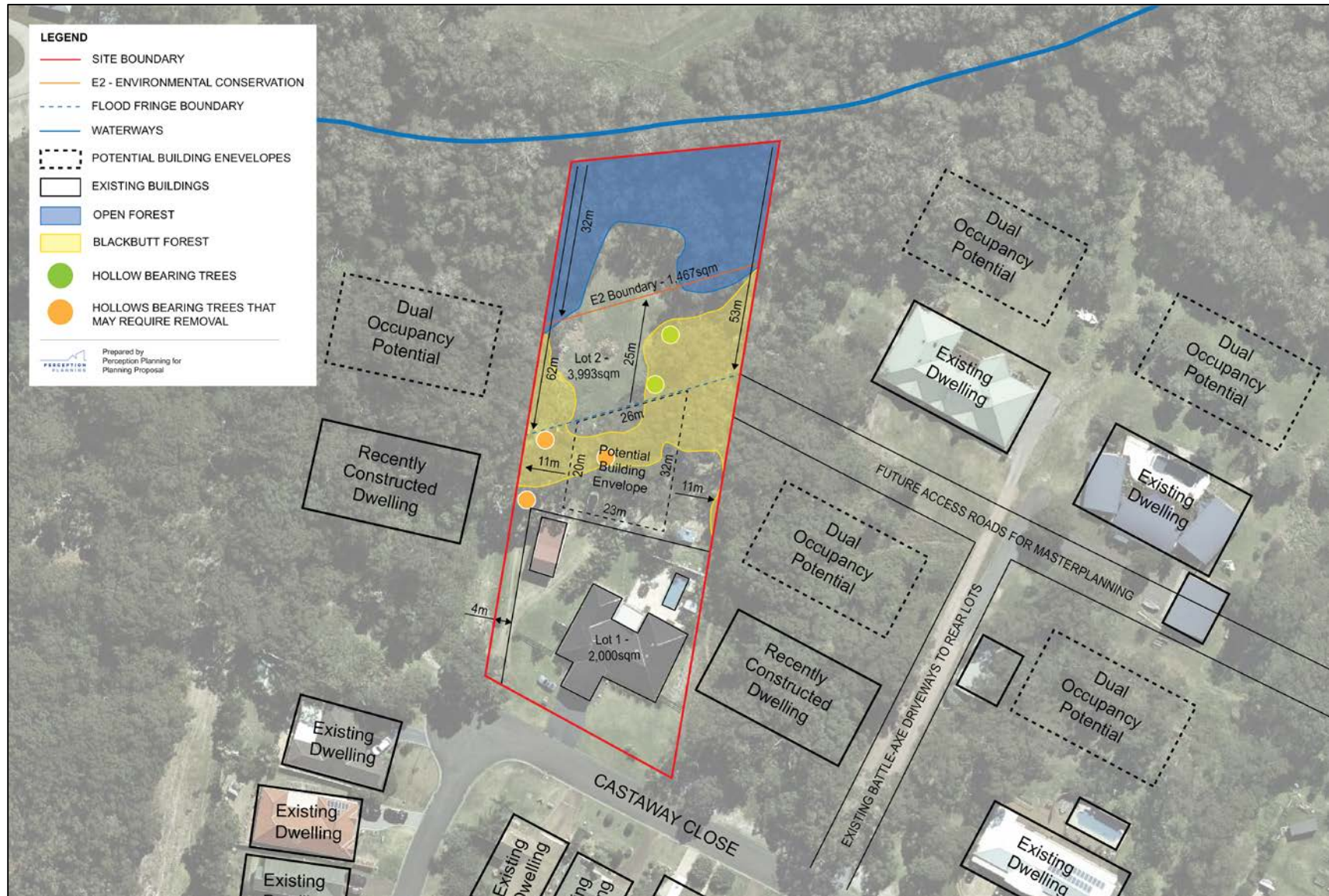


FIGURE 2 – Locality Map – Boat Harbour





FIGURE 3 – Site Plan – 25 Castaway Close, Boat Harbour



- Amend the LEP Lot Size Map (LSZ\_005C\_020) (**ATTACHMENT 4**) from Part 4,000sqm to 2,000sqm at 25 Castaway Close, Boat Harbour in accordance with the proposed Minimum Lot Size Map (**ATTACHMENT 5**).

## PART 3 – JUSTIFICATION

### Section A – Need for the Planning Proposal

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

The proposal is not the result of a strategic study or report.

The PSC, 2008, 'Anna Bay Strategy and Town Plan' investigated and set a plan for lands to the east of the site.

While, the PSC, 2011, 'Port Stephens Planning Strategy' provides an over-arching strategic plan for the Local Government Area (LGA).

No evidence for the strategic planning of this locality can be identified, which is reflected in the diversity of land-use zones and minimum lot sizes (**FIGURE 2**).

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

In order to achieve the objective, the following options were considered:

- a. List a Schedule 1 – Additional Permitted Use for a dwelling house at the site, similar to the existing Schedule 1 (3) under the LEP for dwelling entitlements on certain land at Frederick Drive, Oyster Cove.

This option is considered less desirable than the option proposed under Part 2 – Explanation of Provisions because it would be inconsistent with the NSW Government, N/A, 'Planning Circular – Schedule 1'.

- b. Amend the Zone from R5 – Large Lot Residential to R2 – Low Density Residential and reduce the MLS from 4,000sqm to 2,000sqm.

This option is considered less desirable than the option proposed under Part 2 – Explanation of Provisions because this MLS would be inconsistent with other localities zoned R2 – Low Density Residential. This zone is representative of a MLS of 500sqm across the LGA.

Furthermore, this zone would allow for multi-dwelling housing (three or more attached dwellings), which would be inconsistent with neighbouring lots to the north, east and west.

- c. Amend the Zone from R5- Large Lot Residential to part E2 – Environmental Conservation and reduce the MLS from 4,000sqm to 2,000sqm.



This option is considered the most desirable and as a result it is proposed under Part 2 – Explanation of provisions. It allows for infill housing to occur, while not allowing for more intense development, such as multi-dwelling housing. The proposed environmental zone recognises the environmental attributes of the riparian corridor and contributes to the green/blue grid.

## Section B – Relationship to Strategic Planning Framework

### 3. Is the proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

#### a. NSW Government, 2016, Hunter Regional Plan

The Hunter Regional Plan (the Plan) states that it will guide the NSW Government's land use planning policies and decisions over the next 20 years (p.4). The Plan identifies Anna Bay as a centre of local significance within the Port Stephens Local Government Area (p.64). The Plan does not explain the role of centres of local significance within the hierarchy.

In relation to rural residential housing, the Plan states to 'Include guidance in local land use strategies for expanding rural villages and rural-residential development so that such developments will' achieve the stated objectives (p. 56).

The following table lists those objectives and how the proposal responds.

No	Objective	Response
1	Not impact on strategic or important agricultural land, energy, mineral or extractive resource viability or biodiversity values.	<p>The site is surrounded by existing residential development and is not identified as important resource lands.</p> <p>The land identified to be zoned E2 – Environmental Conservation has been informed by the Ecological Assessment (<b>ATTACHMENT 11</b>).</p>
2	Not impact on drinking water catchments.	The site is not identified to be located within a drinking water catchment.
3	Not result in greater natural hazard risk.	<p>The rear of the site is identified as 'Flood Prone Land – Subject to Further Investigation' by Flood Hazard Map Sheet FHZ_005C.</p> <p>A Flood Planning Certificate (<b>ATTACHMENT 13</b>) identifies the Flood Planning Level to be 4.7 metres AHD and that an area 53 metres from the northern boundary is available for a building envelope.</p>

		The Bushfire Threat Assessment ( <b>ATTACHMENT 10</b> ) identifies the APZs that are required to address bushfire risk and achieve the appropriate Bushfire Attack Level (BAL).
4	Occur on land that is unlikely to be needed for urban development.	The is not identified for urban development in the strategic land-use plans that have been discussed. Rather the environmental attributes (i.e. riparian corridor) and siting of existing dwellings means that it suited for infill development.
5	Contribute to the conservation of important biodiversity values or the establishment of important corridor linkages.	The land identified to be zoned E2 – Environmental Conservation has been informed by the Ecological Assessment ( <b>ATTACHMENT 11</b> ). This land will contribute to the environmental conservation values of the Port Stephens LGA.
6	Facilitate expansion of existing and new tourism development activities in agricultural or resource lands and related industries across the region.	The proposal does not seek to facilitate the expansion of existing and new tourism development. Rather, it seeks to contribute to infill housing and environmental conservation values.

b. NSW Government, 2017, Draft Greater Newcastle Metropolitan Plan

The Draft Greater Newcastle Metropolitan Plan (the Draft Plan) states that it will set out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Newcastle City and Port Stephens communities (p.5).

The Draft Plan makes no specific mention of Anna Bay. However, it identifies that Port Stephens will achieve 8,300 infill and 2,700 greenfield dwellings by 2036 (p.58). The site provides an opportunity to contribute to this infill target, while contributing to the Blue and Green Grid (p.94).

In relation to rural residential housing, the Draft Plan states that 'Greater Newcastle Councils' will amend local plans to address the listed criteria to focus large lot residential, primary, production small lots, or environmental living zones and/or minimum lot sizes greater than 2,000sqm where' (p. 59).

The following table lists those criteria and how the proposal responds.

No	Criteria	Response
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1	The land is unlikely to be required for more intensive urban purposes in the future due to physical constraints, such as slope, environmental characteristics or natural hazards.	<p>The site is unlikely to be required for more intensive urban purposes given the riparian corridor located on the rear of the site. A number of more intensive development scenarios were explored in the preparation of this proposal and were not considered to be realistic given the proximity and significance of this riparian corridor.</p> <p>A subdivision consistent with the proposal would involve an access handle being located on the western boundary of the existing lot. This would not inhibit the future rezoning of the neighbouring eastern lot for the same purpose.</p>
2	Less intensive development will result in a better management of the land	The proposal seeks to rezone the rear of the site, being that land identified to be the riparian corridor to E2 – Environmental Conservation. This zoning and the lots being reduced with result in improved land management practices, such as weeds.
3	The delivery of infrastructure required to service the development is physically and economically feasible	<p>Existing reticulated sewer and water is located within Castaway Close (<b>ATTACHMENT 12</b>).</p> <p>The additional lot will be serviced by these services. The details will be provided at the Development Application stage of the development process.</p>
4	The above criteria have been demonstrated through a local planning strategy endorsed by the NSW Department of Planning and Environment.	<p>Port Stephens Council developed the Rural Residential Policy on 13 June 2017. The Policy was initiated and finalised prior to the release of the Draft Greater Newcastle Metropolitan Plan.</p> <p>A Policy or Strategy at this LGA level has not, nor would it seek to identify sites on this scale for infill development. Rather, each site should be addressed on its own merits. As discussed, the objective of this proposal is to contribute to infill targets and improve environmental outcomes.</p>

**4. Is the proposal consistent with council's local strategy or other local strategic plan?**

a. Port Stephens Council, 2013, Integrated Plans

The Integrated Plans seek are a combination of the Community Strategic Plan, Delivery Program and Operational Plans. They seek to guide the operations of Council over a four-year term of Councillors.



The most relevant action from the Integrated Plans is '3.3.1.4 – Prepare and review strategic land use strategies, policies and plans'. This proposal is consistent with the approach of Council to consider planning proposals.

b. Port Stephens Council, 2011, Port Stephens Planning Strategy

The Port Stephens Planning Strategy (the Strategy) states that it is one of a suite of high level strategic documents produced by Port Stephens Council to guide the operations of the council, and the future growth and sustainability of the Local Government Area (p.1).

The Strategy identifies Anna Bay as a town centre. It identifies that the role of town centre is to contain shopping and business for the surrounding district, including health and professional services mixed with medium density housing (p. 68). The Strategy discusses the challenges and opportunities for Anna Bay to be as follows:

- Tourism gateway to the Stockton Sand Dunes and Surf Beaches;
- Anna Bay Strategy and Town Plan will direct development; and
- Surrounded by areas of environmental significance (p.98).

The Strategy states that further direction is provided by the Anna Bay Strategy and Town Plan (p.72). The Strategy, which was informed by Edge Land Planning, 2010, 'Rural Lands Study' does not provide a detailed consideration of rural residential housing. Rather, it reinforces the framework provided by the NSW Government, 2005, 'Lower Hunter Regional Strategy', being reference to the Sustainability Criteria (p. 85).

c. Port Stephens Council, 2008, Anna Bay Strategy and Town Plan

The Anna Bay Strategy and Town Plan (the Plan) states that its purpose is to guide the management of future population growth and the building of neighborhoods in Anna Bay (p.1). The site is outside of the study area and subsequent strategy map of this Plan (p.27).

## 5. Is the proposal consistent with applicable State Environmental Planning Policies?

The Pre-Lodgement Meeting Notes identified **(ATTACHMENT 9)** the following two State Environmental Planning Policies (SEPP)s to be relevant:

a. SEPP 44 – Koala Habitat Protection

The site plan **(FIGURE 3)** identifies the site to be a total of 5,993sqm. Under Clause 6 (c) of SEPP 44 – Koala Habitat Protection, the site is excluded from this SEPP because it is an area less than one hectare.

An assessment against the Port Stephens Comprehensive Koala Plan of Management (CKPoM) is provided in the Ecological Assessment **(ATTACHMENT 11)**. This Assessment identifies that the proposal meets these criteria for rezoning

requests (p.35) and that at targeted survey found no direct or indirect (e.g. scats and scratch marks on trees) evidence of *P. cinereus* (koala) on the site (p.14)

b. SEPP 55 – Remediation of Land

Under Clause 6 (1) of SEPP 55 – Remediation of land, a planning authority must consider whether the land is contaminated.

The proposal is not seeking to change the permissible uses, that is, the proposal is simply seeking to reduce the minimum lot size and place the land of ecological significance in an environmental zone.

However, if considered appropriate by Council and the gateway determination then the proponent is able to provide a Stage 1 – Preliminary Contamination Report post gateway determination.

**6. Is the proposal consistent with applicable Ministerial Directions (s117(2) Directions)?**

The Pre-Lodgement Meeting Notes identified **(ATTACHMENT 9)** eight s117 – Ministerial Directions under the *Environmental Planning and Assessment Act 1979* (the Act) to be the proposal. Each of these eight Directions is now addressed.

**a. Direction 2.1 - Environment Protection Zones**

Objective

The objective of this Direction is to protect and conserve environmentally sensitive areas. The site plan **(FIGURE 3)** and accompanying Ecological Assessment **(ATTACHMENT 11)** identifies the significance of the site.

What a planning authority must do if this direction applies

A proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. A proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).

Consistency

A proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the NSW Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that the provisions of the proposal that are inconsistent are:

- Justified by a strategy which:
  - Gives consideration to the objectives of this direction;

- Identifies the land which is the subject of the proposal (if the proposal relates to a particular site or sites); and
  - Is approved by the Director-General of the NSW Department of Planning and Environment, or
- Justified by a study prepared in support of the proposal, which gives consideration to the objectives of this direction, or
- In accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the NSW Department of Planning and Environment, which gives consideration to the objective of this direction, or
- Is of minor significance.

### Assessment

A potential Site Layout is provided as **(FIGURE 3)**.

The proposal is consistent with the Direction 2.1 – Environment Protection Zones (4) because the ‘proposal includes provisions to facilitate the protection and conservation of environmentally sensitive areas’.

The northern part of the site contains a watercourse, which is illustrated by the type of vegetation present (i.e. paperbarks). The proposal is seeking to improve environmental outcomes on the site by zoning 37m from northern boundary, being 1,467sqm of land E2 – Environmental Conservation. The objectives of this zone are as follows:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values, and
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

This proposed zoning is an improved outcome over the existing zone R5 – Large Lot Residential. This existing zoning is inconsistent with the approach taken in other parts of the Local Government Area that has been ‘strategically planned’. For example, riparian and habitat corridors in the Kings Hill and Medowie Release Areas are zoned environmental.

For the remaining part of the site, 1,265sqm of Blackbutt Forest may have to be removed to achieve the ‘potential building envelope’ and the associated Asset Protection Zones to the east and west of 11m. Vegetation removal is not required to the North and South because this land is already managed as an Inner Protection Area in accordance with the NSW RFS, 2012, ‘Standards for Asset Protection Zones’. This vegetation community is in a highly altered state because it contains a mown understory of buffalo grass.

Three hollow bearing trees may potentially have to be removed due to the siting of the access way and the building envelope. Council consent under Part B1 – Tree Management of the Port Stephens Development Control Plan 2014 is required for the removal of these trees. Under the DCP, ‘threatened by a



development consent' is a reason for removal and the Nest Box Technical Specification would allow for offset measures (i.e. nest boxes) to be placed on other existing or on newly planted trees throughout the site.

The proposal would not trigger the need for biodiversity offsets under the Biodiversity Conservation Act 2016 because the proposed clearing would not meet the 2,500sqm threshold for a site under 10,000sqm. A maximum of 1,265sqm of clearing would be required.

In short, it can be clearly seen that for the first time, environmentally sensitive flora and fauna in this locality will be protected by the appropriate zoning. The three hollow bearing trees that will potentially have to be removed can be off-set with a net-increase on the site. The proposal is therefore consistent with Direction 2.1 – Environment Protection Zones.

This is further reinforced by the Ecological Report that concludes that 'the baseline ecological investigations outlined therein are considered to provide a sufficient level of detail to justify a decision being made the gateway regarding the proposal' (p.40).

## **Direction 2.2 – Coastal Management**

### Objective

The objective of this direction is to protect and manage coastal areas.

### What a planning authority must do if this direction applies

A proposal must include provisions that give effect to and are consistent with the Coastal Management Act 2016, NSW Coastal Management Manual, Coastal Design Guidelines and Coastal Management Program.

A proposal must not rezone land which would enable increased development or more intensive land-use on land:

- Within a coastal vulnerability area identified by the State Environmental Planning Policy (Coastal Management) 2018;
- That has been identified as land effected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken:
  - By or on behalf of the relevant planning authority and the proposal authority, or
  - By or on behalf of a public authority and provided to the relevant planning authority and the proposal authority.

### Consistency

A proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the NSW Department of

Planning and Environment (or an officer of the Department nominated by the Director-General) that the provisions of the proposal that are inconsistent are:

- Justified by a study or strategy prepared in support of the proposal which gives consideration to the objective of this direction, or
- In accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the NSW Department of Planning and Environment, which gives consideration to the objective of this direction, or
- Is of minor significance.

#### Assessment

The proposal is consistent with this direction because it is not mapped as a coastal vulnerability area (**FIGURE 4**). It is also not land effected by a current or future coastal hazard in a LEP or DCP.

Council is in the process of development a coastal management plan, which will be informed by mapping provided by the State Government. The mapping provided by the State Government provides no indication that the site will be addressed in this Plan (**FIGURE 4**).

#### **b. Direction 2.3 – Heritage Conservation**

The existing LEP has been informed by previous Environmental Planning Instruments (EPs), heritage studies and archaeological studies.

Schedule 5 – Environmental Heritage of this LEP does not identify the site to contain any heritage item, be located within a heritage conservation area or be part of an Archaeological site.

#### **c. Direction 3.1 – Residential Zones**

##### Objective

The objectives of this direction are as follows:

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

##### What a planning authority must do if this direction applies

A proposal must include provisions that encourage the provision of housing that will:

- Broaden the choice of building types and locations available in the housing market,
- Make more efficient use of existing infrastructure and services, and
- Reduce the consumption of land for housing and associated urban development on the urban fringe, and
- Be of good design.

The proposal must, in relation to land to which this direction applies:

- Contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and

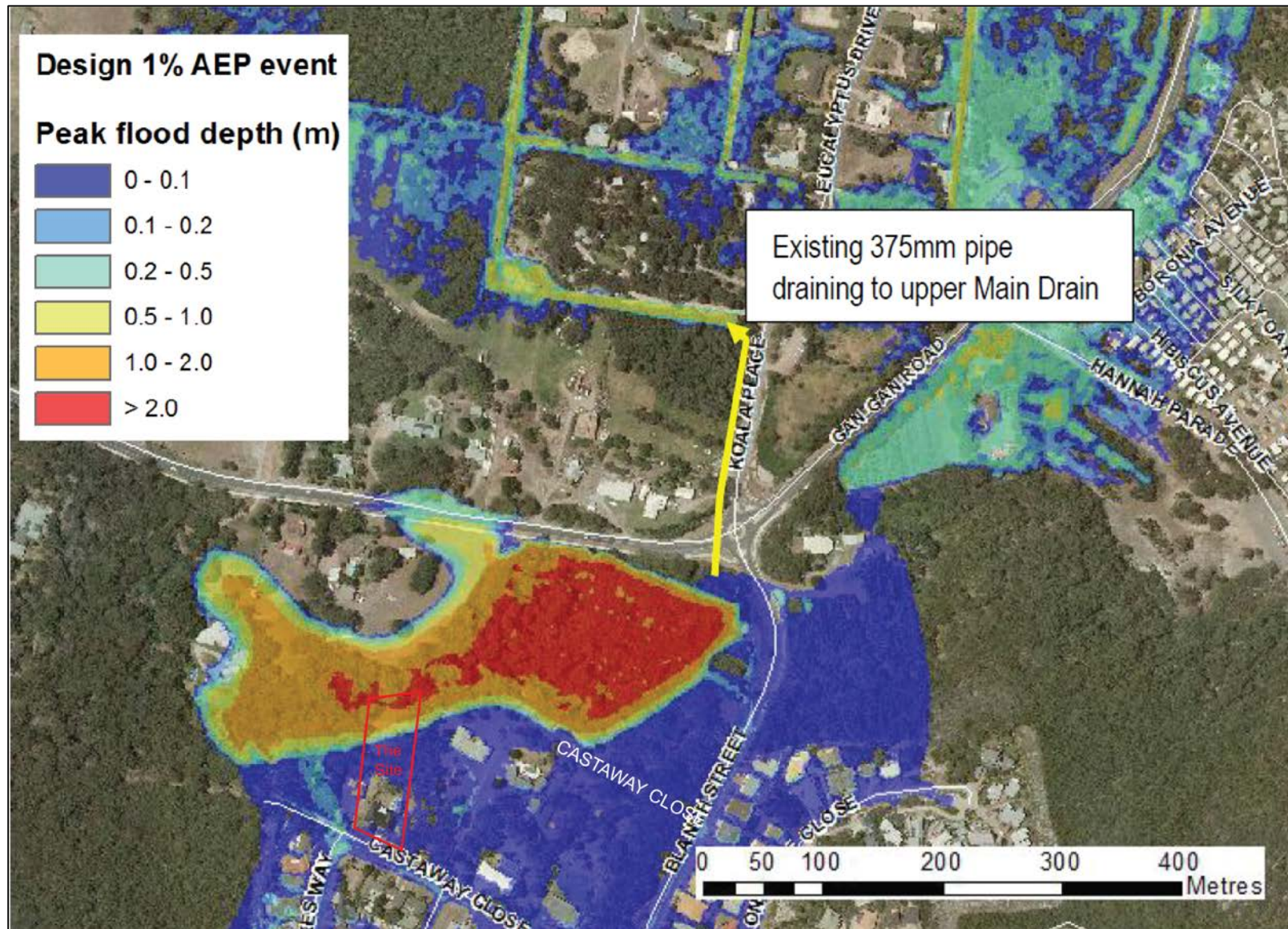


FIGURE 4 – Coastal Management Map





FIGURE 5 – Flood Prone Land Map



- Not contain provisions which will reduce the permissible residential density of land.

#### Consistency

A proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the NSW Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that the provisions of the proposal that are inconsistent are:

- Justified by a strategy which:
  - Gives consideration to the objectives of this direction;
  - Identifies the land which is the subject of the proposal (if the proposal relates to a particular site or sites); and
  - Is approved by the Director-General of the NSW Department of Planning and Environment, or
- Justified by a study prepared in support of the proposal, which gives consideration to the objectives of this direction, or
- In accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the NSW Department of Planning and Environment, which gives consideration to the objective of this direction, or
- Is of minor significance.

#### Assessment

This direction applies and the proposal is consistent with this direction because it seeks to make efficient use of existing infrastructure and services. The location of existing services (i.e. water and sewer) in Castaway Close is identified by **(ATTACHMENT 12)**. The proposal will contribute to the goal of infill housing, which is identified by the Draft Greater Newcastle Metropolitan Plan.

### **d. Direction 3.4 – Integrating Land Use and Transport**

#### Objective

The objective of this direction is to ensure that development achieves the following objectives:

- Improving access to housing, jobs and services by walking, cycling and public transport;
- Increasing the choice of available transport and reduce dependence on cars;
- Reducing travel demand, including the number of trips generated by the development and the distances travelled, especially by car;
- Supporting the efficient and viable operation of public transport services; and
- Providing for the efficient movement of freight.

#### What a planning authority must do if this direction applies

A proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and the Right Place for Business and Services – Planning Policy (DUAP 2001).

#### Consistency

A proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the NSW Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that the provisions of the proposal that are inconsistent are:

- Justified by a strategy which:
  - Gives consideration to the objectives of this direction;
  - Identifies the land which is the subject of the proposal (if the proposal relates to a particular site or sites); and
  - Is approved by the Director-General of the NSW Department of Planning and Environment, or
- Justified by a study prepared in support of the proposal, which gives consideration to the objectives of this direction, or
- In accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the NSW Department of Planning and Environment, which gives consideration to the objective of this direction, or
- Is of minor significance.

#### Assessment

This direction applies and the proposal is consistent with this direction because it seeks to encourage infill housing, which is 3.1km (5 minutes' drive) to the east of the Anna Bay town centre.

The housing that will result from the proposal reinforces the existing town centre and places downward pressure on further agricultural or environmental lands to be rezoned in order to meeting infill targets.

#### **e. Direction 4.3 – Flood Prone Land**

##### Objective

The objectives of this direction are:

- a. To ensure that development on flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005; and



- b. To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

What a planning authority must do if this direction applies

- A proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).
- A proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial Special Use or Special Purpose Zone.
- A proposal must not contain provisions that apply to the flood planning areas which:
  - a. Permit development in floodway areas,
  - b. Permit development that will result in significant flood impacts to other properties,
  - c. Permit a significant increase in the development of that land,
  - d. Are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or
  - e. Permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.
- A proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).
- For the purposes of the proposal, a relevant authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification or the proposed department from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).

Consistency

A proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Director general (or an officer of the Department nominated by the Director-general) that:

- The proposal is in accordance with the floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or
- The provisions of the proposal that are inconsistent are of minor significance.

### Assessment

This direction applies because the northern part of the site is identified as 'Flood Prone Land – Subject to Further Investigation' by Flood Hazard Map Sheet FHZ\_005C. The recently completed, Jacobs, 2017, Anna Bay and Tilligerry Creek Flood Study confirmed this land as flood prone.

A Flood Planning Certificate (**ATTACHMENT 13**) identifies the Flood Planning Level to be 4.7 metres AHD and that an area 53 metres from the northern boundary is available for a building envelope. This is reflected in (**FIGURE 3**).

This Layout identifies a Building Envelope that is above the Flood Prone Land as identified on the Flood Certificate. Samuel Tyler, Drainage and Flooding Engineer identified the location of the Flood Fringe from the boundaries on 23 April 2018. These distances correspond to the higher land, which the Building Envelope is identified. This approach demonstrates consistency with Direction 4.3 – Flood Prone Land because:

- The proposal will not permit development in floodway areas (i.e. the Building Envelope is situated above Flood Prone Land identified as 'Flood Fringe'),
- The proposal will not result in significant flood impacts on other properties (i.e. No filling is proposed of Flood Prone Lands and therefore no displacement of water),
- The proposal will not permit a significant increase in the development of the land (i.e. detached dual occupancies and secondary dwellings are currently permissible),
- The proposal will not increase requirements for government spending on flood mitigation measures (i.e. the proposal is above the Flood Planning Level).
- The proposal will not allow development that can be carried out without consent (i.e. a future subdivision and dwelling house is subject to development consent).

In short, the proposal is not located below the FPL, nor will it contribute to flooding.

### **c. Direction 4.4 – Planning for Bushfire Protection**

#### Objective

The objective 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 and to encourage sound management of bushfire prone areas.

#### What a planning authority must do if this direction applies

In the preparation of a proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation to satisfy section 57 of the Act.

A proposal must, where appropriate, comply with the provisions for rezoning proposals listed under the NSW Rural Fire Service, 2006, 'Planning for Bushfire Protection' (p.4).

#### Consistency

A proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the NSW Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the proposal.

#### Assessment

This direction applies because the site is identified as bushfire prone land.

The Bushfire Threat Assessment (**ATTACHMENT 10**) demonstrates consistency with the provisions for rezoning proposals listed under the NSW Rural Fire Service, 2006, 'Planning for Bushfire Protection' (p.4). It demonstrates that the site can achieve the minimum Asset Protection Zone requirements.

#### d. Direction 5.10 – Implementation of Regional Plans

#### Objective

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.

#### What a planning authority must do if this direction applies

Proposals must be consistent with a regional strategy released by the Minister for Planning.

#### Consistency

A proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the NSW Department of

Planning and Environment (or an officer of the Department nominated by the Director-General), that the extent of inconstancy with the regional strategy:

- Is of minor significance; and
- The proposal achieves the overall intent of the regional strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes and actions.

#### Assessment

This direction applies because the site is identified in the area covered by the NSW Department of Planning, 2016, Hunter Regional Strategy and the Draft Greater Newcastle Metropolitan Plan. Consistency with these Plans with a particular emphasis on the role of Anna Bay, Infill development and rural residential housing is discussed throughout this proposal.

### **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?**

The proposal seeks to improve environmental outcomes by proposing an environmental zone. The details of any potential impacts are addressed in the Ecological Assessment (ATTACHMENT 11).

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

The likely environmental effects have been discussed through either addressing consistency with the relevant SEPPs or Ministerial Directions, except for water management. Water management is a significant consideration in Port Stephens given its location within a number of drinking water catchments.

The site is not located within a Drinking Water Catchment as identified by Hunter Water. The site is located to the north of the Groundwater (Sandbed) and to the south of the Tomago Sandbeds Catchments. Consultation with Hunter Water is not required, but rather, will be triggered at the development application stage.

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

The proposal has the potential to create a dwelling entitlement and place land within an environmental protection zone. The provision of housing has positive social (i.e. place downward pressure on affordability) and economic effects (i.e. housing construction has a high value chain for job creation). Both effects are considered to be minor given the minor nature of the proposal.

### **Section D – State and Commonwealth interests**

#### 10. Is there adequate public infrastructure for the proposal?

Adequate public infrastructure is available. The location of existing services (i.e. water and sewer) in Castaway Close is identified by **(ATTACHMENT 13)**. A number of pocket parks and pedestrian tracks are located within walking distance. Anna Bay Public School is located 2.6km (3 minutes' drive) west of the site.

A Traffic Report will be provided post-gateway. The proposal will result in an additional lot, which will provide an additional dwelling. Traffic impacts in accordance with the NSW Roads and Maritime Services, N/A, 'Guide to Traffic Generating Development' is expected to be on average 8 movements per day.

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

It is proposed that the following government agencies be consulted:

- NSW Office of Environment and Heritage; and
- NSW Rural Fire Service.

## PART 4 – MAPPING

The following maps accompany this proposal as attachments:

- Existing LEP Land Zoning Map (LZN\_005C\_020) **(ATTACHMENT 2)**;
- Proposed Land Zoning Map **(ATTACHMENT 3)**;
- Existing LEP Lot Size Map (LSZ\_005C\_020) **(ATTACHMENT 4)**; and
- Proposed Minimum Lot Size Map **(ATTACHMENT 5)**.

## PART 5 – DETAILS OF COMMUNITY CONSULTATION

Community consultation will be undertaken in accordance with a gateway determination. It is suggested that the proposal be exhibited for 14 days, given that it is an item of minor significance. Adjoining landowners will be notified in writing.

Notice of the exhibition period will be placed in the Port Stephens Examiner and the exhibition material will be available on Council's website and during normal business hours at Council's Administration Building.

## PART 6 – PROJECT TIMELINE

The indicative timeframe for the proposal is outlined by the following table.

	April	May	June	July	Aug	Sep	Oct
Lodgement							
Council Assessment							
Council Report							



Gateway Determination							
Public Exhibition							
Council Report							
Parliamentary Counsel							

## REFERENCES

Edge Land Planning, 2010, Rural Lands Study'

Firebird EcoSultants, 16 April 2018, Bushfire Threat Assessment – 25 Castaway Close

Firebird EcoSultants, 16 April 2018, Ecological – 25 Castaway Close

Perception Planning, 29 September 2017, Pre-Lodgement Meeting Request

Port Stephens Council, 2008, Anna Bay Strategy and Town Plan

Port Stephens Council, 19 October 2017, Pre-Lodgement Meeting Notes

Port Stephens Council, 2013, Integrated Plans

Port Stephens Council, 2011, Port Stephens Planning Strategy

NSW Government, 2017, Draft Greater Newcastle Metropolitan Plan

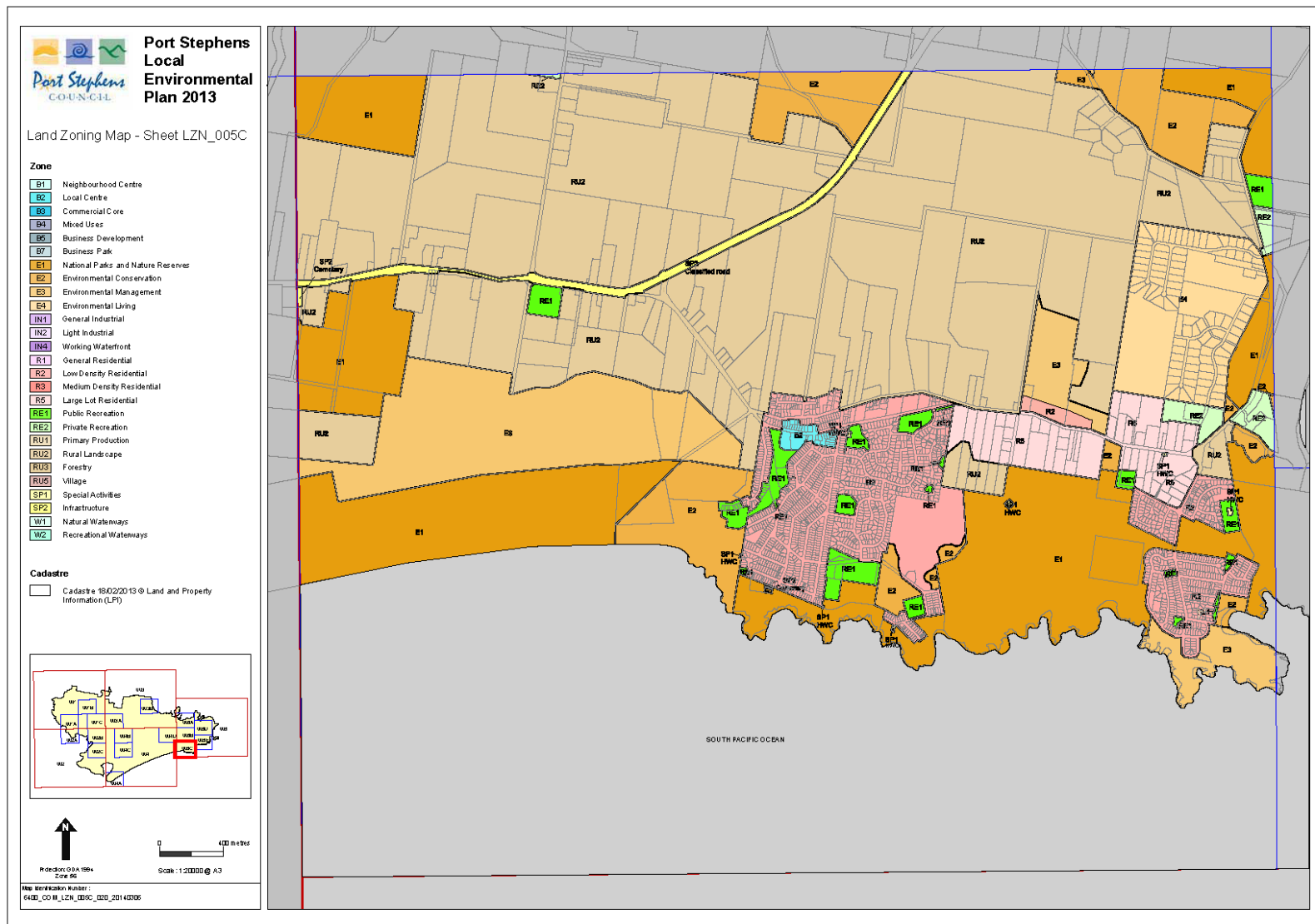
NSW Government, 2016, Hunter Regional Plan

NSW Government, 2005, Lower Hunter Regional Strategy

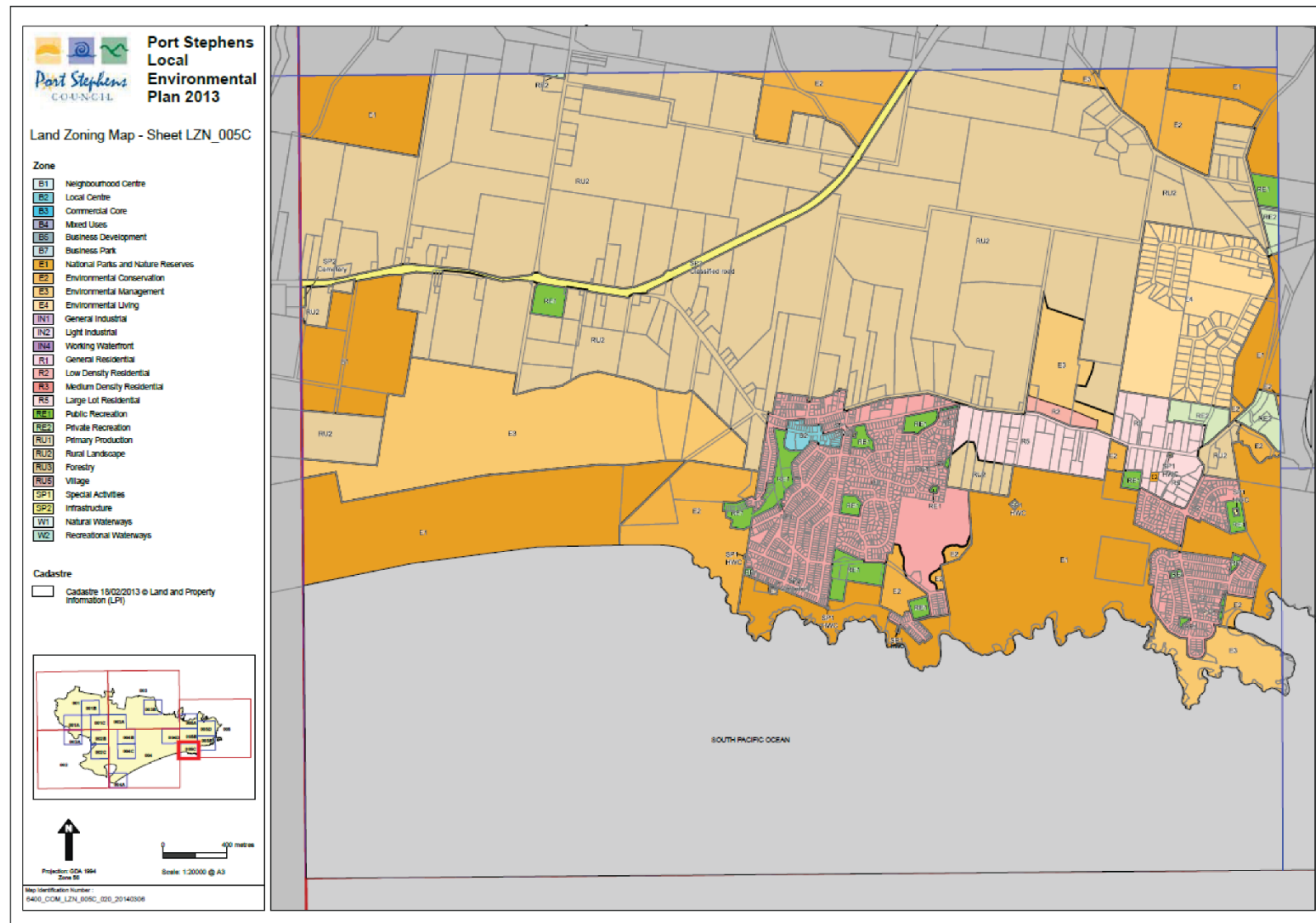
## ATTACHMENT 1 – SUPPORTING REPORTS TO BE PROVIDED

Supporting Reports to be provided pre-gateway		
No	Study	Comment
1	Bushfire Threat Assessment	Provided to satisfy the NSW RFS and relevant s117 Direction.
2	Ecological Assessment	Provided to satisfy the OEH and relevant s117 Direction.
Supporting Reports to be provided post-gateway		
No	Study	Comment
3	Preliminary Contamination Report	Required to address SEPP 50.
4	Flood and Drainage Report	Required to satisfy Council, the OEH and relevant s117 Direction.
5	Traffic Report	Required to satisfy Council and relevant s117 Direction.
6	Site Survey	Required to inform zone, minimum lot size, flood planning level and asset protection zone boundaries.

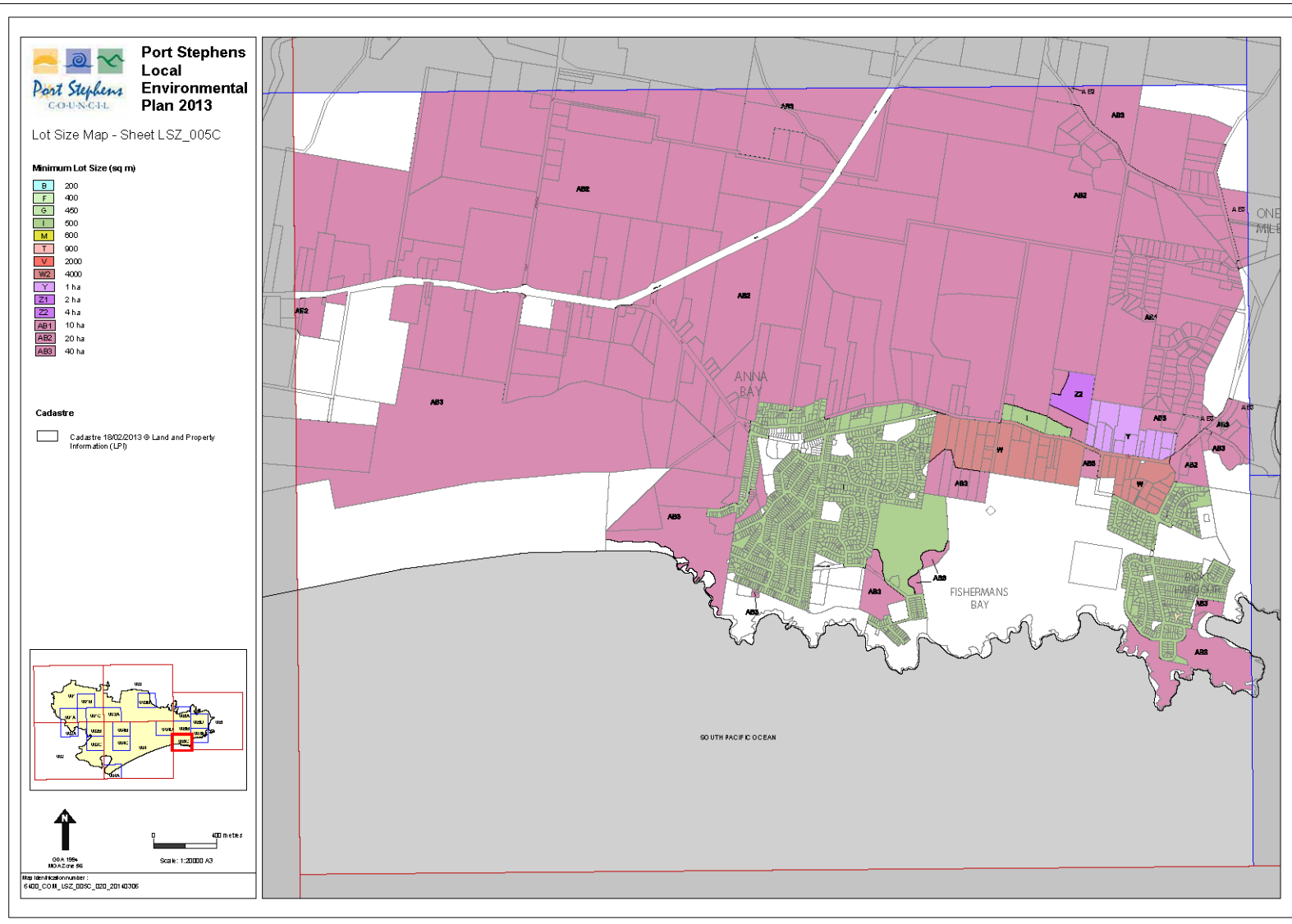
## ATTACHMENT 2 - EXISTING LAND-USE ZONE MAP



## ATTACHMENT 3 - PROPOSED LAND-USE ZONE MAP

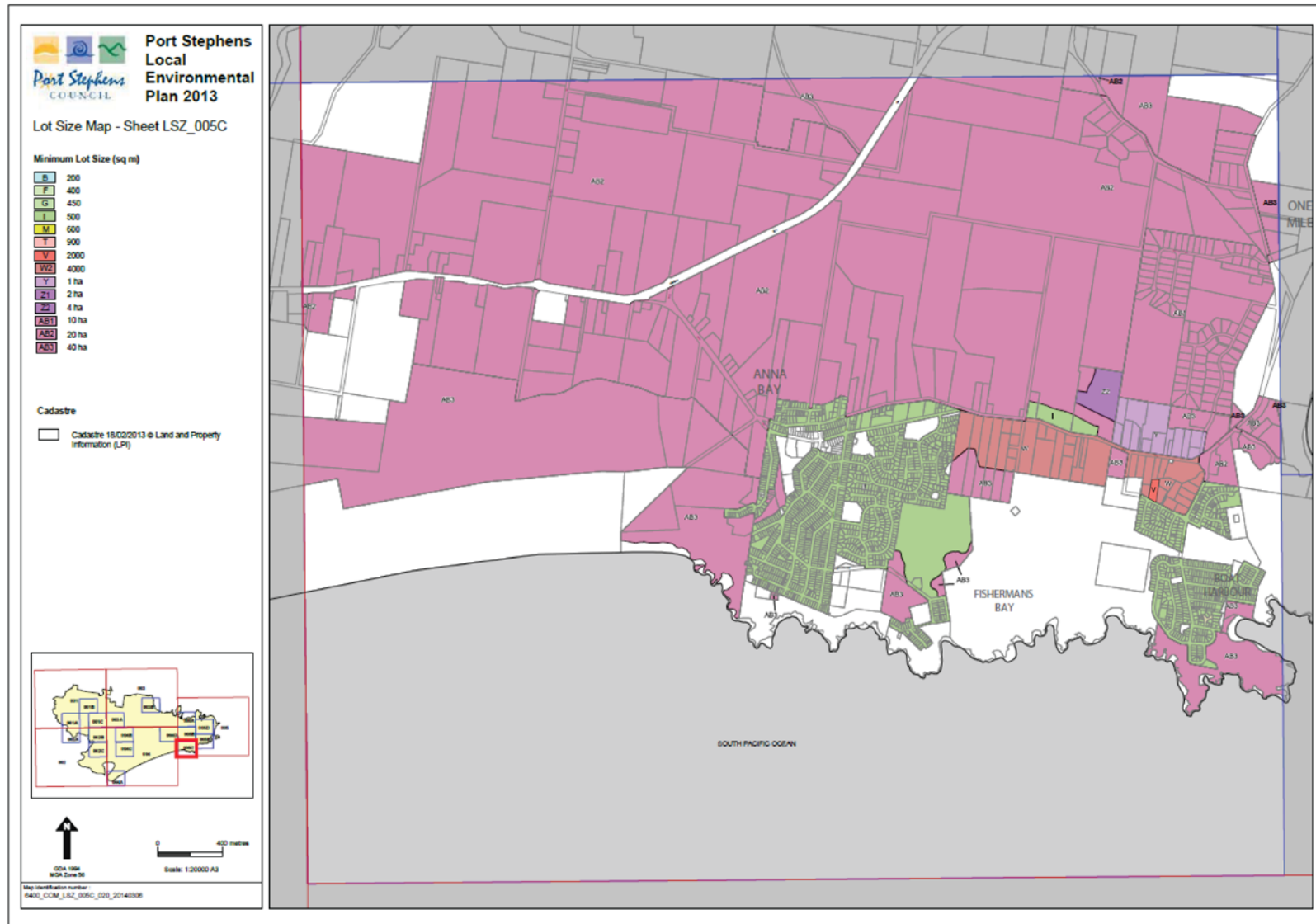


## ATTACHMENT 4 – EXISTING MINIMUM LOT SIZE MAP





## ATTACHMENT 5 – PROPOSED MINIMUM LOT SIZE MAP



## ATTACHMENT 6 – SITE PHOTOS

Photo 1 – Photo of existing Property



Photo 2 – Photo of Castaway Close





Photo 3 - Photo of Northern Boundary (Future Access to Future Dwelling)



Photo 4 - Photo of Northern Boundary (Future Access to Future Dwelling)

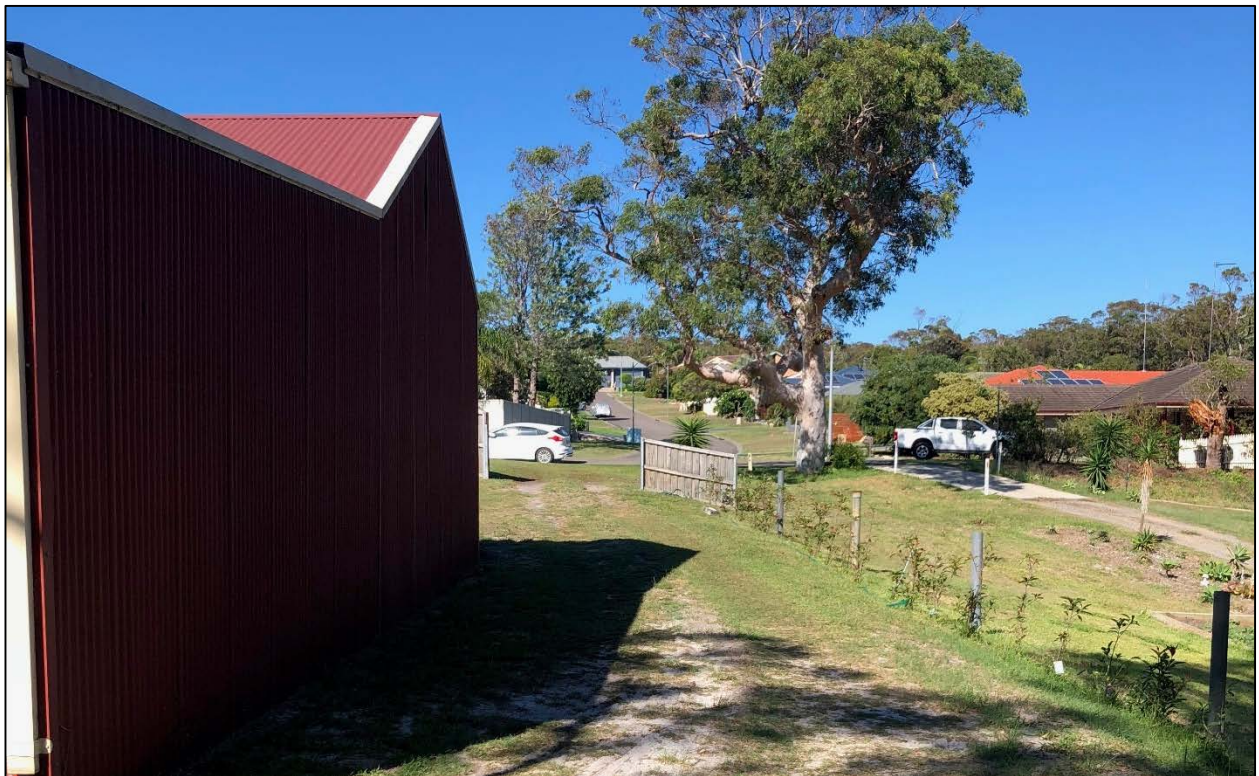




Photo 5 – Photo of Northern Part of the existing Lot



Photo 6 – Photo of Northern Part of the site as Coastal Sand Swamp Forest.

