

ATTACHMENTS UNDER SEPARATE
COVER

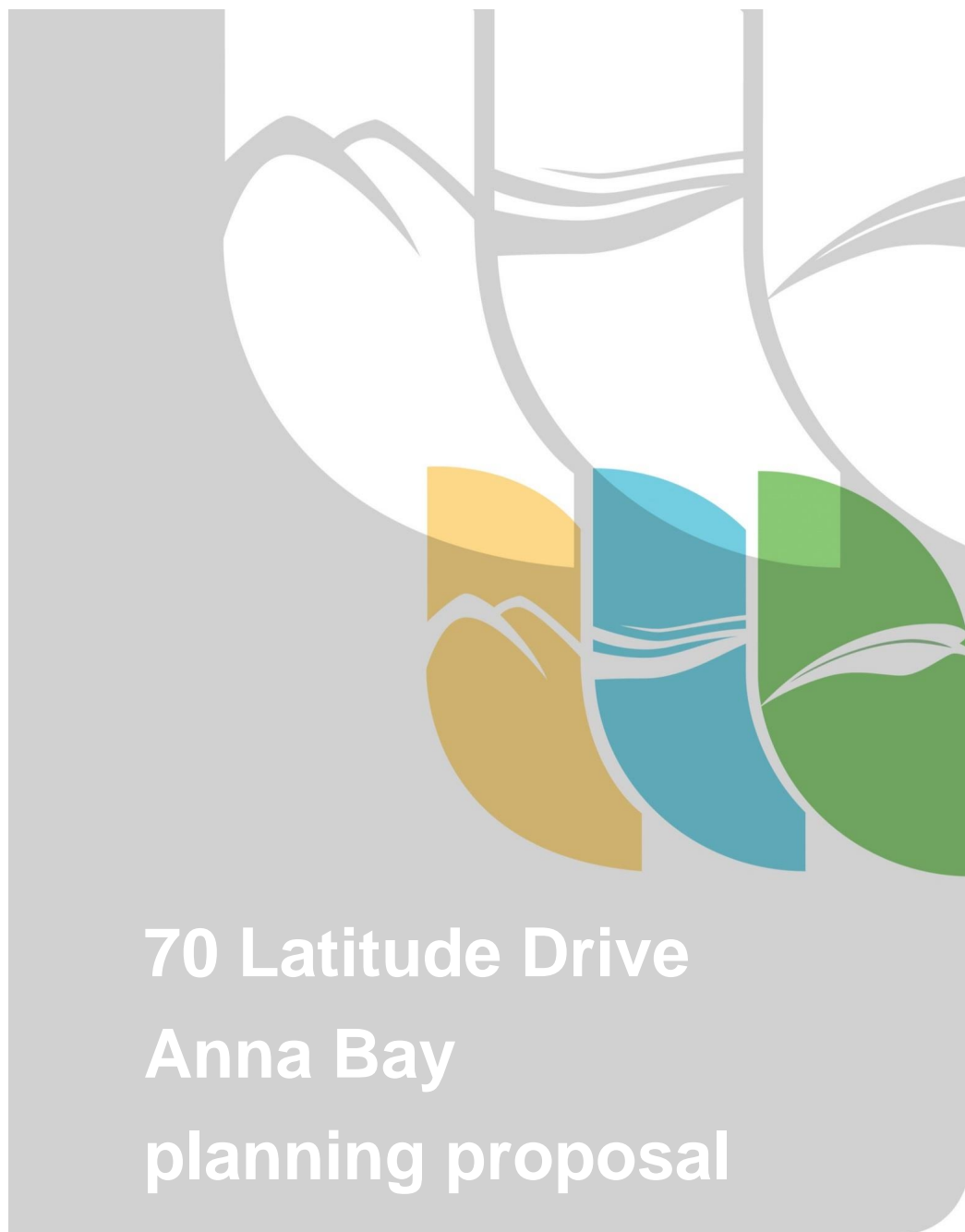
ORDINARY COUNCIL MEETING
12 APRIL 2022



PORT STEPHENS
C O U N C I L

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**Proposed amendment to Port Stephens Local
Environmental Plan (LEP) 2013**

Amend the LEP to permit 'caravan park' on Lots 2 & 4 DP 398888, Lot 2 DP 1204319, Lot 1 DP 1225542 and Lot 25 DP 852410 at 70, 70A, 70B, 70C Latitude Drive and 4473 Nelson Bay Road, Anna Bay. Amending the Land Zoning Map – from RU2 Rural Landscape to part RU2 Rural Landscape and part C2 Environmental Conservation for lot 25 DP 852410.



ITEM 2 - ATTACHMENT 2 PLANNING PROPOSAL.

VERSION CONTROL

Version	Date	Author	Details
1	Oct 2018	ML	1. Planning proposal (PP) as submitted with Council
2	June 2019	ML	1. Response to Council's Request for Information, including: <ul style="list-style-type: none"> Detailed information regarding mechanisms to achieve intended outcomes. Justification of strategic merit and address any inconsistencies with Hunter Regional Plan Address principles that guide medium density development in the Port Stephens Planning Strategy. Address the SEPP (Rural Lands) 2008. Address Ministerial Direction 1.5 Rural Lands. Address Ministerial Direction 3.1 Residential Zones. Address Ministerial Direction 3.2 Caravan Parks and Manufactured Home Estates. Address Ministerial Direction 3.4 Integrating Land Use and Transport.
3	Oct 2019	RK	1. Incorporated PP into Council Template. 2. Included Request for Information into PP. 3. Included strategic and site-specific merit of the PP. 4. Included Part 5 and Part 6. 5. General review and inclusion of additional information (SEPPs, Ministerial Directions, Strategic Plans).
4	March 2020	RK ML	1. Updates in response to DPIE request for information (December 2019): <ul style="list-style-type: none"> Updated Part 1 – Objectives or intended outcomes. Updated Q2 outlining the best means of achieving the intended outcomes. Included reference to most current supporting studies available (throughout). Included reference to preliminary studies relating to flooding and bushfire (Ministerial Directions 4.3 and 4.4). Included information about availability of sewer services for future development (Section B – Site Specific Merit of the proposal (3), and Attachment Ten). Removed SEPP36. Updated various 9.1 Ministerial Directions (1.2; 1.5; 3.1; 3.4; 4.1; 4.3; 5.10 and 6.3) Updated Part 6 - Project timeline. 2. Additional amendments:

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			<ul style="list-style-type: none"> Included draft Port Stephens Local Strategic Planning Statement and draft Port Stephens Local Housing Strategy (Q4).
5.	June 2020 – Nov 2021	RK ML	<p>Updates in response to conditions of Gateway determination (11 May 2020):</p> <ol style="list-style-type: none"> Updated all relevant sections with the findings of the various technical studies undertaken after Gateway. Table 4 – State Environmental Planning Policies: <ul style="list-style-type: none"> Updated relevant policies, including SEPP55 (clause 6). Removed all references to SEPP Rural Lands as this SEPP is now repealed. Table 5 – Ministerial Directions: <ul style="list-style-type: none"> Updated justification for inconsistency with Direction 1.2 Rural Zones, being of minor significance, and approved by the Minister’s delegate. Included Direction 1.3 Mining, Petroleum Production and Extractive Industries. Updated justification for inconsistency with Direction 1.5 Rural Lands, being of minor significance, and approved by the Minister’s delegate. Included and addressed Direction 2.1 Environmental Protection Zones. Included and addressed Direction 2.6 Remediation of Contaminated Sites. Included a copy of the vegetation management plan prepared for the approved caravan park. <p>Additional updates to the planning proposal:</p> <ul style="list-style-type: none"> Removed the intent to seek a future subdivision of Lot 25 DP 852410 into 2 lots (updates made throughout the planning proposal document). Updated Part 5 Community Consultation with results of engagement with public authorities/agencies. Updated Strategies listed under Q4 that have since been adopted. Updated and introduced new maps. Updated and included new technical studies undertaken after Gateway determination was issued.
6.	Jan 2022	RK	<p>Updates made after public exhibition and agency consultation during Nov and Dec 2021):</p>

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			<ol style="list-style-type: none"> 1. Reflect changes to the Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 (nsw.gov.au): <ul style="list-style-type: none"> • References to the E2 Environmental Conservation zone were changed to C2 Environmental Conservation zone (renaming only). • Maps were updated to change E2 into C2 zone. 2. Included explanation about the status of the Draft Concept Layout plan being subject to future development approval and not part of this planning proposal; for reference, technical studies, and discussion purpose only. 3. Updated title of figure 9 to better reflect that this 'Vegetation Management Plan' is a concept only and finalisation will be considered at future development application stage. 4. Updated Part 5 Community Consultation with activities undertaken for public exhibition and public authority/agency referrals in accordance with the Gateway determination. 5. Updated Part 6 Project timeline.
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ML Marion Lourens – ADW Johnson PTY LTD / Focus Town Planning
RK Rogé Kempe – Port Stephens Council.

Note:

The following applies to this planning proposal and all attachments:

Renaming of Environmental Zones

'As of 1 December 2021, a reference to an Environment Protection zone E1, E2, E3 or E4 in a document should be taken to be a reference to a Conservation zone C1, C2, C3 or C4. For further information please see [Standard Instrument \(Local Environmental Plans\) Amendment \(Land Use Zones\) Order 2021 \(nsw.gov.au\)](#)'

Current name	New name
Zone E1 – National Parks and Nature Reserves	Zone C1 – National Parks and Nature Reserves
Zone E2 – Environmental Conservation	Zone C2 – Environmental Conservation
Zone E3 – Environmental Management	Zone C3 – Environmental Management
Zone E4 – Environmental Living	Zone C4 – Environmental Living

ITEM 2 - ATTACHMENT 2 PLANNING PROPOSAL.**FILE NUMBERS**

Council: 58-2018-25-1

Department: PP_2019_PORTS_006_00

SUMMARY

- Subject land:** The site comprises of the following lots:
- Lot 2 DP 398888 at 70 Latitude Drive, Anna Bay
 - Lot 4 DP 398888 at 70A Latitude Drive, Anna Bay
 - Lot 2 DP 1204319 at 70B Latitude Drive, Anna Bay
 - Lot 1 DP 1225542 at 70C Latitude Drive, Anna Bay
 - Lot 25 DP 852410 at 4473 Nelson Bay Road, Anna Bay
- Proponent:** Ingenia Communities Pty Ltd
C/- Focus Town Planning
PO Box 2017, Wallsend South NSW 2287
- Proposed changes:** Amend the Port Stephens Local Environmental Plan 2013 to permit 'caravan park' on Lots 2 & 4 DP 398888, Lot 2 DP 1204319, Lot 1 DP 1225542 and Lot 25 DP 852410 at 70, 70A, 70B, 70C Latitude Drive and 4473 Nelson Bay Road, Anna Bay.
- Amend the Land Zoning Map – from RU2 Rural Landscape to part RU2 Rural Landscape and part C2 Environmental Conservation for lot 25 DP 852410.
- Area of land:** The site has an area of approximately 43ha.
- Lot yield:** Lot 25 DP 852410 would have capacity for approximately 170 sites on which manufactured homes could be installed, and 2 short term sites (subject to future development application).

ITEM 2 - ATTACHMENT 2 PLANNING PROPOSAL.**BACKGROUND**

The planning proposal seeks to amend the Port Stephens Local Environmental Plan (LEP) 2013 to permit a 'caravan park' on Lots 2 & 4 DP 398888, Lot 2 DP 1204319, Lot 1 DP 1225542 and Lot 25 DP 852410 at 70, 70A, 70B, 70C Latitude Drive and 4473 Nelson Bay Road, Anna Bay.

In addition, the planning proposal seeks to amend the Land Zoning Map – from RU2 Rural Landscape to part RU2 Rural Landscape and part C2 Environmental Conservation for lot 25 DP 852410.

The planning proposal will regularise the existing use on the part of the site where an approved caravan park is located. The approved caravan park has 270 sites on which manufactured homes are currently located, or are being installed, and it is presently operating as a seniors living lifestyle resort. The current zoning of the site no longer permits this use and the development operates under existing use rights.

The planning proposal seeks to facilitate the expansion of this use to part of an adjoining parcel, Lot 25 DP852410. Subject to development consent and further approvals, an additional 170 manufactured homes and 2 short term sites could potentially be accommodated on Lot 25 DP852410.

Any expansion of the existing caravan park would be subject to future development applications and assessment.

As identified in this planning proposal, the following investigations have been provided (**ATTACHED**):

- Draft Concept Layout Plan (ADW Johnson; Nov 2021)
- Stormwater Strategy (ADW Johnson; June 2021)
- Preliminary Site Investigation (Contamination) and Preliminary Acid Sulfate Soil Assessment (Douglas Partners; July 2021)
- Geotechnical Investigation (Douglas Partners; June 2021)
- Biodiversity Assessment (MJD Environmental; Aug 2021)
- Bushfire Assessment (MJD Environmental; July 2021)
- Aboriginal Cultural Heritage Assessment (McArdle Cultural Heritage; Oct 2021)
- Traffic and Parking Assessment (Intersect Traffic; June 2021).
- Site Survey Plan (ADW Johnson; Sept 2020)

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SITE

Size and Configuration

The site comprises the following lots:

Lot	Address	Lot Size
Lot 2 DP 398888	70 Latitude Drive, Anna Bay	approx. 10.3ha
Lot 4 DP 398888	70A Latitude Drive, Anna Bay	approx. 18.8ha
Lot 2 DP 1204319	70B Latitude Drive, Anna Bay	approx. 0.5ha
Lot 1 DP 1225542	70C Latitude Drive, Anna Bay	approx. 0.7ha
Lot 25 DP 852410	4473 Nelson Bay Road, Anna Bay	approx. 13.2ha
Total site area		Approx. 43ha

The site is shown as follows with the existing approved caravan park to the west and Nelson Bay Road to the east:



Figure 1. Site Locality Map (land the subject of the planning proposal is shown in Blue outline)

Source: Nearmap (<https://www.nearmap.com.au/>) – accessed 17/11/2021

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LOCATION

The site (**Figure 2**) is located on the southern side of Nelson Bay Road in Anna Bay and sits approximately 2.5km west of One Mile and 6.5 km south-west of Nelson Bay. Anna Bay town centre is located approximately 3.2km south of the subject site.

The site is accessed off Latitude Drive which extends along the northern boundary of Lot 25 DP 852410 and through Lot 1 DP 1225542. Latitude Drive intersects with Nelson Bay Road to the west of the subject site.

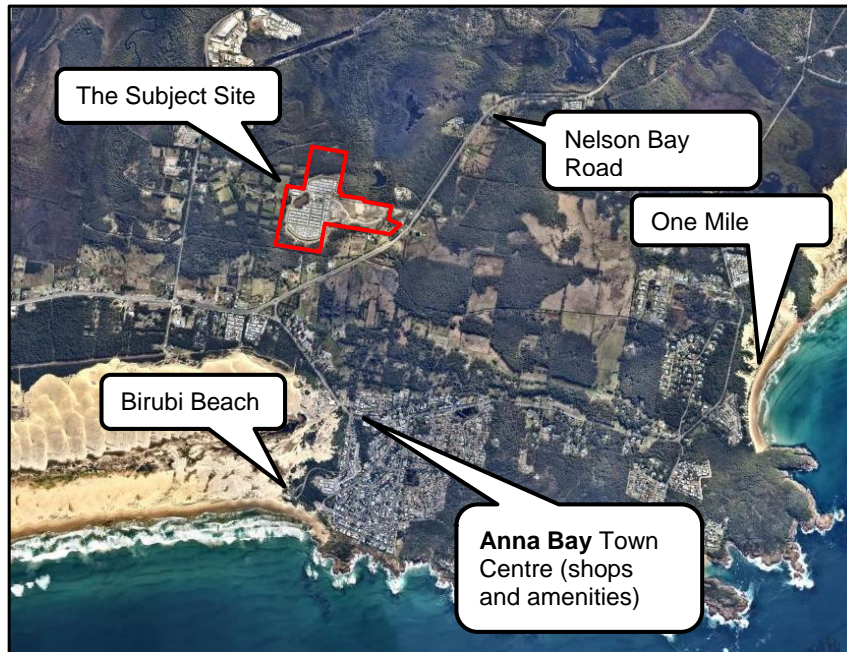


Figure 2. Site locality

Source: Nearmap (<https://www.nearmap.com.au/>) – accessed 27/08/2021

ADJOINING LAND USES

The existing uses of land in the vicinity of the site include a limited number of single dwellings, dual occupancies, rural land, a trotting track, a golf course with a driving range, and vegetated sites.

Land to the north of the subject site consists of vacant vegetated land zoned C2 Environmental Conservation pursuant to the LEP. All other land to the south, east and west is zoned RU2 Rural Landscape pursuant to the LEP.

Directly adjoining the site to the east and south is land used for rural residential purposes, consisting of dwellings, dual occupancies and associated outbuildings on large lots. To the west of the subject site (at the rear of the rural residential properties) is land which contains cleared and vegetated areas and areas used for rural industry.

HISTORY OF LAND USE

The site was mined for mineral sands in the early 1970s. Sand mining activities generally involved vegetation stripping, the mining of sand by dredging in a moving pond, and processing of the dredged slurry. These activities have resulted in the land being heavily disturbed. The approximate extent of the sandmining activities is identified **Figure 3**.



Figure 3. Approximate extent of sand mined area, with subject Lot 25 DP 852410 in red
Source: Douglas Partners, 2021

On 13 July 2010, Council approved a development application (DA16-2009-257-1) for a caravan park on the land now known as 70, 70A, 70B and 70C Latitude Drive, Anna Bay. At that time the land was zoned 1(a) Rural Agriculture zone and caravan parks were permissible with consent (under the Port Stephens Local Environmental Plan 2000).

The Local Government Act 1993 (NSW) and Local Government (Manufactured Homes Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 (NSW) permits the installation of moveable dwellings in approved caravan parks, including manufactured homes, without further Council approval. The consent has been modified over time and the site currently has 270 caravan sites on which manufactured homes are being installed.

LEP 2013 zoned the land RU2 Rural Landscape, which does not permit caravan parks. The development on the site relies on the existing consent to operate and is commonly known as Latitude One Lifestyle Village.

Development consent (DA 16/2017/282) was granted on 07/07/2018 for earthworks within Lot 25 DP 852410. The development involved sand extraction in the north-western corner of the lot to be used for works associated with the construction of the approved caravan park on Lots 2 and 4 DP 398888, Lot 2 DP 1204319, and Lot 1 DP 1225542.

CURRENT USE AND EXISTING IMPROVEMENTS

Approved development on Lots 2 and 4 DP 398888; Lot 2 DP 1204319 and Lot 1 DP 1225542 consists of a caravan park with 270 sites, on which manufactured homes have been installed and occupied. Some parts of these lots are not affected by works associated with the approved caravan park and comprise vegetated land.

This development (DA16-2009-257-1) was approved under a historic zoning and currently operates relying on that approval and existing use rights.

Lot 25 DP 852410 is not included in the land subject to the caravan park approval. A single storey dwelling house is located toward the eastern boundary of the lot, adjacent to the site's Nelson Bay Road frontage. The rest of this lot is predominately vacant, comprising areas of grassland and scattered vegetation.

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PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The planning proposal seeks to achieve the following outcomes:

- To regularise the existing approved caravan park use of Lots 2 and 4 DP 398888, Lot 2 DP 1204319 and Lot 1 DP 1225542 as a caravan park.
- Enable the expansion of the existing caravan park use to part of the adjoining land at Lot 25 DP852410 at 4473 Nelson Bay Road in order to increase housing diversity and provide for population growth within the Port Stephens LGA.
- To set aside land for establishing and restoring a koala habitat corridor over Lot 25 DP852410.
- To provide suitable planning controls that facilitate the proposed development.

The proponent submitted a Draft Concept Layout Plan (subject to future development approval) for the proposed future development on Lot 25 DP852410. **Figure 4** shows the relationship with the existing approved development on the adjacent lots (refer **Attachment Two**).

Note: The Draft Concept Layout Plan is subject to future development approval and not part of this planning proposal; for reference, technical studies, and discussion purpose only.

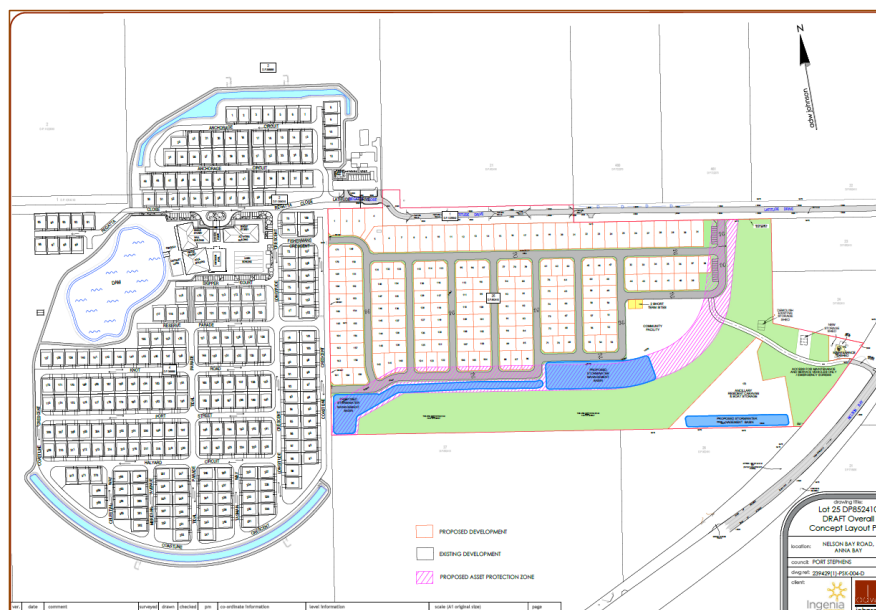


Figure 4. Draft Concept Layout Plan for lot 25 DP852410 in relation to the approved caravan park development (Lots 2 & 4, Lot 1 and Lot 2).

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PART 2 – EXPLANATION OF PROVISIONS

The outcomes of this planning proposal will be achieved by the following amendments to the *Port Stephens Local Environmental Plan 2013* (LEP):

- Amend Schedule 1 Additional permitted uses of the LEP by inserting the following additional clause (subject to drafting by NSW Parliamentary Counsel):

Schedule 1 – Additional permitted uses

10 Use of certain land at Anna Bay

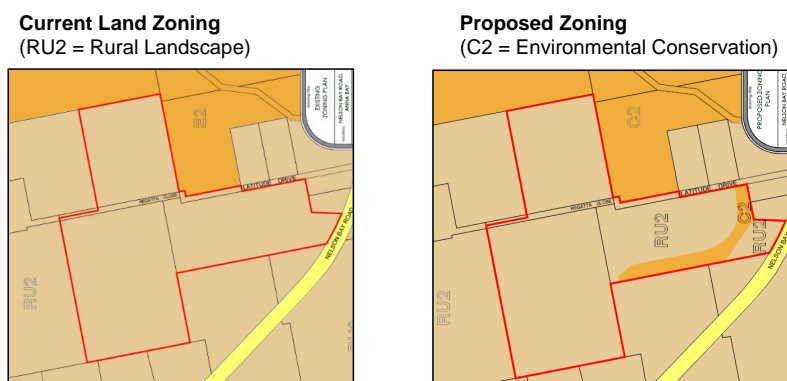
- (1) This clause applies to the following land –
 - (a) 70 Latitude Drive, Anna Bay, being Lot 2, DP 398888
 - (b) 70A Latitude Drive, Anna Bay, being Lot 4, DP 398888
 - (c) 70B Latitude Drive, Anna Bay, being Lot 2, DP 1204319
 - (d) 70C Latitude Drive, Anna Bay, being Lot 1, DP 1225542
 - (e) 4473 Nelson Bay Road, Anna Bay, being Lot 25, DP 852410
- (2) The following development is permitted with development consent—
 - (a) a caravan park on Lots 2 and 4 DP 398888; Lot 2 DP 1204319; Lot 1 DP 1225542; and Lot 25 DP 852410.

The LEP contains the following definition for this use:

caravan park means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

- Amend the Additional Permitted Uses Map from no Additional Permitted Uses to include Additional Permitted Uses ‘caravan park’ over part of the subject land.
- Amend the Land Zoning Map from RU2 Rural Landscape to part RU2 Rural Landscape and part C2 Environmental Conservation for lot 25 DP 852410.

Figure 5 indicates the proposed changes to the Land Zoning Map and Additional Permitted Uses Map (also refer to **Attachment 1**).



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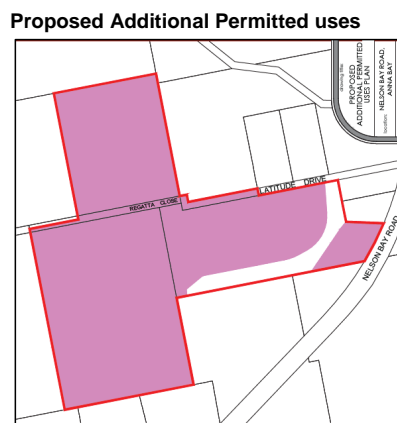


Figure 5. Proposed amendments to Port Stephens LEP mapping

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PART 3 – JUSTIFICATION**Section A – Need for the planning proposal****Q1. Is the planning proposal a result of any strategic study or report?**

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

The Hunter Regional Plan (HRP) is applicable to the area, but the subject site is not located in an identified or emerging growth area identified in the HRP. The land is not located in a centre and some external services such as shops for day-to-day needs are a short drive away in nearby Anna Bay, Salamander Bay, and Nelson Bay.

However, the planning proposal is generally consistent with the visions and goals of the HRP. The proposal will make efficient use of the land, as it provides housing choice (including for seniors) with easy access to a range of community facilities and services within a lifestyle village setting.

The planning proposal will enable a range of outcomes of the Hunter Regional Plan 2036 which sets out principles for settlements.

It is well recognised that caravan parks can be an important provider of affordable tourist and/or residential accommodation. The HRP sets regionally focused goals including the establishment of thriving communities and greater housing choice. It identifies that by 2036, 95% of people will live within 30 minutes of a strategic centre that has shops, dining, entertainment and services. Nelson Bay's identified on the Hunter 2036 Map as a Strategic Centre and is located approximately 8 minutes' drive from the subject land.

The planning proposal is consistent with the HRP and will contribute to the following strategic Directions and Actions.

HRP - Direction 6: Grow the Economy of Mid Coast and Port Stephens

Actions	
6.3 Enable economic diversity and new tourism opportunities that focus on reducing the impacts of the seasonal nature of tourism and its effect on local economies.	The proposed increase in residential population in close proximity to Nelson Bay, Anna Bay and other surrounding tourist destinations will provide ongoing patronage to local retail and activity facilities during and outside the peak holiday period, reducing the seasonal effects of tourism on the local economy.
6.5 Plan for and provide infrastructure and facilities that support the ageing population.	The planning proposal would facilitate the expansion of an approved caravan park facility for long term residential occupation that offers affordable accommodation options supported by high quality community facilities.

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	Further, the expansion would maximise use of existing community facilities within the existing development and provide the ability to expand on the level of service to be offered at the lifestyle village. For example, additional recreation facilities such as tennis courts, an additional outdoor pool, an additional community garden and a secondary club house could form part of the expanded development footprint, with details to be finalised at the development application stage.
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HRP - Direction 21: Create a Compact Settlement

Actions	
Whilst the site is not identified as an emerging growth area, the planning proposal will allow for the further delivery of land for housing quickly and cost-effectively whilst making use of established infrastructure that supports the existing (non-touristic) caravan park development on the site.	
Consistency with the identified actions is addressed below.	
21.1 Promote development that respects the landscape attributes and the character of the metropolitan areas, towns and villages.	The site is setback from Nelson Bay Road and would be appropriately screened to respect the landscape area of the surrounding locality.
21.2 Focus development to create compact settlements in locations with established services and infrastructure, including the Maitland Corridor growth area; Newcastle– Lake Macquarie Western Corridor growth area; the emerging growth area around Cooranbong, Morisset and Wyee; and in existing towns and villages and sites identified in an endorsed regional or local strategy.	<p>Whilst not located in an identified or emerging growth area, or on land endorsed in a regional or local strategy, the planning proposal would provide for the efficient use of land and make use of existing servicing and infrastructure investments associated within the existing approved land use.</p> <p>The exiting development is of a medium density nature with a wide range of community facilities and services. Therefore, and as outlined elsewhere in this report, the planning proposal seeks the expansion of an existing compact development onto an adjacent lot. It aims to utilise, and expand on, already established services and infrastructure.</p>
21.3 Identify opportunities for urban redevelopment or renewal in urban locations with access to public transport and services in the Greater Newcastle	Whilst the site is situated outside the Anna Bay town centre, part of the subject land has development consent for a caravan park, on which up to for 270 moveable dwellings can be

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metropolitan area and where there may no longer be a need for employment land.	<p>installed. An onsite community bus currently provides connectivity for residents to public transport connections. Should an expansion of this use be approved, it is foreseeable that new residents would also utilise this service.</p> <p>The site is not strategically identified as employment land within the Hunter Regional Plan, the Greater Newcastle Metropolitan Plan or any local planning strategies.</p> <p>The expansion of development across the planning proposal area provides opportunity to make efficient use of existing investments in infrastructure provision and community facilities.</p>
21.4 Create a well-planned, functional and compact settlement pattern that responds to settlement planning principles and does not encroach on sensitive land uses, including land subject to hazards, on drinking water catchments or on areas with high environmental values.	<p>The Live Port Stephens Local Housing Strategy was adopted in July 2020. Of particular relevance is priority 3.3 which provides locational criteria to guide assessment of site suitability for lifestyle villages and communities (including caravan parks with long term moveable dwelling sites). The planning proposal is considered to be consistent with the criteria.</p> <p>More information about how the planning proposal aligns with the objectives and direction of the Live Port Stephens Local Housing Strategy is included in Part 3 under Q4.</p> <p>The proposed development area has been subject to significant modification through historic land uses. The subject land is not affected by hazards and not located on a drinking water catchment. Areas with high environmental values will not be affected.</p>
21.5 Promote small-scale renewal in existing urban areas, in consultation with the community and industry to ensure that this occurs in the right locations.	<p>Whilst the site is situated outside the Anna Bay town centre, part of the subject land has development consent for a caravan park on which there are 270 sites for moveable dwellings. This development has been completed and the dwellings are occupied.</p>

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	The expansion of the development footprint onto Lot 25 will make efficient use of existing community facilities and infrastructure. Consequently, the expansion of residential development in this location is considered suitable.
21.6 Provide greater housing choice by delivering diverse housing, lot types and sizes, including small-lot housing in infill and greenfield locations.	The proposed expansion of the approved caravan park for non-tourist purposes will provide an affordable housing choice for the Anna Bay locality, and will be supported by high quality community facilities.
21.7 Promote new housing opportunities in urban areas to maximise the use of existing infrastructure.	The expansion of the development footprint will make efficient use of existing community facilities and infrastructure. Consequently, the expansion of residential development in this location is considered suitable.

Accessibility to Retail Precincts

With respect to accessibility to retail precincts, the site is located within a short distance from the existing retail precincts at Anna Bay, Salamander Bay and Nelson Bay. The Anna Bay retail precinct is located less than a 4-minute drive from the subject land with a range of service offerings that include:

- Supermarket;
- Local Shops including a post office and service station;
- Restaurants and cafes and tavern;
- Medical centre; and
- Public school and child care facility.

In addition to the above, the Tomaree Community Hospital, Dental facilities, Tomaree High School and St Philip's Christian College are in Nelson Bay, approximately an 8-minute drive from the subject land. The location of the nearby centres is shown in the **Figure 6**.

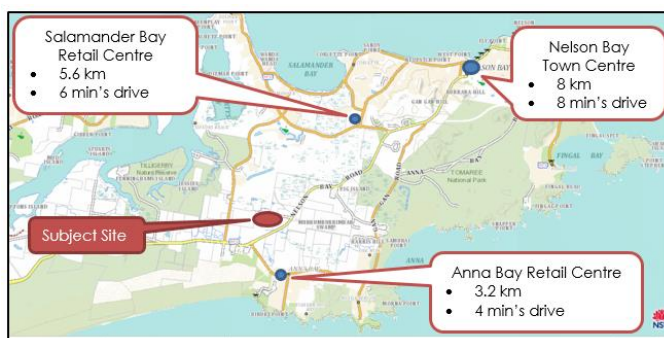


Figure 6. Proximity to nearby centres

ITEM 2 - ATTACHMENT 2 PLANNING PROPOSAL.Community Bus Services

The approved caravan park development (DA 16-2009-257) is conditioned to provide a community bus to transport residents and offers regular trips to surrounding retail centres (including public transport connections) as well as providing tailored day trips for recreational activities and entertainment. This service can be expanded to service the expanded development footprint, subject to development consent.

Access to Employment Centres

Employment centres are located within commuting distance from the site. This includes the major tourist destination of Port Stephens, comprising Nelson Bay and its surrounds. Additional employment nodes include Raymond Terrace (25 minutes); Williamstown (20 minutes); Tomago (30 minutes); and Beresfield (40 minutes). Both Williamstown and Tomago are identified as catalyst areas in the Greater Newcastle Metropolitan Plan within excess of 3000 and 200 new jobs respectively expected to be created over 20 years.

Public Transport

Whilst a designated public bus route does not travel directly past the site, it does service the nearby Anna Bay community. The on-site community bus can transport residents to nearby bus stops and to the Salamander Bay retail precinct which also has good public transport connections.

To support the planning proposal, a series of technical studies have been completed to guide the development of a draft concept layout plan for the site. Key site constraints have been identified and considered as part of this proposal.

The planning proposal is generally consistent with the Hunter Regional Plan 2036, the Live Port Stephens Local housing Strategy 2021, Anna Bay Strategy and Town Plan, Port Stephens Community Strategic Plan 2013-2023 and Port Stephens Ageing Strategy 2016-2019. These are discussed elsewhere in this planning proposal.

Additional information about the planning proposal's consistency with relevant plans and strategies is provided under Q3 and Q4.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The purpose of the planning proposal is to regularise the existing approved use on Lots 2 & 4 DP 398888, Lot 2 DP 1204319 and Lot 1 DP 1225542 and to facilitate the future expansion of that use to part of the adjoining Lot 25 DP 852410.

In addition, the planning proposal seeks to set aside land for establishing and restoring a koala habitat corridor over part of Lot 25 DP 852410.

These outcomes are the basis for drafting the legal instrument (the LEP).

ITEM 2 - ATTACHMENT 2 PLANNING PROPOSAL.**Environmental Outcomes**

Best Means: amend the Land Zoning Map of the LEP.

It is proposed amend the Land Zoning Map of the Port Stephens Local Environmental Plan 2013 by rezoning part of Lot 25 from RU2 Rural Landscape to part RU2 and Part C2 Environmental Conservation.

Regularise existing use and facilitate future expansion

Best means: amending Schedule 1 Additional Permitted Uses of the LEP

The planning proposal seeks to amend *Schedule 1 Additional permitted uses* as the mechanism to enable ongoing permissibility of the approved caravan park and to facilitate the expansion of the existing caravan park use to part of Lot 25 DP 852410.

This is the recommended option because it limits the permitted additional use to a 'caravan park' (only) and maintains current minimum lot size restrictions.

This option eliminates the scope for further uses or subdivisions that could undermine the planning for existing centres. It will only permit a single additional type of land use to complement the existing uses on the subject land, immediately adjacent and in the area generally and will not permit further subdivision of the land. This option will support, and is consistent with, the existing and future desired character of the area.

An amendment to Schedule 1 of the LEP is considered the most effective means of achieving the intended outcome, as it:

- provides certainty regarding ongoing land use permissibly and security of tenure for the existing approved caravan park;
- creates opportunity for an expansion of that use to the adjoining lot;
- prohibits unsuitable land uses and subdivision that could otherwise be made permissible through a direct rezoning of the land and changes to the minimum lot sizes, and
- creates consistency across all the land subject to this planning proposal, regarding land use permissibility.

Alternative options considered

Alternative options considered to achieve the intended outcomes of the planning proposal were:

Option A - Continuation of existing use rights for approved caravan park development.

A reliance on existing use rights for the approved caravan park allows the approved land use to continue to be carried out on Lots 2 & 4 DP 398888, Lot 2 DP 1204319, Lot 1 DP 1225542 and Lot 25 DP 852410. However, the continuation of existing use rights does not achieve the proposed outcome to extend the caravan park use to the adjoining land of Lot 25 DP 852410.

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This is not a recommended option.

Option B - Rezoning the land to RE2 Private Recreation.

Rezoning all of the subject land to RE2 Public Recreation would make the establishment of a caravan park on the site permissible with consent.

However, it would also permit with consent the full range of potential land uses that can be permitted within the RE2 Private Recreation zone. This would include 'neighbourhood shops', 'kiosks' and 'serviced apartments' (under 'tourist and visitor accommodation').

Such uses may not only increase the risk of undermining other locations zoned, or planned for future RE2 Private Recreation land uses, but also the nearby town centres of Anna Bay and Nelson Bay which are also local and regionally significant tourist destinations.

In addition, retaining the current RU2 Rural Landscape zoning will keep the options open for rural land use should, for any reason, the proposed caravan park use not proceed.

This is not a recommended option.

Option C - Rezoning the land to RE1 Public Recreation.

Rezoning all of the subject land to RE1 Public Recreation would make the establishment of a caravan park on the site permissible with consent.

However, it may be difficult to demonstrate consistency with the stated objectives of the zone, noting that the premises of the proposed future development is in private ownership and would not be made available to the wider public.

In addition, it would also permit, with consent, the full range of potential land uses that can be permitted within the RE2 Private Recreation zone. This may include 'neighbourhood shops', 'kiosks' and 'serviced apartments' (under 'tourist and visitor accommodation').

Such uses may increase the risk of undermining other locations zoned, or planned for, future RE1 Public Recreation land uses, but also the nearby town centres of Anna Bay and Nelson Bay which are also local and regionally significant tourist destinations.

This is not a recommended option.

Option D - Other zonings.

Caravan parks are a prohibited land use in all other zonings in the LEP and consequently, no other zoning is considered suitable to achieve the objectives of the planning proposal.

This is not a recommended option.

Section B – Relationship to strategic planning framework**Q3. Will the planning proposal give effect to the objectives and actions of the Hunter Regional Plan or Greater Newcastle Metropolitan Plan (or any exhibited draft plans that have been prepared to replace these)?**Hunter Regional Plan 2036 (HRP)

The Hunter Regional Plan 2036 has a vision for the Hunter to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart. To achieve this vision, the NSW Government has acknowledged the growing importance of Greater Newcastle (comprising the local government areas of Cessnock, Lake Macquarie, Maitland, Newcastle and Port Stephens) and set the following regionally focused goals:

- The leading regional economy in Australia;
- A biodiversity-rich natural environment;
- Thriving communities; and
- Greater housing choice and jobs.

The HRP is applicable to the area, but the subject site is not located in an identified or emerging growth area stated in the HRP. The land is not located in a centre and some external services such as shops for day-to-day needs are a short drive away in nearby Anna Bay, Salamander Bay, and Nelson Bay.

The planning proposal is consistent with the vision and goals of the HRP as it will facilitate additional housing choice within a new, well designed community that is accessible to a range of facilities and services. The provision of additional housing will provide broader economic benefits via increased demand for goods and services as well as providing housing for a growing workforce.

The HRP projects that approximately 11,050 additional dwellings will be needed in the Port Stephens LGA by 2036. The proposed development will make a contribution towards meeting this projected demand.

The HRP also identifies a projected increase in the percentage of people aged over 65 years from 19% to 25% by the year 2036. The proposal will assist in meeting this demand through facilitating the provision of additional housing suitable for an ageing population.

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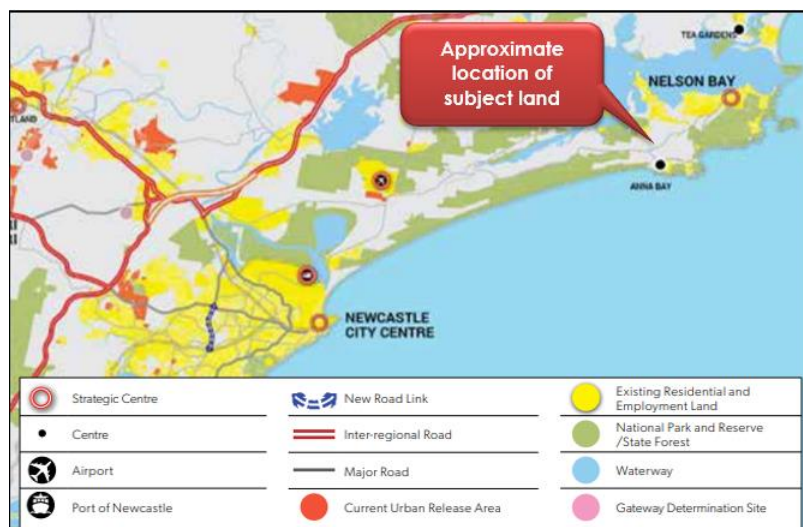


Figure 7. From Hunter Regional Plan–Greater Newcastle Settlement Plan
Source: <http://planning.nsw.gov.au>

The planning proposal is consistent with the HRP as it will support a number of strategic actions in the HRP, including the following which have been addressed under Q1:

- 21.4 Create a well-planned, functional and compact settlement pattern that responds to settlement planning principles and does not encroach on sensitive land uses, including land subject to hazards, on drinking water catchments or on areas with high environmental values.
- 21.6 Provide greater housing choice by delivering diverse housing, lot types and sizes, including small-lot housing in infill and Greenfield locations.
- 22.1 Respond to the demand for housing and services for weekend visitors, students, seasonal workers, the ageing community and resource industry personnel.
- 22.2 Encourage housing diversity, including studios and one and two-bedroom dwellings, to match forecast changes in household sizes.

It is considered that the planning proposal is consistent with the Hunter Regional Plan. Greater Newcastle Metropolitan Plan 2036 (GNMP)

The subject land is considered suitable for the proposed future use given that part of the land is already utilised for the intended use. The residual land (Lot 25 DP 852410) that will accommodate an expansion of the caravan park (subject to development consent) is relatively unconstrained and it is considered that constraints relating to biodiversity, acid sulfate soils, and flood prone land can be adequately addressed.

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This site can be distinguished from typical residential developments as it can provide a wide range of community facilities and services for future residents as an expansion to the existing Latitude One development. These include a community bus service, a club house (including hall, sports lounge, cinema, craft room, library, salon, indoor pool, spa, sauna, gym and café/hall), outdoor swimming pool, lawn bowls facility, croquet area, pocket parks, off leash dog exercise area, and walking areas.

The site also offers opportunity to contribute to the targets and directions set by the Greater Newcastle Metropolitan Plan 2036 (GNMP) for new residential development in Port Stephens. The GNMP projects 11,050 new dwellings for Port Stephens by 2036. To support a changing population and dwelling needs, the GNMP sets a 60% target for new dwellings in the existing urban areas (infill) by 2036. The Plan also highlights the need for more variety of housing types and densities, and the provision of access to transport and community services and facilities for local communities.

The Live Port Stephens Local Housing Strategy identifies that without intervention, infill housing is only likely to comprise 25% of the projected supply of new dwellings in the LGA to 2040. The planning proposal could assist in providing medium density infill in a location already serviced by community facilities and infrastructure.

The planning proposal will also respond to the need for increased variety of housing types and densities as identified by the GNMP. More specifically, the subject site provides opportunity for a particular type of medium density infill development which includes access to (bus) transport, and a wide range of community services and facilities. The planning proposal will also facilitate dwelling types that are suitable for seniors and will contribute to the housing choices available in the area.

The subject site is considered suitable for the outcomes the planning proposal will facilitate based on the land being relatively unconstrained, the availability and quality of community facilities and services, and the provision of an existing community bus service which connects the site with nearby town centres.

Strategic and site-specific merit of the planning proposal

As noted in this report, the subject site is not identified in State and local planning strategies for urban development. DPIE provides general guidance for assessing planning proposals that may not be consistent with State or local strategic plans and policies (See the DPIE Guide). The assessment requires consideration of both the strategic merit and site-specific merits of a proposal:

(a) Strategic merit of the Proposal

The DPIE Guide specifies that a planning proposal with strategic merit must not seek to amend planning controls that are less than 5 years old. The planning proposal seeks to amend LEP controls that are more than 5 years old (The LEP was gazetted in 2013).

The DPIE Guide specifies that a planning proposal is considered to have strategic merit if it gives effect to relevant State strategies and local strategies that have been

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endorsed by DPIE, or responds to a change in circumstances that have not been considered by existing strategic plans.

As outlined above, the planning proposal is not consistent with State or local planning strategies, however it is considered to demonstrate strategic merit as it responds to a change in circumstances that has not been recognised by existing strategic plans.

The existing approved development is currently underway and includes a substantial investment in new infrastructure such as roads, services, and community infrastructure. The planning proposal would facilitate efficient use of this investment, including the community facilities and services located within the existing approved development site.

The proposal also implements priorities identified in the Live Port Stephens Local Housing Strategy (see Q4 for more details).

The planning proposal is considered to have strategic merit as it will respond appropriately by ensuring the orderly and economic use and development of land, consistent with the objects of the EP&A Act.

(b) Site-specific merit of the Proposal

The DPIE Guide requires a planning proposal to be assessed having regard to site-specific criteria as follows.

1. *The natural environment*

The land is relatively clear from environmental constraints. Parts of Lot 25 DP 852410 are significantly degraded from previous use (sand mining) and bulk earthworks. The majority of environmental values that remain on site can be protected and kept outside the proposed development footprint.

This planning proposal seeks to rezone part of lot 25 DP 852410 from RU2 Rural Landscape to C2 Environmental Conservation (refer Part 1 and Part 2 of this planning proposal). The planning proposal proposes the establishment of a biodiversity corridor through the adaptation of a Vegetation Management Plan at development application stage. This will provide for additional Koala feed trees and creates and maintains a koala corridor over the site.

The planning proposal provides a balance between housing and conservation outcomes and is unlikely to result in significant adverse impacts on the natural environment.

2. *The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal.*

The existing uses of land in the vicinity of the site include a limited number of single dwellings, dual occupancies, rural land, a trotting track, a golf course with a driving range, and vegetated sites.

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Land to the north of the subject site consists of vacant vegetated land zoned C2 Environmental Conservation pursuant to the LEP. All other land to the south, east and west is zoned RU2 Rural Landscape pursuant to the LEP.

Directly adjoining the site to the east and south is land used for rural residential purposes, consisting of dwellings, dual occupancies and associated outbuildings on large lots. To the west of the subject site (at the rear of the rural residential properties) is land which contains cleared and vegetated areas and areas used for rural industry.

There are no unacted-on consents for approved uses in the vicinity of the site and the likely future uses of the land in the vicinity are expected to remain as per the current uses given there are no current planning proposals for that land. The surrounding land is also not identified in a State or local strategy for future land use changes.

Proposed vegetation management areas on the southern and eastern boundaries of Lot 25 DP 852410 will create a buffer between that lot and land in the vicinity of the proposal.

The planning proposal is not expected to have a negative effect on land in the vicinity of the proposal.

3. The services and infrastructure that are or will be available to meet demands from the proposal.

Existing public utility services, (road) infrastructure, and community facilities and services associated within the existing approved use can be extended to service a proposed expansion of the use onto Lot 25 DP 852410 (subject to development consent).

Community facilities and services

The site can provide a wide range of existing community facilities for future residents which are not available in typical medium residential developments. A community bus service offers regular trips to surrounding retail centres, connects with existing public bus services, and is likely to be able to service an expanded development footprint.

In addition, and unlike typical residential developments, the existing caravan park provides high quality community facilities and services for residents. These include a club house (including hall, sports lounge, cinema, craft room, library, salon, indoor pool, spa, sauna, gym and café/hall), outdoor swimming pool, lawn bowls facility, croquet area, pocket parks, off leash dog exercise area, and walking areas. The planning proposal provides the opportunity for the sustainable use and sharing of these facilities and potentially new facilities within the proposed future development.

Demand for community facilities and services from the proposal can therefore be met efficiently and to a high standard.

Infrastructure and utilities

Hunter Water have provided preliminary servicing advice (19 February 2020) for the proposed development (refer **Attachment Ten**).

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This advice is as follows:

- **Water Supply:** Hunter Water identifies that the proposed development lot does not have an existing water main frontage. The developer will be required to deliver a water main extension from the intersection of Nelson Bay Rd and Gan Gan Rd.
- **Wastewater Transportation:** the capacity at Anna Bay 9 wastewater pump station is currently being upgraded by the developer of the approved caravan park on Lots 2 & 4 DP 398888, Lot 2 DP 1204319, Lot 1 DP 1225542. It is acknowledged that the proposed expansion of the caravan park onto Lot 25 DP 852410 was not included when determining pump sizing and configuration.

A servicing strategy is required to determine the scope of upgrades at this discharge location, or alternate discharge locations, and the effect of any upgrades on the downstream network. The upgrades would likely be an increase to pump capacity, civil/well capacity, emergency storage and the downstream impacts.

Demand for services and infrastructure from the proposal can likely be met.

The planning proposal demonstrates both strategic merit and site specific merit and is considered appropriate for the site.

Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another local strategy or strategic plan?

The planning proposal gives effect to a range of local strategies and strategic plans, including:

- Port Stephens Local Strategic Planning Statement (LSPS),
- Live Port Stephens Local Housing Strategy (LHS)
- Anna Bay Strategy and Town Plan
- Port Stephens Ageing Strategy

Port Stephens Local Strategic Planning Statement (LSPS)

The LSPS identifies the 20-year vision for land use in Port Stephens and sets out social, economic, and environmental planning priorities for the future.

The planning proposal is consistent with the following planning priorities from the LSPS:

Priority 4 Ensure suitable land supply (for housing)

This priority identifies the need to prepare and implement a local housing strategy to ensure suitable land supply and other planning priorities for housing identified in the LSPS. Port Stephens is a housing market that is supply driven and without an

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adequate supply of land in the right locations, housing affordability is likely to be negatively impacted.

The planning proposal responds to this Priority as it provides additional housing on the right location.

Priority 5 Increase diversity of housing choice

This priority identifies that, based on what people value, planning is required for a range of housing types and sizes to suit different lifestyles.

Housing choices in the Port Stephens LGA cover a wide range of options, including homes in retirement villages and lifestyle communities. Some models of home ownership can offer independent living in close knit communities for seniors.

The planning proposal is consistent with the LSPS as it will respond to the need for suitable land supply for housing and increase housing choice that suits the needs and lifestyle of current and future residents.

Live Port Stephens Local Housing Strategy (LHS)

The LHS is the overarching strategy to guide land use planning decisions for new housing in Port Stephens. It comprises four outcomes and 12 priorities. The outcomes will meet the directions set for Hunter councils in State planning strategies and the priorities identify the broad issues or policy areas that Port Stephens Council will focus on.

The planning proposal is consistent with the following planning priorities from the LHS:

Priority 1.1 Ensure adequate supply of new housing

The planning proposal creates opportunity to contribute to additional housing.

Priority 3.2 Encourage a range of housing types and sizes

The planning proposal creates opportunity for future development of a housing type and setting which is attractive to households seeking to downsize.

Priority 3.3 Enable better planning for diverse lifestyles.

The planning proposal meets the site suitability criteria for future lifestyle village development.

Priority 4.2 Communities are connected.

The planning proposal provides future opportunity for facilities and services within walking distance of housing.

Priority 4.3 Grow connections between people.

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The planning proposal creates opportunity for future development where people can connect, participate and socialise.

Of particular relevance is Priority 3.3 which identifies lifestyle villages, where residents share communal recreation and other facilities, as a popular type of housing development to occur in Port Stephens. These villages can offer residents convenient, attractive and potentially more affordable housing options. The first stage of the Latitude One development showcases this with a wide range of facilities available.

The LHS states that locational criteria can guide assessments of site suitability, for example villages and communities located close to centres can satisfy walkability standards for liveable communities:

- 5 minute walk (400m) of a town or neighbourhood centre zoned B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core or B4 Mixed Use; or
- 5 minute walk (400m) of bus stops with frequent services to local centres; or
- 10 minute walk (800m) of local centres.

If this criteria cannot be met, lifestyle villages and communities may be located where the village or community will have:

- Reticulated water and sewer;
- Indoor and outdoor recreation facilities adequate for the number of proposed residents such as bowling greens, tennis courts, golf course, swimming pool, or off leash dog park;
- Community facilities that promote gathering and social connections such as a restaurant, community hall, or community garden; and
- Access to bus services providing frequent trips to local centres and shops.

The planning proposal gives effect to the LHS as it meets the locational criteria of the LHS and provides additional housing supply in a suitable location with access to various town centres and adequate on site facilities.

Anna Bay Strategy and Town Plan

The Anna Bay Strategy and Town Plan guides the management of future population growth and the building of neighbourhoods in Anna Bay. It establishes a context and policy direction for future rezoning requests and development controls in the Anna Bay area. It also integrates the location, timing and funding for community facilities and infrastructure.

The strategy sets out a town plan, which is a strategic response to the constraints and opportunities in Anna Bay and the policy and legal framework. The vision set out in the strategy for Anna Bay is a small and vibrant town offering a mix of dwelling types and business opportunities and a quality natural environment. It will have a pleasant main street with a mix of retail and office space for local and visitor patronage and shop top housing or tourist accommodation.

The subject site is not located within the Anna Bay Town Centre and therefore many of the key strategic directions outlined in the strategy are not directly relevant to the site

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or proposed development. Notwithstanding, the proposed development will contribute to the vision established for Anna Bay by providing additional residents within the proximity of the Anna Bay Town Centre, resulting in opportunities for additional patronage to the expanding commercial uses within the town centre.

Port Stephens Ageing Strategy 2016-2019

The Port Stephens Ageing Strategy outlines actions that achieve positive and practical outcomes for the ageing population in Port Stephens and informs actions in Council's Delivery Program. Council's policy direction for ageing communities is consistent with all levels of government, and that are discussed in planning and legislative documents that form the framework for responses to ageing populations. The strategy provides direction for a whole of Council approach to deliver key priorities that support positive ageing outcomes for the Port Stephens community.

The objectives of the strategy are:

- Recognise that ageing populations are a valued demographic of the LGA and maximise the strengths and opportunities they can bring to our community;
- Prioritise actions for Council to meet the needs of the ageing population in a way that demonstrates consistency with the Port Stephens Community Strategic Plan, and Council's Delivery Program and Operational Plan;
- Promote integration between Council's Ageing Strategy deliverables and State and Federal outcomes to effectively address the needs of ageing populations in the Port Stephens LGA; and
- Guide a proactive Council-wide approach to improve the liveability for the Port Stephens ageing population.

The strategy sets out five (5) themes to address the issues that that impact on aging populations, specific to the Port Stephens LGA. The table below summaries the five (5) key themes and provides comments on how the relevant themes are addressed by the proposed development:

Table 2 Consistency with the key themes of the Port Stephens Ageing Strategy 2016-2019

Key priorities	Commentary:
<p><i>Housing, neighbourhood, and land use planning</i></p> <p>Ageing populations will have a major impact on future urban design and housing demand due to a shift in preferred housing choice, such as type, design and location. As people age tenure security and housing that is adaptable, smaller, safer, and more secure and that is close to services, transport and family will become increasingly important.</p>	<p>As mentioned elsewhere, the approved development provides a range of community and recreational facilities that would not otherwise be available in standard residential properties, encouraging a sense of community and security to resident. The development enables residents to socialise and participate in community life. An on-site bus services provides opportunities for</p>

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Key priorities	Commentary:
	social/recreational trips to off-site locations.
<p><i>Transport and Accessibility</i></p> <p>Improvements to connectivity between homes, and quality services and facilities can provide a broader and cost effective benefit to other cross-sections of the community.</p> <p>The goal of this action is to create a connected network of public transport, pedestrian and cycle ways that provide access to desirable locations and increase social connectivity and opportunities.</p>	<p>Many of the recreational and social needs of residents are catered for on-site and eliminate the need to travel for this purpose. Notwithstanding, Anna Bay town centre is a short drive from the site and provides additional recreational, commercial and community services which can be accessed by using the on-site community bus.</p>
<p><i>Health and community services</i></p> <p>The goal of this action is to establish effective partnerships with health care providers, mobile health services and, community and recreational activities; and where a need exists, identify and advocate for new ones.</p>	<p>As previously discussed, the approved development on the site involves facilities and services for residents to engage in community and recreational activities on site to cater for the needs of current and future residents, including the proposed expansion on the neighbouring lot.</p>
<p><i>Inclusion and participation</i></p> <p>The goals of this action are to support continued and increased opportunities for engaging ageing populations in desired social activities, including participation in decision-making processes within existing Council plans and services and support continued and increased opportunities for engaging ageing populations in desired social activities, including facilities and infrastructure that meets the needs of older people.</p>	<p>As previously discussed, facilities, services, and infrastructure to meet the needs of (older) residents are provided on-site and can be extended to the neighbouring lot. Facilities and services not provided on site can be accessed through the on-site community bus service.</p>

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Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

In considering the proposed use of the site following rezoning, a review of relevant State Environmental Planning Policies (SEPP's) has been undertaken.

Table 3 Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP No 21 – Caravan Parks	<p>SEPP 21 applies to caravan parks or camping grounds, this includes moveable dwellings (such as manufactured homes) where they are located in a caravan park.</p> <p>SEPP 21 provides matters for consideration when development consent is granted for a caravan park, including a caravan park that includes manufactured homes. These matters include site suitability, location and character, and whether necessary community facilities and services are available.</p>	<p>This planning proposal seeks to amend the LEP to regularise the existing approved use and allow for the use to be extended to adjoining land. The approved use consists of a caravan park on which moveable dwellings are installed or being installed.</p> <p>The proposal is considered to be consistent with the objectives of SEPP 21 and any future development applications on the subject site will need to consider the requirements of SEPP 21.</p> <p>The planning proposal is considered to be consistent with the aims and objectives of the SEPP relating to the provision of community facilities, the protection of the environment in the vicinity of the land, and the orderly and economic development of the land used for long term residents.</p>
SEPP No 36 – Manufactured Home Estates	SEPP 36 does not apply to Port Stephens as it is excluded by clause 7 of Schedule 2 to the SEPP.	N/A
SEPP Koala Habitat Protection 2020	<p>This SEPP applies to land within the Port Stephens LGA that is greater than 1 hectare and is located within one of the following zones:</p> <p>(i) Zone RU1 Primary Production, (ii) Zone RU2 Rural Landscape,</p>	<p>The subject site contains preferred koala habitat and its associated buffer.</p> <p>The Port Stephens Council Comprehensive Koala Plan of Management (CKPOM) was developed throughout the 1990's, endorsed by Council in 2001, and</p>

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SEPP	Relevance	Consistency and Implications
	<p>(iii) Zone RU3 Forestry.</p> <p>With respect to land to which an approved koala plan of management applies, council's determination of a future development application must be consistent with the approved Koala Plan of Management that applies to the land.</p> <p>The SEPP encourages the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.</p> <p>The Biodiversity Assessment prepared by MJD Environmental (refer Attachment Six) identifies that the proposed development footprint is not located within Preferred Koala Habitat or Habitat Buffers as mapped by Council.</p> <p>Preferred Koala Habitat and Habitat Buffers do exist within the subject site; however, they are minor and mapped along the southern and eastern land area containing vegetation.</p> <p>These particular areas are to be retained and improved under this proposal as outlined under the "Consistency and Implications" column to the right.</p> <p>Proposed development (subject to a future Development Application) will predominantly lie within "Link over Cleared" area that constitutes as disturbed</p>	<p>approved by the Department of Planning in 2002. This plan of management meets the requirements of clause 9. Any future development on the site will be required to give consideration to the CKPOM.</p> <p>The Biodiversity Assessment for this planning proposal was prepared by MJD Environmental (Refer Attachment Six) and includes an assessment against the provisions of Appendix 4 of the Port Stephens Council CKPoM. A Koala Assessment Report has been produced and appended to the biodiversity assessment.</p> <p>Findings include that the subject site lies within a heavily disturbed area with little-to-no native vegetation.</p> <p>Under this planning proposal, the proposed future development (subject to a future DA) will not remove any native Koala Habitat Trees as shown on the Draft Concept Layout Plan provided (refer Attachment Two).</p> <p>The planning proposal seeks to improve Koala habitat by:</p> <p>(1) rezoning of part of the site to C2 Environmental Conservation to incorporate the koala corridor.</p> <p>(2) establishment of a koala corridor by undertaking weed and exotic tree species management and planting of Koala feed trees, namely E. robusta and M. quinquenervia.</p>

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SEPP	Relevance	Consistency and Implications
	landscape with no native vegetation.	<p>(3) delivery of the rehabilitation and corridor augmentation under the terms of a future Vegetation Management Plan and/or Stewardship Agreement as appropriate.</p> <p>Based on the above, the planning proposal is considered to be consistent with the aims and objectives of the SEPP.</p>

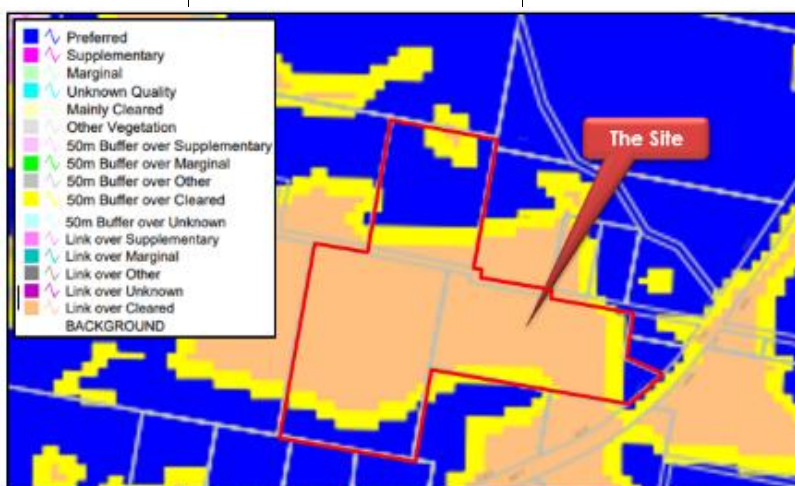


Figure 9. Extract from the Port Stephens Koala Habitat Planning Map

	CKPOM performance criteria.	
	a) not result in development within areas of Preferred Koala Habitat or defined Habitat Buffers	The planning proposal will result in a portion of RU2 Rural Landscape within Lot 25 DP852410 to be set aside for conservation purposes as a biodiversity corridor and proposed to be rezoned to C2 Environmental Conservation.
	b) allow for only low impact development within areas of Supplementary Koala Habitat and Habitat Linking Areas	The proposed biodiversity corridor is situated within "Link Over Cleared", "Buffer over Cleared" and a small portion of "Preferred" Koala


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SEPP	Relevance	Consistency and Implications
		Habitat. The rezoning will not lead to any impacts within the biodiversity corridor, rather rehabilitate and augment into a usable corridor for native fauna to move safely through the surrounding area. This corridor is proposed to be rezoned to C2 Environmental Conservation.
	c) minimise the removal of any individuals of preferred koala food trees, where ever they occur on the site	<p>The planning proposal will not remove any preferred koala food trees. The only vegetation to be removed within the land to be set aside as a biodiversity corridor includes exotic species in the form of <i>Pinus elliotii</i> (Slash Pine) as well as <i>Lantana camara</i> (Lantana).</p> <p>The proposal seeks to retain a large portion of vegetation to the south and east of the site which is to be managed and rehabilitated to act as a Koala Corridor. A new Vegetation Management Plan is to be prepared at future DA stage.</p>
	d) not result in development which would sever koala movement across the site. This should include consideration of the need for maximising tree retention on the site generally and for minimising the likelihood of impediments to safe/unrestricted koala movement.	<p>The planning proposal will not sever any koala movements across the site.</p> <p>The planning proposal will create and strengthen a usable habitat corridor for koalas and allow safe movement around the proposed development (refer Attachment Six).</p>
SEPP 55 – Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination.	<p>Clause 6 of SEPP 55 requires that consideration be given to whether the land is contaminated as part of a rezoning proposal.</p> <p>A Preliminary Site Investigation (Contamination) and Acid</p>

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SEPP	Relevance	Consistency and Implications
		<p>Sulfate Soils Assessment was undertaken for the site (refer Attachment Four).</p> <p>The assessment determined that the site can be made suitable for the proposed residential redevelopment subject to further targeted investigation and appropriate management/remediation (where required) at the development application stage.</p> <p>This matter is addressed in further detail in Section Q6 (Ministerial Direction 2.6) of this report.</p> <p>Based on the above, the planning proposal is considered to be consistent with the aims and objectives of the SEPP.</p>
SEPP (Coastal Management) 2018	<p>Promotes an integrated and co-ordinated approach to land use planning in the coastal zone consistent with the objects of the <i>Coastal Management Act 2016</i>.</p> <p>The Proposal relates to land identified within the Coastal Zone Combined Footprint.</p>	<p>The site contains areas mapped under State Environmental Planning Policy (Coastal Management) 2018 as being within a coastal use area and coastal environment area. An area of land identified as a coastal wetland with an associated buffer is located to the north-east, but is well separated from the subject site.</p> <p>A Draft Concept Layout Plan (refer Attachment Two) is designed to enable compliance with the provisions of clauses 13 and 14 of the SEPP. Consequently, it is considered that any future development application for the proposed use can demonstrate compliance with these provisions.</p>

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SEPP	Relevance	Consistency and Implications
		Based on the above, the planning proposal is considered to be consistent with the aims and objectives of the SEPP.
		

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Q6. Is the planning proposal consistent with applicable Ministerial Directions?

An assessment of relevant Ministerial Directions against the planning proposal is provided in the table below.

Table 5 – Relevant Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implications
1. EMPLOYMENT AND RESOURCES		
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	<p>This planning proposal report gives due consideration to the objectives of this direction.</p> <p>The proposal does not rezone rural land but increases residential density in a rural zone.</p> <p>Lots 2 and 4 DP 398888; Lot 2 DP1204319; Lot 1 DP1225542 have no agricultural production value as the land is currently developed as a caravan park. A buffer (30 metre wildlife corridor) has been applied to the western site boundary and separates the development from the agricultural land practices on adjacent land.</p> <p>Lot 2 and 4 both have vegetation buffers of 50 meters between the caravan park development and existing vegetation within their northern and southern lot areas respectively.</p> <p>Adjacent land immediately north and south of lots 2 and 4 is vegetated and is not utilised as productive agricultural land.</p> <p>Lot 25 DP 852410 is considered to have little to no value as productive rural land. The site has historically been subject to sand mining activities and more recently, bulk earthworks activities that have impacted on a large portion of the site.</p> <p>Adjacent lots comprise vegetated land and land used for rural residential purposes (dwellings, dual occupancies, and associated outbuildings on smaller lots) that are not considered to be suitable for commercial or intensive agricultural production.</p> <p>The inconsistency with this direction is considered of minor significance because the existing approved caravan park is required to</p>

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		<p>maintain a 30m buffer from the western boundary and the proposed expansion of lot 25 only has limited agricultural potential.</p> <p>The Minister's delegate approved this inconsistency as a matter of minor significance as part of the Gateway determination (issued 11 May 2020).</p>
1.3 Mining, Petroleum Production and Extractive Industries	<p>The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.</p>	<p>The planning proposal gives due consideration to the objectives of this direction.</p> <p>The site has not been identified as containing any substantial resources coal, other minerals, petroleum or extractive materials which are of State or regional significance. The subject site has previously been subject to sand mining activities and has not been identified as containing remaining reserve of commercial value.</p> <p>Accordingly, the provisions of this Direction are considered to be satisfied.</p>
1.5 Rural Lands	<p>The objectives of this direction are to:</p> <p>(a) protect the agricultural production value of rural land,</p> <p>(b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,</p> <p>(c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,</p> <p>(d) minimise the potential for land fragmentation and</p>	<p>This direction applies as the planning proposal will affect land within an existing rural zone.</p> <p>The planning proposal gives due consideration to the objectives of this direction and the natural and physical constraints of the land.</p> <p>The site has minimal agricultural value and does not result in the fragmentation of rural zoned lands. Further, the environmental values of the both the site and adjoining lands will be protected and enhanced through the implementation of a Vegetation Management Plan that will formalise a habitat corridor through the site.</p> <p>Compliance with Section 4 of this Direction is further demonstrated below. Accordingly, the provision of this Direction are considered to be satisfied.</p> <p>The Minister's delegate approved any inconsistency with this Direction as a matter of minor significance as part of the Gateway determination (issued 11 May 2020).</p>

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	<p>land use conflict in rural areas, particularly between residential and other rural land uses,</p> <p>(e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land</p> <p>(f) support the delivery of the actions outlined in the New South Wales Right to Farm Policy</p>	
	<p>Clause (4) A planning proposal to which clauses 3(a) or 3(b) apply must:</p>	
	<p>4(a) Be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement.</p>	<p>The planning proposal is not the result of a strategic study or report. However, the planning proposal will enable a range of outcomes of the Hunter Regional Plan 2036 which sets out principles for settlements and the Live Port Stephens Local Housing Strategy as outlined in Part 3 of this report.</p> <p>Part 3 of this report further outlines the strategic merits of this planning proposal in accordance with the DPIE Guide.</p>
	<p>4(b) Consider the significance of agriculture and primary production to the State and rural communities.</p>	<p>The site is presently not utilised nor considered suitable for rural purposes.</p> <p>Lots 2 and 4 DP 398888; Lot 2 DP1204319; Lot 1 DP1225542 have no agricultural production value as the land is currently being developed as a caravan park. A buffer (30 meter wildlife corridor) has been applied to the western site boundary and separates the development the agricultural land practices on adjacent land.</p> <p>Lot 2 and 4 both have vegetation buffers of 50 metres between the caravan park development and the existing vegetation within their northern and southern lot areas respectively.</p>

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		<p>Adjacent land immediately north and south of lots 2 and 4 is vegetated and is not utilised as productive agricultural land.</p> <p>Lot 25 DP 852410 is considered to have little to no value as productive rural land. The site has historically been subject to sand mining activities and more recently, bulk earthworks activities that have impacted on a large portion of the site.</p> <p>Adjacent lots comprise vegetated land and land used for rural residential purposes (dwellings, dual occupancies, and associated outbuildings on smaller lots) that are not considered to be suitable for commercial or intensive agricultural production.</p>
	4(c) Identify and protect environmental values, including, but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources.	<p>The site contains preferred koala habitat and its associated buffer (refer SEPP 44 Koala Habitat Protection in this proposal).</p> <p>The proposed development will not remove any native Koala Habitat Trees under this proposal. The subject site lies within a heavily disturbed area that constitutes of little-to-no native vegetation. The proposal seeks to improve Koala habitat via undertaking weed and exotic tree species management and planting of Koala feed trees, namely E. robusta and M. quinquenervia.</p> <p>The rehabilitation and corridor augmentation is to be delivered under the terms of a future Vegetation Management Plan to be prepared at DA stage (refer Attachment Six). This corridor will be rezoned C2 Environmental Conservation.</p> <p>Council environmental planners have considered all ecological aspects of the planning proposal and do not identify matters that can be considered an impediment for future development.</p> <p>With regard to cultural heritage, an Aboriginal Cultural Heritage Assessment of Lot 25 was carried out by McArdle Cultural Heritage Pty Ltd in August 2021 (refer Attachment Eight). The assessment included consultation with Registered Aboriginal Parties.</p> <p>The site is highly disturbed and has been assessed as being of low scientific significance and high cultural significance</p>

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		<p>The results of the survey have identified a number of highly disturbed artefact scatters, shell middens and isolated finds, all located within the previously excavated portion of the project area and consequently, an AHIP will be required prior to works that will enable a community collection prior to works at that location.</p> <p>This matter is also discussed further under Q8 of this report.</p>
	4(d) Consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability, and ground and soil conditions.	There are no natural or physical constraints of the land that would prevent the planning proposal from progressing.
	4(e) Promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities.	The site is presently not utilised nor considered suitable for rural purposes, noting the extent of disturbance across the site.
	4(f) Support farmers in exercising their right to farm.	The site is presently not utilised nor considered suitable for rural purposes.
	4(g) Prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses.	<p>The site is presently not utilised nor considered suitable for rural purposes.</p> <p>The site is considered to have limited agricultural production value taking into consideration historic land practices (sand mining and bulk earthworks) and its relationship to adjacent land holdings.</p>
	4(h) Consider State significant agricultural land identified in <i>State Environmental Planning Policy (Primary</i>	<p>The site is presently not utilised nor considered suitable for rural purposes.</p> <p>The site is considered to have limited agricultural production value taking into consideration historic land practices (sand mining and bulk earthworks).</p>

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	<i>Production and Rural Development) 2019 for the purpose of ensuring the ongoing viability of this land.</i>	
	4(i) consider the social, economic and environmental interests of the community.	The proposal provides opportunity to increase housing diversity within the Port Stephens LGA and to provide greater housing choice
	Clause (5) a planning proposal to which clause 3(b) applies must demonstrate that it:	
	5(a) is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses	<p>The site is presently not utilised nor considered suitable for rural purposes.</p> <p>The planning proposal does not lead to fragmentation of rural land.</p> <p>The proposed vegetation/habitat corridors and future C2 Environmental Conservation zoned land will provide a buffer between the future development of the subject land (subject to development application) and any existing rural land uses on neighbouring lots.</p>
	5(b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains	The site is presently not utilised nor considered suitable for rural purposes.
	5(c) where it is for rural residential purposes: 1. is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres	N/A

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	2. is necessary taking account of existing and future demand and supply of rural residential land.	
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	<p>The objective of this direction is to protect and conserve environmentally sensitive areas.</p> <p>Under the provisions of clause 4, a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p>	<p>The planning proposal seeks to improve Koala habitat by future weed and exotic tree species management and planting of Koala feed trees. The rehabilitation and corridor augmentation is to be delivered under the terms of a future Vegetation Management Plan.</p> <p>The planning proposal seeks to rezone this corridor from RU2 Rural Landscape to C2 Environmental Conservation.</p> <p>The planning proposal is considered to be consistent with this direction.</p>
2.2 Coastal Management	<p>The objective of this direction is to protect and manage coastal areas of NSW.</p>	<p>The land is not located within mapped coastal vulnerability areas, coastal wetlands, or littoral rainforests identified by SEPP (Coastal Management) 2018, nor is it affected by a current or future hazard mapped in the LEP or Development Control Plan (DCP).</p> <p>There are no amendments arising from this planning proposal relating to mapping associated with SEPP (Coastal Management) 2018.</p> <p>Appropriate consideration has been given to the provisions of the <i>Coastal Management Act, 2016</i> and associated guidelines and documents.</p> <p>The planning proposal is considered to be consistent with this direction.</p>
2.3 Heritage Conservation	<p>Requires relevant planning proposals to contain provisions to facilitate the conservation of items, areas, objects and places of environmental</p>	<p>The subject site is not identified in the State Heritage Inventory as containing any items of archaeological or general heritage significance, nor is it located within a heritage conservation area.</p> <p>An Aboriginal Cultural Heritage Assessment of Lot 25 was carried out by McArdle Cultural Heritage Pty Ltd in August 2021 (refer</p>

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	heritage significance and indigenous heritage significance.	<p>Attachment Eight). The assessment included consultation with Registered Aboriginal Parties.</p> <p>The site is highly disturbed and has been assessed as being of low scientific significance and high cultural significance.</p> <p>The results of the survey have identified a number of highly disturbed artefact scatters, shell middens and isolated finds, all located within the previously excavated portion of the project area and consequently, an AHIP will be required prior to works that will enable a community collection prior to works at that location. The report concludes that the cumulative impact to Aboriginal heritage in the area is limited.</p> <p>Impacts associated with Aboriginal Cultural Heritage are considered to be adequately addressed as part of the planning proposal and the planning proposal is considered to be consistent with this direction.</p>
2.6 Remediation of Contaminated Land	<p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities. This Direction requires the planning proposal authority to be satisfied that the site is suitable for development taking into consideration any contamination or remediation works.</p>	<p>A Preliminary Site Investigation and Acid Sulfate Soils Assessment over Lot 25 has been prepared by Douglas Partners and determined that contaminated land is not considered to be a major constraint for the proposed planning proposal and subsequent development application.</p> <p>It is considered that the site can be made suitable for the proposed residential redevelopment subject to further minor investigation and appropriate management / remediation (where required).</p> <p>The additional investigation can be carried out prior to the determination of the future development application and any remediation carried out prior to the completion of works and occupation of the future development. Accordingly, the provisions of this Direction are considered to be satisfied.</p>
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	<p>The objective of this direction is to encourage a variety and choice of housing types to provide for existing</p>	<p>The planning proposal will increase housing choice and variety in the Anna Bay locality and the Port Stephens LGA by providing opportunity for housing supported by quality community facilities.</p>

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	<p>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.</p>	<p>Further, the proposal makes efficient use of existing and future infrastructure to service the proposed development.</p> <p>The compact form of development proposed will reduce the consumption of land for housing and associated urban development on the urban fringe and will be of good design.</p> <p>Overall, the future establishment of a caravan park on the site is considered to be of minor strategic significance and is supportable noting the specific merits of the site, as discussed in accordance with the DPIE Guide, under Part 3 - Strategic and site-specific merit, of this planning proposal.</p> <p>The planning proposal is consistent with this direction.</p>
3.2 Caravan Parks and Manufactured Home Estates.	<p>The objectives of this direction are:</p> <p>(a) to provide for a variety of housing types, and</p> <p>(b) to provide opportunities for caravan parks and manufactured home estates.</p> <p>What a relevant planning authority must do if this direction applies:</p> <p>(4) In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <p>(a) retain provisions that permit development for the purposes of a caravan park to be</p>	<p>The planning proposal reinforces the permissibility of the existing caravan park and provides for its expansion over Lot 25 DP 852410. This will provide opportunity for new housing in a suitable location, subject to a future development application.</p> <p>As the site is zoned RU2 Rural Landscape pursuant to the Port Stephens LEP (LEP), any development on the site is currently excluded from SEPP 36.</p> <p>Depending on the potential amendments to the LEP, SEPP 36 may apply to future development applications on the site.</p> <p>Clause 9 of the SEPP identifies matters that are to be considered by councils. Further, Ministerial Direction 3.2 requires that a planning authority take into account the principles listed in clause 9 of SEPP 36.</p> <p>The Planning proposal is consistent with the principles in SEPP 36, including principles related to heritage and ecology, provision of infrastructure and services, adequate access to transport services, sufficient community facilities and services.</p> <p>These matters have been addressed in detail elsewhere in this report.</p> <p>It is considered that the ability to develop the subject land for this purpose is justified based on the specific merits of the site, namely, the</p>

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	<p>carried out on land, and</p> <p>(b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.</p>	<p>fact that part of the subject land has existing use rights as a caravan park and current approval over that land permits 270 long term moveable dwelling sites which is a comparable and compatible development to a manufactured home estate.</p> <p>Further, the ability to expand this form of development provides opportunity for the sharing of community facilities and make use of existing infrastructure investment.</p> <p>The planning proposal is consistent with this direction.</p>
3.4 Integrating Land Use and Transport	<p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.</p> <p>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</p> <p>(b) The Right Place for Business and Services –</p>	<p>The planning proposal seeks to support the existing and future development of a medium density nature with a wide range of community facilities and services provided on site.</p> <p>The community facilities include a club house (including hall, sports lounge, cinema, craft room, library, salon, indoor pool, spa, sauna, gym and café/hall), outdoor swimming pool, lawn bowls facility, croquet area, pocket parks, off leash dog exercise area, and walking areas. These are all within walking distance of the current and any future development.</p> <p>A network of pedestrian paths and internal roadways within the current and future proposed development will encourage pedestrian movements and reduce reliance on cars.</p> <p>Therefore, it is expected that the planning proposal will reduce travel demand including the number of trips generated by development and the distances travelled, especially by car.</p> <p>The existing development is also serviced by a community bus. This service can be expanded to service the additional development upon lot 25 DP 852410 that would be facilitated by the planning proposal. The privately run service provides connectivity to town centres and public</p>

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	<p>Planning Policy (DUAP 2001).</p>	<p>transport connections, thus reducing dependence on cars.</p> <p>The site is accessed from Latitude Drive which extends along the northern boundary of Lot 25 DP 852410 and through Lot 1 DP 1225542. Latitude Drive intersects with Nelson Bay Road to the west of the subject site.</p> <p>The intersection of Latitude Drive and Nelson Bay Road was upgraded to cater for the traffic demand resulting from the approved development on the site.</p> <p>A Traffic and Parking Assessment was undertaken for this planning proposal (refer Attachment Nine) which indicates there is sufficient spare capacity on impacted roads to cater for any increase in traffic movements that would result from the planning proposal.</p> <p>Consideration has been given to the following documents:</p> <ul style="list-style-type: none"> • Improving Transport Choice – Guidelines for planning and development (2001), and • The Right Place for Business and Services – Planning Policy (2001). <p>Whilst there is some inconsistency with this Direction, there are also characteristics of the planning proposal that make it justifiable:</p> <ul style="list-style-type: none"> • Although, the subject land is not located in a centre or in walking distance from a major public transport mode like a railway station or high frequency bus route, it is only 3.2km from the Anna Bay Town Centre. • A wide range of community facilities and services, normally found in centres, are provided within the existing and proposed future development. • These facilities and services are accessible through a network of existing and proposed pedestrian paths and internal road connections which reduces reliance on the car. • The provision of a community bus to access surrounding centres and transport nodes encourages a shift in travel away from the private car.
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		It is considered that any variation from this direction is minor and can be supported.
4. HAZARD AND RISK		
4.1 Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	<p>A Preliminary Site Investigation (PSI) for contamination at Lots 2 and 4 DP398888 has been undertaken as part of the approval for the existing development currently under construction on the site.</p> <p>The PSI was conducted in conjunction with an Acid Sulfate Soils (ASS) investigation which confirmed the absence in ASS across the bulk of the site, apart from in-situ natural clay materials and dredged sandy clay materials from the dam. An acid sulfate soil management plan (ASSMP) was included in the report to outline procedures for the management of the identified ASS.</p> <p>Based on the findings of the assessment, consultants concluded that the site would be suitable for the proposed development subject to appropriate management of ASS and remediation and validation of localised imported fill materials where required. Development has now occurred over Lots 2 and 4 DP398888 with ASS appropriately managed.</p> <p>With regard to Lot 25 DP 852410, a Preliminary Site Investigation (Contamination) and Preliminary Acid Sulfate Soil Assessment was prepared by Douglas Partners (refer Attachment Four).</p> <p>The presence of ASS was identified for areas of the site which have not been subject to sand mining. Disturbance of soil in these areas (north-eastern and south-eastern corner of Lot 25), will require management with reference to a site-specific acid sulfate soil management plan (ASSMP), to be provided prior to the determination of any future development application of the land. The planning proposal is considered to be consistent with this direction.</p>
4.3 Flooding	<p>The objectives of this direction are:</p> <p>(a) to ensure that development of flood prone land is consistent with the NSW</p>	Lots 2 and 4 DP 398888, Lot 2 DP 1204319 and Lot 1 DP 1225542 have been developed as a long-term caravan park, approved under DA 16/2009/275. These allotments are identified in the LEP as being located within a flood planning area and filling has occurred as part of approved construction works to provide appropriate flood free levels.

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	<p>Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.</p> <p>(b) to ensure that the provisions of a local environmental plan that apply to flood prone land are commensurate with flood behaviour and include consideration of the potential flood impacts on and off the subject land.</p> <p>This direction applies when a planning proposal authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.</p>	<p>The 2017 Anna Bay and Tilligerry Creek Flood Study indicates that the subject site is flood free for all regional design floods including the Probable Maximum.</p> <p>A Stormwater Strategy prepared by ADW Jonson (Refer Attachment Three) determined the following:</p> <ol style="list-style-type: none"> 1. The 2017 regional flood study shows the site to be flood free for the 1% AEP and probable maximum floods. 2. Minor filling is required to elevate the proposed ancillary resident caravan and boat storage area above the present day 1% AEP design flood. A future development application for the site is required to demonstrate compliance with Council's Flood Impact and Risk Assessment requirements. 3. Refuge-in-place is achievable for all dwelling sites. 4. Council's anticipated floor level controls can be readily achieved through minor site regrading. <p>The planning proposal is considered to be consistent with this direction other than one minor inconsistency where it seeks to carry out development for the purpose of an ancillary resident caravan and boat storage area which requires filling to meet minimum level requirement, being the current-day 1% AEP flood level (approx. 1.5m AHD).</p> <p>This inconsistency is considered to be of minor significance and can be addressed at development application stage.</p>
4.4 Planning for Bushfire Protection	<p>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</p>	<p>The planning proposal relates to bushfire prone land.</p> <p>A detailed assessment has been carried out over the existing development footprint of the approved and established caravan park.</p> <p>A Bushfire Assessment Report (refer Attachment Seven) for the proposed development of Lot 25 was prepared by MJD Environmental Planning for Bushfire Protection 2019 (PBP).</p>

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	<p>bush fire prone areas.</p>	<p>The assessment found that with the implementation of a number of recommendations, compliance with PBP can be achieved.</p> <p>The recommendations include controls that avoid placing inappropriate developments in hazardous areas and will ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zones (APZ)</p> <p>APZs are recommended to be situated beside the forest hazards adjoining the majority of the sites boundaries:</p> <ul style="list-style-type: none"> • 29m from the Forest hazard to the North of the site provided in part by Latitude Drive; • 24m from the Forest hazard to the North-East of the site; • 29m from the Forest hazard to the East of the site; • 29m from the Forest hazard to the South-east and South of the site; and • 79m in all other directions from the two short stay sites. <p>All APZ are to be established and maintained as an inner protection area.</p> <p>The proposed Draft Concept Layout Plan (refer Attachment Two) and recommendations made in the Bushfire Assessment Report provide for:</p> <ul style="list-style-type: none"> • Two-way access roads which links to perimeter roads. • Contain provisions for adequate water supply for firefighting purposes. • Minimise the perimeter of the area of land interfacing the hazard which may be developed. • Introduce controls on the placement of combustible materials in the Inner Protection Area. • An additional egress onto Nelson Bay Road is proposed for emergency situations and emergency services vehicles. <p>The planning proposal is considered to be consistent with this direction.</p>
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5. REGIONAL PLANNING		
5.10 Implementation of Regional Plans	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional plans.	<p>The Hunter Regional Plan 2036 (HRP) applies to the planning proposal and is addressed in detail elsewhere in this proposal (Refer Part 3 - Section B - Q3).</p> <p>Whilst the subject site is not located in a recognised or emerging growth area identified in the Hunter Regional Plan 2036 (HRP), the proposed development is consistent with the vision and goals outlined in the HRP as it will provide additional housing choice within an existing, well designed community that is accessible to a range of facilities and services.</p> <p>The construction phase will contribute towards economic growth and in the longer term, the provision of additional housing will provide broader economic benefits via increased demand for goods and services and patronage of local business as well as providing housing for a growing workforce.</p> <p>The HRP projects that approximately 11,050 additional dwellings will be needed in the Port Stephens LGA by 2036. The proposed development will make a significant contribution towards meeting this projected demand.</p> <p>The HRP also identifies a projected increase in the percentage of people aged over 65 years from 19% to 25% by the year 2036. Housing supply in the region will need to adapt to cater for this increase. The proposal will assist with meeting this demand through the provision of additional housing.</p> <p>The planning proposal is considered to be consistent with this direction as it achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.</p>
6. LOCAL PLAN MAKING		
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate	<p>The proposed amendments to the LEP do not include provisions that require concurrence, consultation or referral.</p> <p>The planning proposal is considered to be consistent with this direction.</p>

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	assessment of development.	
6.3 Site Specific Provisions	<p>The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls.</p> <p>Applies requirements for planning proposals seeking to incorporate provisions into an environmental planning instrument to amend another environmental planning instrument.</p>	<p>The proposed amendments to the LEP do not require the amendment of another environmental planning instrument.</p> <p>The planning proposal is consistent with this direction.</p>
	ENDS	

Q7. 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?

Lot 25 DP 952410 retains some vegetated areas toward its eastern and southern boundaries.

Existing vegetation communities across the site are shown in **Figure 8**.

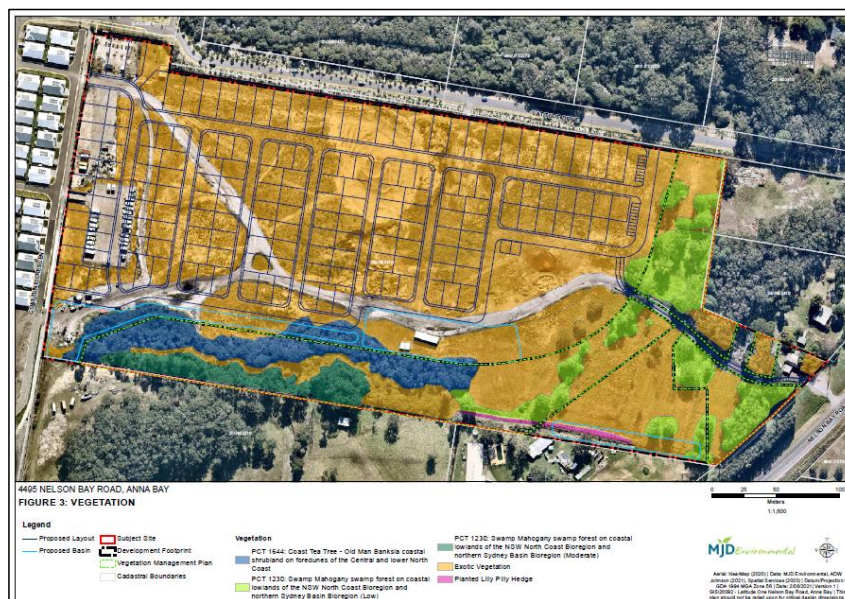


Figure 8. Existing Vegetation Communities
Source: MJD Environmental, 2021

- 6.73ha of Exotic Vegetation, and
- 0.30ha of Native Vegetation.

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The proposal seeks to retain a large portion of vegetation to the south and east of the proposal which is to be managed and rehabilitated to act as a Koala Corridor. This area is shown in **Figure 9** and includes;

- 1.13ha of Exotic Vegetation, and
- 1.74ha of Native Vegetation.

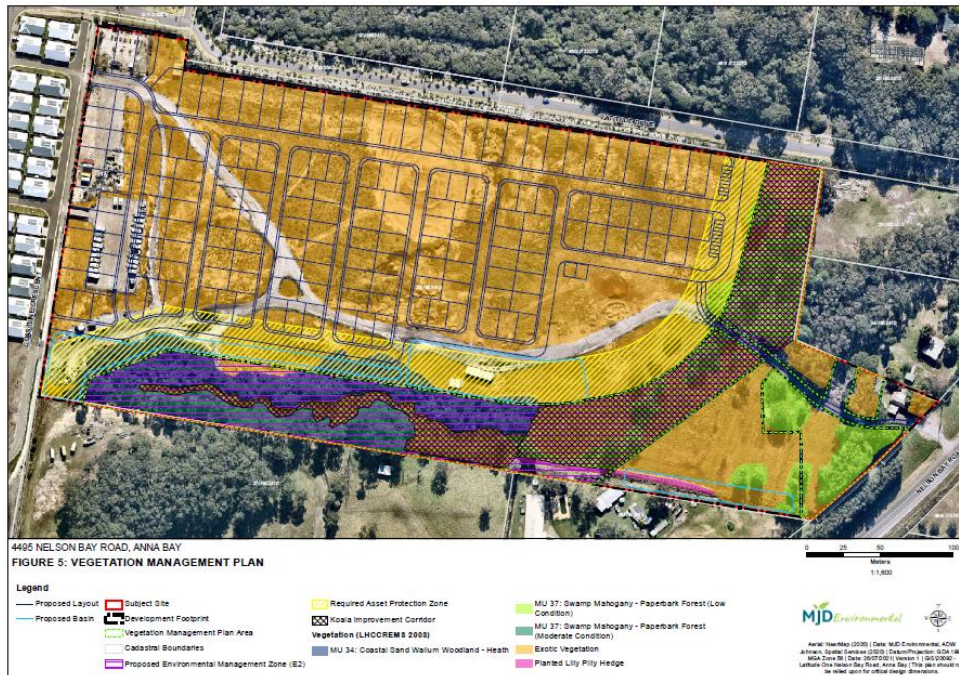


Figure 9. Vegetation Management Plan (concept- matter for future development application stage).

Source: MJD Environmental, 2021

No threatened fauna species listed under the BC Act 2016 and EPBC Act 1999 were recorded within the development footprint, however, recent *Phascolarctos cinereus* (Koala) scats were detected at multiple trees within the retained vegetation to the south as well as *Crinia tinnula* (Wallum Froglet), which was also recorded in the adjacent lots to the north and south.

A Significant Flora Survey was undertaken as part of the Biodiversity Assessment Report (refer **Attachment Six**). This included a survey into *Diuris arenaria* (Sand Doubletail), listed as “Endangered” under the Biodiversity Conservation Act 2016. The survey was carried out over the land within Lot 25 DP852410 Nelson Bay Road, Anna Bay by a qualified ecologist and field ecologist. No *Diuris arenaria* individuals were detected during the survey.

The report details that the Draft Concept Layout Plan (refer **Attachment Two**), including Asset Protection Zone, will require the removal of small areas (0.3ha) of native vegetation that do not exceed the 0.5ha BOS entry threshold.

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On this basis and with due regard to the site context, the proposal will be assessed under an Assessment of Significance (5 part test) and include assessment under the PSC Koala Plan of Management.

At the time this report was created, the Biodiversity Values Map could not create a BOSET report (23 July 2021), as such a snip has been provided below.



Figure 10. Biodiversity Values Map

The Biodiversity Assessment Report concludes that the proposal is unlikely to have a significant impact on the threatened entities assessed.

The report makes recommendations for mitigation measures and vegetation management throughout and after the construction phase (subject to future DA approval).

The planning proposal aims to provide for additional Koala feed trees and to create and maintain a koala corridor over the site.

This planning proposal seeks to rezone part of lot 25 DP 852410 from RU2 Rural Landscape to C2 Environmental Conservation (refer Part 1 and Part 2 of this planning proposal).

This biodiversity corridor will be supported through the adaptation of a Vegetation Management Plan (VMP) at DA stage. This VMP is a review of an existing VMP (refer **Attachment Twelve**) created under a development consent (DA 16/2017/282) granted on 07/07/2018 for earthworks within Lot 25 DP 852410.

The planning proposal provides a balance between housing and conservation outcomes and is unlikely to result in significant adverse impacts on the natural environment.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

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Technical studies have been undertaken to assess the likely environmental effects resulting from the planning proposal and how these effects are proposed to be managed. The following matters are considered.

Hydrology and Water Management

A Stormwater Strategy (the Strategy) was prepared by ADW Johnson in June 2021 for Lot 25 DP 852410 for the proposed expansion of an existing caravan park (refer **Attachment Three**).

The Strategy is based on a Draft Concept Layout Plan (refer **Attachment Two**), developed to inform the Planning Proposal, and specifically addresses both stormwater quantity and quality outcomes.

The Strategy concludes that appropriate stormwater controls can be readily implemented within the proposed site footprint at development application stage.

Port Stephens Council requested the proponent for additional information (refer **Attachment Three**) regarding a legal point of discharge and the proposed infiltration system. The proponent states that a stormwater easement (min. 10m wide) is proposed to be provided along the western edge of Lot 27 DP852410 and that negotiations have been initiated with the site owner.

If an easement was obtained then on-site stormwater detention could be achieved, and as such a suitable drainage solution could be achieved.

Although the easement has not been obtained yet, the risk is considered low and can be dealt with at development application stage.

Flooding

The site is mapped in the LEP as being located within a flood planning area. It is noted that flooding has been considered and addressed within Lots 2 and 4, Lot 2 DP 1204319 and Lot 1 DP 1225542 as part of approved development on the site (DA 16/2009/257).

A Stormwater Strategy was prepared by ADW Johnson in June 2021 relevant to the proposed Latitude One expansion over Lot 25 DP852410 (refer **Attachment Three**). The report gave consideration for flooding impacts over the site.

The Stormwater Strategy demonstrates the following outcomes:

- The 2017 regional flood study shows the site to be flood free for the 1% AEP and probable maximum floods.
- Minor filling will be required to elevate the proposed caravan and boat storage area above the present day 1% AEP design flood. A future development application for the site is required to demonstrate compliance with Council's Flood Impact and Risk Assessment requirements.
- Refuge-in-place is achievable for all dwelling sites (subject to a future development application).

ITEM 2 - ATTACHMENT 2 PLANNING PROPOSAL.

- Council's anticipated floor level controls can be readily achieved through minor site regrading (subject to a future development application).

Contamination and Acid Sulfate Soils

Contamination across Lots 2 and 4 DP 398888, Lot 2 DP 1204319 and Lot 1 DP 1225542 has been assessed as part of the approval (DA 16/2009/257; as amended) and is considered to have been appropriately dealt with via conditions of consent for the relevant approvals.

Douglas Partners prepared a Preliminary Site Investigation (Contamination) and Preliminary Acid Sulfate Soil Assessment in July 2021 over Lot 25 DP 852410 relating to the proposed Latitude One expansion of an existing caravan park (refer **Attachment Four**).

A number of potential contamination sources were identified, mostly associated with former sand mining activities. The presence of Acid Sulfate Soil was identified for areas of the site which have not been subject to sand mining. Disturbance in these areas will require management with reference to a site-specific acid sulfate soil management plan (ASSMP).

The assessment determined that contaminated land is not considered to be a major constraint for the planning proposal and subsequent development application. It is considered that the site can be made suitable for the proposed future use, subject to further minor investigation and appropriate management / remediation (where required).

Geotech

Douglas Partners prepared a Geotechnical Investigation in July 2021 for Lot 25 DP 852410 for the proposed expansion of an existing caravan park (refer **Attachment Five**).

There are no geotechnical issues identified that would impact on the progress of the planning proposal.

Bushfire Risk

A Bushfire Assessment report has been prepared by MJD Environmental in July 2021 to investigate bushfire threat for Lot 25 DP 852410 for the proposed expansion of an existing caravan park (refer **Attachment Seven**). Detailed assessments have previously been carried out over the existing caravan park development footprint.

The subject site is identified as containing bushfire vegetation Category 1 and its associated buffer (refer **Figure 11**). The proposed development would therefore be integrated development and require referral to the Rural Fire Service for consideration.

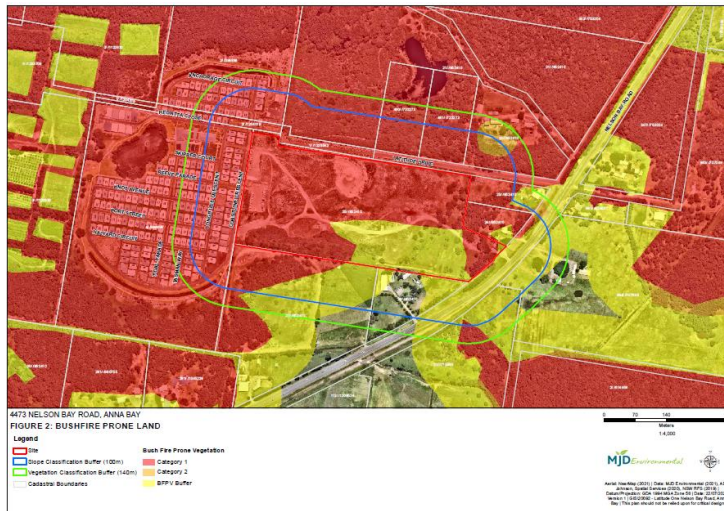


Figure 11. Bushfire Prone Land Mapping

Source: Bushfire Assessment report (2021) MJD Environmental, 2021.

The Draft Concept Layout Plan (refer **Attachment Two**) for the proposed development within Lot 25 DP852410 includes Asset Protection Zones adjacent to areas of high bushfire risk, illustrating that the proposed development can accommodate the bushfire hazard present on the site. The concept design incorporates the principle of providing a perimeter road where possible, as this provides the best access for fire fighting vehicles.

The Bushfire Assessment report provides detailed recommendations to enable the proposal to comply with Planning for Bushfire Protection (2019).

Indigenous Cultural Heritage

Aboriginal cultural heritage was considered and addressed within Lots 2 and 4, Lot 2 DP 1204319 and Lot 1 DP 1225542 as part of approved development on the site (DA 16/2009/257).

An Aboriginal Cultural Heritage Assessment (October 2021) of Lot 25 DP852410 was carried out by McArdle Cultural Heritage Pty Ltd (refer **Attachment Eight**).

The site is highly disturbed and has been assessed as being of low scientific significance and high cultural significance.

The results of the survey have identified a number of highly disturbed artefact scatters, shell middens and isolated finds, all located within the previously excavated portion of the project area. This has been recorded as one site, referred to as L1/1, shown in **Figure 12**.

ITEM 2 - ATTACHMENT 2 PLANNING PROPOSAL.

As site L1/1 will be impacted upon by the proposed Latitude One expansion, an AHIP will be required prior to works that will enable a community collection prior to works at that location.



Figure 12. Location of site L1/1

(Source: Aboriginal Cultural Heritage Assessment; McArdle, Oct 2021).

The report (chapter 8.2) concludes that the cumulative impact to Aboriginal heritage in the area is limited, and outlines a range of mitigation measures to minimise impacts.

Traffic and Transport

Access to the site is off the recently constructed Latitude Drive which extends along the northern boundary of Lot 25 DP 852410 and through Lot 1 DP 1225542, meeting Nelson Bay Road to the west of the subject site. Nelson Bay Road is the main arterial link connecting Newcastle to Williamstown and the Tomaree Peninsula.

The intersection of Latitude Drive and Nelson Bay Road was recently upgraded to cater for the traffic demand resulting from the approved caravan park within the site.

A Traffic and Parking Assessment (June 2021) was prepared by Intersect Traffic in June 2021 to determine the likely impact of the proposal on the adjacent local road network due to the traffic generated by the proposed Latitude One expansion over Lot 25 DP852410 (refer **Attachment Nine**).

The report recommends that the proposal can be supported from a traffic impact perspective as the development will not have an adverse impact on the local road network and will comply with all the requirements of Port Stephens Council, Australian Standards, TfNSW, and the Manufactured Home Village / Caravan Park Regulations.

ITEM 2 - ATTACHMENT 2 PLANNING PROPOSAL.Services

Public utility services including telecommunications, gas, electricity and water will be available to serve future development on the site (refer to Part 3 – Section B – Q3 and **Attachment Ten** of this planning proposal for information received from Hunter Water).

Q9. Has the planning proposal adequately addressed any social and economic effects?

Anticipated social and economic effects are addressed below.

Social Effects

A range of social benefits associated with the development of the site are anticipated, including:

- Additional housing choices in the Anna Bay and the Port Stephens LGA which caters for future population growth and responds to an ageing population in Port Stephens.
- Efficient use of community facilities and services provided at an existing approved development.
- Provide a critical mass which will enhance the viability of new services, facilities, and public transport in the Anna Bay area.

Economic Effects

A range of economic benefits associated with the development of the site are anticipated, including:

- Stimulation of local economic activity through increased local spending.
- Employment through construction and future maintenance of the development, and direct employment of employees servicing the development.
- Contribution toward investment in social infrastructure in the surrounding locality via additional funding through the Section 7.11 Contribution Plan.
- Provision of additional dwellings with easy access to major employment precincts such as Newcastle Airport and Tomago.

Section D – State and Commonwealth interests**Q10. Is there adequate public infrastructure for the planning proposal?**

The site is accessed off Latitude Drive which extends along the northern boundary of Lot 25 DP 852410 and through Lot 1 DP 1225542. Latitude Drive intersects with Nelson Bay Road to the west of the subject site.

Nelson Bay Road is a State road and is the main arterial link connecting Newcastle to Williamstown and the Tomaree Peninsula. It carries both local and tourist traffic visiting the Nelson Bay area and is the only route servicing the Tomaree Peninsula and the various townships between Newcastle and Nelson Bay.

ITEM 2 - ATTACHMENT 2 PLANNING PROPOSAL.

The site itself is currently not suitably serviced by public transport, however the existing Latitude One development operates a private minibus shuttle for residents whilst other alternate transport mode infrastructure is not available in the immediate vicinity of the site.

The intersection of Latitude Drive and Nelson Bay Road was recently upgraded to cater for the traffic demand resulting from the approved development within the site.

The proposed expansion of this development is proposed be serviced by this infrastructure, subject to development consent.

Public utility services including telecommunications, gas, electricity and water will be available to serve any development on the site. Preliminary servicing advice for the proposed development was received from Hunter Water (refer **Attachment Ten**).

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

The Gateway determination (11 May 2020) for this planning proposal requires consultation with the following public authorities/organisations

- Department of Planning, Industry and Environment (Biodiversity Conservation Division)
- Department of Planning, Industry and Environment (Geoscience Division)
- NSW Rural Fire Service
- Transport NSW
- Worimi Local Aboriginal Land Council.

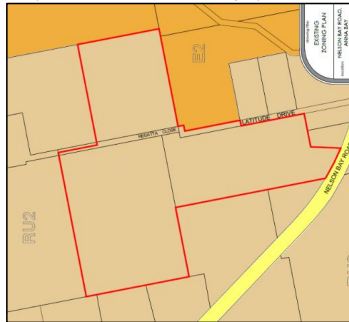
Results of agency consultation will be reflected in the final planning proposal.

ITEM 2 - ATTACHMENT 2 PLANNING PROPOSAL.

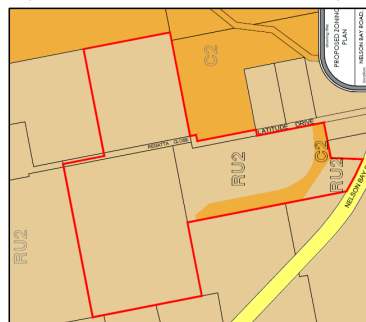
PART 4 – Mapping

The planning proposal requires changes to the Land Zoning Map and Additional Permitted Uses Map (refer **Attachment One**).

Current Land Zoning
(RU2 = Rural Landscape)



Proposed Zoning
(C2 = Environmental Conservation)



Proposed Additional Permitted uses

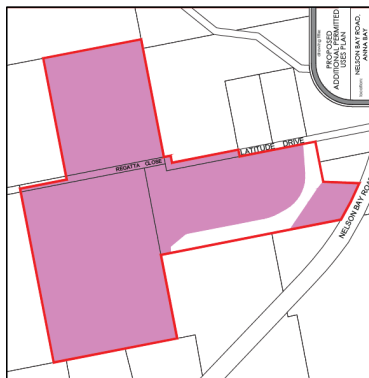


Figure 13. Proposed amendments to Port Stephens LEP mapping

PART 5 – Community consultation

The Gateway determination required the identification of an environmental outcome in consultation with Biodiversity Conservation Division (BCD), the Central Coast and Hunter Team and Council. Various meetings and conversations were held with BCD about the rezoning of environmental sensitive part of Lot 25 DP 852410 from RU2 Rural Landscape to C2 Environmental Conservation. In addition, opportunities were identified (subject to a future development application) for a koala corridor, replanting of koala feed trees, and the development of a vegetation management plan supported by a legal mechanism.

In addition, the following public authorities were consulted prior to and during public exhibition in accordance with the Gateway determination:

- Department of Planning, Industry and Environment (Biodiversity Conservation Division)
- Department of Planning, Industry and Environment (Geoscience Division)
- NSW Rural Fire Service
- Transport NSW
- Worimi Local Aboriginal Land Council.

No public authorities objected to the planning proposal.

In accordance with the Gateway determination, the planning proposal was placed on public exhibition for a minimum of 28 days from 19 November 2021 to 17 December 2021. Adjoining landowners were notified of the planning proposal and public notices were placed in the Port Stephens Examiner. Copies of the planning proposal were made available on Council's website.

During the exhibition period, 11 submissions were received from the community and some issues were raised which are matters for consideration at development application stage.

As a result of consultation, the following changes were made to the proposed LEP 2013 provisions:

- Inclusion of the rezoning of Lot 25 DP 852410 from RU2 Rural Landscape to part RU2 Rural Landscape and part C2 Environmental Conservation.
- Removal of the proposed provision to enable a one-in-two lot subdivision of Lot 25 DP 852410.

ITEM 2 - ATTACHMENT 2 PLANNING PROPOSAL.**PART 6 – Project timeline**

The additional technical information, studies and investigation identified in the planning proposal and consultation have been completed.

The planning proposal is reported to Council.

The following time table is proposed to make the plan:

	Feb 2022	March 2022	April 2022	May 2022
Council Report				
Legal drafting and making of the plan				

ITEM 2 - ATTACHMENT 2 PLANNING PROPOSAL.

Attachments - Technical studies and other attachments referred to in this report can be inspected upon request.

Attachment One	–	Proposed amendments to the Port Stephens LEP maps
Attachment Two	–	Draft Concept Layout Plan (Nov 2021)
Attachment Three	–	Stormwater Strategy 3.1 Stormwater Strategy (June 2021) 3.2 Stormwater Strategy; response to request for information (4 Nov 2021)
Attachment Four	–	Preliminary site investigation (Contamination) and acid sulfate assessment (July 2021)
Attachment Five	–	Geotechnical Investigation (June 2021)
Attachment Six	–	Biodiversity Assessment 6.1 Biodiversity Assessment Report (Aug 2021) 6.2 Preliminary comments - Biodiversity and Conservation Division (Sept 2021) 6.3 Diuris arenaria survey information (Oct 2021) 6.4 Biodiversity; response to request for information (Nov 2021)
Attachment Seven	–	Bushfire Assessment 7.1 Bushfire Assessment Report (July 2021) 7.2 Bushfire Assessment Report; response to request for information (Nov 2021)
Attachment Eight	–	Aboriginal Cultural Heritage Assessment 8.1 Aboriginal Cultural Heritage Assessment (Oct 2021) 8.2 Aboriginal Cultural Heritage Assessment – commentary (Oct 2021)
Attachment Nine	–	Traffic and Parking Assessment (June 2021)
Attachment Ten	–	Hunter Water – Preliminary servicing advice for proposed development (Feb 2020)
Attachment Eleven	–	Site survey plan (Sept 2020)
Attachment Twelve	–	Vegetation Management Plan for DA 16-2017-282-1 at Lot 25 DP852410 (July 2017)

MINUTES ORDINARY COUNCIL - 22 MARCH 2022

Councillor Matthew Bailey returned to the meeting at 8:00pm.

ITEM NO. 2

FILE NO: 22/74965
EDRMS NO: 58-2018-25-1

PLANNING PROPOSAL FOR 70, 70A, 70B, 70C LATITUDE DRIVE AND 4473 NELSON BAY ROAD, ANNA BAY

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the amendments to the planning proposal (**ATTACHMENT 2**) to permit 'caravan park' on Lots 2 & 4 DP 398888, Lot 2 DP 1204319, Lot 1 DP 1225542 and Lot 25 DP 852410 at 70, 70A, 70B, 70C Latitude Drive and 4473 Nelson Bay Road, Anna Bay and amend the Land Zoning Map – from RU2 Rural Landscape to part RU2 Rural Landscape and part C2 Environmental Conservation for Lot 25 DP 852410.
- 2) Receive and note the submissions (**ATTACHMENT 3**) received during the public exhibition of the planning proposal.
- 3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).

ORDINARY COUNCIL MEETING - 22 MARCH 2022
MOTION

	<p>Councillor Leah Anderson Councillor Chris Doohan</p> <p>That Council:</p> <ol style="list-style-type: none">1) Note the amendments to the planning proposal (ATTACHMENT 2) to permit 'caravan park' on Lots 2 & 4 DP 398888, Lot 2 DP 1204319, Lot 1 DP 1225542 and Lot 25 DP 852410 at 70, 70A, 70B, 70C Latitude Drive and 4473 Nelson Bay Road, Anna Bay and amend the Land Zoning Map – from RU2 Rural Landscape to part RU2 Rural Landscape and part C2 Environmental Conservation for Lot 25 DP 852410.2) Receive and note the submissions (ATTACHMENT 3) received during the public exhibition of the planning proposal.
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MINUTES ORDINARY COUNCIL - 22 MARCH 2022

	3) Authorise the exercise of delegations to make the amendment to the Port Stephens Local Environmental Plan 2013 under section 3.36 of the Environmental Planning and Assessment Act 1979 (NSW).
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**ORDINARY COUNCIL MEETING - 22 MARCH 2022
AMENDMENT**

074	Councillor Leah Anderson Councillor Giacomo Arnott It was resolved that Council defer the planning proposal (ATTACHMENT 2) to permit 'caravan park' on Lots 2 & 4 DP 398888, Lot 2 DP 1204319, Lot 1 DP 1225542 and Lot 25 DP 852410 at 70, 70A, 70B, 70C Latitude Drive and 4473 Nelson Bay Road, Anna Bay to the next meeting of Council.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Mayor Ryan Palmer, Crs Matthew Bailey, Chris Doohan and Glen Dunkley.

The amendment on being put became the motion, which was put and carried.

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Glen Dunkley, Peter Francis, Steve Tucker and Jason Wells.

Those against the Motion: Crs Matthew Bailey and Chris Doohan.

The motion was carried.

BACKGROUND

The purpose of this report is to advise Council of the outcome of the exhibition of the planning proposal (**ATTACHMENT 2**) for 70, 70A, 70B and 70C Latitude Drive, and 4473 Nelson Bay Road, Anna Bay and note the submissions received (**ATTACHMENT 3**). The report also seeks authorisation to exercise delegations to make the amendments to the Port Stephens Local Environmental Plan 2013 (LEP) set out in this report. A locality plan is provided at (**ATTACHMENT 1**).

MINUTES ORDINARY COUNCIL - 22 MARCH 2022

The planning proposal seeks to amend the LEP to regularise the approved caravan park located on part of the site, by adding 'caravan park' as an additional permitted use on these lots, to Schedule 1 of the LEP. The approved caravan park has 270 sites on which manufactured homes are currently located, or being installed and is operating as a seniors living lifestyle resort. The current zoning of the site is RU2 Rural Landscape which no longer permits this use and the development operates relying on existing use rights.

The planning proposal also seeks to facilitate the extension of this use to part of an adjoining parcel, Lot 25 DP852410, by extending the additional permitted use outlined above, over this lot. Subject to development consent and further approvals, an additional 170 manufactured homes could potentially be accommodated on Lot 25 DP852410. The planning proposal would also amend the Land Zoning Map from RU2 Rural Landscape to part RU2 Rural Landscape and part C2 Environmental Conservation for Lot 25 DP852410.

A summary of the planning proposal is set out below:

Date Lodged:	17 October 2018
Proponent:	Focus Town Planning on behalf of Ingenia Communities
Subject properties:	70 Latitude Drive, Anna Bay (Lot 2 DP 398888) 70A Latitude Drive, Anna Bay (Lot 4 DP 398888) 70B Latitude Drive, Anna Bay (Lot 2 DP 1204319) 70C Latitude Drive, Anna Bay (Lot 1 DP 1225542) and 4473 Nelson Bay Road, Anna Bay (Lot 25 DP 852410)
Site Area:	Total site area (all lots combined) is approximately 43ha, comprised of: Lot 2 DP 39888 approx. 10.3ha Lot 4 DP 39888 approx. 18.8ha Lot 1 DP 1225542 approx. 0.5ha Lot 2 DP 1204319 approx. 0.7ha Lot 25 DP 852410 approx. 13.2ha
Current Zoning:	RU2 Rural Landscape
Proposed Zoning	RU2 Rural Landscape and C2 Environmental Conservation and Schedule 1 additional permitted use 'caravan park'.

At its meeting on 26 November 2019 (**ATTACHMENT 4**), Council resolved to adopt the planning proposal and forward it to the Department of Planning, Industry and Environment (DPIE) to seek a Gateway determination and delegated authority to make the plan.

In response to the Gateway determination subsequently issued on 11 May 2020, the planning proposal was updated to address a number of ministerial directions and SEPPs, including a review of ecological outcomes on the site. Through discussion

MINUTES ORDINARY COUNCIL - 22 MARCH 2022

with the Biodiversity Conservation Division, the proposal was amended to include land to be rezoned C2 Environmental Conservation.

The Gateway determination authorises Council to make the necessary amendments to the LEP to give effect to the planning proposal following public exhibition.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial implications for Council as a consequence of the recommendations of this report.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no significant legal, policy or risk implications as a consequence of the recommendations of this report.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that there is insufficient land available in the Anna Bay area for future housing to satisfy demand in the locality.	Low	Adopt the recommendations.	Yes

Environmental Planning and Assessment Act 1979 (NSW) (EP&A Act)

Part 3 of the EP&A Act provides the framework for amending a local environmental plan. DPIE issued a Gateway determination under section 3.34 of the EP&A Act

MINUTES ORDINARY COUNCIL - 22 MARCH 2022

specifying that the planning proposal should proceed to exhibition, subject to conditions and consultation requirements.

Council is authorised to act as the local plan making authority in the Gateway determination. Should the recommendations be adopted, arrangements will be made for the drafting of the amendment to the LEP to give effect to the planning proposal.

Hunter Regional Plan 2036 (HRP)

The planning proposal is generally consistent with the visions and goals of the HRP. The proposal will make efficient use of the land, as it provides housing choice (including for seniors) with easy access to a range of community facilities and services within a lifestyle village setting.

Port Stephens Local Environmental Plan 2013 (LEP)

The subject land is zoned RU2 Rural Landscape under the LEP, which does not permit caravan parks. The current development on the site was approved under the previous Port Stephens Local Environmental Plan 2000 and relies on existing use rights to operate.

The planning proposal would result in an addition to Schedule 1 Additional Permitted Uses to permit a caravan park on the subject land.

Anna Bay Strategy and Town Plan 2008

The subject land is not located within the Anna Bay town centre and therefore many of the key strategic directions outlined in the strategy are not relevant. The planning proposal is considered to support the vision established in the Strategy for Anna Bay as a small and vibrant town with a mix of retail and office space for local and visitor patronage. The proposed development will provide for additional residents within proximity of Anna Bay, resulting in patronage to the commercial uses within the town centre.

Port Stephens Local Strategic Planning Statement (LSPS)

The planning proposal is consistent with planning priorities 4 and 5 from the LSPS and will respond to the need for suitable land supply for housing and increase housing choice that suits the needs and lifestyle of current and future residents.

Live Port Stephens Local Housing Strategy (LHS)

The planning proposal is consistent with the LHS. It gives effect to the LHS as it meets the locational criteria of the LHS and provides additional housing supply in a suitable location with access to various town centres and adequate on site facilities.

MINUTES ORDINARY COUNCIL - 22 MARCH 2022**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Social and Economic

The planning proposal is expected to deliver a range of social and economic benefits to the existing and future community, including:

- Additional housing choices in the Anna Bay area and the Port Stephens LGA
- Employment through construction and the long term employees within the lifestyle village
- Increased retail and service industry patronage for nearby town centres
- Efficient use of (private) community facilities and services provided at the existing approved caravan park.

Environmental

The land is partially developed for the purposes of an approved caravan park. Lot 25 DP 852410 is predominately vacant, comprising grassland and scattered vegetation towards the southern and eastern periphery. Sand extraction has previously occurred over part of lot 25, resulting in a heavily disturbed area.

The planning proposal seeks to rezone an environmentally sensitive part of Lot 25 DP 852410 from RU2 Rural Landscape to C2 Environmental Conservation. This will incentivise future opportunities to enhance faunal movements across the site and improve the vegetation found within this corridor.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section.

Following issue of the Gateway determination, consultation was undertaken with Biodiversity Conservation Division. The planning proposal was updated as a result of this consultation, before being public exhibited.

Four submissions were received as a result of agency consultation. All agency concerns have been resolved and there are no objections to the planning proposal.

Eleven submissions were received during the public exhibition period. No further amendments have been made to the planning proposal as a result of these submissions.

All submissions are addressed in detail in **(ATTACHMENT 3)**.

MINUTES ORDINARY COUNCIL - 22 MARCH 2022Internal

Consultation with internal stakeholders was undertaken to assess the planning proposal, including with Asset Engineering Services, Development Planning, and Natural Systems units. No objections were raised and associated impacts can be addressed adequately at the development assessment stage.

External

The Gateway determination required Council to identify an environmental outcome in consultation with Biodiversity Conservation Division (BCD), the Central Coast and Hunter Team (DPIE), and Council. Various meetings and conversations were held with BCD about the rezoning of an environmentally sensitive part of Lot 25 DP 852410 from RU2 Rural Landscape to C2 Environmental Conservation. In addition, opportunities were identified (subject to a future development application) for a koala corridor, replanting of koala feed trees, and the development of a vegetation management plan supported by a legal mechanism.

As a result of consultation, the following changes were made to the proposed LEP provisions:

- Inclusion of the rezoning of Lot 25 DP 852410 from RU2 Rural Landscape to part RU2 Rural Landscape and part C2 Environmental Conservation
- Removal, on request of the proponent, of the initially proposed provision to enable a one-in-two lot subdivision of Lot 25 DP 852410.

Following the above amendments, the planning proposal was publicly exhibited in accordance with the Gateway determination from 19 November 2021 to 17 December 2021. During the public exhibition period, 11 submissions were received. The matters raised relate primarily to traffic safety and potential impact on koala habitat, however did not justify further amendment to the planning proposal. The matters raised in the submissions have been summarised and addressed in **(ATTACHMENT 3)**.

In addition, the following public authorities were consulted prior to and during public exhibition in accordance with the Gateway determination:

- Department of Planning, Industry and Environment (Biodiversity Conservation Division)
- Department of Planning, Industry and Environment (Geoscience Division)
- NSW Rural Fire Service
- Transport NSW
- Worimi Local Aboriginal Land Council.

No public authorities objected to the planning proposal. A summary of submissions and responses is provided at **(ATTACHMENT 3)**.

MINUTES ORDINARY COUNCIL - 22 MARCH 2022

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Locality Plan.
- 2) Planning Proposal. (Provided under separate cover)
- 3) Submissions Summary and Response Table.
- 4) Council Minutes - 26 November 2019.

COUNCILLORS ROOM

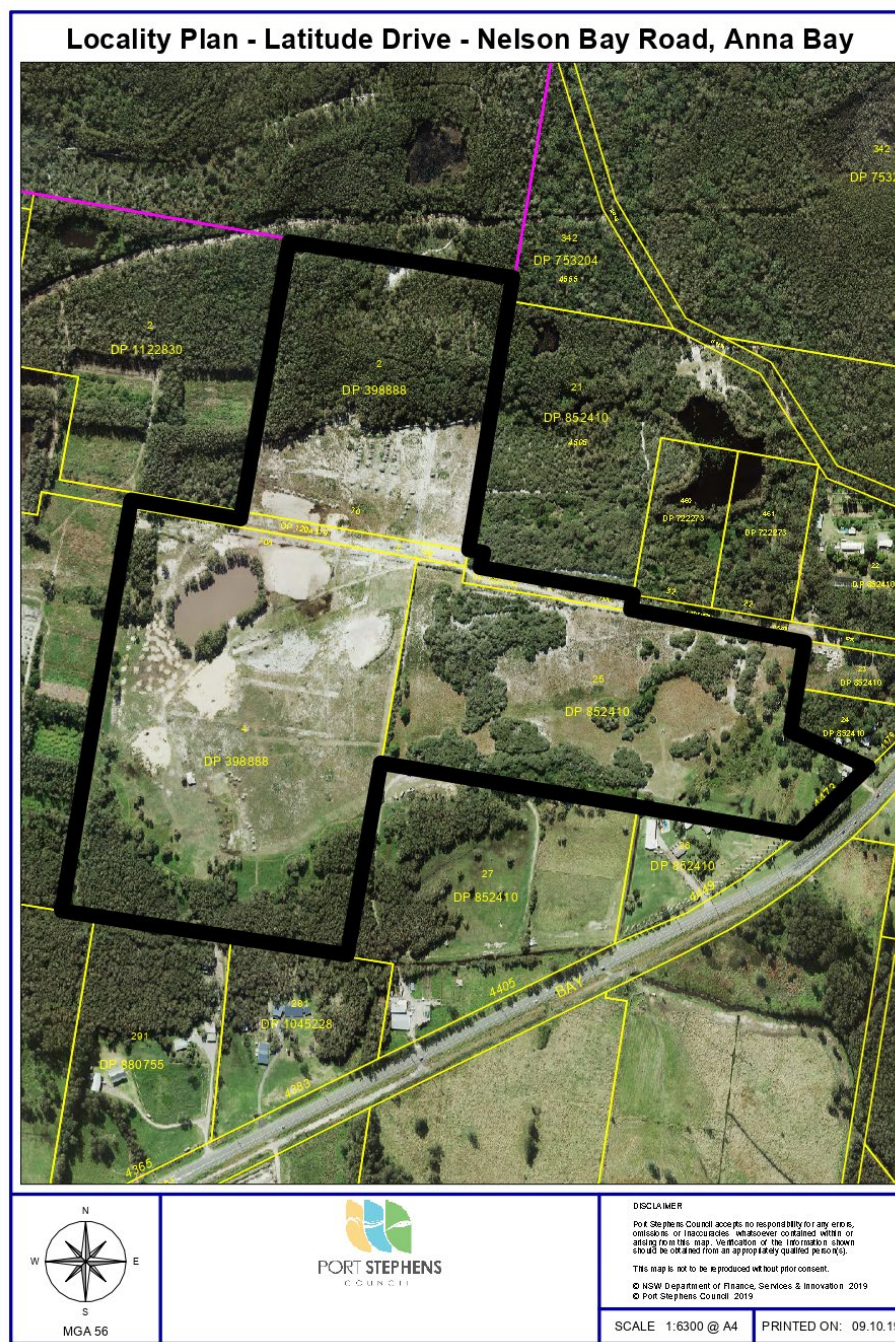
- 1) Relevant technical studies that form part of the planning proposal are available for review by Councillors upon request.
- 2) Copy of Submissions.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 22 MARCH 2022

ITEM 2 - ATTACHMENT 1 LOCALITY PLAN.



MINUTES ORDINARY COUNCIL - 22 MARCH 2022

ITEM 2 - ATTACHMENT 3 SUBMISSIONS SUMMARY AND RESPONSE TABLE.

Planning Proposal for 70 Latitude Drive, Anna Bay – Response to Submissions

No.	Author of submission	Summary	Council response
1	Resident	The submission states that the current development is not a caravan park as the structures are permanent fixtures and therefore it is a housing estate.	<p>The Standard Instrument Local Environmental Plan definition of 'caravan park' includes land on which caravans and moveable dwellings are, or are to be, installed or placed.</p> <p>The existing Latitude One development has an approval for 'caravan park' for the land use and a separate approvals under the local government legislation for the installation of the moveable dwellings.</p>
		The submission raises concerns that future development will use Council services and infrastructure like roads and libraries, but not contribute fairly via Council rates.	<p>Clause 121 of the <i>Local Government (General) Regulation 2021</i> provides that land used for a caravan park or a manufactured home estate is to be categorised as business for rating purposes. The owner of the estate pays the business rate.</p> <p>Residents will only contribute to rates through the fees they pay the park operator. Council is not permitted to levy rates on each separate occupancy as they are not separately valued by the NSW Valuer General. The NSW Valuer General can only provide separate valuations based on occupancy where all services are separate and there are no shared facilities.</p> <p>In addition, any future installation of moveable dwellings as a result of the planning proposal will be subject to developer contributions for each dwelling</p>

1

ITEM 2 - ATTACHMENT 5 COUNCIL MINUTES - 22 MARCH 2022.**MINUTES ORDINARY COUNCIL - 22 MARCH 2022****ITEM 2 - ATTACHMENT 3 SUBMISSIONS SUMMARY AND RESPONSE TABLE.**

			<p>at the same value as a single dwelling on a single lot. This is in accordance with the Port Stephens Local Infrastructure Contributions Plan which came into effect on 1 January 2020.</p> <p>It should be noted that the current and future proposed development on the subject land provides for a range of on-site private facilities and services. This includes pools, library, community centre, parks, walking trails, and a dog exercise area.</p> <p>Internal roads, infrastructure, and resident facilities will be provided and maintained at the cost of the owner of the site which will reduce the reliance on Council provided facilities and services.</p>
		<p>The submission suggests that a roundabout at the intersection of 70 Latitude Drive and Nelson Bay Road would be required as a prerequisite for any expansion and should be paid for by the proponent.</p>	<p>A Traffic and Parking Assessment report was prepared for the planning proposal.</p> <p>Modelling shows that the likely additional traffic from the full development of the proposed expansion of the park will not have an adverse impact on the operation/capacity of the Nelson Bay Road/Latitude Drive T- intersection post development in 2021 and in 2031.</p> <p>Council's Traffic Engineer reviewed the planning proposal and the Traffic and Parking Assessment Report and has no objection to the planning proposal.</p> <p>Transport for NSW (TfNSW) reviewed the planning</p>

2

MINUTES ORDINARY COUNCIL - 22 MARCH 2022

ITEM 2 - ATTACHMENT 3 SUBMISSIONS SUMMARY AND RESPONSE TABLE.

			<p>proposal and the Traffic and Parking Assessment report and raises no objections to or requirements for the proposed development.</p> <p>TfNSW considers there will be no significant impact on the nearby classified (State) road network.</p>
2	Resident	<p>The submission requests consideration of road safety for all road users, including older drivers, when entering and exiting Latitude Drive from and onto Nelson Bay Road.</p> <p>Points of concern include:</p> <ul style="list-style-type: none"> • safety of drivers, cyclists, and vehicles towing caravans, boats, and box trailers accessing Nelson Bay Road; • Peak hour times traffic congestion into and from Latitude Drive; • Holiday tourism traffic which impedes access and reduces safety; • Increased caution because of fears of collision causing vehicle build up to and from Latitude Drive; • The 90km speed limit on Nelson Bay Road being too high. 	<p>A Traffic and Parking Assessment Report was prepared for the planning proposal.</p> <p>Modelling shows that the likely additional traffic from the full development of the proposed expansion of the park will not have an adverse impact on the operation/capacity of the Nelson Bay Road/Latitude Drive T- intersection post development in 2021 and in 2031.</p> <p>Council's Traffic Engineer reviewed the planning proposal and the Traffic and Parking Assessment Report and has no objection to the planning proposal.</p> <p>Transport for NSW (TfNSW) reviewed the planning proposal and the Traffic and Parking Assessment report and raises no objections to or requirements for the proposed development.</p> <p>TfNSW considers there will be no significant impact on the nearby classified (State) road network.</p> <p>Council could consider approaching TfNSW to review the speed limit at Nelson Bay Road. However, this is not a</p>

3

MINUTES ORDINARY COUNCIL - 22 MARCH 2022

ITEM 2 - ATTACHMENT 3 SUBMISSIONS SUMMARY AND RESPONSE TABLE.

			requirement for the planning proposal, but can be done independently and at any time.
3	Resident	<p>The submission objects to the proposed extension of the Latitude One development as the present onsite community facilities are considered inadequate for the current number of residents. An increase of residents will exacerbate this situation.</p> <p>The submission includes suggestions to minimise the effects of the planning proposal on existing residents including:</p> <ul style="list-style-type: none"> • That new dwellings are not permitted to be occupied until completion of the planned new resident facilities; • New facilities should be built closer to the existing facilities as they are centrally located. 	<p>Any future development application will need to meet the minimum requirements in concurrence with the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021</i> (the Regulations). The Regulations set out requirements for community amenities:</p> <ul style="list-style-type: none"> • A minimum of 10% of the total land area of a caravan park or camping ground must be reserved for recreation or other communal activities. • The council may allow a lower percentage, not less than 6% of the total land area of the caravan park or camping ground, to be reserved for recreation or other communal activities. • Before allowing a lower percentage, the council must consider (a) the type and range of amenities to be provided, and (b) other matters the council considers relevant.
		<p>The submission requests a revision of the future traffic situation as access to Nelson Bay Road in both directions is considered dangerous because of high vehicle speed.</p>	<p>A Traffic and Parking Assessment Report was prepared for the planning proposal.</p> <p>Modelling shows that the likely additional traffic from the full development of the proposed expansion of the park will not have an adverse impact on the operation/capacity of the Nelson Bay Road/Latitude</p>

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			<p>Drive T- intersection post development in 2021 and in 2031.</p> <p>Council's Traffic Engineer reviewed the planning proposal and the Traffic and Parking Assessment report and has no objection to the planning proposal.</p> <p>Transport for NSW (TfNSW) reviewed the planning proposal and the Traffic and Parking Assessment report and raises no objections to or requirements for the proposed development.</p> <p>TfNSW considers there will be no significant impact on the nearby classified (State) road network.</p>
4	Resident	<p>The submission objects to the planning proposal.</p> <p>The submission notes that the current development is approved as a 'caravan park' with on-site manufactured homes (moveable dwellings) and is marketed as a housing estate.</p> <p>The submission is concerned that the land is subject to lower rural land rates compared to residential land rates paid by other residents. The submission acknowledges that the current planning framework for moveable dwellings within caravan parks is set by the NSW planning framework (and not Council) and leads to potential disadvantage to existing ratepayers.</p>	<p>The Standard Instrument Local Environmental Plan definition of 'caravan park' includes land on which caravans and moveable dwellings are, or are to be, installed or placed.</p> <p>The existing Latitude One development has an approval for 'caravan park' for the land use and a separate approvals under the local government legislation for the installation of the moveable dwellings.</p> <p>Council charges the owner of the estate business rates, based on the land value of the entire estate as determined by the NSW Valuer General.</p> <p>Any future installation of moveable dwellings as a result of the planning proposal will be subject to developer contributions for each dwelling</p>

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			<p>at the same value as a single dwelling on a residential lot, in accordance with the Port Stephens Development Contribution Plan 2014.</p> <p>The current and future proposed development on the subject land provides for a range of on-site private facilities and services. This includes pools, library, community centre, parks, walking trails, and a dog exercise area. This will reduce the reliance on Council provided facilities and services.</p> <p>Internal roads, infrastructure, and resident facilities will be provided and maintained at the cost of the owner of the site.</p>
5	Resident	<p>The submission raises concerns about stormwater potentially being discharged from the development site onto adjoining properties and into the main drain.</p> <p>The submission advises that adjoining properties do not currently receive stormwater discharge.</p>	<p>The proponent provided a Stormwater Strategy to demonstrate that stormwater from future development is able to be managed appropriately.</p> <p>At development application stage the proponent will need to provide sufficient detail to demonstrate if stormwater can be contained within the boundaries of the future development site.</p> <p>If this is not possible, detail is required at development application stage to demonstrate how any stormwater flows discharged from the development site shall not have a negative impact on surrounding land and/or that a legal point of discharge has been achieved.</p>

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			Alternatively, a deferred development application commencement condition may be imposed requiring an easement to be obtained.
		The submission expresses concerns about future maintenance of stormwater controls.	<p>The owner of the estate will be required to maintain all private infrastructure for the life of the development.</p> <p>If there were any infrastructure dedicated to Council as part of the future development, then Council will, as per standard process, be responsible for future maintenance of this infrastructure.</p> <p>Maintenance of stormwater controls can be secured through a concept operation & maintenance plan, to be provided as part of a future development application.</p>
		The submission seeks more information about the proposed installation of sewer and water mains to the site.	Further information about the proposed installation of sewer and water mains will be addressed by the proponent and Hunter Water at development application stage when more detailed information is available.
		The submission states that the proposal will put more strain on already overwhelmed doctors and hospitals.	<p>The existing demand for health services is acknowledged.</p> <p>The planning proposal is likely to create demand for health services associated with population growth generally in the local area and Hunter region. Health services are established (and permitted with consent) in nearby centres and in the Hunter region generally.</p>
6	Anna Bay Drainage Union	The submission raises concerns that the Anna Bay Drainage Union was not contacted by the proponent in	Drainage matters will be addressed at the development application stage when more

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		respect to their drainage plans for this planning proposal.	<p>detailed information is available.</p> <p>The land is located within the catchment of the Anna Bay Drainage Union. Future development may need to contribute to the maintenance of the local drainage network, consistent with other existing development in the catchment area, in further consultation with the Anna Bay Drainage Union and Council.</p>
7	Resident	The submission objects to the planning proposal on a range of grounds.	Noted. Concerns are responded to in the below.
		<p>The submission raises concerns relating to traffic movements and the increased potential for accidents, including:</p> <ul style="list-style-type: none"> • access and exit points between Latitude Drive and Nelson Bay Road • 90km speed limit on Nelson Bay Road • traffic increase over time • lack of slip lanes on Nelson Bay Road at the intersection with Latitude Drive 	<p>A Traffic and Parking Assessment Report was prepared for the planning proposal.</p> <p>Modelling shows that the likely additional traffic from the full development of the proposed expansion of the park will not have an adverse impact on the operation/capacity of the Nelson Bay Road/Latitude Drive T- intersection post development in 2021 and in 2031.</p> <p>Council's Traffic Engineer reviewed the planning proposal and the Traffic and Parking Assessment report and has no objection to the planning proposal.</p> <p>Transport for NSW (TfNSW) reviewed the planning proposal and the Traffic and Parking Assessment Report and raises no objections to or requirements for the proposed development.</p> <p>TfNSW considers there will be no significant impact on the</p>

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			<p>nearby classified (State) road network.</p> <p>Council could consider approaching TfNSW to review the speed limit at Nelson Bay Road. However, this is not a requirement for the planning proposal, but can be done independently and at any time.</p>
		<p>The submission objects to the positioning of the boat and caravan storage as it is unsightly for this location and a distraction to motorists. The submission states that the plans do not allow for landscaping to screen the area from Nelson Bay Road.</p>	<p>Any future development application proposing boat and caravan storage will be assessed in accordance with local planning controls at the time of lodgement. This includes the potential need for screening the area from Nelson Bay Road.</p>
		<p>The submission states that it is unclear if the proposed expansion of Latitude One will affect other infrastructure in Port Stephens, especially waste water (sewerage) management, and overload of other services.</p>	<p>Hunter Water will advise if infrastructure upgrades are required at the development application stage.</p>
		<p>The submission raises concerns regarding the potential impact of the planning proposal on koala habitat and refers to several points raised in the preliminary advice provided by the BCD, including:</p> <ul style="list-style-type: none"> • Querying compliance with previous rehabilitation requirements. • Recommending a Biodiversity Stewardship Agreement in addition to the Vegetation Management Plan for the conservation zone. • Identifying the development will impact on preferred koala habitat mapped under the Port Stephens Comprehensive 	<p>The submission refers to superseded preliminary advice provided by Biodiversity and Conservation Division (BCD) on 14 September 2021.</p> <p>Since then, a Biodiversity Assessment Report was prepared by the proponent and considered by BCD as part of their assessment of the planning proposal (undertaken in December 2022).</p> <p>Refer to the response provided to the final submission 14 received from BCD.</p>

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		Koala Plan of Management.	
		The submission states that the public interest needs to be considered regarding a range of topics including submissions from residents and visitors and issues including alternative transport, community facilities, traffic safety and signage.	Community submissions raising a wide range of issues have been received and responded to in this submission summary table and the Council report. The matters raised have been considered in the recommendation to adopt the planning proposal.
8	Department of Planning, Industry and Environment - Crown Lands (as adjoining land owner)	The submission raises no objection to the planning proposal as no impact to Crown land has been identified.	Noted.
9	Koala Coalition Econetwork Port Stephens Inc. (KKEPS)	<p>The submission acknowledges the willingness of the proponent (Ingenia) to engage with local community, environment groups like KKEPS, and Council to seek 'win-win' outcomes.</p> <p>The submission states that several issues would need to be addressed and resolved before the planning proposal could be approved.</p>	Noted.
		<p>The submission seeks consideration of:</p> <ul style="list-style-type: none"> • Safe crossing options at Nelson Bay Road for native wildlife including koalas. • Making the development 'wildlife friendly' including assurances that provision is made and kept for koalas to move through the site, including koala friendly fencing, koala feed trees, and the exclusion of dogs. 	<p>Measures to ensure the safety of koalas can be addressed at development application stage and may include:</p> <ul style="list-style-type: none"> • Fencing and structures that only allow one way access for koalas (from east to west) from Nelson Bay Road. • Speed limits. • Traffic signs raising awareness of koalas. • Requirements for dogs to be kept on leash.

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			A Vegetation Management Plan (VMP) will be required as a condition of consent for a future development application. A VMP can consider recommendations made in the submission.
		The submission supports the proposal for a vegetation management plan which includes re-planting to establish a corridor linking native wildlife habitat to the east and west of Lot 25.	Noted.
		The submission expresses concerns about future infrastructure needs (water and sewer) that may require additional clearing.	At this stage it is not known if and where additional infrastructure (water and sewer) may occur. Hunter Water will advise if infrastructure upgrades are required at development application stage.
		The submission notes that the Vegetation Management Plan (VMP) required as a condition of approval for the 'borrow pit' (DA 2017-282 for Lot 25) has not been fully implemented, and that more vegetation may have been cleared from Lot 25 than was approved.	The VMP for the 'borrow pit' has not been implemented, but a requirement for an updated VMP can be a condition of any future DA. A new VMP can be required to reflect the current proposed development, the inclusion of the C2 Environmental Conservation zone and the future koala corridor. The landholder has advised that clearing activities were carried out by the landholder in accordance with the <i>Local Lands Service Act (2013)</i> .
		The submission notes preliminary advice from Biodiversity Conservation Division (BCD) dated 14 September 2021 and states that it would be premature for Council to approve the planning proposal until the proponent has prepared a	The submission refers to preliminary advice provided by BCD on 14 September 2021. Since then, a Biodiversity Assessment Report has been prepared by the proponent and considered by BCD as part of their assessment of the

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		Biodiversity Assessment Report and recommendations from BCD have been received and any concerns satisfied.	planning proposal (undertaken in December 2022). Refer to the response provided to the final submission 14 received from BCD.
		<p>The submission supports the recommendation from the BCD that the koala corridor should be reinstated to be a complete functioning vegetation community with all vegetation structural layers and that it will need to be as wide as possible.</p> <p>The submission states that the proposed koala corridor is narrower than previously indicated and submits that wider corridors provide utility for their intended purpose.</p>	<p>The proposed koala corridor will provide a north-south and an east-west koala connection for koalas moving across Nelson Bay Road at this location.</p> <p>The planning proposal and supporting Biodiversity Assessment Report was prepared by the proponent and considered the existing vegetation, opportunities for revegetation, introducing a C2 Environmental Conservation Zone and the need for an Asset Protection Zone.</p> <p>The planning proposal and supporting documentation was referred to BCD for review. BCD have no objections to the planning proposal proceeding.</p> <p>Refer to the response provided to the final submission 14 received from BCD.</p>
		The submission states that the inclusion of the existing Vegetation Management Plan (VMP) prepared by Anderson (consultants) as part of the 'borrow pit' development application is confusing as the vegetation management areas identified in the Biodiversity Assessment Report prepared by MJD (consultants) are different.	<p>The planning proposal includes an older VMP which was prepared for a development application for the 'borrow pit' (DA 2017-282 for Lot 25 DA). It was a condition of the Gateway determination to include a copy of this VMP as an attachment to the planning proposal.</p> <p>A new VMP will be required as part of any future development application to better reflect the</p>

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			proposed future extension of the existing development over Lot 25, the inclusion of the new C2 Environmental Conservation zone, and proposed the koala corridor. This new VMP will replace the previous one.
		The submission states that a proposed Vegetation Management Area (VMA) close to Nelson Bay Road is dangerous as a high number of koalas is killed along Nelson Bay Road.	<p>The east-west koala corridor connection is proposed because there are records to indicate that koalas move across Nelson Bay Road at this location.</p> <p>It is acknowledged that road strike is a serious threat to koalas. Therefore, measures to establish this part of the corridor as a one-way crossing (to accept koalas from the east only) will be considered further at DA stage. The one-way crossing seeks to prevent koalas crossing Nelson Bay Road from Lot 25.</p>
		<p>The submission states that the location of Swamp Sclerophyll Forest EEC on Lot 25 appears different in the Vegetation Management Plan (VMP) from 2017 compared to the Biodiversity Assessment report for this planning proposal (MJD 2021).</p> <p>The submission seeks for the proposal to have greater consistency with the original VMP and to include the Vegetation Management Areas (VMA) 1 and 2 (currently identified as potential caravan storage area on the draft concept layout plan) as part of the future VMP area to strengthen the koala corridor.</p>	<p>The previous VMP prepared by Anderson Environmental (consultants) did not provide detailed vegetation mapping of the VMA in the 2017 Ecological Assessment or the VMP prepared for the 'borrow pit' development application.</p> <p>The latest vegetation mapping prepared by MJD (2020) to support this planning proposal is considered an accurate representation of the vegetation currently on site.</p> <p>The VMA identified in the 2017 Anderson VMP reflects vegetation condition classes (i.e. vegetation structure and level of weed infestation). They provide a guide for management and should not</p>

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			<p>be considered representative of vegetation mapping.</p> <p>A new VMP will be required as part of any future development application to better reflect the proposed future extension of the existing development over Lot 25, the inclusion of the new C2 Environmental Conservation zone, and proposed the koala corridor. This new VMP will replace the previous one.</p>
		<p>The submission raises concerns about the location of a caravan and boat storage area in the south east corner of Lot 25 as it will be visible from Nelson Bay Road and reduces the vegetation management area.</p>	<p>Any future development application proposing a boat and caravan storage will be assessed against planning provisions in force at the time of lodgement. This includes consideration of the potential need for screening the area from Nelson Bay Road and the requirement for a vegetation management plan, including the vegetation management area.</p>
		<p>The submission states that the Biodiversity Assessment Report for the planning proposal mentions the presence of koala scats on Lot 25, but does not provide the exact locations. The submission states that without a map of these locations it is not possible to see if koala scats have been found in the area indicated to provide storage space for caravans and boats.</p>	<p>The recorded presence of koala scat provides evidence that koalas are utilising habitat on site. All habitat on site has been considered as habitat for koalas. The exact location of the scat would not influence the assessment of the planning proposal.</p>
		<p>The submission raises concerns about traffic matters including:</p> <ul style="list-style-type: none"> Road deaths to any wildlife trying to cross Nelson Bay Road. 	<p>A Traffic and Parking Assessment Report was prepared for the planning proposal.</p> <p>Modelling shows that the likely additional traffic from the full development of the proposed expansion of the park will not</p>

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		<ul style="list-style-type: none"> • Safety concerns for residents entering and leaving the precinct. • The need for a more comprehensive traffic survey. • The need to reduce the maximum speed on Latitude Drive. 	<p>have an adverse impact on the operation/capacity of the Nelson Bay Road/Latitude Drive T- intersection post development in 2021 and in 2031.</p> <p>Council's Traffic Engineer reviewed the planning proposal and the Traffic and Parking Assessment Report and has no objection to the planning proposal.</p> <p>Transport for NSW (TfNSW) reviewed the planning proposal and the Traffic and Parking Assessment report and raises no objections to or requirements for the proposed development.</p> <p>TfNSW considers there will be no significant impact on the nearby classified (State) road network.</p> <p>Council could consider approaching TfNSW to review the speed limit at Latitude Drive for the public part of the road. The road owner can implement speed limits for the private portion of Latitude Drive. However, this is not a requirement for the planning proposal, and can be done independently and at any time.</p>
10	Tomaree Ratepayers & Residents Association (TRRA)	<p>The submission acknowledges that the Latitude One development and other similar land-lease communities are filling a gap in the housing market in Port Stephens and meeting a demand.</p> <p>The submission does not accept that the proposed expansion of the development is in the public interest unless</p>	Noted.

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		and until several outstanding issues are resolved.	
		The submission states that feedback should be obtained from existing residents of Latitude One and a summary of the feedback included in the report to Council on the planning proposal.	<p>At the time of community consultation (19 November – 17 December 2021), the requirements for public exhibition were set out in Local Environmental Plans – A guide to preparing local environmental plans 2018 (DPIE).</p> <p>The guide requires that public exhibition of the planning proposal is generally undertaken in the following manner:</p> <ul style="list-style-type: none"> • notification in a newspaper that circulates in the area affected by the planning proposal • notification on the website of the planning proposal authority • notification in writing to affected and adjoining landowners, unless the planning authority is of the opinion that the number of landowners makes it impractical to notify them. <p>Public exhibition for the planning proposal was undertaken in accordance with these requirements.</p> <p>The submissions received are responded to in this submissions table.</p>
		<p>The submission supports the proposed rezoning of part of Lot 25 to C2 Environmental Conservation.</p> <p>The submission also supports the preparation of a Vegetation Management Plan (VMP) and potentially linking native wildlife habitat to the east and west of Lot 25.</p>	Noted.

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		The submission supports adding a permitted use to the RU2 Rural Landscape zone for this site only. This option is preferred to a residential zone which could allow for uses like local shops which could undermine the viability of nearby centres	Noted.
		<p>The submission seeks the preliminary comments made by Biodiversity and Conservation Division (BCD) of DPIE on the Vegetation Management Plan (VMP) to be addressed in an updated version.</p> <p>A biodiversity stewardship agreement should be required in addition to the VMP for the proposed C2 Environmental Conservation zone.</p>	<p>The submission refers to superseded preliminary advice provided by Biodiversity and Conservation Division (BCD) on 14 September 2021.</p> <p>Since then, a Biodiversity Assessment Report was prepared by the proponent and considered by BCD as part of their assessment of the planning proposal (undertaken in December 2022).</p> <p>Refer to the response provided to the final submission 14 received from BCD.</p>
		The submission requests that a safe wildlife crossing option for Latitude Drive should be required and implemented at the expense of the developer.	It is acknowledged that road strike is a serious threat to koalas. Therefore, measures to establish safe wildlife crossings will be considered further at DA stage.
		<p>The submission requests consideration of a safe wildlife crossing of Nelson Bay Road to the northeast of the Latitude Drive junction.</p> <p>This requires an appropriate contribution by the developer to the cost, and integration with the required road safety improvements to the junction.</p>	<p>The land to the northeast of Latitude Drive is not owned by the proponent. Therefore, this proposed wildlife crossing is unlikely to be feasible.</p> <p>Detailed measures for the koala corridors will be considered at development application stage.</p>
		The submission requests Council require discussions between the proponent and volunteer koala care and protection groups about arrangements for fencing,	Volunteer koala care and protection groups are encouraged to engage with the project throughout the submissions process for

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		planting and control of domestic animals within the Latitude One development, and protection of native wildlife in the proposed C2 Environmental Conservation zone and vegetation management area.	planning proposals and development applications.
		The submission requests Council require the caravan and boat storage area to be relocated to the north or west of the C2 Environmental Conservation zone, and that zone extended to include the southeast corner of Lot 25.	This is not a matter that can be addressed in the planning proposal. Any future development application proposing relocation of boat and caravan storage will be assessed against planning provisions in force at the time of lodgement.
		The submission requests that the provision of some specific additional community facilities for residents are 'locked in' to the approval of the planning proposal, with details of the facilities to be agreed with the Latitude One Residents Committee.	<p>Additional facilities are not required to be determined with the planning proposal.</p> <p>Any future development application will need to meet the minimum requirements in concurrence with the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021</i> (the Regulations). The Regulations set out requirements for community amenities:</p> <ul style="list-style-type: none"> • A minimum of 10% of the total land area of a caravan park or camping ground must be reserved for recreation or other communal activities. • The council may allow a lower percentage, not less than 6% of the total land area of the caravan park or camping ground, to be reserved for recreation or other communal activities.

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			<ul style="list-style-type: none"> Before allowing a lower percentage, the council must consider (a) the type and range of amenities to be provided, and (b) other matters the council considers relevant.
		<p>The submission request a more comprehensive traffic survey as a basis both for technical assessment against the RTA/RMS guidelines and for a separate 'common sense' appraisal of the actual situation on the ground at this location.</p> <p>The submission requests improvements to the junction of Latitude Drive and Nelson Bay Road to prevent increased risk of serious accidents.</p> <p>The submission requests consideration by TfNSW for installation of a roundabout, or at least to a physically protected centre lane in Nelson Bay Road for vehicles turning right out of Latitude Drive.</p> <p>The submission requests that intersection-improvements should be made a condition of confirmation of the planning proposal.</p>	<p>A Traffic and Parking Assessment Report was prepared for the planning proposal.</p> <p>The Traffic and Parking Assessment Report for this the planning proposal was prepared with reference to the RTA's Guide to Traffic Generating Developments, Austroads Guide to Road Design (2019), and the Austroads Guide to Traffic Management (2020).</p> <p>Reference is also made to the Port Stephens Council Development Control Plan 2014 and the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021</i>, and information provided by ADW Johnson Pty Ltd (consultants).</p> <p>Modelling shows that the likely additional traffic from the full development of the proposed expansion of the park will not have an adverse impact on the operation/capacity of the Nelson Bay Road/Latitude Drive T- intersection post development in 2021 and in 2031.</p> <p>Council's Traffic Engineer reviewed the planning proposal and the Traffic and Parking Assessment report</p>

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			<p>and has no objection to the planning proposal.</p> <p>Transport for NSW (TfNSW) reviewed the planning proposal and the Traffic and Parking Assessment Report and raises no objections to or requirements for the proposed development.</p> <p>TfNSW considers there will be no significant impact on the nearby classified (State) road network.</p>
		The submission requests that Council and/or Transport for NSW/RMS should implement a low speed limit on the public part of Latitude Drive.	<p>Council could consider approaching TfNSW to review the speed limit at Latitude Drive for the public part of the road. The road owner can implement speed limits for the private portion of Latitude Drive. However, this is not a requirement for the planning proposal, and can be done independently and at any time.</p>
		The submission states that the developer should be required to fund at least the 'marking' of a shared path (and street lighting) along Latitude Drive, including the 400m stretch for which Council is responsible.	<p>This is not a matter that can be addressed in a planning proposal.</p> <p>In addition, the current road width is approximately 6m. This is not wide enough to allow for any additional marked lanes, while maintaining 2-way travel.</p> <p>Austroroads suggests that on local streets with low volumes, it is usually not necessary to make special provision for cyclists as the lower speed of motor traffic should enable cyclists to safely share the road with other users. Consideration of reducing speed limits has been addressed in the above.</p>

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		The submission states that any concerns Hunter Water has about the proposal should be addressed, with the cost of any further works required to be met as a condition on the developer.	This is not a matter that can be addressed in a planning proposal. Hunter Water will advise if infrastructure upgrades are required at development application stage.
		The submission states that written consent for the establishment of an easement across Lot 27 for stormwater be established prior to the planning proposal being confirmed, and provisions included to ensure any clearing of native vegetation on this easement is minimised.	The proponent provided a Stormwater Strategy to demonstrate that stormwater from future development is able to be managed appropriately. At development application stage the proponent will need to provide sufficient detail to demonstrate if stormwater can be contained within the boundaries of the future development site. If this is not possible, detail is required at development application stage to demonstrate how any stormwater flows discharged from the development site shall not have a negative impact on surrounding land and/or that a legal point of discharge has been achieved. Alternatively, a deferred development application commencement condition may be imposed requiring an easement to be obtained.
11	Resident	The submission objects to the planning proposal because of potential impact on preferred koala habitat. The submission makes reference to the preliminary advice provided by BCD.	The planning proposal aims to protect and enhance koala habitat with the introduction of a C2 Environmental Conservation zone and the future revegetation with koala feed trees on part of the site, and ongoing management and protection through a future vegetation management plan

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			<p>The submission refers to superseded preliminary advice provided by Biodiversity and Conservation Division (BCD) on 14 September 2021.</p> <p>Since then, a Biodiversity Assessment Report was prepared by the proponent and considered by BCD as part of their assessment of the planning proposal (undertaken in December 2022).</p> <p>Refer to the response provided to the final submission 14 received from BCD.</p>
		<p>The submission raises concerns about the safety of the intersection between Latitude Drive and Nelson Bay Road.</p>	<p>A Traffic and Parking Assessment Report was prepared for the planning proposal.</p> <p>Modelling shows that the likely additional traffic from the full development of the proposed expansion of the park will not have an adverse impact on the operation/capacity of the Nelson Bay Road/Latitude Drive T- intersection post development in 2021 and in 2031.</p> <p>Council's Traffic Engineer reviewed the planning proposal and the Traffic and Parking Assessment report and has no objection to the planning proposal.</p> <p>Transport for NSW (TfNSW) reviewed the planning proposal and the Traffic and Parking Assessment Report and raises no objections to or requirements for the proposed development.</p>

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			TfNSW considers there will be no significant impact on the nearby classified (State) road network.
12	Transport for NSW (TfNSW)	The submission states that TfNSW raises no objections to or requirements for the proposed development as it is considered there will be no significant impact on the nearby classified (State) road network.	Noted.
		The submission advises that Council should consult with the local bus company about the potential to service the development through Latitude Drive. This arrangement may complement the current minibus service for the residents.	Council may consider consulting with a local bus company about the opportunity to provide a bus service to Latitude Drive. This is not a matter for the planning proposal and can be actioned independently and at any time.
13	Department of Regional NSW – Mining, Exploration & Geoscience (MEG) – Geological Survey of NSW (GSNSW)	The submission advises that GSNSW have no resource sterilisation issues for consideration under section 9.1 of the Environmental Planning and Assessment Act 1979, Ministerial Direction 1.3 Mining, Petroleum Production and Extractive Industries.	Noted.
14	Department of Planning, Industry and Environment – Biodiversity and Conservation Division (BCD)	The submission supersedes the preliminary advice from 14 September 2021 and does not provide objections to the planning proposal. The submission makes 3 recommendations and BCD understands that these will be addressed at the development application stage, following determination of the planning proposal.	Noted.
		The submission recommends for Council to consider whether the proposal will	Any future development application will be required to consider this matter.

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ITEM 2 - ATTACHMENT 3 SUBMISSIONS SUMMARY AND RESPONSE TABLE.

		<p>cause 'prescribed impacts' which trigger entry into the Biodiversity Offset Scheme.</p> <p>The <i>Biodiversity Conservation Regulation 2017</i>, Part 6 section 6.1 outlines 'prescribed impacts' including possible vehicle strike, or impacts on the connectivity between different areas of habitat of threatened species that facilitates the movement of those species across their range', or changes to the hydrology of the area.</p>	
		<p>The submission recommends a review of the Test of Significance (ToS) included in the Biodiversity Assessment Report.</p> <p>Information on each species/entity is to be provided in accordance with the ToS guidelines and may some species may require their own individual ToS.</p>	<p>Council agrees that the format of the Test of Significance (ToS) does not follow standard best practice, but is sufficient for the purposes of this planning proposal.</p> <p>Any future development application will be required to consider this matter.</p>
		<p>The submission recommends that a suitable mechanism is provided to ensure the biodiversity values of the koala corridor are protected into the future.</p> <p>BCD recommends a new Vegetation Management Plan with a legal mechanism attached to it. Alternatively, the proponent could investigate whether they could enter into a Biodiversity Stewardship Agreement.</p>	<p>Any future development application will be required to consider this matter.</p>
15	NSW Rural Fire Service	<p>The submission has no objection to the planning proposal.</p> <p>The submission provides recommendations for additional provisions to be</p>	Noted.

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		made at development application stage.	
		The submission recommends that any future additional areas, outside of Lot 25, proposed to be rezoned to C2 Environmental Conservation need to be assessed against the requirements for bush fire protection measures.	<p>The C2 Environmental Conservation zone over Lot 25, as identified in the planning proposal, has been considered against the requirements of the Planning for Bush Fire Protection 2019. No issues have been identified.</p> <p>No land outside of Lot 25 is proposed to be rezoned to C2 Environmental Conservation as part of this planning proposal.</p> <p>It is acknowledged that land outside of Lot 25 would require further assessment and consideration through a separate rezoning process.</p>
		The submission recommends to consider the internal road design and best traffic movement for emergency service vehicles at development application stage.	A final layout plan and internal road designs will be required and prepared for a future development application. Traffic movement for emergency service vehicles can be assessed at that stage.
		The submission recommends a review of traffic volumes onto Latitude Drive, taking into account emergency vehicle access. This matter can be considered at development application stage.	<p>TfNSW have reviewed the planning proposal and the traffic assessment and do not object to the planning proposal.</p> <p>A future development application will take into account the recommendations from NSW RFS.</p>
		The submission recommends the provision of a traffic-able defensible space for firefighters at the unmanaged hazard interface with the proposed future development. This matter can be addressed at development application stage.	A final layout design plan will be prepared at development application stage and consider the recommendations from NSW RFS.

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ITEM 2 - ATTACHMENT 5 COUNCIL MINUTES - 22 MARCH 2022.**MINUTES ORDINARY COUNCIL - 22 MARCH 2022****ITEM 2 - ATTACHMENT 3 SUBMISSIONS SUMMARY AND RESPONSE TABLE.**

16	Worimi Local Aboriginal Land Council	No submission was received.	<p>Worimi Local Aboriginal Land Council was invited to comment on the planning proposal, however no submission was received.</p> <p>Consultation with Worimi Local Aboriginal Land Council was undertaken during the preparation of the Aboriginal Cultural Heritage Assessment for this planning proposal.</p>
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MINUTES ORDINARY COUNCIL - 22 MARCH 2022**ITEM 2 - ATTACHMENT 4 COUNCIL MINUTES - 26 NOVEMBER 2019.****MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019****ITEM NO. 2****FILE NO: 19/324404
EDRMS NO: 58-2018-25-1****PLANNING PROPOSAL FOR 70, 70A, 70B, 70C LATITUDE DRIVE AND 4473
NELSON BAY ROAD, ANNA BAY****REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the Planning Proposal (**ATTACHMENT 3**) to amend the Port Stephens Local Environmental Plan 2013 to:
 - a. Regularise the existing approved use of land at Lots 2 & 4 DP 398888, Lot 2 DP 1204319, Lot 1 DP 1225542 at 70, 70A, 70B and 70C Latitude Drive (known as the 'Latitude One Lifestyle Resort').
 - b. Enable the extension of the existing use to adjoining land at Lot 25 DP852410 at 4473 Nelson Bay Road (subject to development consent); and
 - c. Facilitate future subdivision of Lot 25 DP852410 at 4473 Nelson Bay Road, Anna Bay into 2 lots.
- 2) Forward the Planning Proposal to the NSW Department of Planning, Industry and Environment for a Gateway Determination and request authority to make the plan.

**ORDINARY COUNCIL MEETING - 26 NOVEMBER 2019
MOTION**

224	Councillor John Nell Councillor Chris Doohan It was resolved that Council: <ol style="list-style-type: none">1) Adopt the Planning Proposal (ATTACHMENT 3) to amend the Port Stephens Local Environmental Plan 2013 to:<ol style="list-style-type: none">a. Regularise the existing approved use of land at Lots 2 & 4 DP 398888, Lot 2 DP 1204319, Lot 1 DP 1225542 at 70, 70A, 70B and 70C Latitude Drive (known as the 'Latitude One Lifestyle Resort').b. Enable the extension of the existing use to adjoining land at Lot 25 DP852410 at 4473 Nelson Bay Road (subject to development consent); andc. Facilitate future subdivision of Lot 25 DP852410 at 4473 Nelson Bay Road, Anna Bay into 2 lots.
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MINUTES ORDINARY COUNCIL - 22 MARCH 2022**ITEM 2 - ATTACHMENT 4 COUNCIL MINUTES - 26 NOVEMBER 2019.****MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019**

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|--|--|
| | 2) Forward the Planning Proposal to the NSW Department of Planning, Industry and Environment for a Gateway Determination and request authority to make the plan. |
|--|--|

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Chris Doohan, Ken Jordan, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to recommend that Council adopt a Planning Proposal (**ATTACHMENT 3**) to amend the Port Stephens Local Environmental Plan 2013 (PSLEP 2013) to regularise the existing approved use of land at 70, 70A, 70B and 70C Latitude Drive, enable the extension of that use to adjoining land at 4473 Nelson Bay Road, and to facilitate the future subdivision of the adjoining land.

A locality map of the land the subject of the Planning Proposal is available at (**ATTACHMENT 1**) and a Strategic Planning Assessment Report (SPAR) for this Planning Proposal is available at (**ATTACHMENT 2**).

The Planning Proposal will regularise the approved existing use on the part of the site where an approved caravan park is located. The approved caravan park has 270 sites on which manufactured homes are currently located, or being installed and it is currently operating as a seniors living lifestyle resort. The current zoning of the site no longer permits this use and the development operates relying on existing use rights.

The Planning Proposal seeks to facilitate the extension of this use to part of an adjoining parcel, Lot 25 DP852410. Subject to development consent and further approvals, an additional 170 manufactured homes could potentially be accommodated on Lot 25 DP852410.

On 12 March 2019, Council resolved to prepare a planning proposal to amend the PSLEP 2013 to better plan for manufactured homes and caravan parks (Minute Number 045). That resolution responded to recent case law that potentially broadened the scope of the permissibility of this type of development. The Planning Proposal is not inconsistent with this resolution given the existing approved use of land. The Planning Proposal will facilitate the extension of this approved use and does not rely on the recent case law to enable the permissibility of manufactured homes on the site.

MINUTES ORDINARY COUNCIL - 22 MARCH 2022**MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019**

The Planning Proposal will also facilitate the future subdivision of Lot 25 DP852410, enabling the part of the lot fronting Nelson Bay Road that is that not proposed to be used for the caravan park, to be excised.

Any expansion of the existing caravan park and future subdivision would be subject to future applications and assessment.

Should Council resolve to adopt the Planning Proposal, it will be forwarded to the NSW Department of Planning, Industry & Environment (DPIE) for a Gateway determination.

A summary of the Planning Proposal and property details are provided below.

Date Lodged:	17 October 2018
Proponent:	Ingenia Communities C/- ADW Johnson
Subject Site:	Lots 2 and 4 DP 39888; Lot 1 DP 1225542; Lot 2 DP 1204319; Lot 25 DP 852410
Total Area:	Total site area (all lots combined) is approximately 43ha, comprised of: Lot 2 DP 39888 approx. 10.3ha Lot 4 DP 39888 approx. 18.8ha Lot 1 DP 1225542 approx. 0.5ha Lot 2 DP 1204319 approx. 0.7ha Lot 25 DP 852410 approx. 13.2ha
Current Use:	Approved development on Lots 2 and 4 DP 398888; Lot 2 DP 1204319 and Lot 1 DP 1225542 consists of a caravan park with 270 sites, on which manufactured homes have been installed. This development was approved under a historic zoning and currently operates relying on existing use rights. Lot 25 DP 852410 is not included in the land subject to the caravan park approval. A single dwelling house is currently located on this lot.
Intended Use:	The purpose of the Planning Proposal is to regularise the existing approved use of Lots 2 and 4 DP 398888; Lot 2 DP 1204319 and Lot 1 DP 1225542 and to facilitate the future extension of that use to the adjoining Lot 25 DP 852410. The Planning Proposal also seeks to enable the future subdivision of Lot 25 DP 852410 which currently contains a dwelling fronting Nelson Bay Road.
Current Zoning:	RU2 Rural Landscape
Current Minimum Lot Size:	The minimum lot size that currently applies to all of the site is 20ha.

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Proposed amendment to PSLEP 2013:	<p>The PSLEP 2013 will be amended to regularise the existing, approved use of Lots 2 and 4 DP 398888; Lot 2 DP 1204319 and Lot 1 DP 1225542 and to facilitate the future extension of that use to the adjoining Lot 25 DP 852410.</p> <p>The amendments will also enable the future subdivision of Lot 25 DP 852410 so as to permit a minimum lot of approximately 8,000m² to be created fronting Nelson Bay Road.</p> <p>The necessary amendments to the PSLEP 2013 to achieve these outcomes will be identified in consultation with DPIE, should a Gateway determination be issued.</p>
Residential Lot Yield:	<p>Lot 25 DP 852410 is proposed to create 1 additional lot with capacity for approximately 170 sites on which manufactured homes could be installed.</p>

Development Application (DA16-2009-257)

On 13 July 2010, Council approved a development application (DA16-2009-257-1) for a caravan park on the land now known as 70, 70A, 70B and 70C Latitude Drive, Anna Bay. At that time the land was zoned 1(a) Rural Agriculture zone and caravan parks were permissible with consent (under the Port Stephens Local Environmental Plan 2000).

The Local Government Act 1993 and Local Government (Manufactured Homes Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 permits the installation of moveable dwellings in approved caravan parks, including manufactured homes, without further Council approval. The consent has been modified over time and the site currently has 270 caravan sites on which manufactured homes are being installed.

The PSLEP 2013 zoned the land RU2 Rural Landscape zone, which does not permit caravan parks. The development on the site relies on the existing consent to operate.

Suitability of the site

The subject land is considered suitable for the proposed future use given that part of the land is already utilised for this use. The residual land (Lot 25 DP 852410) that will accommodate an extension of the caravan park (subject to development consent) is relatively unconstrained and, based on preliminary investigations, it is considered that constraints relating to ecology, acid sulphate soils, and flood prone land can be resolved should the Planning Proposal receive a Gateway determination to proceed.

This site can be distinguished from typical residential developments as it can provide a wide range of community facilities and services for future residents due to an existing development on a neighbouring lot. These include a community bus service, a club house (including hall, sports lounge, cinema, craft room, library, salon, indoor pool, spa, sauna, gym and café/hall), outdoor swimming pool, lawn bowls facility, croquet area, pocket parks, off leash dog exercise area, and walking areas.

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The site also offers opportunity to contribute to the targets and directions set by the Greater Newcastle Metropolitan Plan 2036 (GNMP) for new residential development in Port Stephens. The GNMP projects 11,050 new dwellings for Port Stephens by 2036. To support a changing population and dwelling needs, the GNMP sets a 60% target for new dwellings in the existing urban areas (infill) by 2036. The Plan also highlights the need for more variety of housing types and densities, and the provision of access to transport and community services and facilities for local communities.

The Planning Proposal will also respond to the need for increased variety of housing types and densities as identified by the GNMP. More specifically, the subject site provides opportunity for a particular type of medium density infill development which includes access to (bus) transport, and a wide range of community services and facilities. The Planning Proposal will also facilitate dwelling types that are suitable for seniors and will contribute to the housing choices available in the area.

The subject site is considered suitable for the outcomes of the Planning Proposal based on the land being relatively unconstrained, the availability and quality of community facilities and services, and the provision of an existing community bus service which connects the site with nearby town centres.

Servicing

Significant public infrastructure works, including a new access road to the subject land and upgrade of the Nelson Bay Road and Latitude Drive intersection, has been carried out as part of the current development consent. Consultation with service providers will be undertaken should the Planning Proposal receive a Gateway determination to proceed.

Contamination

Previous assessment of contamination in the vicinity undertaken as part of the development application process for the existing consent indicates that there is potential for contamination due to historic sand mining activities. Further assessment of the potential for contamination will be undertaken should the Planning Proposal receive a Gateway determination to proceed.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

There are no foreseen financial or resource implications for Council as a consequence of the recommendation of this report.

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Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Stage 1 fees of \$11,200 (incl. GST)
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no foreseen legal, policy or risk implications for Council as a result of the recommendation of this report.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the DPIE will refuse the Planning Proposal at Gateway.	Low	Adopt the recommendations of this Report.	Yes
There is a risk that the Planning Proposal will result in outcomes inconsistent with the Port Stephens Planning Strategy 2011 (PSPS) because the Planning Proposal is not identified for development in the PSPS and it is inconsistent with some of the principles and directions in the PSPS.	Medium	Assess the Planning Proposal in accordance with the guidance issued by DPIE for planning proposals that may not be consistent with State or local strategic plans and policies. See assessment of strategic and site specific merit assessment below and the Strategic Planning Assessment Report for the Planning Proposal (ATTACHMENT 2).	Yes

Environmental Planning and Assessment Act 1979

The Planning Proposal is being processed in accordance with Part 3 of the EP&A Act. Should Council resolve to adopt the Planning Proposal, it will be forwarded to DPIE for a Gateway determination, including a request for authority to make the plan.

MINUTES ORDINARY COUNCIL - 22 MARCH 2022**ITEM 2 - ATTACHMENT 4 COUNCIL MINUTES - 26 NOVEMBER 2019.****MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019**Hunter Regional Plan 2036 (2016)

The Hunter Regional Plan (HRP) sets priorities and provides direction for regional planning decisions. It focuses on new housing and jobs, and targets growth in strategic centres and renewal corridors close to transport to deliver social and economic benefits.

The HRP is applicable to the area, but the subject site is not located in an identified or emerging growth area identified in the HRP. The land is not located in a centre and some external services such as shops for day-to-day needs are a short drive away in nearby Anna Bay, Salamander Bay, and Nelson Bay.

However, the Planning Proposal is generally consistent with the visions and goals of the HRP. The proposal will make efficient use of the land, as it provides housing choice (including for seniors) with easy access to a range of community facilities and services within a lifestyle village setting.

Anna Bay Strategy and Town Plan (2008)

The Anna Bay Strategy and Town Plan guides the management of future population growth and the building of neighbourhoods in Anna Bay. It establishes a context and policy direction for future rezoning requests and development controls in the Anna Bay area. It also integrates the location, timing and funding for community facilities and infrastructure.

The subject land is not located within the Anna Bay town centre and therefore many of the key strategic directions outlined in the strategy are not relevant. The Planning Proposal is considered to support the vision established in the Strategy for Anna Bay as a small and vibrant town with a mix of retail and office space for local and visitor patronage. The proposed development will provide for additional residents within proximity of Anna Bay, resulting in patronage to the commercial uses within the town centre.

Port Stephens Planning Strategy (2011)

The Port Stephens Planning Strategy 2011 (PSPS) provides a comprehensive planning strategy for the Port Stephens LGA and was developed to inform the adoption of the PSLEP 2013. The Strategy identifies that medium density housing areas should be located where residents have good access to services and not in isolated locations to avoid the creation of social disadvantage.

The subject land is centrally located within a short drive from the town centres of Anna Bay (3.2km), Nelson Bay (8km), and the retail centre of Salamander Bay (5.6km). The caravan park is required to provide a community bus service for residents under the existing development consent. This service offers regular trips to surrounding retail centres, connects with existing public bus services, and is likely to be able to service an expanded development footprint.

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In addition, and unlike typical residential developments, the existing caravan park provides high quality community facilities for residents. These include a club house (including hall, sports lounge, cinema, craft room, library, salon, indoor pool, spa, sauna, gym and café/hall), outdoor swimming pool, lawn bowls facility, croquet area, pocket parks, off leash dog exercise area, and walking areas. The Planning Proposal provides the opportunity for the sharing of these facilities and potentially new facilities within future development. Because of the quality and variety of the facilities, the distance of the site from town centres is unlikely to result in an outcome where residents are at social disadvantage or feel isolated.

The PSPS acknowledges that medium density housing should, where practicable, be located according to principles in the PSPS which guide the application of new residential zones. These principles include locating medium density housing within a five minute walk of a centre or a five minute walk of a bus stop with frequent services to major centre or within a ten minute walk of Raymond Terrace or another town centre. As mentioned in the above, the existing caravan park provides residents with a community bus service and in combination with existing public bus services, is likely to provide a reasonable level of service.

The Planning Proposal is inconsistent with some of the principles and directions in the PSPS relating to medium density housing, however given the availability of a wide range of community services and facilities in existing development in combination with the existing community bus service linking residents to surrounding town centres, the proposal is considered to respond adequately to the PSPS directions.

State Environmental Planning Policy No 21—Caravan Parks (SEPP 21)

SEPP 21 applies to caravan parks or camping grounds, this includes moveable dwellings (such as manufactured homes) where they are located in a caravan park. This SEPP may apply to future development applications on the subject site, depending on the potential amendments made to the PSLEP 2013.

SEPP 21 provides matters for consideration when development consent is granted for a caravan park, including a caravan park that includes manufactured homes. These matters include site suitability, location and character, and whether necessary community facilities and services are available.

The Planning Proposal is considered to be consistent with the aims and objectives of the SEPP relating to the provision of community facilities, the protection of the environment in the vicinity of the land, and the orderly and economic development of the land used for long term residents. The proposal is also likely to be generally consistent with the matters listed for consideration during the assessment of any future development application.

MINUTES ORDINARY COUNCIL - 22 MARCH 2022**ITEM 2 - ATTACHMENT 4 COUNCIL MINUTES - 26 NOVEMBER 2019.****MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019**State Environmental Planning Policy No 36—Manufactured Home Estates (SEPP 36)

SEPP 36 provides for manufactured home estates to be carried out in zones where caravan parks are permissible and where the land is not otherwise excluded by the SEPP. Schedule 2 of SEPP 36 lists categories of excluded land, including land in Port Stephens that is not zoned for an urban use and not identified as suitable for urban development in a strategy endorsed by DPIE.

SEPP 36 does not currently apply to the site given the current zoning does not permit caravan parks, the current zone is not for urban purposes, and the site is not identified in an endorsed strategy as suitable for urban development.

Should the Planning Proposal receive a Gateway determination, it is proposed to consult with DPIE on the specific amendments to the PSLEP necessary to achieve the intended outcomes and the application of SEPP 36 to future development applications.

Port Stephens Local Environmental Plan 2013

The PSLEP 2013 zones the land RU2 Rural Landscape, which does not permit caravan parks. The current development on the site relies on the existing consent to operate and an extension of that use to the adjoining parcel would not be permissible under the current zoning.

Similarly the existing minimum lot size that applies to the land would not permit Lot 25 DP 852410 to be subdivided so as to excise the land fronting Nelson Bay Road.

There are a number of potential amendments that could be made to the PSLEP to facilitate the outcomes of the Planning Proposal. As outlined above, some mechanisms may relate to the application of State policies. Other potential amendments include site specific local provisions to permit and regulate additional uses.

DPIE provides guidance to councils that it is not necessary to identify the specifics of amendments to a local environmental plan prior to a Gateway determination if the objectives and outcomes have been identified.

Should the Planning Proposal receive a Gateway determination, it is proposed to consult with DPIE on the specific amendments to the PSLEP necessary to achieve the intended outcomes.

Assessment and Recommendation

As noted above, the subject site is not identified in State and local planning strategies for urban development. DPIE provides general guidance for assessing planning proposals that may not be consistent with State or local strategic plans and policies (Planning Proposals – a guide to preparing planning proposals, 2018) (DPIE Guide).

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The assessment requires consideration of both the strategic merit and site-specific merits of a proposal:

(a) Strategic merit

The DPIE Guide specifies that Planning Proposal is considered to have strategic merit if it gives effect to relevant State strategies and local strategies that have been endorsed by DPIE, or responds to a change in circumstances that have not been considered by existing strategic plans.

As outlined above, the Planning Proposal is not consistent with State or local planning strategies, however it is considered to demonstrate strategic merit as it responds to a change in circumstances that has not been recognised by existing strategic plans.

The existing approved development is currently underway and includes a substantial investment in new infrastructure such as roads, services, and community infrastructure. The Planning Proposal would facilitate efficient use of this investment, including the community facilities and services located within the existing approved development site.

While the Planning Proposal does not demonstrate consistency with the medium density housing principles in the PSPS, the existing approved development includes a wide range of community facilities and services for residents which typical medium residential developments do not provide. Therefore, the principles of the PSPS can be considered more relevant to medium density residential development housing types that are not operating under land lease arrangements with substantial on-site facilities and services for residents.

These facilities and services and the nature of the manufactured homes that have been installed under the existing approval can also be distinguished from the caravan parks with moveable dwellings that were more predominant at the time the PSPS 2011 was prepared. The HRP similarly does not identify or address the range of modern housing typologies under land lease arrangements that have become more prevalent in coastal areas such as Port Stephens.

Given these changes since the preparation of the PSPS in 2011, and the changes in the housing market that are not reflected in the HRP, the Planning Proposal is considered to have strategic merit as it will respond appropriately by ensuring the orderly and economic use and development of land, consistent with the objects of the EP&A Act.

(b) Site-specific merit of the Proposal

The DPIE Guide requires a Planning Proposal to be assessed having regard to site-specific criteria as follows.

MINUTES ORDINARY COUNCIL - 22 MARCH 2022**ITEM 2 - ATTACHMENT 4 COUNCIL MINUTES - 26 NOVEMBER 2019.****MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019****1. The natural environment**

The land is relatively clear from environmental constraints. Parts of Lot 25 DP 852410 are significantly degraded from previous use (sand mining) and current earthworks. The environmental values that remain on site can be protected and kept outside the proposed development footprint and these matters can be addressed at the development application stage. The Planning Proposal provides a balance between housing and conservation outcomes and is unlikely to result in significant adverse impacts on the natural environment.

2. The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal.

The existing uses of land in the vicinity of the site include a limited number of single dwellings, dual occupancies, rural land, a trotting track, a golf course with a driving range, and vegetated sites.

Land to the north of the subject site consists of vacant vegetated land zoned E2 Environmental Conservation pursuant to the PSLEP. All other land to the south, east and west is zoned RU2 Rural Landscape pursuant to the PSLEP.

Directly adjoining the site to the east and south is land used for rural residential purposes, consisting of dwellings, dual occupancies and associated outbuildings on large lots. To the west of the subject site (at the rear of the rural residential properties) is land which contains cleared and vegetated areas and areas used for rural industry.

There are no unacted-on consents for approved uses in the vicinity of the site and the likely future uses of the land in the vicinity are expected to remain as per the current uses given there are no current planning proposals for that land. The surrounding land is also not identified in a State or local strategy for future land use changes.

Proposed vegetation management areas on the southern and eastern boundaries of Lot 25 DP 852410 will also create a buffer between any future development on that lot and land in the vicinity of the proposal.

The Planning Proposal is not expected to have a negative effect on land in the vicinity of the proposal.

3. The services and infrastructure that are or will be available to meet demands from the proposal.

Existing public utility services, (road) infrastructure, and community facilities and services associated within the site of the existing approved use can be extended to service a proposed extension on to Lot 25 DP 852410 (subject to development consent).

MINUTES ORDINARY COUNCIL - 22 MARCH 2022**ITEM 2 - ATTACHMENT 4 COUNCIL MINUTES - 26 NOVEMBER 2019.****MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019**

The site can provide a wide range of existing community facilities for future residents which are not available in typical medium residential developments. Demands for services and infrastructure from the proposal can therefore be met efficiently and to a high standard.

Given the Planning Proposal's ability to demonstrate both strategic merit and site-specific merits, it is considered appropriate for the Planning Proposal to proceed for a Gateway Determination.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic

The Planning Proposal is likely to deliver a range of social and economic benefits, including:

- Additional housing choices in the Anna Bay area and the Port Stephens LGA.
- Employment through construction and the long term employees within the lifestyle village.
- Increased retail and service industry patronage for nearby town centres.
- Efficient use of (private) community facilities and services provided at the existing approved caravan park.

Environmental

The land is partially cleared and Lot 25 DP 852410 is predominately vacant, comprising grassland and scattered vegetation towards the southern and eastern periphery. Sand extraction has previously occurred over part of the lot, resulting in a heavily disturbed area.

A Vegetation Management Plan (VMP) was prepared for Lot 25 DP 852410 which proposes vegetation management areas totalling approximately 3.6ha, adjacent to the southern and eastern boundaries of the lot.

CONSULTATIONInternal

Internal consultation was undertaken with the Natural Resources, Development Engineering, Traffic Engineering, Drainage & Flooding teams.

Further detailed investigations will be required should the Planning Proposal receive a Gateway Determination to proceed, including further ecological assessments.

MINUTES ORDINARY COUNCIL - 22 MARCH 2022**MINUTES ORDINARY COUNCIL - 26 NOVEMBER 2019**External

External consultation was undertaken with the DPIE to discuss possible amendments to the PSLEP 2013 to implement the outcomes the Planning Proposal seeks to achieve. The Department supports the approach taken in the Planning Proposal to outline the objectives and outcomes of the proposed amendment in the PSLEP 2013 and for the matter to be determined in accordance with any Gateway determination.

Further consultation with community and State Government agencies will be undertaken in accordance with the Gateway determination.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Locality Map. [1](#)
- 2) Strategic Planning Assessment Report (SPAR). [1](#)
- 3) Planning Proposal. (Provided under separate cover)

COUNCILLORS ROOM

Note: All relevant technical studies referenced in this report can be inspected upon request.

TABLED DOCUMENTS

Nil.

