

ATTACHMENTS UNDER SEPARATE  
COVER

ORDINARY COUNCIL MEETING  
13 MAY 2025



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

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# DEVELOPMENT ASSESSMENT REPORT

## APPLICATION REFERENCES

|                                |  |
|--------------------------------|--|
| <b>Application Number</b>      | 16-2024-134-1                          |
| <b>Development Description</b> | Industrial Subdivision - 1 into 6 lots |
| <b>Applicant</b>               | PORT STEPHENS COUNCIL                  |
| <b>Land owner</b>              | PORT STEPHENS COUNCIL                  |
| <b>Date of Lodgement</b>       | 03/04/2024                             |
| <b>Value of Works</b>          | \$1,400,000.00                         |
| <b>Submissions</b>             | 0                                      |

## PROPERTY DETAILS

|  |  |
|--|--|
| <b>Property Address</b>                      | 3 Industrial Place MEDOWIE   |
| <b>Lot and DP</b>                            | LOT: 12 DP: 813265   |
| <b>88B Restrictions on Title</b>             | Nil  |
| <b>Current Use</b>                           | Vacant   |
| <b>Zoning</b>                                | E4 GENERAL INDUSTRIAL  |
| <b>Site Constraints</b>                      | <ul style="list-style-type: none"> <li>• Weed Infestation</li> <li>• Bushfire Prone Land – Vegetation Category 3 &amp; 1</li> <li>• Acid Sulfate Soils – Class 5</li> <li>• Consolidated CKPoM Koala Habitat Map – Preferred Koala Habitat Buffer Over Cleared Land, Preferred Koala Habitat Link Over Cleared Land, Preferred Koala Habitat, Preferred Koala Habitat Over Marginal</li> <li>• High Environmental Value</li> <li>• RAAF Height Trigger Map – 15m</li> <li>• RAAF Birdstrike – Group B</li> <li>• Prime Agricultural Land</li> <li>• Hunter Water Special Areas – Grahamstown Dam</li> <li>• Combined Corridor Map – Local Link, Landscape Habitat Link</li> <li>• NSW Wildlife Atlas – Fauna</li> <li>• Biodiversity Values Map</li> <li>• Drinking Water Catchment</li> </ul> |
| <b>State Environmental Planning Policies</b> | <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> </ul>   |

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## PROPOSAL

The proposed development seeks consent for a One into Six lot Torrens title industrial subdivision, and ancillary site works (see **Figure 1**). The specifics of the development are as follows:

**Subdivision**

The subdivision proposes to create 5 industrial lots in the cleared northern portion of the site. The larger residual portion of the site is proposed to be retained as Lot 6 and remain undeveloped.

The subdivision will comprise of the following:

- Proposed Lot 1 – 2,892m<sup>2</sup>
- Proposed Lot 2 – 2,832m<sup>2</sup>
- Proposed Lot 3 – 2,820m<sup>2</sup>
- Proposed Lot 4 – 2,182m<sup>2</sup>
- Proposed Lot 5 – 2,899m<sup>2</sup>
- Proposed Lot 6 (residual) – 34,190m<sup>2</sup>

**Ancillary site works**

The associated site works would comprise 1,163m<sup>3</sup> of cut and 2,081m<sup>3</sup> of fill, road construction, vegetation removal, construction of stormwater infrastructure, and offset planting.



**Figure 1: Development Plan**



### SITE DESCRIPTION

The subject site (the 'site') is located at 3 Industrial Place, Medowie, which is legally identified as Lot 12 DP 813265 (see **Figure 2**). The site is generally rectangular with mostly level topography. The site has an area of 54,754m<sup>2</sup>, adjoins Ferodale Sporting fields to the east, industrial buildings to the west, and landscape supplies, an Ambulance Station and large residential lots to the north. There is an existing road access to the site from Industrial Place.

There is a densely vegetated area that is mapped under the Biodiversity Values Map and as Core Koala Habitat towards the south of the site, with a mostly clear of vegetation area at the north of the site. The site contains a 15m wide Asset Protection Zone along the western boundary.



**Figure 2:** Aerial GIS imagery of the subject site outlined in blue

### SITE HISTORY

There has been one application lodged over the site which is summarised in the following table.

| Application # | Proposal Description               | Determination         | Date Determined |
|---------------|------------------------------------|-----------------------|-----------------|
| 16-2017-365-1 | 1 into 9 Torrens title subdivision | Application Withdrawn | 05/04/2018      |

There are no records of contamination or historical applications that would impact the proposed development.

SITE INSPECTION DETAILS

A site inspection was carried out on 3 May 2024. The subject site can be seen in **Photographs 1 to 10** below:

SITE INSPECTION



**Photograph 1:** View towards the road stub at Industrial Place and the proposed place of access



**Photograph 2:** View along the proposed access handle location and existing Council managed fire break





**Photograph 3:** View along the proposed access handle location and existing Council managed fire break



**Photograph 4:** View from the proposed Lot 1 looking towards the access handle and proposed road



**Photograph 5:** View towards the location of the proposed access road and frontage of the proposed lots



**Photograph 6:** View towards the location of the proposed lots





**Photograph 7:** View along the rear of the proposed lots towards the west



**Photograph 8:** View towards Yulong Oval to the east of the site



**Photograph 9:** View towards the location of the proposed Lot 5



**Photograph 10:** View towards the location of the proposed access road and frontage of the proposed lots

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## REFERRALS

The proposed development was referred to the following internal specialists and external agencies. The comments provided by the special staff and external agencies have been used to carry out the assessment against the section 4.15 Matters for Consideration below:

| Internal                  |   |
|---------------------------|---|
| Spatial Services          |   |
| <b>Outcome</b>            | <b>Supported with conditions</b>  |
| <b>Comment</b>            | Street address allocation is based upon a Torrens title subdivision and the plans provided within 24/77555. A condition of consent has been recommended requiring updates to all plans to reflect the road name as "Industrial Place" prior to the issue of a construction certificate.   |
| Development Engineering   |   |
| <b>Outcome</b>            | <b>Supported with conditions</b>  |
| <b>Comment</b>            | The development was initially not supported due to insufficient information relating to stormwater detention, water quality, access, and construction standards. Updated information was provided which ultimately could be supported by Development Engineering, subject to conditions of consent. The conditions have been recommended accordingly. |
| Natural Systems           |   |
| <b>Outcome</b>            | <b>Supported with conditions</b>  |
| <b>Comment</b>            | The development was initially not supported due to insufficient biodiversity assessment. Updated information was provided which was supported by Council's Environmental Planner subject to conditions of consent. The conditions have been recommended accordingly.  |
| Development Contributions |   |
| <b>Outcome</b>            | <b>Supported with conditions</b>  |
| <b>Comment</b>            | The proposed subdivision would not facilitate a potential increase in the number of dwellings permitted on that land so Section 7.11 contributions do not apply, however, section 7.12 contributions do apply. A condition has been recommended accordingly.  |

All internal referral officers have supported the application with conditions.

| External (non-integrated) |   |
|---------------------------|---|
| Hunter Water Corporation  |   |
| <b>Outcome</b>            | <b>Supported with conditions</b>  |
| <b>Comment</b>            | The development application was referred to Hunter Water as the site is located within the Hunter Water Special Area and the Drinking Water Catchment. Hunter Water initially requested further detail on water quality design measures through modelling, and other supporting documentation.<br><br>Despite the Hunter Water request, Council's Development Engineering and Planning Officers consider the matters raised by Hunter Water as being able to be addressed through the imposition of conditions of consent for storm water design and as part of future building development applications for the resulting lots from the proposed subdivision. The development satisfies the DCP water quality requirements and the request for additional information relates to future building development applications. |

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|                |  |
|----------------|--|
|                | Council has taken Hunter Water's comments into account and thus has satisfied the provisions of Section 51 of the Hunter Water Act 1991. |
| <b>Ausgrid</b> |  |
| <b>Outcome</b> | <b>Supported with conditions</b>   |
| <b>Comment</b> | Ausgrid noted items related to electricity supply. A condition has been recommended requiring compliance with the Ausgrid referral.      |

All external referral officers have supported the application with conditions.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

## Section 1.7 – Application of Part 7 of Biodiversity Conservation Act 2016

The proposed development seeks to remove native vegetation that is mapped as containing Biodiversity Values and therefore triggers entry into the Biodiversity Offset Scheme (BoS) and assessment under the Biodiversity Conservation Act 2016 (BC Act). A Biodiversity Development Assessment Report (BDAR) was prepared for the proposal by Narla Environmental Pty Ltd to assess the biodiversity impacts of the proposed development in accordance with the requirements of the BC Act, the Biodiversity Conservation Regulation 2017 and the Biodiversity Assessment Method (BAM).

The proposal includes the removal native vegetation, including 0.31ha of Plant Community Type (PCT) 1626 (Smooth-barked Apple - Broad-leaved Mahogany - Red Bloodwood heathy low open forest on hills at Nelson Bay), and 0.37ha of PCT 1598 (Forest Red Gum grassy open forest on floodplains of the lower Hunter).

The purchase and retirement of Biodiversity Offset Credits will be required for the following native vegetation to be removed within the development area:

- 0.29ha representative of PCT 1626 – Low Condition;
- 0.10ha representative of PCT 1626 – Moderate Condition;
- 0.19ha representative of PCT 1598 – Low Condition; and
- 0.18ha representative of PCT 1598 – Moderate Condition.

The following threatened species have been identified as having potential to occur within the subject land and will require the purchase and retirement of Biodiversity Offset Credits:

- *Burhinus grallarius* (Bush Stone-curlew);
- *Petauroides volans* (Southern Greater Glider);
- *Petaurus norfolcensis* (Squirrel Glider);
- *Phascogale tapoatafa* (Brush-tailed Phascogale);
- *Phascolarctos cinereus* (Koala); and
- *Planigale maculata* (Common Planigale).

No threatened ecological communities or species were identified as an entity at risk of a serious and irreversible impact (SAIL) in the Threatened Biodiversity Data Collection within the impact area or study area. Therefore, to compensate for the removal of koala feed trees and satisfy the performance criteria of Appendix 4 of Council's CKPoM, a condition has been recommended requiring that a Vegetation Management Plan (VMP) be prepared to include measures to remediate, and improve the quality of, the area of retained koala habitat.



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The BDAR recommended the installation of tree protection measures such as exclusionary fencing and demarcation of Tree Protection Zones (TPZ), the requirement for a pre-clearing survey and subsequent clearing to be supervised by a qualified and experienced ecologist; the replacement of any hollows at a ratio of 1:1 within the residual Lot 6; erosion and sedimentation controls; temporary site fencing; and restriction on machinery access. The BDAR has been assessed by Council's Environmental Planner and found to be consistent with the objectives and requirements of the BC Act, subject to the recommendations of the BDAR being implemented during works and conditions relating to the requirement to retire biodiversity credits.

**Section 4.14 – Consultation and development consent (certain bushfire prone land)**

The proposed development is mapped as bushfire prone land, Category 1 and 3, as such triggers assessment under the NSW RFS Planning for Bushfire Protection 2019.

In accordance with the building classification system within the NCC, Class 5 to 8 buildings include offices, shops, factories, warehouses, public car parks and other commercial and industrial facilities. Given the industrial land use, the proposed lots would likely support Class 5-8 building types. The NCC does not provide for any bush fire specific performance requirements for these particular classes of buildings. Given the proposed development is for subdivision only, future buildings will need to comply with the PBP objectives and Australian Standards as part of future development applications.

**Section 4.46 – Integrated development**

The proposed development does not require an integrated referral under section 4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) as it does not meet any of the applicable triggers.

**Section 4.15 – Matters for consideration**

When determining a development application, the consent authority must take into consideration the matters outlined in section 4.15(1) of the EP&A Act. The matters of relevance to the development application include the following:

- The provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations
  - Any environmental planning instrument, and
  - Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
  - Any development control plan, and
  - Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
  - The regulations (to the extent that they prescribe matters for the purposes of this paragraph),
- That apply to the land to which the development application relates,
- The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- The suitability of the site for the development,
- Any submissions made in accordance with this Act or the regulations,
- The public interest.

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An assessment has been undertaken against each of the applicable environmental planning instruments (EPI's), as follows:

**State Environmental Planning Policy (Biodiversity And Conservation) 2021****Chapter 2 – Vegetation in non-rural areas**

Chapter 2 Vegetation in Non-Rural Areas of the Biodiversity and Conservation SEPP aims to protect the biodiversity values and preserve the amenity and other vegetation in non-rural areas of the State.

This Chapter works in conjunction with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

Part 2.3 of the Chapter contains provisions similar to those contained in the former (now repealed) clause 5.9 of Port Stephens Local Environmental Plan 2013 and provides that Council's Development Control Plan can make declarations with regards to certain matters. The Chapter further provides that Council may issue a permit for tree removal.

The development application seeks consent for the removal of 0.31ha of PCT 1626 (Smooth-barked Apple - Broad-leaved Mahogany - Red Bloodwood heathy low open forest on hills at Nelson Bay), and 0.37ha of PCT 1598 (Forest Red Gum grassy open forest on floodplains of the lower Hunter).

The proposed removal of the above vegetation and the associated impacts to threatened species requires offsetting. A condition has been recommended requiring the applicant to retire biodiversity credits in order to offset the residual impact on biodiversity values. The removal of vegetation is discussed further against Chapter B2 of the DCP.

**Chapter 4 – Koala habitat protection 2021**

This Chapter aims to encourage 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. Chapter 4 applies to all zones other than RU1 (Primary Production), RU2 (Rural Landscape) and RU3 (Forestry) in the Port Stephens Local Government Area.

**Section 4.8 – Development assessment process**

Section 4.8 requires the application to be consistent with any approved koala plan of management that applies to the site. In Port Stephens, the relevant plan is the Comprehensive Koala Plan of Management (CKPoM).

A BDAR was prepared by Narla Environmental (December 2024) which demonstrates that the development is consistent with the objectives of CKPoM, and this was supported by Council's Environmental Planner subject to conditions of consent.

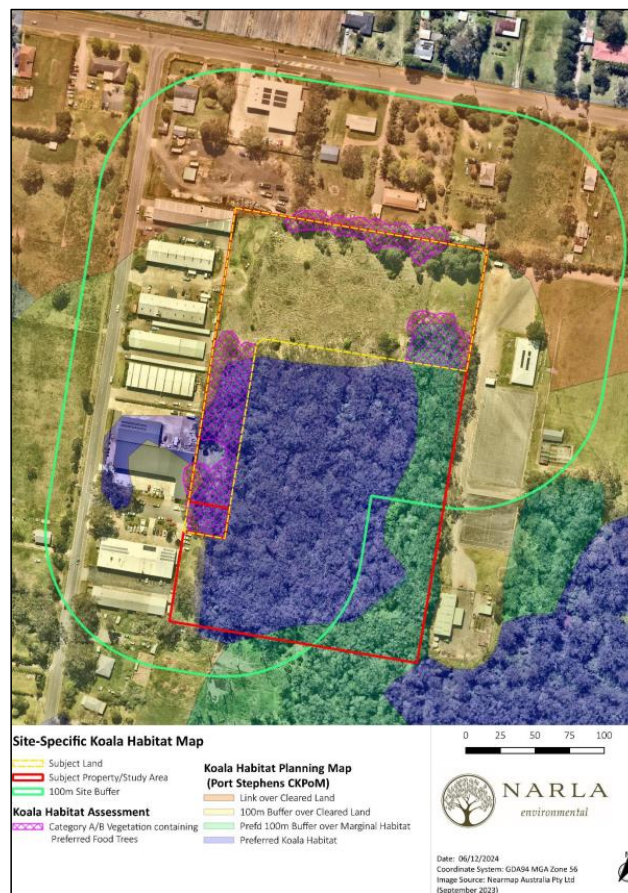
The development proposes to remove 20 koala feed trees identified to facilitate the development. As seen in Figure 3 below, the vegetation removal is within the road corridor and proposed lots. Therefore, to compensate for the removal of koala feed trees and satisfy the performance criteria of Appendix 4 of Council's CKPoM, a condition has been recommended requiring that the VMP include measures to remediate, and improve the quality of, the area of retained koala habitat. Field surveys were undertaken within the site with no koala presence identified within the development impact area.

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The majority of preferred koala habitat areas have been avoided and will be retained in Lot 6. A condition of consent relating to outdoor lighting has been recommended to ensure that light spill impacts to nearby wildlife are mitigated. Fencing is not considered necessary to separate Lot 6 from the proposed road and resulting lots, due to Council being the owner of the residual Lot 6, a satisfactory VMP being implemented over Lot 6, the site not being located within a koala corridor, there being no expectation of koalas traversing the site once the development of the resulting lots has been completed, noting that there are two established green corridors to the west and east of the site, along with the implementation of a 40km/h speed limit for the extension of Industrial Place. The location of roads and lots have been proposed to avoid extensive removal of vegetation on the site. Tree protection measures, temporary fencing, erosion control are all proposed in the BDAR as management actions to mitigate indirect impacts on the retained koala habitat.



**Figure 3: Koala vegetation removal**

**State Environmental Planning Policy (Resilience And Hazards) 2021****Chapter 4 – Remediation of land****Section 4.6 – Contamination and remediation to be considered**

Section 4.6 of Chapter 4 of the Resilience and Hazards SEPP requires the consent authority to consider whether land is contaminated, is in a suitable state despite contamination, or requires remediation to be made suitable for the proposed development.

It is noted that the NSW list of contaminated sites and list of notified sites published by the EPA does not identify the site as being contaminated, nor has previous record of contamination in Council's system. The land is not within an investigation area, however, there are no records of adjoining sites undertaking potentially contaminating activities, per Table 1 of the Guidelines. Noting this, a condition of consent has been imposed for unexpected finds requirements, and therefore, the proposed development satisfies the requirements of Chapter 4 of this SEPP.

**State Environmental Planning Policy (Transport And Infrastructure) 2021****Chapter 2 – Infrastructure****Section 2.48(2) – Determination of development applications – other development**

Section 2.48(2) requires consultation with the local power authority, where a development involves works in proximity to electrical utility infrastructure. The application was referred to Ausgrid, requesting comments about potential safety risks. In response, Ausgrid noted electricity supply and the requirement for a Notice of Arrangements for the provision of electricity supply letter. This has been recommended as an advisory note.

**Council Land Use Strategies****Medowie Place Plan**

The Medowie Place Plan identified that to meet demand for commercial land in Medowie over the next 20 years, up to 4 additional hectares of land needs to be rezoned for commercial development. It was noted that the light industrial area located at Abundance Road (the subject site) is expected to meet demand for employment land in the short term. The proposed subdivision provides additional employment land and economic development activity and is therefore consistent with the Medowie Place Plan.

**Port Stephens Local Environmental Plan 2013 (PSLEP2013)****Clause 2.3 – Zone objectives and land use table**

Clause 2.3 identifies that each land use zone in the land use table specifies the following:

- The objectives for development, and
- Development that may be carried out without development consent, and
- Development that may be carried out only with development consent, and
- Development that is prohibited.

This clause outlines that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The proposed development is for the purpose of a Torrens title subdivision which is permissible with consent in the E4 General Industrial zone through the use of Clause 2.6 of the PSLEP 2013. The proposed subdivision meets the objectives of this zone through providing lots that are capable of being used for a range of industrial, warehouse, logistics and related land uses, ensuring the efficient and viable use of land for industrial uses, minimising any adverse effect of industry on other land

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uses, encouraging employment opportunities, and enabling limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.

**Clause 2.6 – Subdivision – consent requirements**

Clause 2.6 identifies that land to which this Plan applies may be subdivided, but only with development consent, and that development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.

The proposed development involves Torrens title subdivision which is permitted by this clause.

**Clause 4.1 – Minimum subdivision lot size**

Clause 4.1 outlines the minimum lot size applicable to the subject sites, as identified on the minimum lot size map, to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls.

The subject site is not located on the minimum lot size map, and therefore this clause does not apply. Notwithstanding, the development proposes a one into six lot subdivision. The resulting allotments as a result of the subdivision are as follows:

- Proposed Lot 1 – 2,892m<sup>2</sup>
- Proposed Lot 2 – 2,832m<sup>2</sup>
- Proposed Lot 3 – 2,820m<sup>2</sup>
- Proposed Lot 4 – 2,182m<sup>2</sup>
- Proposed Lot 5 – 2,899m<sup>2</sup>
- Proposed Lot 6 – 34,190m<sup>2</sup>

**Clause 5.10 – Heritage conservation**

The objectives of this clause are to conserve the environmental heritage of Port Stephens, to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, to conserve archaeological sites, and to conserve Aboriginal objects and Aboriginal places of heritage significance.

In accordance with Clause 5.10.(4) the consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.

The proposed development is located within or in proximity to any local or state listed heritage items or conservation areas. An Aboriginal Heritage Management Systems (AHIMS) search was provided with the application, which showed that there are no recorded Aboriginal heritage sites or items within the subject site, or in close proximity to the subject site. The site is not located within any Aboriginal sensitive landscape features. As such, no adverse impact to Aboriginal heritage is expected, and a condition of consent relating to unexpected finds has been recommended to ensure that appropriate steps are taken should any be identified during works.

**Clause 5.21 – Flood planning**

The objectives of this clause are to minimise the flood risk to life and property associated with the use of land, to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change, to avoid adverse

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or cumulative impacts on flood behaviour and the environment, and to enable the safe occupation and efficient evacuation of people in the event of a flood.

Clause 5.21(2) provides that the consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development complies with the following matters:

- Is compatible with the flood function and behaviour on the land.
- Will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties.
- Will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood.
- Incorporates appropriate measures to manage risk to life in the event of a flood.
- Will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

Clause 5.21(3) provides that in deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

- The impact of the development on projected changes to flood behaviour as a result of climate change.
- The intended design and scale of buildings resulting from the development.
- Whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood.
- The potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.

**Compatibility and flood affection**

The proposed development is located on land mapped as being partially mapped within the Flood Planning Area. The impacted area is located in the south eastern corner of the site in the proposed residue lot, over 200m away from the proposed industrial lots, with the roads and proposed lots not being flood impacted at all. As a result, there is no predicted flood risk as a result of upstream catchments for the resulting subdivision lots and therefore is considered to be compatible with the flood risk.

**Occupation and evacuation**

The development is considered to be suitable for the site based on flood risk and flood free access above the 1% AEP level is also available to the proposed lots. The proposed subdivision is therefore generally compatible with the flood risk in regard to occupation and evacuation of the site.

**Risk to life and property**

The flood affected area is located over 200m away from the proposed lots, with the roads and subdivision lots not being flood impacted at all. The development is considered to be suitable and flood free access above the 1% AEP level is also available to the site. Based on these characteristics, the proposal appropriately mitigates risk to life and property.

**The environment and off-site flooding impacts**

The proposed development was reviewed by Council's Development Engineer who found that the proposal would not cause any adverse offsite flooding impacts by way of increased velocity and flood inundation. Furthermore, the proposed development would not adversely affect the environment or cause avoidable erosion, siltation, and destruction of riparian vegetation or reduction



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in the stability of riverbanks or watercourses and would not result in any adverse changes to flood behaviour as a result of climate change.

**Clause 7.1 – Acid sulfate soils**

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The subject land is mapped as containing potential Class 5 acid sulfate soils. The proposed development is not anticipated to entail excavations below 5 metres and therefore it is not expected that acid sulfate soils would be encountered during works.

**Clause 7.2 – Earthworks**

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In accordance with Clause 7.2(3) before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:

- The likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development.
- The effect of the development on the likely future use or redevelopment of the land.
- The quality of the fill or the soil to be excavated, or both.
- The effect of the development on the existing and likely amenity of adjoining properties.
- The source of any fill material and the destination of any excavated material.
- The likelihood of disturbing relics.
- The proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area.
- Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The development proposes earthworks on the site to achieve a level building platform through the use of balanced cut and fill. Earthworks are minor in nature and are not anticipated to result in any negative impacts on the subject or adjoining land, or any public place. As outlined in the assessment against Clause 5.10 above, the likelihood of disturbing relics is low given no artefacts have been identified or recorded in the site area.

Conditions of consent have been recommended relating to sediment and erosion control, stockpiling of materials, dewatering, quality of imported/exported fill materials and disposal of excavated materials in accordance with the EPA's Waste Classification Guidelines.

Due to the proximity of the proposed excavations to buildings on the adjoining allotment, a condition of consent has also been recommended requiring the persons undertaking the excavations:

- Preserve and protect the building from damage;
- If necessary, underpin and support the building in an approved manner; and
- Give at least seven days notice to the adjoining owner before excavating, of the intention to excavate.

Subject to the above conditions of consent, the development accords with the requirements of this clause.

**ITEM 1 - ATTACHMENT 3 PLANNER'S ASSESSMENT REPORT.****Clause 7.4 – Airspace operations**

The objectives of this clause is to provide for the effective and ongoing operation of the RAAF Base Williamtown Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport and to protect the community from undue risk from that operation.

Clause 7.4(2) provides that if a development application is received and the consent authority is satisfied that the proposed development will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application.

Clause 7.4(3) provides that the consent authority may grant development consent for the development if the relevant Commonwealth body advises that:

- The development will penetrate the Limitation or Operations Surface but it has no objection to its construction, or
- The development will not penetrate the Limitation or Operations Surface.

The obstacle height limit is 15m with the development not proposing any structures. As a result, the development was not referred to the Department of Defence for comment.

**Clause 7.6 – Essential services**

Clause 7.6 provides that development consent must not be granted to development unless the consent authority is satisfied that services that are essential for the development are available or that adequate arrangements have been made to make them available when required. The essential services include the following:

- The supply of water.
- The supply of electricity.
- The disposal and management of sewage.
- Stormwater drainage or on-site conservation.
- Suitable vehicular access.

The subject site is serviced by reticulated water, electricity and sewer. In addition the application has demonstrated that stormwater drainage resulting from roof and hard stand areas can be catered for in accordance with Councils requirements. The subject land also maintains direct access to Industrial Place, meeting the requirements of this clause.

**Clause 7.8 – Drinking water catchments**

The objective of this clause is to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering drinking water storages.

Clause 7.8 provides that development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- The development is designed, sited and will be managed to avoid any significant adverse impact on water quality and flows, or
- If that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact, or
- If that impact cannot be minimised - the development will be managed to mitigate that impact.



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The proposed development is located within a drinking water catchment and accordingly the requirements of this clause apply. The subject development has been designed so as not to result in negative impacts on the quality or quantity of water entering the drinking water storage through the use of an on-site stormwater management system. The on-site system has been designed in accordance with Councils requirements to reduce the levels of identified pollutants to acceptable levels, prior to discharge from the site. There are no anticipated adverse impacts on the drinking water catchment as a result of the proposed development.

**Section 4.15(a)(ii) – any draft environmental planning instrument**

The draft Port Stephens Coastal Management Program (CMP) outlines 67 management actions aimed at mitigating the impacts of coastal inundation, tidal inundation, coastal erosion and dune transgression over the next 10 years. The CMP is a plan of action for Council, public authorities and land managers responsible for management of the Port Stephens coastal zone to:

- Address coastal hazard risks;
- Preserve habitats and cultural uses and values;
- Encourage sustainable agricultural, economic and built development in the coastal zone;
- Maintain or improve recreational amenity and resilience; and
- Adapt to emerging issues such as population growth and climate change.

The development is not located within the draft coastal vulnerability mapping and therefore is not impacted by this draft planning instrument.

**Section 4.15(a)(iii) – Any development control plan****Port Stephens Development Control Plan 2014 (PSDCP 2014)**

The Port Stephens Development Control Plan 2014 (DCP) is applicable to the proposed development and has been assessed below.

**Section B – General Provisions****B1 – Tree Management**

This Chapter applies to the removal or pruning of trees or other vegetation within non-rural areas and gives effect to SEPP (Biodiversity and Conservation) 2021 by listing those trees or other vegetation that require approval.

A Biodiversity Development Assessment Report (BDAR) was prepared for the proposal by Narla Environmental Pty Ltd (dated December 2024). The BDAR identified that the proposal will require the removal of 0.31ha of PCT 1626 (Smooth-barked Apple - Broad-leaved Mahogany - Red Bloodwood heathy low open forest on hills at Nelson Bay), and 0.37ha of PCT 1598 (Forest Red Gum grassy open forest on floodplains of the lower Hunter), therefore this chapter applies. A total of 20 koala feed trees are proposed for removal.

Council's Environmental Planner supported the removal of the vegetation on the site subject to conditions. This is discussed in further detail under Chapter B2 below.

**B2 – Flora and Fauna**

This Chapter applies to development that has the potential to impact native flora and fauna, contains a biosecurity risk, and contains land mapped as koala habitat. The development seeks to remove native vegetation which has the potential to impact native flora and fauna and therefore this chapter applies. In addition, the site contains a biosecurity risk (weeds).

The objectives of this chapter are:

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- To avoid and minimise impacts on native flora and fauna.
- To protect and enhance native flora and fauna, vegetation communities, and significant habitat on the site.
- To encourage the proper identification, management and conservation of Koala habitat in accordance with Council's Comprehensive Koala Plan of Management (CKPoM).
- To facilitate the compensatory replacement of important biodiversity features which cannot be avoided and are proposed to be removed under a tree permit or development consent.
- To reduce the negative impact of biosecurity risks (weeds) on the economy, community and environment by eliminating or restricting their geographical spread.

*Section B2.A Ecological Impact*

The proposed development seeks to remove native vegetation that is mapped as containing Biodiversity Values and therefore triggers entry into the Biodiversity Offset Scheme (BoS) and assessment under the Biodiversity Conservation Act 2016 (BC Act). A BDAR was prepared for the proposal by Narla Environmental Pty Ltd to assess the biodiversity impacts of the proposed development in accordance with the requirements of the BC Act, the Biodiversity Conservation Regulation 2017 and the Biodiversity Assessment Method (BAM).

The site has a total area of 5.47ha and seeks consent for the removal of 0.68ha of native vegetation.

The BDAR found that the site contained two plant community types (PCTs) being:

- PCT 1626: Smooth-barked Apple - Broad-leaved Mahogany - Red Bloodwood heathy low open forest on hills at Nelson Bay; and
- PCT 1598: Forest Red Gum grassy open forest on floodplains of the lower Hunter.

The remainder of the vegetation was identified as being non-native. The PCT's surveyed were identified as being of low to moderate condition.

The proposal includes the removal of 0.31ha of PCT 1626 (Smooth-barked Apple - Broad-leaved Mahogany - Red Bloodwood heathy low open forest on hills at Nelson Bay), and 0.37ha of PCT 1598 (Forest Red Gum grassy open forest on floodplains of the lower Hunter). This includes 20 trees identified as being koala feed trees.

A number of threatened fauna species were also recorded or assumed present on the site including:

- *Burhinus grallarius* (Bush Stone-curlew);
- *Petauroides volans* (Southern Greater Glider);
- *Petaurus norfolcensis* (Squirrel Glider);
- *Phascogale tapoatafa* (Brush-tailed Phascogale);
- *Phascolarctos cinereus* (Koala); and
- *Planigale maculata* (Common Planigale).

The BC Act establishes a biodiversity offset hierarchy for managing the adverse impacts of a development in order of priority of action, starting from avoidance, then mitigation and finally offsets.

The proposed development has demonstrated avoidance and minimisation of ecological impacts by locating the development footprint largely outside of areas of high value condition vegetation and preferred koala habitat. To further mitigate impacts, the requirement to prepare a Vegetation Management Plan (VMP) has been recommended in a condition to ensure that the residue lot will continue to be managed and protected and areas that are of lower ecological value be restored.

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Noting the above, it is considered that the areas of high biodiversity value have been appropriately avoided and impacts minimised, satisfying the hierarchy requirements of the BC Act and the objectives of this chapter. Notwithstanding, the proposed vegetation removal has also generated the requirement for offsetting. The BDAR calculated the offsets required which have been included as recommended requiring the applicant to retire biodiversity credits prior to the issue of a Construction Certificate to offset the residual impact on biodiversity values.

Section B2.B – B2.C Koala Habitat and Compensatory Requirements

The site is mapped as containing preferred koala habitat, link over cleared koala habitat, buffer over marginal koala habitat and buffer over cleared land.

The BDAR identified that 20 koala feed trees require removal to facilitate the proposed development, majority of which are juvenile. The CKPoM generally requires that koala feed trees removed are replaced. However, it was identified in the BDAR that there is limited space available on site for compensatory koala habitat planting. Therefore, to compensate for the removal of koala feed trees and satisfy the performance criteria of Appendix 4 of Council's CKPoM, a condition has been recommended requiring that the VMP include measures to remediate, and improve the quality of, the areas of retained koala habitat. Due to the design measures to retain most native vegetation on site and improvement works under a VMP, it is considered that the proposed development is not likely to impact on the existing koala population within the region making it consistent with this CKPoM, and therefore this policy. Council's Environmental Planner supported the assessment against the CKPoM. As such, the proposal is consistent with this section of the DCP.

Section B2.D – Biosecurity Risks (weeds)

The site has been identified as containing weeds in both Council's mapping and within the BDAR. To satisfy the objectives of this section, conditions have been recommended which require certain measures to be implemented prior to the commencement of works and during works. It is noted that the VMP will also be required to include measures to eliminate and dispose of high threat exotic weeds and highly competitive weeds within the residue lot. Overall, the proposed development is consistent with this Chapter.

### B3 – Environmental Management

This Chapter applies to development that has the potential to produce air pollution, has the potential to produce adverse offensive noise, or involves earthworks.

The objectives of this chapter are:

- To ensure air quality is not negatively impacted on by dust and odour in recognition of the associated human health impacts;
- To identify potentially offensive noise to ensure it is managed within the relevant legislative requirements; and
- To facilitate earthworks so as to minimise potential environmental impacts, such as erosion or the release of sulfuric acids as identified by the Local Environmental Plan.

#### Noise

The separation distances incorporated into the development will limit any adverse impacts on the adjoining development. The impacts of the development during construction could be limited through conditions of consent which limit construction work hours as well as requiring the preparation of a Construction Management Plan. Subject to the aforementioned conditions, the application is satisfactory in regards to noise management.

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Dust generated during construction is expected to be minimal, subject to conditions of consent requiring erosion and sediment control be carried out in accordance with the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) and the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust). The proposed subdivision would not cause any ongoing air quality impacts during the operational phase of the development.

**Earthworks**

As discussed at Clause 7.2 above the proposed development involves 1,163m<sup>3</sup> of cut and 2,081m<sup>3</sup> of fill. The impacts of the proposed earthworks can be mitigated through conditions of consent. The proposal is therefore consistent with requirements outlined in Councils DCP relating to earthworks.

**B4 – Drainage and Water Quality**

This Chapter applies to development that increases impervious surfaces, drains to the public drainage system, or involves a controlled activity within 40m of waterfront land.

The objectives of this chapter are:

- To ensure a stormwater drainage plan is submitted when development either increases impervious surfaces or drains to the public drainage system;
- To ensure the stormwater drainage plan details a legal and physical point of discharge to minimise impacts on water balance, surface water and groundwater flow and volume regimes and flooding;
- To implement sustainable mitigation systems that can be maintained using resources available to the maintainer;
- To regulate the impacts on the capacity of the public drainage system, to ensure development does not detrimentally impact on water quality through the use of water quality modelling, such as small scale stormwater water quality model (SSSQM) or model for urban stormwater improvement conceptualisation (MUSIC), and subsequent water sensitive urban design (WSUD) measures;
- To safeguard the environment by improving the quality of stormwater run-off, to ensure water quality is protected and maintained during the construction phase through the conditioning of appropriate measures; and
- To provide further guidance to clauses in the local environmental plan relating to water quality for development in drinking water catchments, and to protect and retain riparian corridors as localities of environmental importance.

A stormwater management plan and MUSIC modelling was submitted with the application which demonstrates adequate quality and quantity controls can be achieved in accordance with the objectives and controls of this section.

As a result, the stormwater drainage plan has been assessed as being consistent with Council's Infrastructure Specification. A condition of consent has been recommended in the consent requiring the provision of detailed engineering plans, prior to the issue of a construction certificate.

**B5 – Flooding**

This Chapter applies to all development on flood prone land.

The objectives of the chapter are:

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- To ensure development satisfies the provisions of the LEP;
- To provide detailed controls for the assessment of development proposed on flood prone land in accordance with the Environmental Planning and Assessment Act 1979;
- To ensure flood risk is considered as early as possible in the planning and development process, based on the best available flood information, to reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone land;
- To treat floodplains as an asset, specialising in uses that are productive and minimise risk to life during major weather events;
- To ensure that the use and development of flood prone land includes risk consequences that are manageable, to implement the principles of the NSW Government 'Flood Risk Management Manual' (as updated from time to time), Construction of Buildings in Flood Hazard Areas (Australian Building Codes Board) and Council's Floodplain Risk Management Policy and flood hazard maps as identified within Figure BF;
- To ensure that appropriate controls are applied to development on land where more than a minimal risk is present;
- To ensure development on land identified as floodway is restricted to low risk development; and
- To ensure the capacity of the floodway to convey and contain floodwaters is not diminished.

Following from the discussion against Clause 5.21 of the PSLEP above, the proposed development is acceptable in this regard. The principles of the NSW Government 'Flood Risk Management Manual' (as updated from time to time), Construction of Buildings in Flood Hazard Areas (Australian Building Codes Board) and Council's Floodplain Risk Management Policy and flood hazard maps as identified within Figure BF have been considered in the assessment below.

**Flood compatibility**

The proposed development is located on land mapped as being partially mapped within the Flood Planning Area. The impacted area is located over 200m away from the subdivision lots, with the roads and subdivision lots not being flood impacted at all. As a result, there is no predicted flood risk as a result of upstream catchments for the resulting subdivision lots and therefore is considered to be compatible with the flood risk.

**Flood impact and risk**

The development is considered to be suitable and low risk with flood free access above the 1% AEP level is also available to the site. The proposed subdivision is therefore generally compatible with the flood risk in regard to occupation and evacuation of the site. The impacted area is located over 200m away from the subdivision lots, with the roads and subdivision lots not being flood impacted at all. The development is considered to be suitable and flood free access above the 1% AEP level is also available to the site. Based on these characteristics, the proposal appropriately mitigates risk to life and property.

**Off-site impacts**

The proposed development is not considered to cause any adverse offsite flooding impacts by way of increased velocity and flood inundation. Furthermore, the proposed development would not adversely affect the environment or cause avoidable erosion, siltation, and destruction of riparian vegetation or reduction in the stability of riverbanks or watercourses and would not result in any adverse changes to flood behaviour as a result of climate change.

**B6 – Williamstown RAAF Base – Aircraft Noise and Safety**

This Chapter applies to development that is situated within the 2025 Australian Noise Exposure Forecast (ANEF), bird strike zone, extraneous lighting area or the Royal Australian Air Force (RAAF) Base Williamstown Obstacle Limitation map.

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The objectives of this chapter are:

- To ensure development satisfies the requirements of the Local Environmental Plan;
- To ensure appropriate consideration is given to land burdened by aircraft noise;
- To ensure acceptable levels of indoor noise in accordance with the relevant Australian Standards; and
- To ensure that the operational needs of the Williamstown RAAF Base are considered.

The site is located within the Group B Birdstrike area, and 15m height obstacle limit. A condition of consent relating to birdstrike has been recommended and the development does not propose any structures. As a result, the development is considered to satisfy the requirements of this chapter.

**B7 – Heritage**

This Chapter applies to development that is situated on land that contains a heritage item or within a heritage conservation area.

The objectives of this chapter are:

- To ensure satisfactory consideration of the objectives for LEP Clause 5.10;
- To ensure that maintenance or repairs do not distract from the heritage significance of an existing item;
- To ensure evidence is provided for the demolition of a building of heritage significance; and
- To ensure due diligence is followed before carrying out development that may harm Aboriginal objects.

The site is not located on land that contains any local or State listed heritage items and therefore the provisions of this section do not apply. In addition, the development does not propose earthworks below 2m.

**B8 – Road Network and Parking**

This Chapter applies to development with the potential to impact on the existing road network or create demand for on-site parking.

The objectives of this chapter are:

- To ensure that the impacts of traffic generating development are considered and that the existing level of service of the road network is maintained;
- To ensure development provides adequate on-site parking, loading and servicing spaces;
- To ensure that vehicle access is in a safe location and has minimal impacts on existing transit movements;
- To ensure driveways have adequate sight distances for traffic and pedestrians on footpaths;
- To ensure that vehicle access is located in a safe location, where it least impacts on existing transit movements;
- To ensure driveway exits maximise intersection sight distances for traffic and pedestrians on footpaths;
- To ensure visitor parking is conveniently located and easily identifiable;
- To ensure loading facilities do not adversely impact on the road network and are visually concealed;
- To encourage more active lifestyles and ecologically sustainable development by providing convenient and accessible public transport options;
- To recognise the increasing use and demand for electric vehicles and ensure new development is designed to reflect this; and

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- To ensure development includes adequate infrastructure to provide for the charging of electric vehicles.

**Traffic impacts**

The subdivision includes an access handle from the existing road stub in Industrial Place. The road geometry is not strictly compliant with PSC's Infrastructure Specification, specifically for Industrial Roads in 0041 Geometric Road Design. Notwithstanding, the development proposes 'NO STOPPING' on both sides of new road, a speed limit of 50km/h, a reduced verge between 4m and 3.5m, and parking being facilitated on the resulting lots. Swept paths demonstrated that compliant sight distance would be achieved and there is unlikely any through traffic hence low traffic expected. Noting this, the proposal was supported by Council's Development Engineer. The reduced road width is proposed to minimise vegetation removal and impacts to local biodiversity on residual Lot 6.

**On-site parking provisions**

As per Figure BU, subdivision does not require any parking spaces to be provided. Once future development on the resulting lots beings, there would be adequate space for the provision of on-site parking commensurate to that specific parking rate.

**On-site parking access**

Swept paths were provided which demonstrated that each resulting lot is capable of gaining access for a heavy vehicle, with the access handle also meeting this requirement. As a result, the development is considered to provide future adequate on-site parking access.

**Section C – Development Types**

The proposed development includes subdivision and therefore Chapter C1 is applicable.

| <b>C1 – Subdivision</b>  |  |
|--|--|
| <b>C1.A – All Subdivision – Lot Size and Dimensions</b>  |  |
| <b>Objective</b>   |  |
| <ul style="list-style-type: none"> <li>To ensure all new lots have a size and shape appropriate to their proposed use, and to allow for the provisions of necessary services and other requirements</li> </ul> |  |
| <b>Control</b>   | <b>C1.1 – Lot size</b><br>Subdivision adheres with <i>Local Environmental Plan</i> Part 4.   |
| <b>Assessment</b>  | The site is not located on the LEP Lot Size Map, and therefore this control does not apply.  |
| <b>Control</b>   | <b>C1.2 – Rectangular footprint</b><br>A residential lot is capable of supporting a rectangular building footprint of 15m x 8m or 10m x 12m as illustrated by Figure CA. |
| <b>Assessment</b>  | The development is for industrial purposes and this clause does not apply.   |
| <b>C1.B – All Subdivision – Street Trees</b>   |  |
| <b>Objective</b>   |  |
| <ul style="list-style-type: none"> <li>To ensure street tree planting is of an appropriate species and undertaken in accordance with Council's guidelines</li> </ul>   |  |
| <b>Control</b>   | <b>C1.5 – Street tree requirements</b>   |

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| C1 – Subdivision   |  |
|--|--|
|  | <p>Street trees are required as a component of the road reserve for the following:</p> <ul style="list-style-type: none"> <li>• Residential subdivisions;</li> <li>• Commercial subdivisions;</li> <li>• Industrial subdivisions creating 10 or more lots. <ul style="list-style-type: none"> <li>- Street trees are provided in accordance with the tree technical specification.</li> <li>- Tree Planting Guidelines of the tree technical specification provides guidance to the application of the tree technical specification to determine the total number of trees to be provided.</li> </ul> </li> </ul>                        |
| <b>Assessment</b>  | The development is for industrial subdivision of 6 lots, which does not meet the trigger of 10 lots or more. As a result, street trees have not been required.   |
| C1.C – All Subdivision – Solar Access  |  |
| <p><b>Objective</b></p> <ul style="list-style-type: none"> <li>• To maximise solar access for residential dwellings</li> </ul>   |  |
| <b>C1.7 – Solar access</b>   |  |
| <b>Control</b>   | <p>Residential subdivision addresses the following guidelines for solar access. Any inconsistency clearly justifies how alternative energy efficiency is achieved.</p> <ul style="list-style-type: none"> <li>• Where possible, lots should be oriented to provide one axis within 30 degrees east and 20 west of true solar north;</li> <li>• Where a northern orientation of the long axis is not possible, lots should be wider to allow private open space on the northern side of the dwelling;</li> <li>• Topography and landform should inform the subdivision layout in order to maximise solar access opportunities.</li> </ul> |
| <b>Assessment</b>  | The development is not for a residential subdivision and this clause does not apply.   |
| C1.D – All Subdivision – Public Scale Drainage   |  |
| <p><b>Objective</b></p> <ul style="list-style-type: none"> <li>• To ensure further guidance is provided for subdivision that is consistent with B4 Drainage and Water Quality and the Infrastructure Specification (where relevant)</li> </ul> |  |
| <b>C1.8 – Inter-allotment drainage</b>   |  |
| <b>Control</b>   | Each lot must be able to be gravity drained through the drainage system to public drainage.  |
| <b>Assessment</b>  | Inter-allotment drainage has been provided in the stormwater design.   |
| <b>C1.9 – Inter-allotment drainage</b>   |  |
| <b>Control</b>   | Inter-allotment drainage may be required for subdivision where a lot does not drain directly to the road kerb.   |
| <b>Assessment</b>  | As above.  |
| <b>C1.10 – Drainage reserves</b>   |  |
| <b>Control</b>   | An overland flow path is provided for the 1% Annual Exceedance Probability (AEP) storm event and is a drainage reserve dedicated to Council as operational land.   |
| <b>Assessment</b>  | Overland flows have been included as part of the stormwater design.  |
| C1.E – Major Subdivision – Block and Street Layout   |  |
| Objectives   |  |



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| C1 – Subdivision  |   |
|-------------------|---|
|                   | <ul style="list-style-type: none"> <li>To ensure local streets are well-connected to the street network with obvious pedestrian and cycle links to higher order streets</li> <li>To ensure priority is provided to residents needs when designing local streets to encourage usability</li> <li>To ensure pathways follow desire lines</li> </ul>   |
| <b>Control</b>    | <b>C1.11 – Block dimensions</b><br>A block seeks to achieve the dimensions identified in Figure CC.   |
| <b>Assessment</b> | Not applicable.   |
| <b>Control</b>    | <b>C1.12 – Technical Specifications</b><br>Street layout complies with the road network specifications in the Infrastructure Specification.   |
| <b>Assessment</b> | The road geometry is not strictly compliant with PSC's Infrastructure Specification, specifically for Industrial Roads in 0041 Geometric Road Design. Notwithstanding, the development proposes 'NO STOPPING' on both sides of new road, a speed limit of 50km/h, a reduced verge between 4m and 3.5m, and parking being facilitated on the resulting lots. Swept paths demonstrated that sight distance would be achieved and there is unlikely any through traffic hence low traffic expected.  |
| <b>Control</b>    | <b>C1.13 – Street layout attributes</b><br>The street layout addresses the following: <ul style="list-style-type: none"> <li>All street components are integrated, such as kerbing, pavement type, width, street tree planting, footpaths, on road cycleway, shared paths, lighting and seating are provided as specified in infrastructure specific – design;</li> <li>Road widths accommodate the necessary movements of service and emergency vehicles;</li> <li>Driveways and footpaths are provided at subdivision as a part of the subdivision works;</li> <li>Footpaths and shared paths follow desire lines;</li> <li>Street layout is interconnected to provide a grid-like structure;</li> <li>Street layout is informed by street connection for future subdivision on adjacent lands;</li> <li>Street layout seeks to provide a perimeter road between residential dwellings and; <ul style="list-style-type: none"> <li>Bush fire prone land</li> <li>Open space defined as a regional park, district park, or local park</li> </ul> </li> <li>Street layout ensures public access to public open space is maintained and encouraged.</li> </ul> <b>Note:</b> Development should have consideration for the Port Stephens Pathways Plan. |
| <b>Assessment</b> | The proposed street components are integrated, such as kerbing, pavement type, width, and lighting are provided as specified in infrastructure specific – design. The proposed road widths accommodate the necessary movements of service and emergency vehicles.   |

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| C1 – Subdivision   |  |
|--|--|
|  | <p>Driveways are not provided as a part of the subdivision works due to the industrial subdivision having all resulting lots with direct frontage to the extended Industrial Place, and a clear availability to points of access from kerb for future building DAs.</p> <p>Footpaths and shared paths are not proposed, which is considered acceptable due to the industrial nature of the resulting lots and narrow road width in response to site ecological constraints.</p> <p>The street layout is interconnected to provide a grid-like structure. The street layout cannot be informed by street connection for future subdivision on adjacent lands because there is no land adjoining the site which could be considered for future subdivision. The street layout seeks to provide a perimeter road between the resulting lots and the potential bushfire threat. The street layout ensures public access to public open space is maintained and encouraged.</p> |
| <b>Control</b>   | <p><b>C1.14 – Cul-de-sacs</b></p> <p>Cul-de-sacs are generally only supported where:</p> <ul style="list-style-type: none"> <li>• The existing street layout does not permit a through street;</li> <li>• Connectivity to an adjoining street is not required;</li> <li>• The cul-de-sac has a maximum length of 75m;</li> <li>• Access is provided to no more than 10 allotments;</li> <li>• Clear line of sight is provided from the nearest intersection.</li> </ul>  |
| <b>Assessment</b>  | <p>The development proposes a 300m long cul-de-sac that would service five industrial lots. The cul-de-sac is compliant with the PSC engineering standards, however, does not provide a clear line of sight being provided to the nearest intersection. Notwithstanding, the development is considered to meet the objectives of this chapter due to the access generally meeting the requirements and being the most feasible and orderly development pathway for the subdivision.</p>  |
| C1.F – Major Subdivision – Public Open Space   |  |
| Objectives   |  |
| <ul style="list-style-type: none"> <li>• To provide a hierarchy of public open space in accordance with public open space hierarchy</li> <li>• To provide parks that are multi-functional</li> <li>• To ensure parks achieve centrality by being located near transport nodes, public building, waterfronts, libraries or places of public worship</li> <li>• To ensure public open space meets the demands of the local community to encourage usability and critical mass</li> </ul> |  |
| <b>Control</b>   | <p><b>C1.15 – Open space hierarchy</b></p> <p>Council may require the provision of public open space in accordance with Figure CD.</p>   |
| <b>Assessment</b>  | <p>The development is for industrial purposes and not required to provide public open space.</p>   |
| C1.G Major Subdivision – Infrastructure  |  |
| Objective  |  |
| <ul style="list-style-type: none"> <li>• To ensure detailed consideration is provided to the provision of integrated and quality public infrastructure</li> </ul>  |  |
| <b>Control</b>   | <b>C1.20 – Technical specifications</b>  |

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| C1 – Subdivision  |  |
|-------------------|--|
|                   | Infrastructure in accordance with the Infrastructure Specification is identified on the concept utility plans or more detailed preliminary engineering plans.  |
| <b>Assessment</b> | The road geometry is not strictly compliant with PSC's Infrastructure Specification, specifically for Industrial Roads in 0041 Geometric Road Design. Notwithstanding, the development proposes 'NO STOPPING' on both sides of new road, a speed limit of 50km/h, a reduced verge between 4m and 3.5m, and parking being facilitated on the resulting lots. Swept paths demonstrated that compliant sight distance would be achieved and there is unlikely any through traffic hence low traffic expected. All other stormwater infrastructure is in accordance with the Infrastructure Specification. |
| <b>Control</b>    | <b>C1.21 – Public infrastructure</b>   |
|                   | Subdivision provides public infrastructure within the adjoining road or public land, including kerb/gutter, stormwater drainage, footpaths, street lighting, street trees and bus shelters, excluding: <ul style="list-style-type: none"> <li>Public utilities, such as water and electricity, are kept within private lot boundaries and are not located within the road reserve.</li> </ul>  |
| <b>Assessment</b> | Public infrastructure provided as part of the subdivision design.  |
| <b>Control</b>    | <b>C1.22 – Lifecycle and maintenance</b>   |
|                   | Lifecycle and maintenance costs are a key determinant when considering alternative methods, products and manufacturers to those specification in the Infrastructure Specification. <ul style="list-style-type: none"> <li>Council will request life cycle costing and maintenance manual details for infrastructure to assist in ongoing maintenance.</li> </ul>   |
| <b>Assessment</b> | The infrastructure would be owned by Council, and Council is the applicant. As a result, the development was lodged with consent and acceptance of the on-going maintenance for the public infrastructure.   |

**Section 4.15(1)(a)(iia) – Any planning agreement or draft planning agreement**

There are no planning agreements or draft planning agreements which have been entered into under section 7.4 of the EP&A Act which are relevant to the development.

**Section 4.15(1)(a)(iv) – The regulations**

The following sections within the EP&A Regulation 2021 apply to the development, and have been considered through the assessment of this application:

**Section 66A – Council-related development applications – the Act, s4.16(11)**

In regard to Section 66A of the EP&A Regulations 2021, Council has considered the adopted conflict of interest policy in the assessment of this application. A Conflict of Management Statement was notified with the application.

**Section 4.15 (1)(b) The likely impacts of that development****Social and Economic Impacts**

The proposed development is a new industrial subdivision that would provide industrial lots to service the needs of the community. The industrial subdivision would allow for the use of existing services and facilities in the locality and provide upgrades to the public domain. The construction of

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the proposed development would provide employment opportunities in the locality and support the local building and development industries. This would have direct monetary input to the local economy, and the increased number of employees in the locality would provide ongoing economic input through utilising day to day goods and services. There are no anticipated adverse social or economic impacts as a result of the proposed development.

**Impacts on the Built Environment**

The development would reinforce the industrial nature of the locality and is characteristic of other developments in both the local and wider community. The application includes relevant construction methods and services such as an on-site stormwater management system that would prevent adverse impacts on adjoining properties. The development addresses the street and provides logical and convenient connections to the road network in the locality. There are no anticipated adverse impacts on the built environment as a result of the development.

**Impacts on the Natural Environment**

The development would not adversely impact the natural environment of the area. Whilst the proposed development requires the removal of native vegetation, it also seeks to retain areas of highest condition vegetation and preferred koala habitat on the site. To further mitigate impacts, the requirement to prepare a Vegetation Management Plan (VMP) has been recommended in a condition to ensure that the residue lot will continue to be managed and protected and areas that are of lower ecological value be restored.

In addition, the proposed development includes a stormwater water system that has been designed in accordance with Councils quantity and quality requirements. In addition, a condition of consent has been recommended that requires the installation and maintenance of erosion and sedimentation controls.

**Section 4.15(1)(c) The suitability of the site for the development**

The subject site is located within an industrial area and the development proposes a suitable land use. The site has access to all essential services and the proposed development makes good use of the available land. The development satisfies all elements required under the relevant planning instruments and policies, and there are no anticipated adverse impacts on the locality as a result of the development. The development has been designed to minimise impacts to local biodiversity.

**Section 4.15(1)(d) Any submissions made in accordance with this act or the regulations****Public Submissions**

The application was exhibited from 11 April 2024 to 9 May 2024 in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. No submissions were received with relation to the subject development proposal.

**Section 4.15(1)(e) The public interest**

The development is considered to be in the public interest as it involves the construction of a new industrial subdivision within an industrial zone, which provides for additional employment lands in the locality to service the needs of the community. In addition, the development is not anticipated to have any significant adverse impacts on surrounding properties or the amenity of the locality.

**Section 7.11 – Contribution towards provision or improvement of amenities or services**

Not applicable.

**Section 7.12 – Fixed development consent levies**

Fixed development contributions apply to the proposal in accordance with the Port Stephens Local Infrastructure Contributions Plan and conditions have been recommended requiring the payment of contributions.

**Housing and Productivity Contribution**

The development does not trigger Housing and Productivity contributions for the creation of 5 additional industrial lots, due to the applicable contributions plan not requiring HPC contributions to be paid for subdivision.

**CONCLUSION**

This development application has been considered in accordance with the requirements of the EP&A Act and Regulations as outlined in this report. It is considered that the application can be supported in its proposed form.

**RECOMMENDATION**

The application is recommended to be approved by the elected Council, pursuant to section 4.15 of the *Environmental Planning and Assessment Act 1979*, subject to conditions of consent provided as contained in the recommended conditions attachment.



# Planning Proposal

## Gan Gan Road, Anna Bay

Prepared for  
AB Rise Pty Ltd

December 2024

[MECONE.COM.AU](http://MECONE.COM.AU)

ITEM 3 - ATTACHMENT 1

PLANNING PROPOSAL REPORT.



Mecone acknowledges the Traditional Custodians of the land on where this project is undertaken and across the Mecone offices that this report is prepared, paying respect to the Elders past and present. We recognise the ongoing connection of Aboriginal and Torres Strait Islander peoples to land, waters, and culture.

Project Director

Chris Shannon

Contributors

| Revision | Revision date | Status | Authorised: Name & Signature |  |
|----------|---------------|--------|------------------------------|--|
| 1        | 19-12-2024    | Final  | Chris Shannon                |  |
|          |               |        |                              |  |
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\* This document is for discussion purposes only unless signed and dated by the persons identified.  
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## Executive summary

### Introduction

This Planning Proposal has been prepared by Mecone Group Pty Ltd (**Mecone**) on behalf of AB Rise Pty Ltd (**proponent**) in relation to land at 196 Old Main Road and 263, 269, 271, 273, 293 and 321 Gan Gan Road, Anna Bay (**the site**). This Planning Proposal seeks an amendment to *Port Stephens Local Environmental Plan 2013* (**Port Stephens LEP**) to allow residential, conservation, open space and infrastructure land use outcomes. It satisfies the requirements of Section 3.33 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) and aligns with NSW Department of Planning, Housing and Infrastructure (**DPHI**) *Local Environmental Plan Making Guideline* (**the Guideline**).

### The site

The site includes seven lots in single ownership, covering approximately 125 hectares of land located within 800 metre directly north east of the Anna Bay Town Centre and existing Anna Bay urban area. It is located within the Anna Bay Precinct on the Tomaree Peninsula. The surrounding development is predominantly low density residential development to the south and east, with rural and agricultural land to the north and west. A seniors living community has been developed to the north west. Key access roads include Nelson Bay Road to the east and Gan Gan Road to the south.

### The proposal

The Planning Proposal seeks to enable a low density residential community that responds to the topographical and environmental characteristics and natural hazards on the site. It seeks to enable housing supply, diversity and affordability to address demand in the Port Stephens LGA, whilst conserving areas of high biodiversity significance, resolving flood constraints through raised fill pads for housing, and providing an integrated open space network connecting key natural features on the site, with a key focus on a reconstructed and rehabilitated Anna Bay Main Drain. This is achieved through the following amendments to Port Stephens LEP:

- rezone the site to part R2 Low Density Residential, part C3 Environmental Management and part RE1 Public Recreation
- introduce a 9 m building height on proposed residential zoned land
- introduce a 500 sqm minimum lot size on residential zoned land, and 1 hectare, 2 hectare, 4 hectare and 10 hectares on environmental management zoned land
- identify Port Stephens Council as the relevant acquisition authority for land zoned for public open space
- identify land residential zoned as an urban release area.

### Strategic Merit

The Planning Proposal has strategic merit as it aligns with and promotes key strategic planning priorities of Council and the State Government identified within State, regional and local policies and strategies. In particular, the Planning Proposal responds to a change in circumstances in the Port Stephens LGA as the current strategic planning framework has not accounted for the recent population projections and forecast dwelling demand, resulting in an undersupply of housing to 2041.

### Site Specific Merit

The Planning Proposal has demonstrated that the topographical and environmental characteristics and natural hazards on the site can be integrated into masterplanned residential community. There are no constraints on the site that can't be managed that would prevent future residential development under the proposed land use zones.

### Conclusion

The Planning Proposal demonstrates it satisfies strategic and site specific merit.



## Section 1 – Planning overview

### 1 Introduction

This Planning Proposal has been prepared by Mecone Group Pty Ltd (**Mecone**) on behalf of AB Rise Pty Ltd (**the proponent**) to support an amendment to the *Port Stephens Local Environmental Plan 2013* (**Port Stephens LEP**) to enable a mix of residential, conservation, open space and infrastructure land uses in relation to land at 196 Old Main Road and 263, 269, 271, 273, 293 and 321 Gan Gan Road, Anna Bay (**the site**).

The Planning Proposal satisfies the requirements of Section 3.33 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) and aligns with NSW Department of Planning, Housing and Infrastructure (**DPHI**) *Local Environmental Plan Making Guideline*.

#### 1.1 Proponent details

The proponent for the Planning Proposal request is AB Rise Pty Ltd. The proponent has over 27 years' experience in residential and mixed use property developments. It has undertaken in excess of 30 projects across the local government areas (**LGA**) of City of Sydney, Gosford, Leichhardt, Port Stephens, Warringah, Wollondilly and Wyong. The proponent has engaged a team of reputable experts to provide advice and input into the planning process that are detailed in this report.

#### 1.2 Planning Proposal overview

The Planning Proposal request seeks to amend the Port Stephens LEP 2013 to enable a mix of residential, conservation, open space and infrastructure land uses. A concept masterplan has been prepared that demonstrates a potential future development layout and high level spatial allocation of proposed land uses on the site.

The intended outcome of the Planning Proposal is to achieve the following objectives:

- enable development of a low density residential community that responds to the topographical and environmental characteristics and natural hazards on the site
- enable housing supply, diversity and affordability to address demand in the Port Stephens LGA
- conserve areas of high biodiversity significance
- provide an integrated open space network connecting key natural features on the site, with a key focus on a reconstructed and rehabilitated Anna Bay Main Drain.

It is anticipated that separate to the LEP amendment, a site specific DCP will be prepared to provide the intended character objectives and detailed design controls for the site. If required, it is anticipated that the site specific DCP would be prepared following Gateway determination.

#### 1.3 Planning proposal authority and categorisation

Clause 3.32 of the *Environmental Planning and Assessment Act 1979* identifies the planning proposal authority to be the council for the local government area to which the proposed instrument is to apply, subject to proposals which the Minister directs the Planning Secretary to be the planning proposal authority (cl. 3.32(2)). In this instance, Port Stephens Council (**Council**) will be the planning proposal authority unless otherwise stated by the Minister.

In accordance with the LEP Making Guideline, the Planning Proposal is categorised as 'complex'.



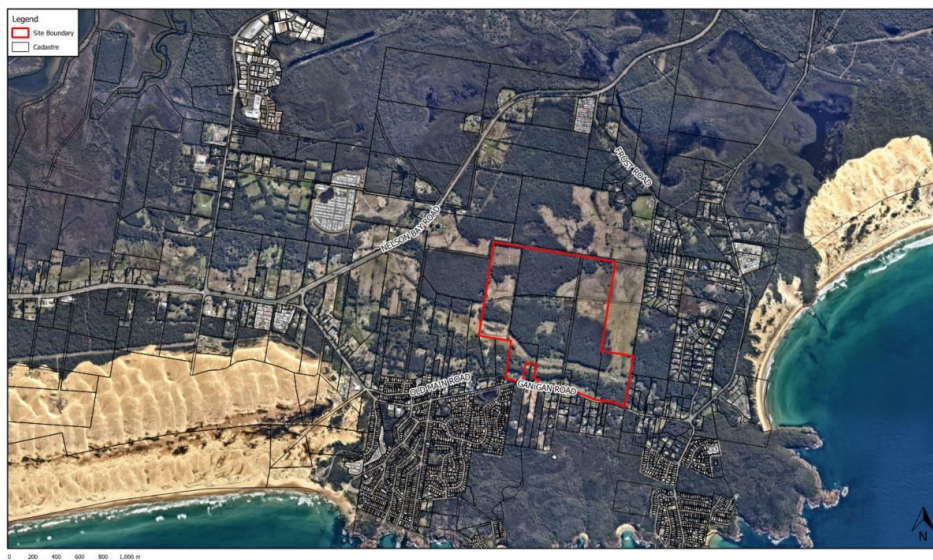
## 1.4 Report structure

The Planning Proposal has been prepared in accordance with:

- Section 3.33 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**)
- NSW Department of Planning, Housing and Infrastructure (**DPHI**) Local Environmental Plan Making Guideline (**the Guideline**).

Specifically, the Planning Proposal includes the following information:

- a description of the site and characteristics in its local and regional context
- a statement of the objectives and intended outcomes of the proposed changes to the Port Stephens LEP
- an explanation of the provisions that are to be included in the LEP
- the justification for those provisions and the process for their implementation including:
  - whether the proposed LEP will comply with relevant directions under Section 9.1 of the EP&A Act
  - the relationship to the strategic planning framework
  - environmental, social and economic impacts
  - relevant State and Commonwealth interests
  - details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.



**Figure 1: Site context**

Source: Martens & Associates



## 2 Site description

### 2.1 Site context

The site includes seven lots in single ownership, covering approximately 125 hectares of land located directly north east of the Anna Bay Town Centre and existing Anna Bay urban area. It is located within the Anna Bay Precinct on the Tomaree Peninsula. Details of the site are included in Table 1.

The site is situated along the northern edge of the established settlement of Anna Bay urban area on the Tomaree Peninsula. The site is within 800 m to the north east of Anna Bay Town Centre, to the north of Fishermans Bay, north west of Boat Harbour, and east of the Stockton Sand Dunes and to the west of One Mile Beach.

The site mainly consists of bushland / forest with some cleared grassed areas and market gardens in the northern and central portions of the site, with scattered infrastructure including residential dwellings, garages and sheds predominantly in the southern portion and cleared farm tracks for site access.

The surrounding development is predominantly low density residential development to the south and east, with rural and agricultural land to the north and west. A seniors living community has been developed to the north west. Key access roads to the site include Frost Road to the north and Gan Gan Road to the south.

The site is currently zoned part RU2 Rural Landscape, part C3 Environmental Management and part R2 Low Density Residential under the Port Stephens LEP. The site adjoins land zoned R2 Low Density Residential and R5 Large Lot Residential along its southern and southeastern boundary, and land zoned RU2 Rural Landscape to the north, east and west. Unformed Crown Roads run through the centre of the site and across its northern boundary.

**Table 1: Site details**

| Legal description   | Address                     | Area (approximate) |
|---------------------|-----------------------------|--------------------|
| Lot 963 DP 731955   | 196 Old Main Road, Anna Bay | 27.15 ha           |
| Lot 21 DP 590387    | 263 Gan Gan Road, Anna Bay  | 28.58 ha           |
| Lot 23 DP 590387    | 269 Gan Gan Road, Anna Bay  | 0.13 ha            |
| Lot 1 DP 536752     | 271 Gan Gan Road, Anna Bay  | 19.20 ha           |
| Lot 901 DP 634550   | 273 Gan Gan Road, Anna Bay  | 1.00 ha            |
| Lot 902 DP 634550   | 293 Gan Gan Road, Anna Bay  | 31.38 ha           |
| Lot 1 DP 503876     | 321 Gan Gan Road, Anna Bay  | 11.26 ha           |
| Unformed Crown Road |                             | 6.28 ha            |
| <b>Total</b>        |                             | <b>125.28 ha</b>   |





**Figure 2: Site location**  
Source: Mecone Mosaic



**Figure 3: Site details**  
Source: BKA Architecture





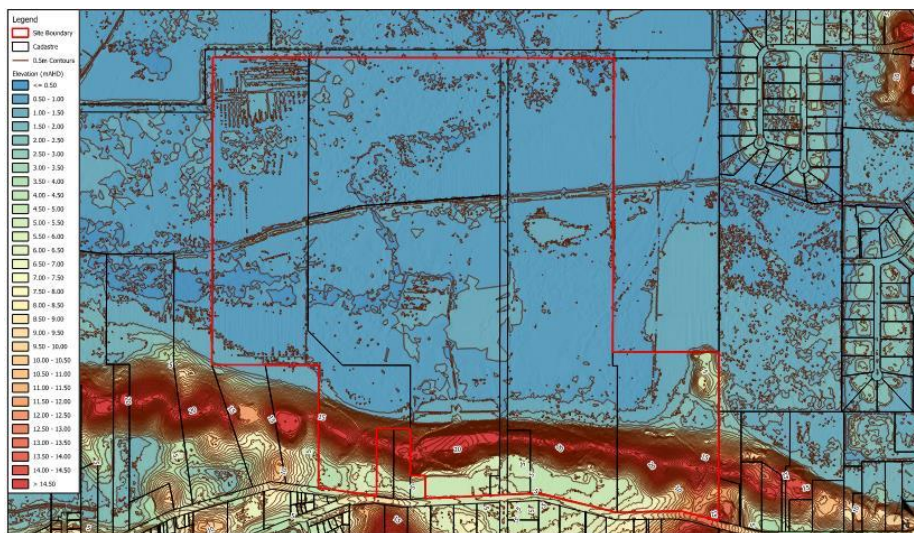
## 2.2 Site characteristics

The following site characteristics have been identified by the various consultants in the preparation of technical reports to support the Planning Proposal.

### 2.2.1 Topography

The site topography is characterised by three primary features:

- sand dune: an elongated east to west aligned sand dune is located near the southern site boundary, reaching elevations of around 20 – 23 mAHd. The sand dune has general grades of between approximately 20 % and 30 %, with some steeper grades of between approximately 40 % and 60 %.
- low lying land: land to the north of the sand dune is low lying and relatively flat, with elevations ranging between 1 – 2 mAHd with grade of less than 2%.
- valley area: a narrow strip of land (a trapped low dune hollow) is located between the sand dune and Gan Gan Road to the south and ranges in elevation between 5 – 7 mAHd. This area generally has a southerly aspect with an overall grade of less than 5 %. Areas immediately adjacent to the southern toe of the sand dune have grades of between approximately 10 % and 20 %.



**Figure 4: Topography map**

Source: Martens and Associates

### 2.2.2 Drainage

The northern and central portion of the site (to the north of the sand dune) drains via a network of typically north-south aligned man made drainage channels which discharge into the east-west aligned Anna Bay Main Drain. A smaller portion drains to a drainage channel just north of the site (the North Drain). Both drainage paths ultimately discharge into Fenninghams Island Creek which is a tributary of Tilligerry Creek.

The portion of the site southeast of the sand dune generally drains via overland flow to a trapped low point on 293 Gan Gan Road. The portion of the site southwest of the sand dune primarily drains via overland flow to a trapped low point at 196 Old Main Road.



### 2.2.3 Flooding

The site is impacted by the 1% Annual Exceedance Probability (AEP) flood extent. The flooding at the site is primarily caused by high tailwater conditions in Tilligerry Creek downstream, leading to inundation of low-lying areas north of Anna Bay. Due to these conditions, flood levels across the site are relatively uniform, turning the site and its surroundings into a flood storage area during large flood events.

During a 1% AEP event, the flood depths are mostly shallow, typically less than 0.5 metres, with the peak 1% AEP site flood level reaching 1.26 metres above the Australian Height Datum (AHD). With climate change considered, the 1% AEP event sees flood depths ranging between 1.2 and 1.9 metres, with the peak 1% AEP flood level reaching 2.40 metres AHD.

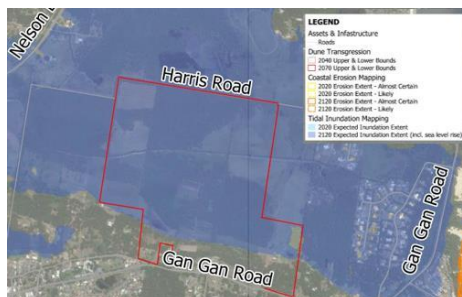
In the Probable Maximum Flood (PMF) event, flood depths vary between 1.1 and 1.8 metres, with the peak PMF site flood level at 2.25 metres. In the PMF event with climate change, flood depths vary between 1.3 and 2.3 metres, with the peak PMF site flood level at 2.62 metres AHD.

Flood velocities are typically below 0.5 metres per second in all scenarios, indicating low hydraulic hazard in the 1% AEP event and higher hazards in the 1% AEP with climate change and PMF events, primarily due to flood depths since the site serves as a flood storage.

Hydraulic hazards across the site are predominantly low in the 1% AEP event, and are high in the 1% AEP with climate change and PMF events (with and without climate change). Flood hazards at the site are mainly related to flood depths rather than flood velocities given the site is situated in a flood storage area.

### 2.2.4 Tidal and coastal inundation

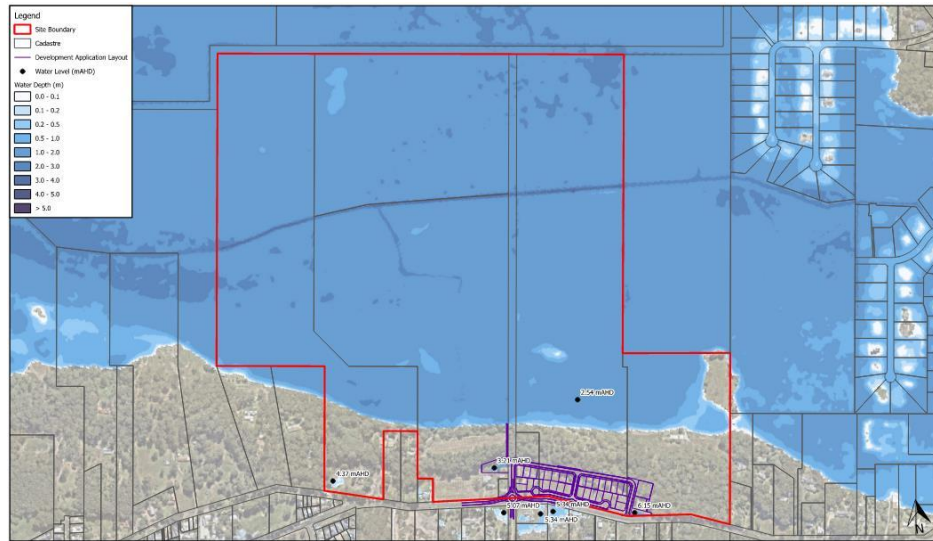
No wetlands, wetland proximity area, coastal environment area or coastal use areas are mapped under *State Environmental Planning Policy 2021 (Resilience and Hazards)* within the site. The site is also not included in the Port Stephens Coast Management Program 2024. However the site is impacted by tidal inundation, which maps the highest possible tidal water level that could occur, as well as coastal inundation, which is associated with storm resulting in storm surge and waves. The extent of tidal and coastal inundation reflects the 1% AEP flood extent.



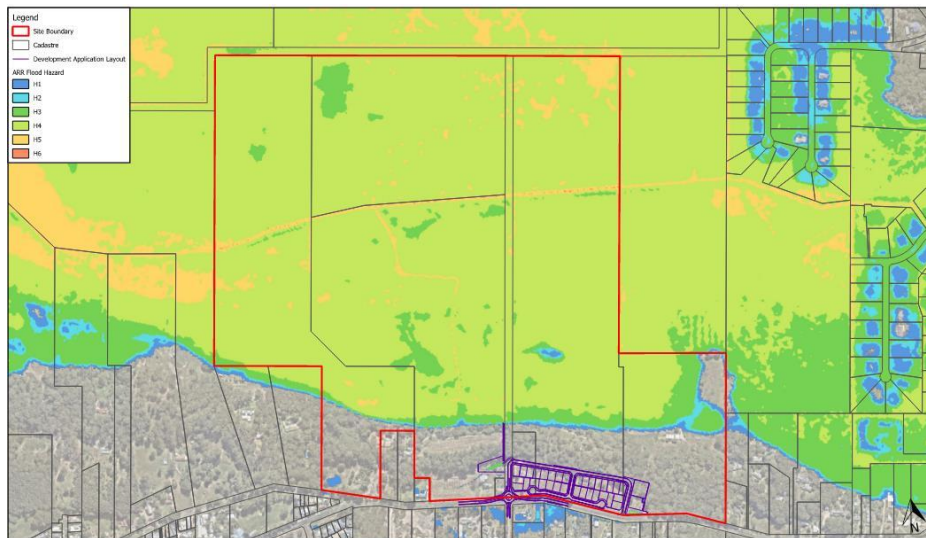
**Figure 5: Tidal inundation**  
Source: Port Stephens Council



**Figure 6: Coastal inundation**  
Source: Port Stephens Council



**Figure 7: 1% AEP climate change enveloped results – existing condition water level & water depth**  
Source: Martens and Associates



**Figure 8: 1% AEP climate change enveloped results – existing condition ARR flood hazard categories**  
Source: Martens and Associates





## 2.2.5 Biodiversity

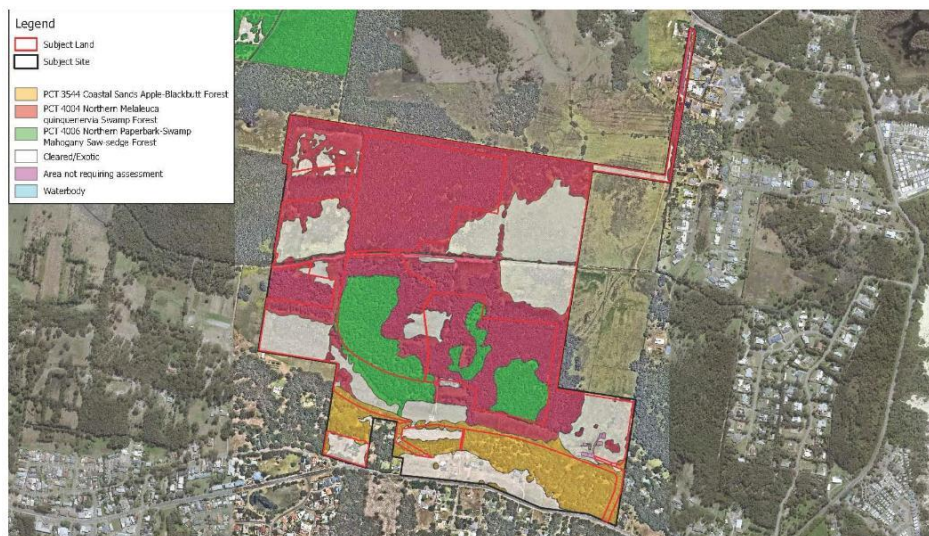
The following outlines the biodiversity constraints as identified in the Biodiversity Constraints Assessment prepared by RPS Group and Biodiversity Development Assessment Report prepared by Wildthing Environmental Consulting.

### 2.2.5.1 Vegetation

A total of three Plant Community Types (PCT) were identified within the site. Two of these, PCT 4004 and PCT 4006 were consistent with the Endangered Ecological Community, Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South-East Corner Bioregions listed under the *Biodiversity Conservation Act 2016* (NSW) (**BC Act**) and the Endangered Community Coastal Swamp Sclerophyll Forest of New South Wales and South East Queensland listed under the national *Environment Protection Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**).

**Table 2: Plant Community Types identified within the site**

| PCT ID            | PCT name  | Site area (ha) | Site land area (ha) |
|-------------------|---|----------------|---------------------|
| 3544              | Coastal Sands Apple-Blackbutt Forest<br>(predominantly along the sand dune pasture / grassed and cleared parts of the site)                               | 11.73          | 2.71                |
| 4004              | Northern Melaleuca quinquenervia Swamp Forest Central Coast and Lower North Coast<br>(predominantly adjacent to the northern and western side boundaries) | 60.81          | 26.74               |
| 4006              | Northern Paperbark-Swamp Mahogany Saw-sedge Forest<br>(largely in the northern and eastern parts of the site)   | 35.15          | 2.73                |
| <b>Total area</b> |   | <b>107.69</b>  | <b>32.18</b>        |



**Figure 9: Plant Community Types within the site**

Source: Wildthing Environmental Consultants



#### 2.2.5.2 Flora

A total of 266 native and 76 exotic flora species were identified within the site. Two threatened flora species were detected within the site:

- *Persicaria elatior* (Tall Knotweed; BC Act: Vulnerable; EPBC Act: Vulnerable)
- *Corybas dowlingii* (Red Helmet Orchid; BC Act: Endangered).

About 1070 individuals of *Persicaria elatior* have been detected within PCT 4004 and cleared/ exotic vegetation. Three patches of approximately 60 total individuals of *Corybas dowlingii* were in the south-eastern section of the dune system in PCT 3544.

#### 2.2.5.3 Fauna

Targeted and opportunistic surveys identified 117 fauna species within the site. Of the 122 fauna species recorded, 78 were bird species, 21 were mammals (excluding microbats species), seven were microbat species five, eight were frog species, and three were reptiles. Eleven threatened fauna species were detected within the site as follows:

- Wallum Froglet (*Crinia tinnula*; BC Act: Vulnerable) – breeding
- Little Lorikeet (*Glossopsitta pusilla*; BC Act: Vulnerable) – foraging
- White-bellied Sea-Eagle (*Haliaeetus leucogaster*; BC Act: Vulnerable; EPBC Act: Migratory) – breeding and foraging
- Powerful Owl (*Ninox strenua*; BC Act: Vulnerable) – breeding and foraging
- Masked Owl (*Tyto novaehollandiae*; BC Act: Vulnerable) – foraging
- Squirrel Glider (*Petaurus norfolcensis*; BC Act: Vulnerable) – breeding and foraging
- Koala (*Phascolarctos cinereus*; BC Act: Endangered; EPBC Act: Endangered) – breeding and foraging
- Grey-headed Flying Fox (*Pteropus poliocephalus*; BC Act: Vulnerable; EPBC Act: Vulnerable) – foraging
- Little Bent-winged Bat (*Miniopterus australis*; BC Act: Vulnerable) – foraging
- Yellow-bellied Sheath-tail bat (*Saccolaimus flaviventris*; BC Act: Endangered) – foraging
- Greater Broad-nosed Bat (*Scoteanax rueppellii*; BC Act: Vulnerable) – foraging.

#### Fauna habitat

The site hosts a variety of habitat features that support native flora and fauna. Low lying areas prone to inundation provide habitat for coastal wetland species with the contrasting sandy dunes supporting species preferring dry low nutrient environments. Key fauna habitat features include hollow-bearing trees, dead wood including stags and ground logs, weed thickets, waterbodies such as wetlands, streams, rivers and dams, nests and roosts, microchiropteran bat tree roosts, winter-flowering eucalypts, and preferred and supplementary koala feed trees.

#### Koala habitat

The site contains native vegetation comprising koala use tree species. Preferred and supplementary koala feed trees occur within the site. Preferred koala feed trees include *Eucalyptus robusta*. Supplementary koala feed trees include *Casuarina glauca*, *Melaleuca quinquenervia*, *Angophora costata* and *Eucalyptus pilularis*. The site contains Preferred Koala Habitat, Supplementary Koala Habitat and Habitat Buffers.

#### Matters of National Environmental Significance

One EPBC Act listed threatened flora species occurs within the site, *Persicaria elatior* (Tall Knotweed; Vulnerable). The population of *Persicaria elatior* in the site would be considered an important population of a species under the EPBC Act 'self assessment' for matters of national environmental significance as the population is within proximity to a priority management site, is likely to be important for maintaining genetic diversity, is likely to be at the southern extent of the species range, and due to the large size of the population.

Four EPBC Act listed threatened and/or migratory species occur within the site. The White-bellied Sea-Eagle (*Haliaeetus leucogaster*; marine/ migratory), Koala (*Phascolarctos cinereus*; endangered), Rufous Fantail (*Rhipidura rufifrons*; migratory) and Grey-headed Flying-fox (*Pteropus poliocephalus*; vulnerable).



The White-bellied Sea-Eagle is nesting within the site, therefore a 250 m buffer around the nest location is considered habitat of importance to a migratory species.

One EPBC Act listed community occurs within the site, Coastal Swamp Sclerophyll Forest of New South Wales and South East Queensland EEC.

A patch of PCT 4004 may form a part of the EPBC Act listing for Coastal Swamp Oak (*Casuarina glauca*) Forest of New South Wales and South East Queensland ecological community. However, current data suggests that the patch of PCT 4004 dominated by *Casuarina glauca* does not have a dominant native ground cover therefore may not meet the EPBC Act listing.

#### 2.2.5.4 Key threatening processes

Currently there are eight existing key threatening processes operating within the site mostly due to the high presence of invasive flora and fauna, and due to past agricultural land uses.



**Figure 10: Endangered and Threatened Ecological Communities within the site**

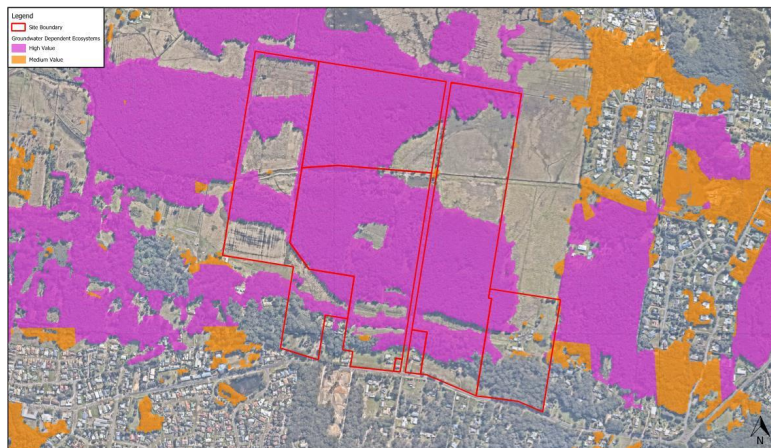
Source: Wildthing Environmental Consultants





### 2.2.6 Groundwater dependent ecosystems

The Groundwater Dependent Ecosystems (GDE) mapping shows the site contains several areas considered to have a moderate to high probability of GDEs. Much of these areas coincide with areas mapped as Threatened Ecological Communities under the EPBC Act.

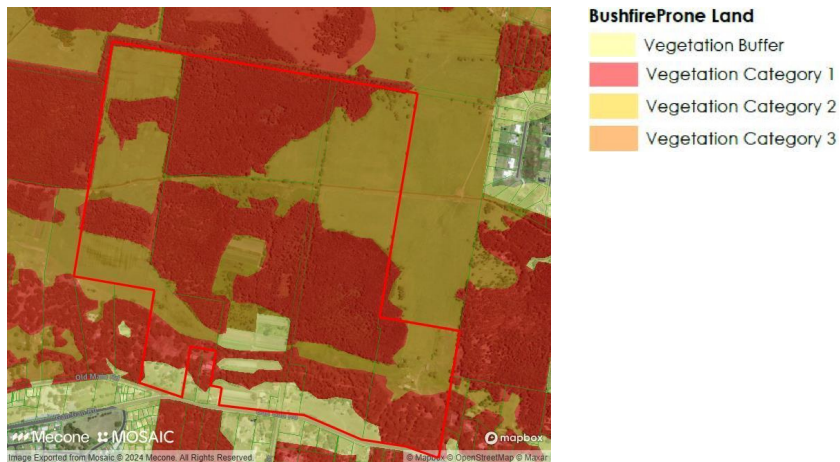


**Figure 11: Groundwater dependent ecosystems**

Source: Martens and Associates

### 2.2.7 Bushfire

The site is impacted by bushfire prone land, including Category 1, Category 3, and buffer area bushfire risk categories. The Category 1 land generally follows the pattern of dense vegetation across the site.



**Figure 12: Historical aerial imagery of the Site (1966)**

Source: Historical Imagery View



## 2.3 Project background

### 2.3.1 Site history

The site has historically been used for residential, agricultural, and pastoral activities. The table below highlights the existing uses on the site.

**Table 3: Existing use**

| Legal description   | Address                     | Existing use   |
|---------------------|-----------------------------|----------------|
| Lot 963 DP 731955   | 196 Old Main Road, Anna Bay | Dwelling house |
| Lot 21 DP 590387    | 263 Gan Gan Road, Anna Bay  | Dwelling house |
| Lot 23 DP 590387    | 269 Gan Gan Road, Anna Bay  | Dwelling house |
| Lot 1 DP 536752     | 271 Gan Gan Road, Anna Bay  | Vacant         |
| Lot 901 DP 634550   | 273 Gan Gan Road, Anna Bay  | Dwelling house |
| Lot 902 DP 634550   | 293 Gan Gan Road, Anna Bay  | Dwelling house |
| Lot 1 DP 503876     | 321 Gan Gan Road, Anna Bay  | Dwelling house |
| Unformed Crown Road |                             | Vacant         |



**Figure 13: Historical aerial imagery of the Site (1966)**

Source: Historical Imagery View





### 2.3.2 Historic planning proposal requests

There have been two planning proposal requests lodged with Port Stephens Council that covers part of the site that forms the current Planning Proposal area. Details of those previous requests are outlined below:

- **Gan Gan Road, Anna Bay (PP-2021-794)**

Port Stephens Council adopted a planning proposal seeking to rezone a portion of land along the frontage of Gan Gan Road to R2 Low Density Residential and C3 Environmental Management at Lots 901 and 902 in DP634550 and Lot 1 in DP503876. The planning proposal received Gateway determination on 29 June 2010 and was implemented into Port Stephens LEP 2013 on 27 May 2014.

- **Anna Bay North (PP-2021-740)**

On 8 November 2011, Port Stephens Council resolved to prepare a landowner-initiated planning proposal to rezone nineteen allotments that covered a total area of 143 hectares, with 33 hectares identified for residential purposes. The planning proposal received a Gateway determination on 28 February 2012, with conditions requiring further studies to be undertaken. Several extensions were granted before an alteration to the Gateway determination was issued on 23 November 2020 for the planning proposal not to proceed.

The planning proposal was not initiated by the current proponent. It is also significantly different to the current proposal in that it covers different land and was not supported by extensive technical reports to justify site-specific merit.

For clarity, the table below identifies the land the subject of this Planning Proposal and whether it was included in PP-2021-740. The only property that was included in the previous planning proposal was Lot 963 in DP 731955, 196 Old Main Road, Anna Bay.

**Table 4: Historic planning proposal (PP-2021-740)**

| Legal description   | Address                     | Included in PP-2021-740 |
|---------------------|-----------------------------|-------------------------|
| Lot 963 DP 731955   | 196 Old Main Road, Anna Bay | Yes                     |
| Lot 21 DP 590387    | 263 Gan Gan Road, Anna Bay  | No                      |
| Lot 23 DP 590387    | 269 Gan Gan Road, Anna Bay  | No                      |
| Lot 1 DP 536752     | 271 Gan Gan Road, Anna Bay  | No                      |
| Lot 901 DP 634550   | 273 Gan Gan Road, Anna Bay  | No                      |
| Lot 902 DP 634550   | 293 Gan Gan Road, Anna Bay  | No                      |
| Lot 1 DP 503876     | 321 Gan Gan Road, Anna Bay  | No                      |
| Unformed Crown Road |                             | No                      |



### 3 Existing planning framework

This section outlines the existing strategic and statutory planning framework that is relevant to the Planning Proposal.

#### 3.1 Existing strategic planning framework

The applicable regional and local plans and strategies that relate to the Planning Proposal are outlined below.

##### 3.1.1 NSW Government population projections

The NSW Government has produced updated 2024 population projections for the 20 year period from 2021 to 2041. The latest projections forecast that the population in Port Stephens LGA will increase by 13,393 people, from 75,328 in 2021 to 88,721 in 2041. This is an annual growth of 0.8%. It is an increase of 6,653 people from the 2019 projections that informed the Hunter Regional Plan 2041 and Port Stephens Local Strategic Planning Statement, which forecasted that the population of Port Stephens would be 82,068 people in 2041.

##### 3.1.2 Hunter Regional Plan 2041

The Hunter Regional Plan 2041 (**Regional Plan**) is a 20-year land use plan that applies to the local government areas of Cessnock, Dungog, Lake Macquarie, Maitland, Mid Coast, Muswellbrook, Newcastle, Port Stephens, Singleton and Upper Hunter. It sets the strategic framework for the Hunter Region, aimed at promoting sustainable growth, housing choice, and lifestyle opportunities.

The Regional Plan outlines a housing target for Port Stephens LGA of 11,100 dwellings by 2041 based on 2019 population projections.

The Regional Plan is anchored around the following four key principles:

- **Growth:** Support a net zero emissions economy and foster employment growth, competitiveness and innovation.
- **Community:** Promote places to be together by weaving nature into our towns and cities with having welcoming, safe streets and public spaces.
- **Resilience:** Reduce risks associated with place-based shocks and stresses to improve the community's ability to withstand, recover from and adapt to changes and become more resilient.
- **Equity:** Communities should be safe and healthy with residents having opportunities for economic advancement, housing choices and a secure retirement.

The Regional Plan outlines nine objectives, with actions that describe initiatives led by DPHI and strategies that identify policy positions and directions implemented through local planning or planning proposals. The Regional Plan states that if a planning proposal is not consistent with a strategy, alternative approaches will be considered. Performance outcomes listed with each objective provides an assessment framework that determines whether an alternative approach achieves the objectives and vision of the Regional Plan.

The Regional Plan outlines an assessment pathway for planning proposals as described below:

- No risk: consistent with strategies. Complies with the strategy to achieve the objective.
- Low risk: consistent with performance outcomes. Proposes an alternative to the strategy to achieve the objective.
- High risk: not supported. Proposes an alternative to the strategy that does not achieve the objective.

The Planning Proposal is considered 'low risk' under the Regional Plan's assessment pathway.

The relevant Objectives and Strategies from the Regional Plan are outlined below.



Table 5: Hunter Regional Plan 2041 Objectives and Strategies

| Relevant Objectives and Strategies  |   |
|---|---|
| <b>Objective 3: Create 15-minute neighbourhoods to support mixed, multi-modal, inclusive and vibrant communities</b>        |   |
| <b>Strategy 3.1</b>   | <p>Planning proposals that propose a residential, local centre or commercial centre zone will not prohibit the following land uses within urban core, general urban, inner suburban and general suburban contexts:</p> <ul style="list-style-type: none"> <li>• business premises</li> <li>• restaurants or cafes</li> <li>• take-away food and drink premises</li> <li>• neighbourhood shops and supermarkets</li> <li>• educational establishments</li> <li>• early education and care facilities</li> <li>• health services facilities</li> <li>• markets</li> <li>• community facilities</li> <li>• recreation areas</li> </ul>                         |
| <b>Objective 5: Plan for 'nimble neighbourhoods', diverse housing and sequenced development</b>                             |   |
| <b>Strategy 5.3</b>   | <p>Planning proposals will not prohibit the following housing typologies within residential zones that apply to urban core, general urban, inner suburban and general suburban contexts:</p> <ul style="list-style-type: none"> <li>• attached dwellings</li> <li>• boarding houses</li> <li>• dual occupancies</li> <li>• group homes</li> <li>• multi dwelling housing</li> <li>• secondary dwellings</li> <li>• semi-detached dwellings.</li> </ul>  |
| <b>Objective 6: Conserve heritage, landscapes, environmentally sensitive areas, waterways and drinking water catchments</b> |   |
| <b>Strategy 6.3</b>   | <p>Planning proposals will ensure the biodiversity network is protected within an appropriate conservation zone unless an alternate zone is justified following application of the avoid, minimise, offset hierarchy.</p>   |
| <b>Strategy 6.4</b>   | <p>Planning proposals should promote enterprises, housing and other uses that complement the biodiversity, scenic and water quality outcomes of biodiversity corridors. Particularly, where they can help safeguard and care for natural areas on privately owned land.</p>   |
| <b>Objective 7: Reach net zero and increase resilience and sustainable infrastructure</b>                                   |   |
| <b>Strategy 7.5</b>   | <p>Planning proposals will protect sensitive land uses from sources of air pollution, such as major roads, railway lines and designated freight routes, using appropriate planning and development controls and design solutions to prevent and mitigate exposure and detrimental impacts on human health and wellbeing.</p>  |
| <b>Strategy 7.7</b>   | <p>Local strategic planning will demonstrate alignment with the NSW Government's natural hazard management and risk mitigation policy framework including:</p> <ul style="list-style-type: none"> <li>• <i>Planning for Bushfire Protection 2019</i></li> <li>• <i>NSW Coastal Management Framework</i></li> <li>• <i>Floodplain Development Manual and the Flood Prone Land Policy</i></li> <li>• <i>Planning for a more resilient NSW: A strategic guide to planning for natural hazards</i></li> <li>• any other natural hazards guidance that is released.</li> </ul>   |
| <b>Strategy 7.8</b>   | <p>Local strategic planning will ensure future residential areas are not planned in areas where:</p> <ul style="list-style-type: none"> <li>• residents are exposed to a high risk from bushfire, flood and/or coastal hazards, considerate of how these may impacted by climate change</li> <li>• evacuation is likely to be difficult during a bushfire or flood due to its siting in the landscape, access limitations, hazard event history and/or size and scale</li> <li>• any existing residential areas may be placed at increased risk</li> <li>• increased development may cause evacuation issues for both existing or new occupants.</li> </ul> |



### 3.1.3 Local Strategic Planning Statement

The Port Stephens Local Strategic Planning Statement (**LSPS**) establishes a 20 year vision for land use in the local area. It captures the local identity and shared community values and outlines how growth and change will be managed into the future. The LSPS is a key consideration of any planning proposal in Port Stephens LGA.

The plan highlights key themes relating to:

- Economic growth
- Housing diversity
- Environmental preservation and restoration
- Transportation and connectivity.

The LSPS includes 12 Planning Priorities and Actions to deliver on these themes. The relevant priorities that relate to the proposal are identified below:

- Priority 4 – Ensure suitable land supply
- Priority 5 – Increase diversity of housing choice
- Priority 6 – Plan infrastructure to support communities
- Priority 7 – Conserve biodiversity values and corridors
- Priority 8 – Improve resilience to hazards and climate change.

In relation to housing supply, the LSPS states that:

*Port Stephens has a housing market that is supply driven and without an adequate supply of land in the right locations, housing affordability is likely to be negatively impacted.*

### 3.1.4 Local Housing Strategy

The Port Stephens Local Housing Strategy (**LHS**) outlines Council's vision for the future of land use and housing development in Port Stephens. The strategy sets a framework for where housing can be delivered to ensure the current and future needs of the community can be met.

The LHS states that in 2022, the NSW Government identified the need for an additional 11,100 dwellings in Port Stephens to accommodate an estimated 20,000 new residential over the next 20 years. This equates to delivering in excess of 550 dwellings per year to meet the forecast demand. It states that there is limited opportunity for new housing development in Port Stephens and housing costs are rising which has impacted social and economic stability.

The LHS was based on the 2021 Census for both housing and population. It identifies an LGA population of 76,672, which has increased by 6.5% over the past five years. It projects that by 2041, 45,637 new dwellings will be required. In terms of affordability and diversity, the LHS identifies that one in three households are experiencing housing stress and that there is limited diversity, with 82% of all housing being detached dwellings.

To address the housing challenges in the LGA, the LHS comprises four outcomes, 12 priorities and 23 actions. The relevant outcomes and priorities from the LHS are outlined in the table below.



Table 6: Local Housing Strategy relevant Outcomes and Priorities

| Relevant Objectives and Strategies  |   |
|---|---|
| <b>Outcome 1: Ensure suitable land supply</b><br><i>... without intervention to identify additional housing opportunities (e.g. rezoning new urban greenfield sites ...), the current available housing supply will fall significantly below identified need. The current shortfall now exceed 4,000 dwellings over the next 20 years.</i>  |   |
| <b>Priority 1.1</b>   | <b>Ensure adequate supply of new housing</b>        |
| <p>The LHS incorporates a Housing Supply Plan that forecasts the delivery of approximately 9,800 dwellings over the next 20 years, which is 1,300 dwellings less than the Region Plan forecast. It is supported by a Housing Supply Plan that includes Greenfield Housing Criteria to guide rezoning requests. It states:</p> <p><i>This allows the Strategy to be agile and facilitate consideration of new sites if land constraints change (such as aircraft noise mapping) or if new data and evidence becomes available to demonstrate that a site can now meet the assessment criteria.</i></p> |   |
| <b>Priority 1.2</b>   | <b>Remove barriers to unlock housing supply</b>     |
| <p>The LHS recognises that there are sites in the LGA that haven't progressed to rezoning due to fragmented land ownership, environmental constraints and infrastructure challenges. The priority is to address these barriers.</p>   |   |
| <b>Outcome 2: Improve housing affordability</b><br><p>The LHS recognises the challenge for Port Stephens in improving housing affordability while ensuring housing is developed in the right locations.</p>   |   |
| <b>Priority 2.1</b>   | <b>Respond to housing stress</b>                    |
| <p>Port Stephens comprises a higher proportion of very low income households compared to the Hunter region and New South Wales. Rent in Port Stephens is becoming increasingly unaffordable for low income earners. The Priority recognises that there are opportunities to improve housing affordability in Port Stephens by increasing the supply of smaller lots as well as lower-cost dwelling, including dual occupancies or townhouses.</p>   |   |
| <b>Outcome 3: Increase diversity of housing choice</b><br><p>There is a lack of housing diversity in Port Stephens. The LHS recognises a need to plan for a diversity of housing types, sizes, locations and price points.</p>  |   |
| <b>Priority 3.2</b>   | <b>Encourage a range of housing types and sizes</b> |
| <p>The LHS states that Council will seek opportunities to increase housing densities in new housing areas, including opportunities for new urban release areas to offer a broader range of housing types and sizes.</p>   |   |
| <b>Outcome 4: Facilitate liveable communities</b>   |   |
| <b>Priority 4.1</b>   | <b>Housing enhances local character</b>             |
| <p>The LHS recognises that housing can have a significant impact in defining the local character of an area and can be planned and designed to contribute to and enhance the character of a place.</p>  |   |
| <b>Priority 4.2</b>   | <b>Communities are connected</b>                    |
| <p>The LHS states that convenient access, including public transport and walking and cycling paths contributes to more active and vibrant communities.</p>  |   |
| <b>Priority 4.3</b>   | <b>Sustainable and resilient communities</b>        |
| <p>The LHS states that greater emphasis will be placed on sustainability and resilience in our developing communities.</p>  |   |
| <b>Priority 4.4</b>   | <b>Supported communities</b>                        |
| <p>The LHS recognises that infrastructure is fundamental to the liveability of a place.</p>   |   |



#### 3.1.4.1 Local Housing Strategy – Appendix 1

The LHS forecasts the delivery of approximately 9,800 dwellings over the next 20 years, which is 1,300 short of the Region Plan forecast. It states that it needs to respond to uncertainty by providing flexibility and capacity to respond to changes in underlying growth assumptions.

Appendix 1 of the LHS states that addendums to the LHS can occur for proposals that meet the following criteria:

- the proposal provides in excess of 20 new dwellings
- the proposal can demonstrate that sufficient infrastructure is available or can reasonably be provided
- the proposal can meet the requirements in Appendix 1 – Greenfield Housing Criteria.

The Planning Proposal satisfies this criteria.

#### Greenfield Housing Criteria

Appendix 1 of the LHS outlines key considerations for urban housing areas (greenfield housing). The criteria are used to demonstrate that land is suitable for housing. It requires planning proposals on constrained land to be lodged with additional supporting documentation to demonstrate the land is suitable for residential development. The criteria for consideration is outlined in the table below.

**Table 7: Local Housing Strategy – Greenfield Housing Criteria**

| Appendix 1 – Greenfield Housing Criteria |   |
|--|---|
| <b>Locational criteria</b>               |   |
|  | <ul style="list-style-type: none"> <li>• Land identified in a local area strategy.</li> <li>• Land that is currently zoned for non-residential purposes and is proposed to be zoned for urban housing (e.g. R1 General Residential, R2 Low Density Residential and R3 Medium Density Residential).</li> <li>• The criteria does not apply to rezoning requests for rural residential housing (refer to the Rural Residential Criteria in Appendix 2).</li> <li>• Note, land means the extent of land proposed to be used for residential purposes.</li> </ul> |
| <b>Exclusionary criteria</b>             |   |
|  | <p>In accordance with Council resolution Minute No. 212 (9 August 2022), the following areas are excluded from any further consideration:</p> <ul style="list-style-type: none"> <li>• any land within Wallalong that has previously been considered for urban development as part of the Wallalong Urban Release Area.</li> </ul>  |
| <b>Management criteria</b>               |   |
| <b>Aircraft noise</b>                    |   |
|  | <p>The land is below the 25 Australian Noise Exposure Forecast (ANEF) contour. Proposals on land affected by ANEF contour 25 or above are "unacceptable" for residential purposes under Australian Standard AS 2021:2015.</p>   |
| <b>Bushfire</b>                          |   |
|  | <p>Rezoning requests on land identified as bush fire prone (on Council's Bush Fire Prone Land Map) must demonstrate consistency with the strategic principles contained within Planning for Bush Fire Protection 2019.</p>  |
| <b>Flooding</b>                          |   |
|  | <p>Rezoning requests on land that has the potential to be isolated in flood events, must demonstrate compliance with the Flood Risk Management Manual and the associated toolkits. Consideration must also be given to the draft Shelter-in-place Guideline issued by DPHI in January 2023.</p>   |





#### Land slope

The land has a slope of less than 18 degrees. Rezoning requests for land that has a slope greater than 18 degrees must be lodged with a bulk earthworks plan demonstrating that the final landform will not exceed 18 degrees, and a geotechnical report demonstrating that the final landform will achieve an appropriate level of stability.

#### Biodiversity

- The land is not identified as containing high biodiversity value, as per the NSW DPHI Biodiversity Values Map published on the NSW DPHI website. Rezoning requests for land identified as containing high biodiversity value must be lodged with a Biodiversity Development Assessment Report (**BDAR**).
- The proposal avoids land containing native vegetation. Rezoning requests for land containing 0.5 ha of native vegetation must be lodged with a Preliminary Flora and Fauna Assessment and commit to preparing a BDAR prior to public exhibition.

#### Mineral resources

The land is greater than 500 metres from any known mineral resource (rezoning requests for land within 500 metres of a known mineral resource must be lodged with evidence of consultation with the NSW Department of Planning and Environment, and any relevant operator).

#### Non-aboriginal cultural heritage

Rezoning requests that are likely to impact on an item of environmental heritage (identified in the *Port Stephens Local Environmental Plan 2013*) must submit a Statement of Heritage Impact that considers the impact on heritage values, including the setting of the items and any archaeological remains.

#### Aboriginal cultural heritage

Rezoning requests should include an initial assessment of the likelihood of Aboriginal cultural heritage values including:

- a search of the Aboriginal Heritage Information Management System (**AHIMS**)
- determination of whether the sites include landscape features that indicate the likely presence of aboriginal objects
- site inspections
- consultation with the Aboriginal community

#### Drinking water catchment

Rezoning requests on land within a drinking water catchment must be able to be connected to reticulated sewer or able to demonstrate a neutral or beneficial effect (NorBE) on water quality in accordance with Hunter Water Corporation requirements.

#### Infrastructure and services

The land is able to be serviced by essential infrastructure. Rezoning requests must be lodged with evidence demonstrating that infrastructure is:

- currently available
- scheduled to be available (must be confirmed in writing from service providers).

Rezoning requests must be lodged with evidence demonstrating that the connection of essential services to the land is economically feasible. On land remote from existing essential infrastructure, an infrastructure delivery strategy is to be submitted.

#### Next steps

Proponents are required to submit a 'Rezoning Request Meeting Form' and include details of the proposals, benefits of the proposal, and alternative options in accordance with Council's Rezoning Request Policy and Rezoning Request Guide.



### 3.1.5 Housing Supply Plan

The Housing Supply Plan (HSP) has been prepared by Council in conjunction with the LHS to demonstrate how it would facilitate provision of housing to meet the needs of the growing community.

The HSP plans for an additional 9,823 dwellings in the LGA to 2041 to accommodate the additional 20,686 people. This is a shortfall of 1,277 dwellings from the Region Plan forecast of 11,100 dwellings. For Anna Bay, the HSP plans for an additional 387 dwellings to accommodate 828 additional people by 2041, representing approximately 4% of the growth in the LGA. This would result in a total of 3,484 dwellings and 7,277 people in Anna Bay in 2041.

The HSP states that significant flooding and ecological constraints has contributed to stopping growth in Anna Bay. In order to enable development to occur, it recognises that an extensive and holistic assessment of both the ecological and flood impacts is required. The growth in housing supply in Anna Bay is nominated for the Anna Bay Town Centre (156 dwellings), the expansion of the lifestyle villages of 'Latitude One' (171 dwellings) and 'Sunrise' (60 dwellings) to the west of the site.

### 3.1.6 Anna Bay Strategy and Town Plan

The Anna Bay Strategy and Town Plan (2008) 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.

It was based on the 2006 census, which is now outdated. The Strategy contains a number of Strategic Directions, relating to both land use and recreation and community facilities, that will be implemented to achieve the following vision for Anna Bay:

*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 key strategic directions outlined in the Strategy are as follows:

- need for higher quality housing and greater diversity of dwelling types that front attractive and pedestrian friendly streets and parks
- greenfield and infill development will provide for quality villa and townhouse development
- each residential neighbourhood has access to services and facilities within approximately 500 m of each dwelling.

The specific Strategic Direction for residential uses is as follows:

- Low Density Residential land use will be facilitated by single dwellings on lot sizes from 400-700 sqm and smaller lots where frontage is provided to a park or reserve area.
- Medium Density Residential land use will be facilitated by villas and townhouses with a minimum area per dwelling of 300 sqm and concentrated around commercial uses or community facilities.
- Environmental Living will be facilitated by single dwellings with lot at least 1,000 sqm to reduce impacts on koala movement corridors and other environmentally sensitive locations.

#### Anna Bay North

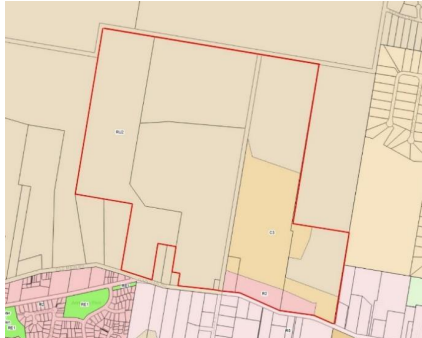

The site is located in Anna Bay North. The Strategy recognises that some sites in this catchment are identified as flood prone and may require filling. It states that rezoning requests must be accompanied by a drainage study that assesses the impact on drainage of the full extent of development in accordance with the Town Plan.



### 3.2 Existing statutory planning framework

The *Port Stephens Local Environmental Plan 2013 (LEP)* is the primary environmental planning instrument applicable to the site. The relevant provisions of the Port Stephens LEP are outlined below:

**Table 8: Provisions from Port Stephens LEP**

| LEP provision  | Map   |
|--|---|
| <b>Land use zoning</b><br>The site is currently zoned: <ul style="list-style-type: none"> <li>part RU2 Rural Landscape</li> <li>part C3 Environmental Management</li> <li>part R2 Low Density Residential.</li> </ul>  |  <p><b>Figure 14: Site context</b><br/>Source: Mecone Mosaic</p>  |
| <b>Maximum height of buildings</b><br>There is currently no maximum height of buildings control applying to the RU2 Rural Landscape and C3 Environmental Management zoned land on the site. The R2 Low Density Residential zoned land has a 9 m maximum height of buildings control under clause 4.3 of the Port Stephens LEP.<br>The maximum building heights on the adjoining land is as follows: <ul style="list-style-type: none"> <li>no maximum height of buildings controls on land to the north and west</li> <li>to the south, 9 m on the R2 Low Density Residential zoned land and no maximum building height on the R5 Large Lot Residential zoned land</li> <li>to the east, 9 m on the C4 Environmental Living zoned land and no maximum building height on the R5 Large Lot Residential zoned land.</li> </ul> |  <p><b>Figure 15: Existing Height of Buildings Map</b><br/>Source: NSW Planning Portal Spatial Viewer</p> |



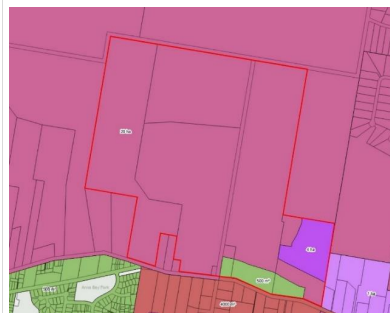
#### Minimum subdivision lot size

The site has a range of minimum subdivision lot size controls under clause 4.1 of the Port Stephens LEP as outlined below:

- 20 ha on the C3 Environmental Management zoned land and the majority of the RU2 Rural Landscape zoned land
- 4 ha on the RU2 Rural Landscape zoned land on Lot 1 DP 503876, 321 Gan Gan Road, Anna Bay
- 500 sqm on the R2 Low Density Residential zoned land.

The minimum subdivision lot size control on the adjoining land is as follows:

- to the north and west has a 20 ha minimum subdivision lot size control
- to the east, 10 ha on the C4 Environmental Living zoned land and 1 ha on the R5 Large Lot Residential zoned land
- to the south, 4,000 sqm on the R5 Large Lot Residential zoned land and 500 sqm on the R2 Low Density Residential zoned land.



**Figure 16: Existing Lot Size Map**

Source: NSW Planning Portal Spatial Viewer

#### Acid Sulfate Soils

The site is mapped as containing acid sulfate soils as described below:

- Class 3 covering the majority of the site
- Class 4 generally within 250 m of Gan Gan Road and Old Main Road (south of the sand dune)
- Class 5 covering a small area in the south and east of Lot 1 DP 503876, 321 Gan Gan Road, Anna Bay.

Clause 7.1 of the Port Stephens LEP applies to mapped areas of acid sulfate soils and has the objective to 'ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage'. The impact of acid sulfate soils on any future development on the site will be managed at the development application stage as required by clause 7.1.



**Figure 17: Existing Acid Sulfate Soils Map**

Source: NSW Planning Portal Spatial Viewer

#### Wetlands

The site is mapped as containing large areas (approximately 16.5 ha) of wetlands and is subject to clause 7.9 of the Port Stephens LEP 2013. The objective of clause 7.9 is to 'ensure that wetlands are preserved and protected from the impacts of development'.



**Figure 18: Wetlands Map**

Source: NSW Planning Portal Spatial Viewer



#### Urban release area

The part of the site zoned R2 Low Density Residential is identified on the Urban Release Area Map.



**Figure 19: Existing Urban Release Area Map**

Source: NSW Planning Portal Spatial Viewer

#### Heritage

There are no items of environmental heritage applying to the site. The land to the north east of the site on Lot 884 DP 737049, 4480 Nelson Bay Road, Anna Bay contains a local heritage item listed in the Port Stephens LEP as follows:

- Local heritage item I1 'Underground water tank (Footrot Flat)'.



**Figure 20: Existing Heritage Map**

Source: Mecone Mosaic

**Table 9: Biodiversity Conservation Act 2016**

| Biodiversity Conservation Act 2016  | Map   |
|---|---|
| <b>Biodiversity values</b> <p>The Biodiversity Values Map identifies land with high biodiversity value, particularly sensitive to impacts from development and clearing. A large part of the site contains biodiversity values.</p> <p>The map forms part of the Biodiversity Offsets Scheme threshold, which is one of the factors for determining whether the Biodiversity Offset Scheme (BOS) applies to a clearing or development proposal.</p> | <p><b>Figure 21: Biodiversity Values Map</b></p> <p>Source: Wildthing Environmental Consultants</p> |



## Section 2 – The Planning Proposal

The Planning Proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the Department of Planning, Housing and Infrastructure Local Environmental Plan Making Guideline.

The Planning Proposal is structure as follows:

- Part 1 – A statement of the objectives and intended outcomes
- Part 2 – An explanation of the proposed provisions
- Part 3 – Justification
- Part 4 – Mapping
- Part 5 – Details
- Part 6 – Project timeline.

### 4 Part 1 – Objectives and Intended Outcomes

#### 4.1.1 Objectives

To enable development of a masterplanned low density residential community that responds to the topographical and environmental characteristics and natural hazards on the site by:

- managing flooding and stormwater to create fill platforms for residential development
- conserving areas of high biodiversity significance
- establishing an interconnected open space network with walking and cycling
- creating a legible and connected pedestrian friendly road network for the safe and efficient movement of people, vehicles and public transport.

#### 4.1.2 Intended outcomes

The intended outcome of the Planning Proposal is to amend the Port Stephens LEP as follows:

- enable development of a low density residential community that responds to the topographical and environmental characteristics and natural hazards on the site
- enable housing supply, diversity and affordability to address demand in the Port Stephens LGA
- conserve areas of high biodiversity significance
- provide an integrated open space network connecting key natural features on the site, with a key focus on a reconstructed and rehabilitated Anna Bay Main Drain.





#### 4.1.2.1 Concept masterplan

A concept masterplan has been prepared to demonstrate how the mix of residential, conservation, open space and infrastructure land uses could be developed. The masterplan responds to the topography, environmental attributes and natural hazards of the site and is generally laid out to provide a main circulation loop, with access from Clark Street and Gan Gan Road to Saltbush Avenue. The design carefully responds to ecologically sensitive areas and aims to retain the general topography of the site, such as the sand dune and Anna Bay Main Drain. The design also provides multiple entries and exits to effectively facilitate evacuation in the event of fire or flood.

The proposed concept masterplan has the potential to enable the following development outcome:

- approximately 584 new dwellings on 65 ha of land zoned R2 Low Density Residential, which will result in a population of approximately 1,402 people
- an additional 33 ha of land zoned C3 Environmental Management, being an increase from 20 ha to 53 ha, which will be revegetated and enhanced as part of future development
- 7 ha of public open space on land zoned RE1 Public Recreation
- reconstruction and widening of Anna Bay Main Drain to accommodate increased flood volumes
- multiple stormwater treatment basins to manage water quality
- supporting and integrating local streets, pedestrian network and cycling infrastructure.

#### Urban design intentions

##### Respecting the existing topography of the sand dunes

The proposal respects the topography of the sand dunes and recognises its importance as a delicate geological formation, microclimate modifier and cultural heritage item. The sand dune redirects the sea breeze and protects the dense forest behind it. The existing vegetation over and on the slopes is essential to avoid erosion and landslides. The top of the sand dunes are proposed to be zoned C3 Environmental Management, ensuring retention of key habitat trees.

##### Caring for and connecting to Country

Local Aboriginal communities have been engaged throughout the design process to ensure a well-rounded and holistic understanding of the place and respect for culture. As the traditional custodians of the land and waters, Aboriginal people have a deep and ongoing connection to these elements through their experience of Country. Emphasis in the retention of natural topography, dense forest area and important trees will help to improve this connection.

##### Managing stormwater and flood water through sustainable blue-green infrastructure

The integral strategy between the proposed civil design and stormwater infrastructure together with water sensitive urban design initiatives ensure the safety and resilience of future residential development, and improves the existing management of flood waters within and outside the site.

##### Providing bushfire evacuation solutions

This proposal will improve the future management of the sensitive dense bushland retained areas.



**Figure 22: Concept masterplan**

Source: BKA Architecture

The approximate areas for each of the land use zones on the site is outlined in the table below.

**Table 10: Approximate area of land use zones**

| Land use zone               | Existing LEP  | Planning Proposal | Change (-/+) |
|-----------------------------|---------------|-------------------|--------------|
| RU2 Rural Landscape         | 101 ha (81%)  | -                 | - 101 ha     |
| C3 Environmental Management | 20 ha (16%)   | 53 ha (42%)       | + 33 ha      |
| R2 Low Density Residential  | 4 ha (3%)     | 65 ha (52%)       | + 61 ha      |
| RE1 Public Recreation       | -             | 7 ha (6%)         | + 7 ha       |
| <b>Total</b>                | <b>125 ha</b> | <b>125 ha</b>     |              |



### Flooding and stormwater strategy

Stormwater and flood mitigation measures have been incorporated into the concept masterplan based on a review of site conditions and technical investigations to ensure safe and resilient residential development.

The concept masterplan incorporates the following:

- inclusion of twelve stormwater basins for water quality treatment purposes and a number of swales discharging to existing / proposed channels
- widening of the Anna Bay Main Drain east to west through the centre of the site to increase flood storage. This area is proposed to be rezoned RE1 Public Recreation and is intended to also serve as an attractive feature and biodiversity asset with a fully planted riparian corridor. A cross-section through the widened canal and riparian corridor is provided below
- bulk earthworks in the form of raised fill pads on both sides of the main drain. The bulk earthworks include:
  - battering up from the existing ground level and widened drain invert level to the top of the fill pads
  - design of the fill pads to be above Council's flood planning level (**FPL**) (i.e. the 1% AEP flood with climate change plus 500 mm freeboard) of 3.04 mAHD, in order to create flood free areas for residential dwellings
  - the FPL is also above the peak site PMF level, hence residential areas are flood free up to and including the PMF event
- road crossings between the fill pads to enable access to future residential areas either side of the main drain. The road crossings have been designed to have flood immunity up to and including the PMF event
- fill at the southwest site boundary south of the sand dune connecting to Gan Gan Road.

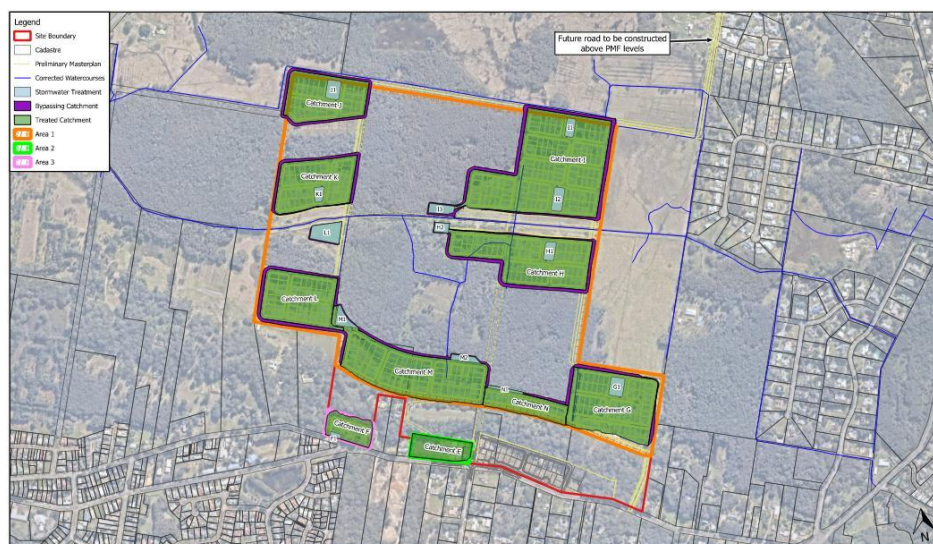


Figure 23: Stormwater management strategy

Source: Martens Associates



Figure 24: Existing survey / topography  
Source: BKA Architecture



Figure 25: Proposed modified topography  
Source: BKA Architecture

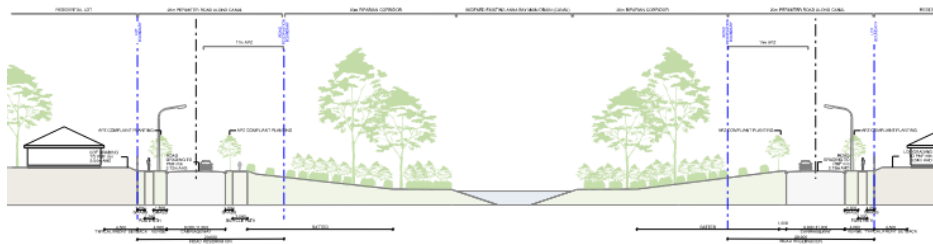


Figure 26: Perimeter roads along Anna Bay Main Drain (proposed canal)  
Source: BKA Architecture





### Movement network

A proposed road network has been established to demonstrate a safe, pedestrian friendly environment, with connections, clear hierarchy and legibility for vehicles and buses. This includes a loop road with entries from Clark Street and Gan Gan Road to Saltbush Avenue. The road network provides a perimeter boundary to southern sand dune and centrally retained bushland that also functions as evacuation routes and bushfire asset protection zones. It seeks to formalise and incorporate existing unformed Crown Roads into the road network.

Prioritising a pedestrian and cycle friendly movement network encourages healthy active lifestyles for the future community. This includes shared pedestrian and cycle paths on low-impact riparian corridor boardwalks, bridges over the water canal, loop circuit and connections to existing networks external to the site. This would enable future residents to easily access services and amenity provided by Anna Bay Town Centre within 800 metres.

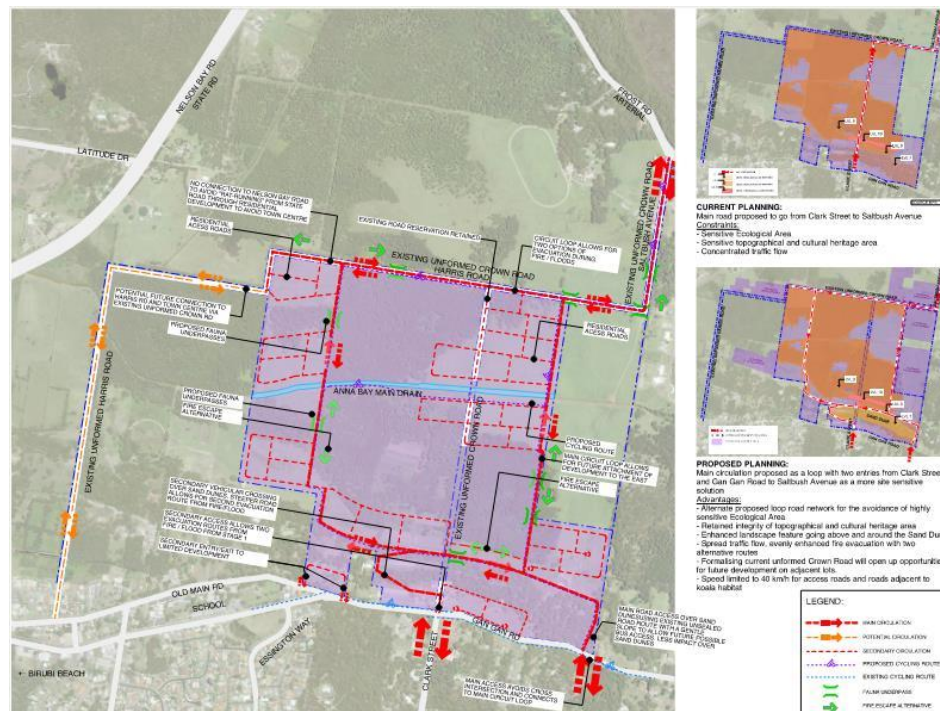


Figure 27: Movement network

Source: BKA Architecture



### Green network

The proposal aims to conserve, protect, and regenerate important ecological communities present on the site, through ecologically sensitive urban design solutions. This approach is supported by the proposed design strategies.

Protecting and regenerating conservation areas that provide habitat for threatened ecological communities. The protection of the densest areas of forest and its interconnection with adjacent bushland is a key strategy. Key habitat area for threatened, endangered and endemic species of high cultural and ecological importance (e.g. Koalas, Sea Eagle, Wallum Froglet and Powerful Owl) are identified and avoided for residential uses and improved via regeneration and management.

This is broken down into a multitude of urban design measures, including:

- low traffic volumes, low density residential development compatible with bushland, ensuring adequate fauna corridors, including fauna underpasses, and avoidance of large unbroken clusters of dense residential development, extensive impervious surfaces and treeless landscapes
- management and preservation of sensitive environmental conservation areas
- environmental boardwalks as part of a green network linking all retained and protected bushland
- perimeter roads around bushland to ensure effective and safe access for emergency services.



Figure 28: Green network

Source: BKA Architecture





## 5 Part 2 – Explanation of the provisions

The Planning Proposal seeks to achieve the intended outcomes through the following amendments to Port Stephens LEP.

### 5.1 Land use zoning

#### LEP provision: Clause 2.2 Zoning of land to which Plan applies

Rezone the site from part RU2 Rural Landscape and part C3 Environmental Management to the following zones:

- part R2 Low Density Residential
- part C3 Environmental Management
- part RE1 Public Recreation.

The proposed R2 Low Density Residential zone is consistent with the majority of the residential zone in the existing established area of Anna Bay that adjoins the site to the south. It is also consistent with the existing R2 Low Density Residential zone on the site that fronts Gan Gan Road.

The proposed C3 Environmental Management zone is consistent with the existing C3 zoning on the site. The Planning Proposal seeks to increase the size of the existing C3 on the site.

The proposed RE1 Public Recreation zone applies to the Anna Bay Main Drain, drainage detention basins and recreation area to provide an integrated east-west public open space corridor through the site for the benefit of existing and future residents.

#### Map

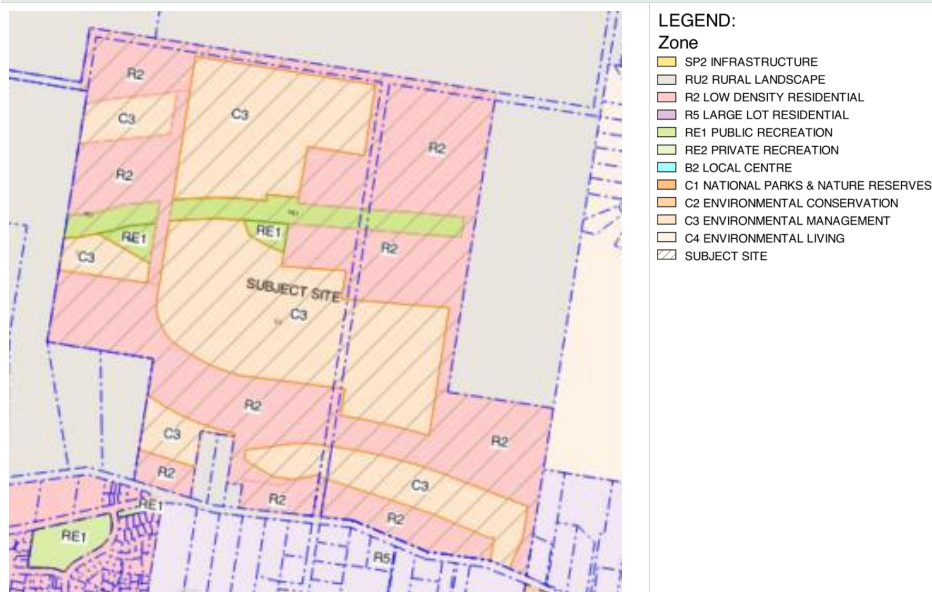


Figure 29: Proposed Land Zoning Map

Source: BKA Architecture



## 5.2 Minimum lot size

### LEP provision: Clause 4.1 Minimum subdivision lot size

Apply a minimum lot size on land zoned R2 Low Density Residential to 500 sqm to be consistent with the minimum lot size in the R2 Low Density Residential zoned land adjoining the site.

The proposed 500 sqm minimum subdivision lot size is consistent with the mapped minimum lot size that applies to the existing R2 Low Density Residential zone in the established areas of Anna Bay.

The proposed variation in lot size on the proposed C3 Environmental Management zoned land reflects the ability for this land to be subdivided from the R2 zoned land to provide a consolidated land parcels for ongoing management purposes.

### Map



**Figure 30: Proposed Lot Size Map**

Source: BKA Architecture



### 5.3 Maximum height of buildings

#### LEP provision: Clause 4.3 Height of buildings

Introduce a 9 metre maximum height of buildings control on the part of the site that is proposed to be zoned R2 Low Density Residential.

The proposed 9 metre maximum height of buildings control applies to the proposed R2 Low Density Residential zoned land. The 9 metre height limit is consistent with the height limit that applies to the existing R2 Low Density Residential zoned land in the established areas of Anna Bay.

#### Map



**Figure 31: Proposed Height of Buildings Map**

Source: BKA Architecture



## 5.4 Land reservation acquisition

### LEP provision: Clause 5.1 Relevant acquisition authority

Identify the following parts of the site on the land reservation acquisition map:

- land zoned RE1 Public Recreation.

The intention is to provide this land in public ownership to enable an integrated public open space corridor through the site that can be accessed by existing and future residents with walking and cycling paths. It is intended that this land will be rehabilitated to support future residential development as it encompasses the widened Anna Bay Main Drain, stormwater detention basins and public open space.

#### Map

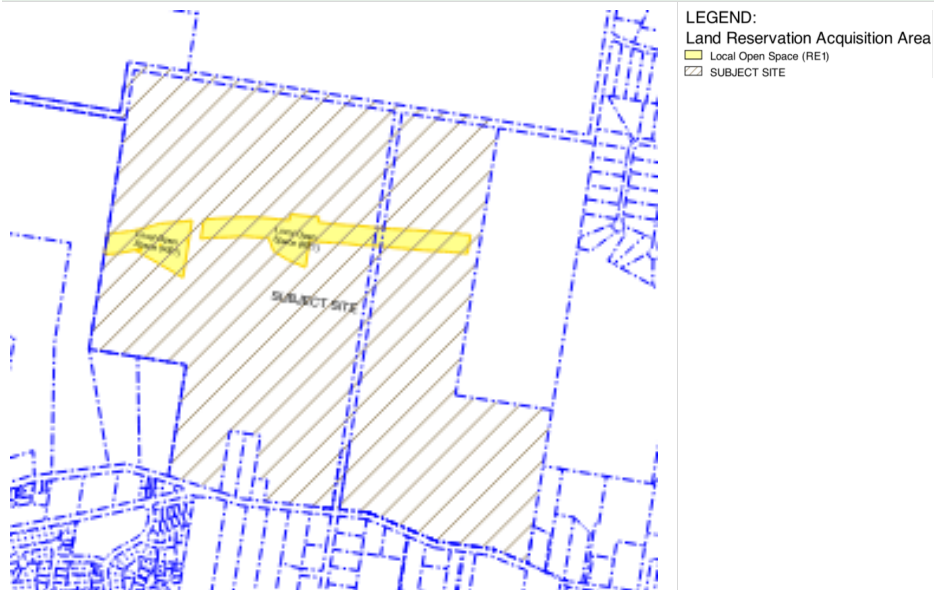


Figure 32: Proposed Land Reservation Acquisition Map

Source: BKA Architecture



## 5.5 Urban release area

### LEP provision: Part 6 Urban release area

Identify the site as an urban release area.

The intention is for Part 6 of the Port Stephens LEP to apply to the part of the site proposed as R2 Low Density Residential, which requires public utility infrastructure and a development control plan to be in place prior to development consent being issued at the development application stage. This will enable the place-based urban design principles and stormwater and flood management regime to be incorporated for consideration as part of future development applications.

### Map



### LEGEND:

#### Urban Release Area

- Urban Release Area
- SUBJECT SITE

**Figure 33: Proposed Urban Release Area Map**

Source: BKA Architecture



## 6 Part 3 – Justification of strategic and site-specific merit

### 6.1 Strategic merit

The Planning Proposal aligns with the NSW strategic planning framework and government priorities.

The LEP Making Guideline requires that a Planning Proposal must demonstrate strategic merit against at least one of the following three criteria:

*Does the proposal:*

- *Give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, and/or corridor/precinct plans applying to the site. This includes any draft regional, district or corridor/precinct plans released for public comment or a place strategy for a strategic precinct including any draft place strategy*
- *Demonstrate consistency with the relevant LSPS or strategy that has been endorsed by the Department or required as part of a regional or district plan*
- *Respond to a change in circumstances that has not been recognised by the existing planning framework. Factors that lead to responding to a change in circumstances may include key infrastructure investment or opportunity to plan for future infrastructure unanticipated by the existing strategic planning framework, response to key Government priorities or changes to population and demographic trends and associated needs such as housing or jobs.*

*Factors that lead to responding to a change in circumstances may include, but not exclusively relate to:*

- *Key infrastructure investment or opportunity to plan for future infrastructure unanticipated by the existing strategic planning framework*
- *Response to key Government priorities – Premier's Priorities, climate change, or a shift in government policy (e.g. NSW Government's Net Zero Plan)*
- *Changes to population and demographic trends and associated needs such as housing or jobs.*

The following section provides an explanation and justification of how the Planning Proposal is consistent with and will give effect to the applicable directions, priorities and actions of the relevant strategic plans. Where the Planning Proposal is inconsistent, and explanation and justification has been provided.

The Planning Proposal also responds to a change in circumstances as a result of recent changes in population and demographic trends that result in greater demand for housing in Port Stephens LGA than has been planned for in strategic planning documents.





### 6.1.1 Section A – Need for the planning proposal

#### 6.1.1.1 Q1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

##### Change in circumstances

The Hunter Regional Plan 2041 (**Region Plan**) forecasts that over the 20 year period to 2041, Port Stephens LGA will require 11,100 new dwellings to accommodate an increase in 20,000 people. This forecast was based on NSW Government projections in 2019.

The Port Stephens Local Housing Strategy (**LHS**) and Housing Supply Plan (**HSP**) focuses on delivering 9,823 dwellings by 2041 in the LGA, which is a shortfall of 1,277 dwellings from the Region Plan forecast of 11,100 dwellings by 2041. This is further exacerbated by the more recent NSW Government 2024 population projections that forecast an increase of 6,653 people in the LGA above the Region Plan projections.

The additional dwelling demand resulting from the combined shortfall of 1,277 dwellings and increase in population projections has not been accounted for in the LHS and HSP.

The Planning Proposal has been prepared in response to this change in circumstances in that it seeks to increase housing supply, diversity and affordability in the LGA that has not been accounted for in the LHS and HSP to accommodate the current projected population growth and demand for housing to 2041.

The DPHI LEP Making Guideline requires planning proposals to demonstrate how it satisfies strategic and site specific merit. It outlines assessment criteria that asks whether the planning proposal:

*Responds to a change in circumstances that has not been recognised by the existing planning framework.*

Further, the Guideline outlines the factors that could lead to a change in circumstances, and includes:

*Changes to population and demographic trends and associated needs such as housing or jobs.*

The Planning Proposal is a result of this change in population and demographic trends in the Port Stephens LGA that is leading to an undersupply of housing over the next 20 years. The change in circumstances justifies the strategic merits of the Planning Proposal.

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

Yes. The Planning Proposal is the best means of achieving the objectives and intended outcomes as the existing Port Stephens LEP 2013 does not facilitate the development of the site as proposed in the concept masterplan. This Planning Proposal allows for the development on the site to be contemplated in detail, and importantly how it integrates with surrounding environment.



## 6.1.2 Section B – Relationship to the strategic planning framework

### 6.1.2.1 Q2. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plan or strategies)?

Yes. The relevant directions, planning priorities and actions of the Hunter Regional Plan 2041 have been considered in the preparation of the Planning Proposal. The relevant considerations that demonstrate the strategic merits of the Planning Proposal are outlined below.

#### Hunter Regional Plan 2041

The Hunter Regional Plan 2041 (**Regional Plan**) provides an overarching framework that guides the preparation of land use plans, the determination of planning proposals and assists in informing infrastructure funding decisions within the Hunter Region. The Regional Plan also sets regional planning priorities and identifies where to focus new housing and jobs.

The Regional Plan outlines nine objectives, with actions that describe initiatives led by DPHI and Infrastructure and strategies that identify policy positions and directions implemented through local planning or planning proposals. The Regional Plan states that if a planning proposal is not consistent with a strategy, alternative approaches will be considered. Performance outcomes listed with each objective provides an assessment framework that determines whether an alternative approach achieves the objectives and vision of the plan.

The Regional Plan outlines an assessment pathway for planning proposals as described below:

- No risk: consistent with strategies. Complies with the strategy to achieve the objective.
- Low risk: consistent with performance outcomes. Proposes an alternative to the strategy to achieve the objective.
- High risk: not supported. Proposes an alternative to the strategy that does not achieve the objective.

The Planning Proposal is considered 'low risk' under the Regional Plan's assessment pathway.

Outlined below is a detailed assessment of the consistency of the Planning Proposal against the relevant Objectives and Strategies from the Regional Plan.

| Objective 3: Create 15-minute neighborhoods to support mixed, multi-modal, inclusive and vibrant communities |   |
|--|---|
| Strategy 3.1   | <p>Planning proposals that propose a residential, local centre or commercial centre zone will not prohibit the following land uses within urban core, general urban, inner suburban and general suburban contexts:</p> <ul style="list-style-type: none"> <li>• Business premises</li> <li>• Restaurant or cafes</li> <li>• Take-away food and drink premises</li> <li>• Neighbourhood shops and supermarkets</li> <li>• Educational establishments</li> <li>• Early education and care facilities</li> <li>• Health services facilities</li> <li>• Markets</li> <li>• Community facilities</li> <li>• Recreation areas.</li> </ul> |
|  |   |
| Planning Proposal consistency assessment: Consistent   |   |

#### Justification:

The Regional Plan states that 15 minute neighbourhoods include:

- mixed use neighbourhoods that might include health providers, shops, artisans, markets, sports, cultural life, schools and parks near residential areas
- access to different attractions and everyday uses and services via active and public transport networks
- a density of human activity to support neighbourhood uses and services.

## ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL REPORT.



It states that:

*Achieving a 15 minute neighbourhood objective will require amendments to planning controls to enable a greater variety of land uses and diversity of housing ... Potential conflicts between residential and non-residential uses should not be used to justify prohibiting the mixing of land uses that create 15 minute neighbourhoods.*

The closest area on the site is within an 800 m, 15 minute walking distance to Anna Bay Town Centre, with the remaining areas on the site accessible by future walking and cycling paths.

- **Strategy 3.1**

The current R2 Low Density Residential zone in Port Stephens LEP does not permit the full range of land uses identified in Strategy 3.1. The existing R2 zone permits neighbourhood shops, community facilities, health consulting rooms and recreation areas. The Planning Proposal does not prohibit or seek to expand the range of land uses in the R2 zone. As such, the Planning Proposal is consistent with this strategy.

- **Performance outcomes**

Whilst the Planning Proposal is generally consistent with Strategy 3.2, consideration has been given to the following Performance Outcomes in the Regional Plan and detailed in the table below:

| Criteria  | Response  |
|---|---|
| 1. Urban settlement patterns maximise the use of existing infrastructure and reduce travel demand, especially by car.   | The site will be serviced by a network of local roads, and active transport in the form of walking and cycling paths. Additionally bus stops are available on Gan Gan Road and Frost Road, within walking distance of future residents. |
| 2. Neighbourhoods maximise mobility independence and active and public transport opportunities.   | The single ownership of the site will enable the ability for walking and cycling paths as part of a masterplanned residential development as identified on the concept masterplan.  |
| 3. Neighbourhoods provide local access to education, jobs, services, open space and community activities.   | Access to the Anna Bay Town Centre is provided within 15 minutes for future residents via bicycle, private vehicles, and a combination of walking and public transport.   |
| 4. Neighbourhoods encourage healthy lifestyles with opportunities to experience and engage in the cultural, entertainment, sport and recreation, and educational and activities.      | Future walking and cycling paths will promote healthy lifestyles and recreation.  |
| 5. Neighbourhoods establish or reinforce local identity.  | The proposed R2 zone enables diversity of housing typologies that is consistent with the established residential character of Anna Bay.   |
| 6. Public spaces are designed to invite community interactions and economic, social and cultural activity. They enable a sense of social inclusion, wellbeing, comfort and belonging. | Future walking tracks through the C3 Environmental Management zone will provide a sense of belonging and wellbeing.   |
| 7. Places are designed to be greener to support the regeneration of and connection to the natural environment.  | Future walking and cycling tracks throughout the existing vegetation and revegetated areas will support future residents' connection to the natural environment.  |

#### Objective 5: Plan for 'nimble neighbourhoods', diverse housing and sequenced development

|                     |   |
|---------------------|---|
| <b>Strategy 5.3</b> | Planning proposals will not prohibit the following housing typologies within residential zones that apply to urban core, general urban, inner suburban and general suburban contexts: |
|                     | <ul style="list-style-type: none"> <li>• attached dwellings</li> <li>• boarding houses</li> <li>• dual occupancies</li> <li>• group homes</li> </ul>                                  |



|  |   |
|--|---|
|  | <ul style="list-style-type: none"> <li>• multi dwelling housing</li> <li>• secondary dwellings</li> <li>• semi-detached dwellings.</li> </ul> |
| <b>Planning Proposal consistency assessment:</b> | Consistent  |

**Justification:**

The site is within a 'general suburban context' that proposes an R2 Low Density Residential zoning. The full range of housing typologies listed in Strategy 5.3 are permitted in the R2 Low Density Residential zoned under Port Stephens LEP. The proposal does not seek to prohibit any of these uses. As such, the proposal is consistent with Strategy 5.3.

| <b>Objective 6: Conserve heritage, landscapes, environmentally sensitive areas, waterways and drinking water catchments</b> |   |
|---|---|
| <b>Strategy 6.3</b>   | <i>Planning proposals will ensure the biodiversity network is protected within an appropriate conservation zone unless an alternate zone is justified following application of the avoid, minimise, offset hierarchy.</i>   |
| <b>Strategy 6.4</b>   | <i>Planning proposals should promote enterprises, housing and other uses that complement the biodiversity, scenic and water quality outcomes of biodiversity corridors. Particularly, where they can help safeguard and care for natural areas on privately owned land.</i> |
| <b>Strategy 6.11</b>  | <i>Planning proposals will demonstrate that development within a drinking water catchment or sensitive receiving water catchment will achieve a neutral or beneficial effect on water quality.</i>  |
| <b>Planning Proposal consistency assessment:</b>  | Consistent  |

**Justification:**

- **Strategy 6.3**

The Planning Proposal seeks to increase the conservation areas on the site through the expansion of land zoned C3 Environmental Management under Port Stephens LEP. An ecological assessment has been undertaken to confirm the boundaries of the C3 zone, which will include conservation areas of high biodiversity significance and areas for revegetation.

- **Strategy 6.4**

The Planning Proposal seeks to integrate biodiversity corridors with future residential development. This will particularly be concentrated along the Anna Bay Main Drain that traverses the site in a west-east direction. The Anna Bay Main Drain will provide an important biodiversity and riparian corridor through the site.

- **Strategy 6.11**

The site is not located within a drinking water catchment as identified under clause 7.8 of the Port Stephens LEP.

- **Performance outcomes**

Whilst the Planning Proposal is generally consistent with Objective 6, an assessment has been undertaken against the following Performance Outcomes in the Regional Plan and detailed in the table below:

| <b>Criteria</b>  | <b>Response</b>   |
|--|---|
| <i>1. Areas of high environmental value are protected to contribute to a sustainable region.</i>                                     | The Planning Proposal identifies areas of environmental significance within the C3 Environmental Management zone.   |
| <i>2. The biodiversity network is sustainably managed and provide social, environmental, health, cultural and economic benefits.</i> | The biodiversity network is aptly considered in the context of the concept masterplan, providing residents and visitors with connection to nature while preserving and improving the environment. |
| <i>3. Development outcomes maintain or improve the environmental value or viability of the biodiversity network.</i>                 | Future development will assist in revegetating parts of the site to enhance the biodiversity networks and provide further connectivity.   |

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|  |  |
|--|--|
| 4. Connection with Country is at the core of designing and planning new projects and places.   | The Planning Proposal is accompanied by an Aboriginal Cultural Heritage Assessment (ACHA) report, and the concept masterplan has been prepared with regard given to Connection with Country. The proposal seeks to reduce the impacts of natural events including bushfire and flooding in an effort to support health and wellbeing of Country. |
| 5. Aboriginal cultural heritage is recognised and celebrated as living and dynamic and not dealt with statically through harm prevention and protection alone. | The Planning Proposal is accompanied by an ACHA and considers Connection with Country and the significance of the site. The proposal does not prevent Aboriginal cultural heritage from being recognised and celebrated.   |
| 6. Items, areas, objects and places of heritage significance are conserved.  | The Planning Proposal is accompanied by an ACHA, where all recommendations to conserve objects and places of Aboriginal heritage significance have been considered. No European heritage items are present on the site.  |
| 7. Water management uses innovative approaches in urban, rural and natural areas to enhance and protect the health of waterways, wetlands, coast and bays.     | The Planning Proposal considers water sensitive urban design principles in protecting the health of waterways.   |
| 8. Water quality in drinking water catchments is protected.  | The site is not situated in a Hunter Drinking Water Catchment.   |

**Objective 7: Reach net zero and increase resilience and sustainable infrastructure**
**Strategy 7.5**

Planning proposals will protect sensitive land uses from sources of air pollution, such as major roads, railway lines and designated freight routes, using appropriate planning and development controls and design solutions to prevent and mitigate exposure and detrimental impacts on human health and wellbeing.

**Planning Proposal consistency assessment:**

Can be consistent

**Justification:**

- Greenhouse gas emissions**

The Regional Plan requires consideration of the effects of climate change as a guiding principle for all planning decisions. The closest part of the site is located within 800 m walking distance to Anna Bay Town Centre. The concept masterplan demonstrates that future development can create a 15 minute neighbourhood by providing an integrated network of local streets, pedestrian paths and cycling infrastructure that connects to Anna Bay Town Centre. The place-based planning of the site focuses on responding to the environmental attributes and topography of the land by retaining areas of biodiversity significance, existing sand dunes and improving the Anna Bay Main Drain. Public open space areas within the site will be accessible for all existing and future residents.

- Air quality - Strategy 7.5**

The site is not in a location that is impacted by sources of air pollution. The major road that adjoins the site is Gan Gan Road, which is a local collector road that provides direct access to existing residential dwellings. The Planning Proposal seeks to rezone land north of Gan Gan Road, separated by existing sand dunes and vegetated tree coverage such that future residents will not be impacted by air pollution.

- Sea level rise and inundation**

The Regional Plan states that sea level rise is predicted to impact coastal developments and must be considered in planning for new settlements. The Planning Proposal has considered the impacts of sea level rise and coastal inundation on the site by proposing that parts of the site to be filled to enable residential development by redirecting the stormwater, coastal and tidal inundation flows through the existing Anna Bay Main Drain that traverses the site. The Anna Bay Main Drain will be reconstructed and revegetated to become a key environmental asset on the site.



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- **Coastal hazards**

The Regional Plan requires land use planning to be informed by coastal management programs that considers coastal hazards to avoid or acceptably mitigate risks for future development. The site is not located in an area that is subject to coastal erosion, shoreline recession and cliff or slope instability risks, which are forms of coastal hazards.

- **Storms and flood**

The Regional Plan requires planning for future growth areas to consider the risks and mitigations for flooding and evacuation. The mitigation of flood impacts on the site has been considered. The proposal demonstrates that bulk earthworks can enable raised fill pads on either side of the main channel with adjustments made to the Anna Bay Main Drain to enhance flood storage and ensure residential areas are above the 1% AEP flood level. The road crossings over the main drains will be designed to have flood immunity in the 1 in 500 year AEP flood event.

- **Bushfires**

The Regional Plan requires careful consideration of increased bushfire threat on future land use planning. The site is impacted by bushfire prone land, including Category 1, Category 3, and buffer area bushfire risk categories. The Category 1 land generally follows the pattern of dense vegetation across the site.

The proposal is designed to create a bushfire resilient community with a bushfire ring road along the site's perimeter in accordance with the requirements of NSW RFS *Planning for Bushfire Protection 2019*, with appropriate asset protection zones, access and egress, and infrastructure. A Strategic Bushfire Study has been prepared that considers the nature of the bushfire risk and mitigation measures for future development that should be implemented to ensure future compliance.

- **Heatwaves**

The proposal will involve the retention of significant biodiversity vegetation across the site and will result in revegetation and landscaping associated with a residential community to provide sufficient tree coverage to reduce the impact of heatwaves.

- **Performance outcomes**

Whilst the proposal can be consistent with Objective 7, an assessment has been undertaken against the following Performance Outcomes in the Regional Plan and detailed in the table below:

| Criteria  | Response  |
|---|---|
| 1. Communities are designed and equipped to be safe, hazard-resilient places.   | The concept masterplan has been designed to provide multiple entries and exits to effectively facilitate evacuation in the event of fire or flood. This includes a main circulation loop road, with entries from Clarke Street and Gan Gan Road to Saltbush Avenue.                   |
| 2. Neighbourhoods have inbuilt flexibility and adaptability to accommodate new uses and users in the long-term.   | The proposal involves retaining areas of high biodiversity significance and enabling residential development on filled parts of the site. The proposed R2 Low Density Residential zone will enable a range of land uses to be developed above the 1% AEP flood level.                 |
| 3. The effects of climate change are managed to optimise safety and resilience for communities and the natural environment.                                     | The proposal responds to the environmental attributes and topography of the land by retaining area of high biodiversity significance and important topographical features such as existing sand dunes and Anna Bay Main Drain.  |
| 4. Development is located away from high risk areas to avoid community exposure to natural hazards as far as is practical.                                      | The proposal involves extensive bulk earthworks to create fill pads that elevate residential areas above the 1% AEP flood level.  |
| 5. Places are designed to support the goal of net zero emissions by 2050 and opportunities for mitigation and adaptation to a changing climate and environment. | The closest part of the Site is located within 800 m walking distance from Anna Bay Town Centre. The concept masterplan has been designed to ensure that future residents have safe and reliable access to services and amenity, with all residents have access to public open space. |



6.1.2.2 Q4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or another endorsed local strategy or strategic plan?

#### Port Stephens Local Strategic Planning Statement

The Port Stephens Local Strategic Planning Statement (LSPS) sets out the vision for land use in Port Stephens over the next 20 years. The LSPS was adopted by Council on 14 July 2020 and implements actions and priorities from the Hunter Regional Plan 2036 (now Hunter Regional Plan 2041) and Greater Newcastle Metropolitan Plan 2036 and the Port Stephens Community Strategic Plan 2018 – 2028.

In relation to housing, the LSPS states the following:

*... a sustainable supply of additional residential land provides greater opportunity for retaining our younger population, who can maintain links to existing centres and communities whilst accessing local and regional employment, education and entertainment.*

*Providing housing diversity can have a positive impact on housing affordability and providing homes with access to jobs and centres will be key to meeting housing demand over the next 20 years.*

*Port Stephens has a housing market that is supply driven and without an adequate supply of land in the right locations, housing affordability is likely to be negatively impacted.*

The proposed supply of dwellings on the site will increase housing supply, provide diversity of housing choice and assist in reducing the impacts on housing affordability.

Further, in terms of the environment, the LSPS states the following:

*Managing impacts on the natural environment and planning for green connections promotes and protects biodiversity, natural habitats and cultural heritage.*

*Access to green space can support the promotion of biodiversity and provides residents with lifestyles that promote wellbeing and enhances quality of life.*

*Green spaces can serve as important habitat corridors as well as creating places that enhance social connections and contribute to defining communities.*

The proposed retention of significant areas of biodiversity and the introduction of accessible public open space areas on the site will assist in protecting the natural environment as well as providing green spaces for existing and future residents.

The table below provides a consistency assessment of the Planning Proposal against the relevant priorities in the LSPS.

Table 11: Consistency with the Port Stephens LSPS

| Local strategies                                       | Consistency | Justification   |
|--|-------------|---|
| <b>Planning Priority: Housing</b>                      |             |   |
| Priority 4: Ensure suitable land supply                | Consistent  | The Planning Proposal seeks to increase the supply of housing in Anna Bay.  |
| Priority 5: Increase diversity of housing choice       | Consistent  | The Planning Proposal seeks to diverse range of housing through an R2 Low Density Residential zone that permits a range of residential accommodation.   |
| Priority 6: Plan infrastructure to support communities | Consistent  | Consideration has been given to the required infrastructure to support the Planning Proposal. This includes, stormwater management, traffic, utility services, open space and community facilities. Future development will provide for the delivery of new infrastructure to cater for the increase in residential population on the site. |

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| Planning Priority: Environment   |            |  |
|--|------------|--|
| Priority 7: Conserve biodiversity values and corridors   | Consistent | The Planning Proposal will preserve areas of high biodiversity value with a 33 ha increase in the area of land zoned C3 Environmental Management.  |
| Priority 8: Improve resilience to hazards and climate change                                   | Consistent | Consideration has been given to evacuation planning principles to minimise risk to life or reduce the burdens on emergency services in relation to bushfire and flooding. Matters such as choice of materials, design and efficient use of water and energy can be considered in more detail at development application stage. |
| Priority 9: Protect and preserve productive agricultural land                                  | Consistent | The impacts of new development on existing and potential agricultural uses on adjoining land have been assessed. The Planning Proposal will not detrimentally impact agricultural land.  |
| Priority 10: Create people friendly spaces in our local centres where people can come together | Consistent | The Planning Proposal will introduce accessible public open space areas and future development will provide walking and cycling paths to connect and support to the existing Anna Bay Town Centre.   |
| Planning Priority: Transport   |            |  |
| Priority 11: Integrate land use and transport planning   | Consistent | The Planning Proposal will enable a future residential community that will be supported by walking and cycling paths to promote more active living. There is also an existing bus stop with walking distance of the site.  |

### Local Housing Strategy

The Port Stephens Local Housing Strategy (LHS) outlines Council's vision for the future of land use and housing development in Port Stephens. The strategy sets a framework for where housing can be delivered to ensure the current and future needs of the community can be met.

The LHS states that in 2022, the NSW Government identified the need for an additional 11,100 dwellings in Port Stephens to accommodate an estimated 20,000 new residential over the next 20 years. This equates to delivering in excess of 550 dwellings per year to meet the forecast demand. It states that there is limited opportunity for new housing development in Port Stephens and housing costs are rising which has impacted social and economic stability.

The LHS was based on the 2021 Census for both housing and population. It identifies an LGA population of 76,672, which has increased by 6.5% over the past five years. It projects that by 2041, 45,637 new dwellings will be required. In terms of affordability and diversity, the LHS identifies that one in three households are experiencing housing stress and that there is limited diversity, with 82% of all housing being detached dwellings.

To address the housing challenges in the LGA, the LHS comprises four outcomes, 12 priorities and 23 actions. The relevant outcomes and priorities from the LHS are outlined in the table below.

The table below provides a consistency assessment of the Planning Proposal against the relevant priorities in the Local Housing Strategy.



Table 12: Housing Strategy – consistency assessment

| Local strategy   | Consistency | Justification   |
|--|-------------|---|
| <b>Outcome 1: Ensure suitable land supply</b>              |             |   |
| Priority 1.1: Ensure adequate supply of new housing        | Consistent  | The Planning Proposal will assist in meeting the shortfall in housing supply in the Port Stephens LGA that is not addressed in the LHS. In particular, the Planning Proposal enables potential for 584 new dwellings in Anna Bay that will address the 1,300 short from the Region Plan target and addresses the more recent increase in population projections for Port Stephens LGA that will see 6,653 more people than the 2019 projections that were relied upon in the LHS.   |
| Priority 1.2: Remove barriers to unlock housing supply     | Consistent  | The concept masterplan has been designed with consideration of the existing topography, environmental characteristics and natural hazards to demonstrate how the site could be developed as a result of the Planning Proposal. The single ownership of the site enables the outcome shown on the concept masterplan to be developed and the supporting and enabling infrastructure to be provided. The Planning Proposal demonstrates how to unlock housing supply.   |
| <b>Outcome 2: Improve housing affordability</b>            |             |   |
| Priority 2.1: Respond to housing stress                    | Consistent  | The Planning Proposal will assist in improving housing affordability by increasing housing supply, the diversity of residential typologies permitted in the R2 Low Density Residential zone and through the variations in lot sizes enabled by clause 4.1C of Port Stephens LEP.  |
| <b>Outcome 3: Increase diversity of housing choice</b>     |             |   |
| Priority 3.2: Encourage a range of housing types and sizes | Consistent  | The proposed R2 Low Density Residential zone permits a broad range of residential accommodation, including detached dwellings, dual occupancies, semi-detached dwellings, multi dwelling housing, attached dwellings and seniors housing. Whilst the proposed mapped minimum lot size is 500 sqm (consistent with the adjoining R2 zoned land), clause 4.1C of the Port Stephens LEP contains provisions that enables exceptions to the minimum lot size for certain residential development on R2 zoned land. The objective of clause 4.1C is <i>to encourage housing diversity without impacting residential amenity</i> , and applies to the site. |
| <b>Outcome 4: Facilitate liveable communities</b>          |             |   |
| Priority 4.1 Housing enhances local character              | Consistent  | The single ownership of the site and the concept masterplan demonstrates how a residential masterplanned community can be established on the site with support infrastructure, public open space and active transport network of walking and cycling.   |
| Priority 4.2: Communities are connected                    | Consistent  | The single ownership of the site enables a residential masterplanned community to be developed in accordance with the concept masterplan, which includes an interconnected network of road, cycleways and pedestrian paths.   |
| Priority 4.3: Sustainable and resilient communities        | Consistent  | The Planning Proposal demonstrates how the environmental characteristics and natural hazards on the site can be overcome to enable a residential masterplanned community. It is based on creating flood free residential fill pads, flooding and bushfire evacuation routes, asset protection zones and increasing the amount of land zoned C3 Environmental Management.  |
| Priority 4.4: Supported communities                        | Consistent  | The single ownership of the site enables all supporting infrastructure to be provided for future residential communities.   |



#### Local Housing Strategy Appendix 1 - Greenfield Housing Criteria

Appendix 1 of the LHS outlines key considerations for 'urban housing areas (greenfield housing)'. The criteria are used to demonstrate that land is suitable for housing. It requires planning proposals on constrained land to be lodged with additional supporting documentation to demonstrate the land is suitable for residential development.

The table below provides a consistency assessment of the Planning Proposal against the criteria for consideration for a greenfield planning proposal.

**Table 13: Housing Strategy Appendix 1 – Greenfield Housing Criteria consistency assessment**

| Greenfield Housing Criteria  | Consistency | Justification  |
|--|-------------|--|
| <b>Locational criteria</b>   |             |  |
| <ul style="list-style-type: none"> <li>In a local area strategy</li> <li>Proposed to be zoned R2 Low Density Residential</li> </ul>  | Consistent  |  |
| <b>Exclusionary criteria</b>   |             |  |
| <ul style="list-style-type: none"> <li>Part of the Wallalong Urban Release Area.</li> </ul>  | n/a         | The site is not in the Wallalong Urban Release Area  |
| <b>Management criteria</b>   |             |  |
| <b>Aircraft</b>  |             |  |
| The land is below the 25 Australian Noise Exposure Forecast (ANEF) contour. Proposals on land affected by ANEF contour 25 or above are "unacceptable" for residential purposes under Australian Standard AS 2021:2015.   | Consistent  | The site is below the 25 ANEF contour.   |
| <b>Bushfire</b>  |             |  |
| Rezoning requests on land identified as bush fire prone (on Council's Bush Fire Prone Land Map) must demonstrate consistency with the strategic principles contained within Planning for Bush Fire Protection 2019.  | Consistent  | A Strategic Bushfire Study supports the Planning Proposal and demonstrates consistency with Planning for Bushfire Protection 2019.                                   |
| <b>Flooding</b>  |             |  |
| Rezoning requests on land that has the potential to be isolated in flood events, must demonstrate compliance with the Flood Risk Management Manual and the associated toolkits. Consideration must also be given to the draft Shelter-in-place Guideline issued by DPHI in January 2023.   | Consistent  | A Flood Assessment and Stormwater Management Strategy accompanies the Planning Proposal that demonstrate that the site can be developed for residential development. |
| <b>Land slope</b>  |             |  |
| The land has a slope of less than 18 degrees. Rezoning requests for land that has a slope greater than 18 degrees must be lodged with a bulk earthworks plan demonstrating that the final landform will not exceed 18 degrees, and a geotechnical report demonstrating that the final landform will achieve an appropriate level of stability. | Consistent  | The site has a slope of less than 18 degrees.  |
| <b>Biodiversity</b>  |             |  |



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|   |            |  |
|---|------------|--|
| <ul style="list-style-type: none"> <li>The land is not identified as containing high biodiversity value, as per the NSW DPHI Biodiversity Values Map published on the NSW DPHI website. Rezoning requests for land identified as containing high biodiversity value must be lodged with a Biodiversity Development Assessment Report (BDAR).</li> <li>The proposal avoids land containing native vegetation. Rezoning requests for land containing 0.5 ha of native vegetation must be lodged with a Preliminary Flora and Fauna Assessment and commit to preparing a BDAR prior to public exhibition.</li> </ul> | Consistent | A BCAR and BDAR have been prepared in support of the Planning Proposal. The biodiversity assessment identifies that the concept masterplan adopts the avoid and minimise principles. The Planning Proposal seek to increase the land zoned C3 Environmental Management by 33 hectares. |
| <b>Mineral resources</b>  |            |  |
| The land is greater than 500 metres from any known mineral resource (rezoning requests for land within 500 metres of a known mineral resource must be lodged with evidence of consultation with the NSW Department of Planning and Environment, and any relevant operator).   | Consistent | The site is greater than 500 metres from any known mineral resources.  |
| <b>Non-aboriginal cultural heritage</b>   |            |  |
| Rezoning requests that are likely to impact on an item of environmental heritage (identified in the <i>Port Stephens Local Environmental Plan 2013</i> ) must submit a Statement of Heritage Impact that considers the impact on heritage values, including the setting of the items and any archaeological remains.  | Consistent | The site does not contain any items of environmental heritage identified under the Port Stephens LEP.  |
| <b>Aboriginal cultural heritage</b>   |            |  |
| <p>Rezoning requests should include an initial assessment of the likelihood of Aboriginal cultural heritage values including:</p> <ul style="list-style-type: none"> <li>a search of the Aboriginal Heritage Information Management System (AHIMS)</li> <li>determination of whether the sites include landscape features that indicate the likely presence of aboriginal objects</li> <li>site inspections</li> <li>consultation with the Aboriginal community</li> </ul>  | Consistent | An Aboriginal Cultural Heritage Assessment has been prepared to support the Planning Proposal.   |
| <b>Drinking water catchment</b>   |            |  |
| Rezoning requests on land within a drinking water catchment must be able to be connected to reticulated sewer or able to demonstrate a neutral or beneficial effect (NorBE) on water quality in accordance with Hunter Water Corporation requirements.  | Consistent | The site is not within a drinking water catchment.   |
| <b>Infrastructure and services</b>  |            |  |
| <p>The land is able to be serviced by essential infrastructure. Rezoning requests must be lodged with evidence demonstrating that infrastructure is:</p> <ul style="list-style-type: none"> <li>currently available</li> <li>scheduled to be available (must be confirmed in writing from service providers).</li> <li>Rezoning requests must be lodged with evidence demonstrating that the connection of essential services to the land is economically feasible. On land remote from existing essential</li> </ul>   | Consistent | An Infrastructure Servicing report has been prepared to support the Planning Proposal and demonstrates that sufficient infrastructure servicing is available to the site and future development.   |



|  |            |  |
|--|------------|--|
| infrastructure, an infrastructure delivery strategy is to be submitted.  |            |  |
| <b>Next steps</b>  |            |  |
| Proponents are required to submit a 'Rezoning Request Meeting Form' and include details of the proposals, benefits of the proposal, and alternative options in accordance with Council's Rezoning Request Policy and Rezoning Request Guide. | Consistent | The Planning Proposal has been prepared in accordance with the LEP Making Guidelines and is accompanied by supporting studies and forms. |

### Housing Supply Plan

The Housing Supply Plan (HSP) has been prepared by Council in conjunction with the LHS to demonstrate how it would facilitate provision of housing to meet the needs of the growing community.

The HSP plans for an additional 9,823 dwellings in the LGA to 2041 to accommodate the additional 20,686 people. This is a shortfall of 1,277 dwellings from the Region Plan forecast of 11,100 dwellings. For Anna Bay, the HSP plans for an additional 387 dwellings to accommodate 828 additional people by 2041, representing approximately 4% of the growth in the LGA. This would result in a total of 3,484 dwellings and 7,277 people in Anna Bay in 2041.

The HSP states that significant flooding and ecological constraints has contributed to stopping growth in Anna Bay. In order to enable development to occur, it recognises that an extensive and holistic assessment of both the ecological and flood impacts is required. The growth in housing supply in Anna Bay is nominated for the Anna Bay Town Centre (156 dwellings), the expansion of the lifestyle villages of 'Latitude One' (171 dwellings) and 'Sunrise' (60 dwellings) to the west of the site.

The HSP does not specifically identify the site for housing supply, presumably due to the existing flooding and biodiversity constraints. However, there has been extensive investigations undertaken into flooding and biodiversity to support a concept masterplan to demonstrate how the site could be developed as a result of the Planning Proposal. The results of this investigation demonstrates that flooding constraints can be overcome and areas of high biodiversity significance can be retained and enhanced as part of future development. The Planning Proposal is consistent with the HSP principles of increasing housing supply and diversity in the LGA.

### Anna Bay Strategy and Town Plan 2008

The Anna Bay Strategy and Town Plan provides a framework and policy direction for rezoning requests and development controls in the Anna Bay Area, and integrates coordination of the provision of community facilities and infrastructure. It identifies Anna Bay as a suitable location for future development, while noting that the future growth will be significantly determined by the availability of development sites.

The site straddles land identified as part of Anna Bay North sub-catchment and Anna Bay East sub-catchment. The Strategy and Town Plan proposes land within the site for standard residential and environmental living uses.

It anticipates rezoning of land in Anna Bay North and Anna Bay East, with residential expansion extending from the Town Centre outwards to the periphery and identifies a range of rezoning criteria. The Planning Proposal responds to Anna Bay Town Plan with a coordinated proposal for a significant area of land in single ownership to facilitate the alignment of development with infrastructure. It is accompanied by a stormwater strategy and flood study which identifies necessary works and solutions, and addresses site analysis and site planning principles.

The table below provides a consistency assessment of the Planning Proposal against the relevant strategic directions in the Anna Bay Strategy and Town Plan.

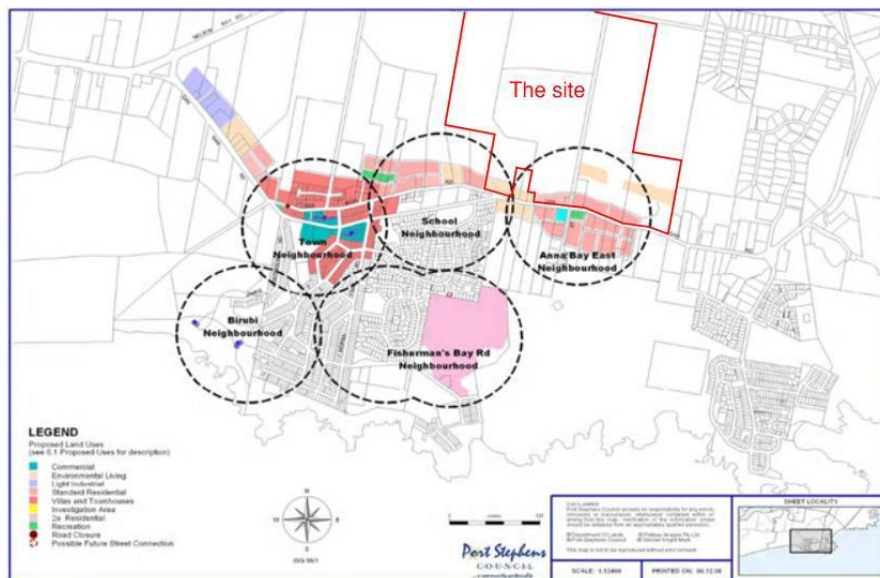


Figure 34: Anna Bay Town Plan proposed land uses (amended to show the site)

Source: Port Stephens Council

Table 14: Anna Bay Strategy and Town Plan – consistency assessment

| Key Strategic Directions                            | Consistency assessment   |
|---|--|
| Protecting the landscape setting                    | The Planning Proposal and concept masterplan seeks to increase the amount of land zoned C3 Environmental Management to cover areas of high biodiversity significance and for land along the sand dune.   |
| Diversity and quality of dwellings                  | The proposed R2 Low Density Residential zone permits a range of residential accommodation, including dwelling houses, dual occupancies, semi-detached dwellings, multi dwelling housing, attached dwellings and seniors housing.   |
| Improving recreation place and community facilities | The Planning Proposal seeks to rezone part of the site to RE1 Public Recreation to provide an interconnected open space network with rehabilitated vegetation and drainage areas. The concept masterplan demonstrates pedestrian and cycleway connections throughout the site. |
| Vegetation management                               | Areas of high biodiversity significance is proposed to be retained, rehabilitated and zoned C3 Environmental Management, result in a 33 hectare increase in conservation land on the site.   |
| Drainage and Flood Management                       | A Flood Assessment and Stormwater Management Strategy has been prepared that demonstrates the concept masterplan can create flood free residential fill pads and evacuation routes and well as incorporating basins for water quality treatment.                               |

**Community Strategic Plan 2022 - 2032**

'Our place. Our plan. Our future' is the Port Stephens Community Strategic Plan 2022-2032. The Plan addresses social, economic, environmental and governance factors (quadruple bottom line) through four interconnected Focus Areas:

- Our Community
- Our Place
- Our Environment
- Our Council.

It is based on social justice principles of equity, access, participation and rights. The purpose of the Plan is to:

- identify the community's main priorities and aspirations over the next 10 years
- support community and stakeholders to play an active role in shaping their future
- work with other governments and agencies to achieve community priorities
- outline council's role in delivering these priorities and assigning resourcing to support delivery while balancing affordability
- maintain accountability and transparency in reporting on progress.

The preparation of the Planning Proposal has considered the Focus Areas, key direction/goals and strategies in the Community Strategic Plan. The Planning Proposal is consistent with Community Strategic Plan.



6.1.2.3 Q5. Is the planning proposal consistent with applicable State and regional studies or strategies?

#### State Infrastructure Strategy 2022-2042

The State Infrastructure Strategy sets out Infrastructure NSW's advice on the infrastructure needs and priorities of the State for the next 20 years, and beyond. The Strategy recognises that infrastructure is critical in addressing housing supply and affordability. It states that:

*New housing supply can only be delivered where infrastructure keeps pace with land use planning. Community acceptance of new development relies on good local amenity – transport connections, schools and health services, public civic and green spaces, protection of local character and access to services close to home. Achieving those outcomes requires timely planning, funding and delivery of local infrastructure in tandem with rezonings and subdivisions, based on well-developed master plans*

The Strategy recognises that there are opportunities to improve the supply of housing in greenfield areas, noting that:

*Wherever new housing supply is established, this Strategy supports the notion that the quality of local amenity will be upheld by a '15-minute neighbourhood' approach, ensuring residents can access most services and facilities by walking or cycling 15 minutes. This approach will require programs focused on local high streets, open spaces, and safe and enjoyable walking and cycling infrastructure.*

The Planning Proposal is consistent with these principles in enabling a masterplanned community to be developed that incorporates diversity in housing typologies through the R2 Low Density Residential zone and publicly accessible open space and environmental management areas. The single ownership of the site enables supporting infrastructure to be provided upfront in conjunction with housing growth. The table below highlights the consistency of the Planning Proposal with relevant objectives and strategic directions.

**Table 15: State Infrastructure Strategy Objectives and Strategic Directions**

| Objectives  | Strategic directions  |
|---|---|
| Protect our natural environment                         | Foster sustainable use of natural resources and construction materials through reuse and recycling.                 |
|   | Implement a strategic and practical approach to managing biodiversity.  |
|   | Capitalise on blue-green infrastructure opportunities   |
| Integrate infrastructure, land use and service planning | Coordinate infrastructure, land use and service planning to meet housing, employment, industry and community needs. |



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## 6.1.2.4 Q6. Is the planning proposal consistent with applicable SEPPs?

Consideration has been given to all state environmental planning policies (SEPPs) in preparing the Planning Proposal. The consistency of the Planning Proposal with all relevant SEPPs is outlined in the table below.

Table 16: Consistency with state environmental planning policies

| SEPP   | Consistency       | Assessment   |
|--|-------------------|--|
| SEPP (Biodiversity and Conservation) 2021          | Can be consistent | The SEPP does not prevent future development on the site. The site is not identified as a strategic conservation area or land to be avoided. A concept masterplan and BDAR has been prepared in support of the Planning Proposal to demonstrate how the site can be developed under the proposed zonings.  |
| SEPP (Exempt and Complying Development Codes) 2008 | Consistent        | The Planning Proposal will not hinder the application of the SEPP.   |
| SEPP (Housing) 2021                                | Can be consistent | The Planning Proposal will not create additional uses that can't satisfy the provisions of the SEPP.   |
| SEPP (Industry and Employment) 2021                | Not applicable    | Not applicable   |
| SEPP (Planning Systems) 2021                       | Consistent        | The Planning Proposal will not hinder the application of the SEPP.   |
| SEPP (Precincts – Central River City) 2021         | Not applicable    | Not applicable   |
| SEPP (Precincts – Eastern Harbour City) 2021       | Not applicable    | Not applicable   |
| SEPP (Precincts – Regional) 2021                   | Not applicable    | Not applicable   |
| SEPP (Precincts – Western Parkland City) 2021      | Not applicable    | Not applicable   |
| SEPP (Primary Production) 2021                     | Consistent        | The Planning Proposal will not hinder the application of the SEPP.   |
| SEPP (Resilience and Hazards) 2021                 | Can be consistent | The proposal does not fall within the definition of potentially hazardous or offensive industries. Future development will consider whether the land is contaminated and whether any remediation is required. The Preliminary Site Investigation has not identified any constraints that would prevent the Planning Proposal from progressing or the need for a detailed site investigation. |
| SEPP (Resources and Energy) 2021                   | Consistent        | The Planning Proposal will not create additional uses that fall within the definition of mining, petroleum production or extractive industries.  |
| SEPP (Sustainable Buildings) 2022                  | Consistent        | The Planning Proposal will not hinder the application of the SEPP.   |
| SEPP (Transport and Infrastructure) 2021           | Can be consistent | The Planning Proposal does not create additional uses that can't satisfy the provisions of the SEPP.   |

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6.1.2.5 Q7. Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions) or key government priority?

Consideration has been given to all Local Planning Directions issued by the Minister for Planning under Section 9.1 of the *Environmental Planning and Assessment Act 1979*. The table below demonstrates how it will achieve or give effect to principles, aims, objectives or policies specified in each Local Planning Direction. Where the Planning Proposal is inconsistent with any of the relevant Directions, those inconsistencies are explained and justified.

**Table 17: Consistency with Ministerial Directions**

| Ministerial Direction   | Consistency    | Comment  |
|---|----------------|--|
| <b>Focus area 1: Planning Systems</b>   |                |  |
| 1.1 Implementation of Regional Plans  | Consistent     | The Planning Proposal is consistent with the Hunter Regional Plan 2041 Objectives and Strategies as demonstrated the detailed response in Q2 in section 6.1.2.1. |
| 1.2 Development of Aboriginal Land Council land   | Not applicable | The Planning Proposal is not identified on Aboriginal Land Council land.   |
| 1.3 Approval and Referral Requirements  | Consistent     | The Planning Proposal does not include consultation, referral or concurrence provisions, nor identifies any development as designated development.               |
| 1.4 Site Specific Provisions  | Consistent     | The Planning Proposal does not propose any unnecessarily restrictive site-specific planning controls.  |
| 1.4A Exclusion of Development Standards from Variation  | Consistent     | The Planning Proposal does not seek to increase the exclusion of development standards or any amendments to Clause 4.6   |
| <b>Focus area 1: Planning Systems – Place-based</b>   |                |  |
| 1.5 Parramatta Road Corridor Urban Transformation Strategy  | Not applicable | The site is not located in the Parramatta Road Corridor.   |
| 1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan                 | Not applicable | The site is not located in the North West Growth Area.   |
| 1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan | Not applicable | The site is not located in the Greater Parramatta Priority Growth Area.  |
| 1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan             | Not applicable | The site is not located in the Wilton Priority Growth Area.  |
| 1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor   | Not applicable | The site is not located in the Glenfield to Macarthur Urban Renewal Corridor.  |
| 1.10 Implementation of the Western Sydney Aerotropolis Plan   | Not applicable | The site is not located in the Western Sydney Aerotropolis.  |
| 1.11 Implementation of Bayside West Precincts 2036 Plan   | Not applicable | The site is not located in the Bayside West Precinct.  |
| 1.12 Implementation of Planning Principles for the Cooks Cove Precinct  | Not applicable | The site is not located in the Cooks Cove Precinct.  |

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|---|----------------|---|
| 1.13 Implementation of St Leonards and Crows Nest 2036 Plan                           | Not applicable | The site is not located in the St Leonards and Crows Nest.  |
| 1.14 Implementation of Greater Macarthur 2040   | Not applicable | The site is not located in the Greater Macarthur area.  |
| 1.15 Implementation of the Pymont Peninsula Place Strategy                            | Not applicable | The site is not located in the Pymont Peninsula Place.  |
| 1.16 North West Rail Link Corridor Strategy   | Not applicable | The site is not located in the North West Rail Link Corridor.   |
| 1.17 Implementation of the Bays West Place Strategy                                   | Not applicable | The site is not located in the Bays West Place Strategy.  |
| 1.18 Implementation of the Macquarie Park Innovation Precinct                         | Not applicable | The site is not located in the Macquarie Park Innovation Precinct.  |
| 1.19 Implementation of the Westmead Place Strategy                                    | Not applicable | The site is not located in Westmead Precinct.   |
| 1.20 Implementation of the Camellia-Rosehill Place Strategy                           | Not applicable | The site is not located in the Camellia-Rosehill Precinct.  |
| 1.21 Implementation of South West Growth Area Structure Plan                          | Not applicable | The site is not located in the South West Growth Area   |
| 1.22 Implementation of the Cherrybrook Station Place Strategy                         | Not applicable | The site is not located in Cherrybrook Station Precinct.  |
| <b>Focus area 2: Design and Place</b>   | Not applicable | Not applicable  |
| <b>Focus area 3: Biodiversity and Conservation</b>                                    |                |   |
| 3.1 Conservation Zones  | Consistent     | The Planning Proposal does not reduce the amount of land zoned for conservation purposes on the site. The existing C3 zoned land will remain and increase by 33 hectares.<br><br>(refer to separate discussion) |
| 3.2 Heritage Conservation   | Consistent     | There are no listed items of environmental heritage on the site.  |
| 3.3 Sydney Drinking Water Catchments  | Not applicable | The site is not located within the Sydney Drinking Water Catchment  |
| 3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs | Not applicable | The site is not located in the identified Far North Coast LGAs.   |
| 3.5 Recreation Vehicle Areas  | Consistent     | The site is not identified as or around sensitive land where impacts from recreational vehicles could occur.  |
| 3.6 Strategic Conservation Planning   | Not applicable | The site does not contain land that is identified as avoided land or a strategic conservation area.   |
| 3.7 Public Bushland   | Not applicable | The site is not located in an LGA where the direction applies.  |
| 3.8 Willandra Lakes Region  | Not applicable | The site is not located in the Willandra Lakes.   |

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| 3.9 Sydney Harbour Foreshores and Waterways Area | Not applicable | The site is not located in the Sydney Harbour foreshore or waterway. |
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|                                 |                |  |
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| 3.10 Water Catchment Protection | Not applicable | The site is not located within a regulated catchment within the meaning of <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> . |
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| <b>Focus area 4: Resilience and Hazards</b> |  |  |
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| 4.1 Flooding | Justifiably consistent | A Flood Assessment has been prepared that addresses each of the 4.1 Directions, demonstrating that the site can be developed as a result of the Planning Proposal.<br>(refer to separate discussion) |
|--------------|------------------------|--|

|                        |            |  |
|------------------------|------------|--|
| 4.2 Coastal Management | Consistent | <p>The site is not identified as part of a coastal zone.</p> <p>The site is not identified as being located in a coastal zone. The site is not mapped in any of the following coastal management areas as defined in the coastal zone under the <i>Coastal Management Act 2016</i>:</p> <ul style="list-style-type: none"> <li>coastal wetlands and littoral rainforest area</li> <li>coastal vulnerability area</li> <li>coastal environment area</li> <li>coastal use area.</li> </ul> <p>The site is also outside the boundaries of the Port Stephens Coastal Management Program.</p> <p>(refer to separate discussion)</p> |
|------------------------|------------|--|

|                                      |            |  |
|--------------------------------------|------------|--|
| 4.3 Planning for Bushfire Protection | Consistent | <p>The Planning Proposal has been informed by a Bushfire Strategic Study. It concluded that the Planning Proposal is a suitable use of the land and the bushfire protection measures outlined in the report comply with the Aim and Objectives of Planning for Bushfire Protection 2019 and the Ministerial Direction.</p> <p>(refer to separate discussion)</p> |
|--------------------------------------|------------|--|

|                                      |            |   |
|--------------------------------------|------------|---|
| 4.4 Remediation of Contaminated Land | Consistent | <p>A Preliminary Site Investigation into contamination has been prepared. It found that the site can be developed for its intended uses, with further assessment required at the development application stage.</p> <p>(refer to separate discussion)</p> |
|--------------------------------------|------------|---|

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|------------------------|------------|---|
| 4.5 Acid Sulfate Soils | Consistent | <p>The majority of the site is mapped as Class 3, with Class 4 covering land within 250 m of Gan Gan Road, and small areas of Class 5 in the south and east of Lot 1 DP 503876, 321 Gan Gan Road, Anna Bay.</p> |
|------------------------|------------|---|

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The impact of acid sulfate soils on any future development on the site be managed at the development application stage as required.

No change is proposed to the mapped acid sulfate soils in Port Stephens LEP.

(refer to separate discussion)

|                                       |                |   |
|---------------------------------------|----------------|---|
| 4.6 Mine Subsidence and Unstable Land | Not applicable | The site is not located in a mine subsidence district and has not been identified as unstable land. |
|---------------------------------------|----------------|---|

#### Focus area 5: Transport and Infrastructure

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|---|----------------|---|
| 5.1 Integrating Land Use and Transport                        | Consistent     | The concept masterplan prepared in support of the Planning Proposal provides opportunities for a bus network to be extended through the site, as well as the incorporation of active transport, with walking and cycling paths.<br><br>(refer to separate discussion) |
| 5.2 Reserving Land for Public Purposes                        | Consistent     | The Planning Proposal seeks to rezone land RE1 Public Recreation that will be acquired by Port Stephens Council.  |
| 5.3 Development Near Regulated Airports and Defence Airfields | Not applicable | The site is not located near regulated airports or a defence airfield.  |
| 5.4 Shooting Ranges   | Not applicable | The site is not adjacent to/or adjoining an existing shooting range.  |

#### Focus area 6: Housing

|   |            |  |
|---|------------|--|
| 6.1 Residential zones                           | Consistent | The proposed R2 Low Density Residential permits a diversity in housing typologies on the site.<br><br>The Planning Proposal seeks to address the change in circumstances in Port Stephens that has led to the undersupply and lack of diversity and affordability of housing.<br><br>The single ownership of the site means that new infrastructure can be delivered concurrently with new housing supply.<br><br>(refer to separate discussion) |
| 6.2 Caravan Parks and Manufactured Home Estates | Consistent | The proposal does not involve any caravan or manufactured home estates.  |

#### Focus area 7: Industry and Employment

|  |                |  |
|--|----------------|--|
| 7.1 Employment Zones   | Not applicable | The Planning Proposal does not seek to introduce employment zones on the site. |
| 7.2 Reduction in non-hosted short-term rental accommodation period           | Not applicable | The site is not located in the Byron Shire Council LGA.                        |
| 7.3 Commercial and Retail Development along the Pacific Highway, North Coast | Not applicable | The site is not located along the Pacific Highway, North Coast.                |

#### Focus area 8: Resources and Energy



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|  |                |   |
|--|----------------|---|
| 8.1 Mining, Petroleum Production and Extractive Industries | Not applicable | The Planning Proposal does not change the permissibility of mining on the site. |
|--|----------------|---|

**Focus area 9: Primary Production**

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|--|--------------------------|---|
| 9.1 Rural Zones  | Justifiably inconsistent | The Planning Proposal is supported by an Agricultural Assessment and Land Use Conflict Risk Assessment that demonstrates the site is suitable for the proposed land uses.<br>(refer to separate discussion) |
| 9.2 Rural Lands  | Justifiably inconsistent | The Planning Proposal is supported by an Agricultural Assessment and Land Use Conflict Risk Assessment that demonstrates the site is suitable for the proposed land uses.<br>(refer to separate discussion) |
| 9.3 Oyster Aquaculture   | Not applicable           | The site is not located on land in a priority oyster aquaculture area or oyster aquaculture area outside this area.   |
| 9.4 Farmland of State and Regional Significance on the NSW Far North Coast | Not applicable           | The site is not located on the Far North Coast.   |

**Detailed assessment of relevant Section 9.1 Ministerial Directions**

Further detailed justification of consistency is provided below for relevant Ministerial Directions.

**Ministerial Direction 3.1 Conservation Zones**

|  |            |
|--|------------|
| <b>Planning proposal consistency assessment:</b> | Consistent |
|--|------------|

**Justification:**

Direction 3.1 requires the following:

- (1) provisions to facilitate the protection and conservation of environmentally sensitive areas
- (2) must not reduce the conservation standards that apply to the land.

A Biodiversity Constraints Assessment Report (**BCAR**) has been prepared by RPS Group and a Biodiversity Development Assessment Report (**BDAR**) has been prepared by Wildthing Environmental Consultants to support the Planning Proposal.

The BCAR was prepared to identify areas of low, moderate and high biodiversity constraints within the site. The BDAR has been prepared in accordance with the Biodiversity Assessment Method (BAM) to assess the biodiversity impacts and offsetting obligation of the Planning Proposal under the *Biodiversity Conservation Act 2016* (BC Act) and *Biodiversity Conservation Regulation* (BC Regulation).

The BDAR found that the Planning Proposal has included avoidance principles through strategic positioning of future development within lower quality habitat and the retention of the majority of habitat identified by the BCAR as containing high biodiversity constraints. The majority of the future development footprint has been located in previously cleared land containing existing edge effects.

This process has demonstrated a reduced impact (i.e. avoid and minimise) on native vegetation and habitat by utilising existing cleared lands wherever possible and avoidance of significant breeding habitat for the aforementioned threatened species.

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The Planning Proposal will result in an increase in the area zoned C3 Environmental Management on the site by 33 hectares, from approximately 20 hectares to 53 hectares. It will also not change the existing conservation provisions outlined in Port Stephens LEP. On this basis, the Planning Proposal is consistent with Direction 3.1.

#### Ministerial Direction 3.2 Heritage conservation

**Planning proposal consistency assessment:** Consistent

##### Justification:

Direction 3.2 requires the Planning Proposal to contain provisions that facilitate conservation of:

- (a) environmental heritage
- (b) Aboriginal objects or places protected under the *National Parks and Wildlife Act 1974*
- (c) Aboriginal areas, objects, places or landscapes.

The site does not contain any items of environmental heritage listed under the Port Stephens LEP.

An Aboriginal Cultural Heritage Assessment has been prepared in support on the Planning Proposal. The assessment found that the AHIMS report demonstrates the suitability of the Planning Proposal and the concept masterplan, and provides recommendations to guide the future development on the site, particularly surrounding the sand dunes that are proposed to be zoned C3 Environmental Management. On this basis, the Planning Proposal is consistent with Direction 3.2.

#### Ministerial Direction 4.1 Flooding

**Planning proposal consistency assessment:** Consistent

##### Justification:

The Flood Assessment report prepared by Martens and Associates provides an assessment against Ministerial Direction 4.1 Flooding. The assessment demonstrates that all the applicable flood planning requirements are addressed and compliance with Ministerial Direction 4.1 is achieved. Outlined below is the compliance assessment against each provision of the Ministerial Direction:

##### **Direction 1 - A planning proposal must include provisions that give effect to and are consistent with:**

- **Direction 1(a) - the NSW Flood Prone Land Policy**

The Flood Assessment is consistent with the principles of the relevant policies and guidelines, including the principles of the Flood Risk Management Manual (FRMM).

- **Direction 1(b) - the principles of the Floodplain Development Manual 2005**

The Floodplain Development Manual (2005) has been superseded by the Flood Risk Management Manual (2023). The Planning Proposal is consistent with the principles of the FRMM.

- **Direction 1(c) - the Considering flooding in land use planning guideline 2021**

The Flood Assessment is consistent with the principles of the relevant policies and guidelines, including the principles of the FRMM.

- **Direction 1(d) - any adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the Floodplain Development Manual 2005 and adopted by the relevant council**

The Flood Assessment is consistent with the principles of the relevant policies and guidelines, including the principles of the FRMM. The Planning Proposal is consistent with the Council adopted Jacobs Flood Study and

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uses that model for the area north of the sand dune and uses a more accurate flood model for the area south of the sand dune. There is no floodplain risk management plan for the catchment.

**Direction 2 - A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Employment, Mixed Use, W4 Working Waterfront or Special Purpose Zones**

Although the existing site is within the existing conditions flood planning area (FPA), the Flood Assessment demonstrates that the proposed earthworks can raise all residential land above the above the flood planning level (FPL) and PMF level, and that the residential areas north and south of the sand dune are flood free. As the proposed residential areas are outside the proposed conditions FPA, they are capable of being rezoned to facilitate residential land uses.

**Direction 3 - A planning proposal must not contain provisions that apply to the flood planning area which:**

- **Direction 3(a) - Permit development in floodway areas**

The proposed fill areas are flood free up to and including the PMF as per the proposed condition flood maps and are hence outside the floodway.

- **Direction 3(b) - Permit development that will result in significant flood impacts to other properties**

The proposed development does not cause significant flood impacts to other properties in all modelled flood events as per the proposed condition water level afflux maps.

- **Direction 3(c) - Permit development for the purposes of residential accommodation in high hazard areas**

The proposed development is unaffected by high hazard floodwaters as per the proposed condition ARR hazard categories flood maps.

- **Direction 3(d) - Permit a significant increase in the development and/or dwelling density of that land**

As the proposed residential areas are outside the proposed conditions FPA, they are capable of being rezoned for residential land uses.

- **Direction (3)(e) - Permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate**

The proposed R2 Low Density Residential zone under Port Stephens LEP does permit sensitive facilities. Notwithstanding, the concept masterplan and Flood Assessment Report demonstrates that evacuation can occur during the peak of the PMF event, and site access to the Council road network (Gan Gan Road and Saltbush Avenue) will not be cut off by flooding in all events up to and including the PMF. Rising flood egress along the access roads is available for both pedestrians and vehicles, and evacuation can occur in all stages of a flood event up to and including the PMF event.

- **Direction (3)(f) - Permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent**

The proposed R2 Low Density Residential zone under Port Stephens LEP permits home occupations with consent. The Planning Proposal does not specifically seek to increase the number of land uses that are permitted without consent.

- **Direction (3)(g) - Are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response**

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**measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities, or**

The proposed development does not increase the requirement for government spending on emergency management services or flood mitigation measures in flood events up to and including the PMF. All infrastructure upgrades, flood mitigation infrastructure (i.e. the flood mitigation culverts) and utilities are to be provided by the applicant.

- **Direction (3)(h) - Permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.**

This Planning Proposal does not seek to permit the development of hazardous industries or hazardous storage establishments at the site.

**Direction 4 A Planning Proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:**

- **4(a) - permit development in floodway areas,**

Refer to 3(a).

- **4(b) - permit development that will result in significant flood impacts to other properties,**

Refer to 3(b).

- **4(c) - permit a significant increase in the dwelling density of that land,**

Refer to 3(d).

- **4(d) - permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,**

Refer to 3(e).

- **4(e) - are likely to affect the safe occupation of and efficient evacuation of the lot, or**

The concept masterplan has demonstrated that all habitable areas are above the FPL and PMF levels, and hence safe occupation by future residents is achieved. In addition, the proposed access roads have been designed to have rising flood egress, and hence evacuation is available up to and including the PMF.

**4(f) - are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities.**

Refer to 3(g).

**5 For the purposes of preparing a planning proposal, the flood planning area must be consistent with the principles of the Floodplain Development Manual 2005 or as otherwise determined by a Floodplain Risk Management Study or Plan adopted by the relevant council.**

Council requires the FPA is to be set to the 1% AEP flood with climate change plus 500 mm freeboard. The Flood Assessment report adopts Council's Coastal Management Program for increased climate change ocean levels which gives a more conservative 1% AEP climate change flood level on the site than the Council adopted Jacobs Flood Study. The adopted FPA is therefore conservative.

On this basis, the Planning Proposal is considered to be justifiably consistent with Direction 4.1.



#### Ministerial Direction 4.2 Coastal Management

**Planning proposal consistency assessment:** Consistent

##### Justification:

Direction 4.2 applies to land that is within the coastal zone, as defined under the *Coastal Management Act 2016*, comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area, and as identified by chapter 2 of the *State Environmental Planning Policy (Resilience and Hazards) 2021*.

The site is not identified on any of the following maps under the Resilience and Hazards SEPP 2021:

- coastal wetlands and littoral rainforests area map
- coastal vulnerability area map
- coastal environment area map
- coastal use area map.

The site is also outside the boundaries of the Port Stephens Coastal Management Program.

Notwithstanding, Council requires the FPA is to be set to the 1% AEP flood with climate change plus 500 mm freeboard. The Flood Assessment report adopts Council's Coastal Management Program for increased climate change ocean levels which gives a more conservative 1% AEP climate change flood level on the site than the Council adopted Jacobs Flood Study. The adopted FPA is therefore conservative and demonstrates that the site can be developed as a result of the Planning Proposal.

#### Ministerial Direction 4.3 Planning for Bushfire Protection

**Planning proposal consistency assessment:** Consistent

##### Justification:

Direction 4.3(2) requires that the Planning Proposal must:

- (a) have regard to Planning for Bushfire Protection 2019
- (b) introduce controls that avoids placing inappropriate development in hazardous areas
- (c) ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ).

The specific objective of the Strategic Bushfire Study was to assess the Planning Proposal against the strategic assessment considerations in Chapter 4 of Planning for Bushfire Protection 2019 (**PBP**).

The study demonstrates that the Planning Proposal has considered and responds to the requirements of PBP. The Planning Proposal and concept masterplan is a well-considered design that responds to the aim and objectives of PBP to provide for the protection of life and the minimisation of impact on property while having due regard to the development potential, site characteristics and protection of the environment.

The study found that the Planning Proposal and concept masterplan demonstrates that PBP is satisfied through a combination of acceptable solutions and performance based solutions. The Planning Proposal ensures future development is in appropriate locations to minimise the risk to life and property from bushfire attack, and future development will be able to comply with PBP at the development application stage.

Direction 4.3(3) requires that the Planning Proposal must:

- (a) provide an Asset Protection Zone
- (b) n/a
- (c) contain provision for two-way access roads
- (d) provision for adequate water supply for firefighting
- (e) minimize the perimeter of the area of land interfacing the hazard

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- (f) introduce controls on the placement of materials in the Inner Protection Area.

The suitability of the Planning Proposal has considered the broad landscape scale risk and the site-specific requirements of PBP. The Planning Proposal can satisfy the detailed criteria to be assessed at the next stage of the process. All future development will be supported by an APZ to meet the minimum standard of <29kW/m<sup>2</sup> at building exposures and will be further assessed at the development application stage. The Planning Proposal meets the Acceptable Solution requirements of PBP and will be supported by bushfire risk management.

The concept masterplan has been designed with 20m wide perimeter road reserves and assumes a minimum setback of 4.5m on lots, which meets and exceeds the PBP performance criteria. The road network demonstrates that the site is not isolated, there is access for emergency services and there is adequate evacuation.

The report does not identify any impediments to the supply of necessary infrastructure to the site and confirms there is no increased pressure on adjoining landowners to increase or introduce bushfire protection measures as a result of the Planning Proposal.

The bushfire assessment considerations undertaken to support the Planning Proposal demonstrate it is consistent with the objectives and directions of Ministerial Direction 4.3.

#### Ministerial Direction 4.4 Remediation of Contaminated Land

**Planning proposal consistency assessment:** Consistent

##### Justification:

Direction 4.4(1) requires that the Planning Proposal must consider the following:

- (a) the planning proposal authority has considered whether the land is contaminated
- (b) if it is contaminated, the land is suitable for the proposed uses
- (c) if the land requires remediation, it can be remediated to be made suitable for the proposed uses.
- (2) A preliminary investigation has been carried out in accordance with the contaminated land planning guidelines.

A Preliminary Site Investigation report was prepared by Martens and Associates in support of the Planning Proposal. The report investigated the following:

- historical and current activities and uses on the site and the adjacent land which could potentially result in land contamination
- areas of environmental concern and associated contaminants of potential concern to assist the concept masterplan
- the suitability of the site for the proposed land uses and any recommendations for additional investigation.

The report concludes that the potential land contamination risks to human health and ecology will require further characterisation. However, based on the current available site data, it is unlikely that significant site wide contamination will be identified in future investigation works that would preclude the proposed future land uses. The additional site investigation and (if required) remediation can be completed at the development application stage. Subject to this future investigation, the report concludes that the site can be made suitable for the proposed residential land uses. The findings of this report satisfy Direction 4.4.

#### Ministerial Direction 4.5 Acid Sulfate Soils

**Planning proposal consistency assessment:** Consistent

##### Justification:

Direction 4.5 requires:



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- (1) that the Planning Proposal consider the Acid Sulfate Soils Planning Guidelines
- (2) and (4) the Planning Proposal provisions must be consistent with the Guidelines
- (3) the Planning Proposal must be support by an acid sulfate soils study.

A Geotechnical and Acid Sulfate Soils Assessment report has been prepared by Martens and Associates Pty Ltd to support the Planning Proposal.

The report identifies that future residential subdivision is likely to result in negligible impacts on the existing groundwater system and pose minimal environmental risk as a result of acid sulfate soils, subject to implementation of an acid sulfate soils management plan and recommendations presented in the assessment report at the development application stage.

#### **Ministerial Direction 5.1 Integrating Land Use and Transport**

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|--|------------|
| <b>Planning proposal consistency assessment:</b> | Consistent |
|--|------------|

##### **Justification:**

Direction 5.1 requires the Planning Proposal consistency with the following:

- (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and
- (b) The Right Place for Business and Services – Planning Policy (DUAP 2001).

These Guidelines seek to locate residential uses within accessible locations and promote active transport. The southern part of the site is located within an 800 metre walking distance to Anna Bay Town Centre. The concept masterplan identifies potential opportunities for active transport in the form of pedestrian and cycle networks through greenspaces and along the internal road network that will improve the connection to the Anna Bay Town Centre.

The site is also ideally situated between the town of Anna Bay and the Nelson Bay Peninsula, which provides an incentive for cyclists / pedestrians to pass through the area as an attractive alternative to using Gan Gan Road or Nelson Bay Road. This may have the effect of increasing the mode share of active travel within the region; providing better amenity for people seeking to travel between Anna Bay, One Mile and Nelson Bay.

Bus services within vicinity of the site are operated by the Port Stephens Coaches and are accessible via the bus stop located on Gan Gan Road at Clarke Street along the frontage of the site. These services also travel along Frost Road with the nearest bus stop approximately 500 metres from the northern side of the proposed development near the Saltbush Avenue intersection. The bus route numbers are 130, 133, and 135 and occur with a frequency of approximately 30 minutes between services.

#### **Ministerial Direction 6.1 Residential zones**

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|--|------------|
| <b>Planning proposal consistency assessment:</b> | Consistent |
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##### **Justification:**

Direction 6.1(1)(a) provides that the Planning Proposal must include provisions that encourage the provision of housing that will:

##### **(a) broaden the choice of building types and locations available in the housing market, and**

The proposed R2 Low Density Residential zone permits a range of residential accommodation, including dwelling houses, dual occupancies, semi-detached dwellings, multi-dwelling housing, attached dwellings and seniors housing. This range of housing types provides diversity of choice in the Anna Bay housing market.

##### **(b) make more efficient use of existing infrastructure and services, and**

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The site benefits from its close proximity to Anna Bay Town Centre, with the southern portion of the site being within 800 metres. The Planning Proposal will not negatively impact on existing infrastructure and services.

**(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design**

A concept masterplan has been prepared to demonstrate how the site could be developed. It forms part of an urban design report that has considered the environmental and topographical constraints of the site. The design integrates future residential development into the natural landscape with a pedestrian friendly design.

(2) A planning proposal must, in relation to land to which this direction applies:

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

An Infrastructure Servicing Assessment report has been prepared by Martens and Associates in support of the Planning Proposal. The scope of the assessment includes the following:

- determine the availability of existing utility services adjacent to the site
- estimate water and sewer generation rates from future development
- advise on the likely capacity of the existing services infrastructure to service future development
- consider infrastructure delivery requirements.

The Infrastructure Servicing Assessment report confirms that there is adequate public infrastructure available to servicing future residential land uses resulting from the Planning Proposal. The upgrades and provision of new infrastructure to cater for the increased demand of new residents is likely to be staged in line with the delivery model at the development application stage. The single ownership of the site enables this infrastructure to be coordinated and delivered as part of an overall site wide masterplanned development.

**(b) not contain provisions which will reduce the permissible residential density of land.**

The Planning Proposal does not reduce the permissible residential density on the site.

#### Ministerial Direction 9.1 Rural Zones

|  |                        |
|--|------------------------|
| <b>Planning proposal consistency assessment:</b> | Justifiably consistent |
|--|------------------------|

#### Justification:

Direction 9.1(1)(a) provides that a planning proposal must not rezone rural land to a residential zone. A planning proposal can be inconsistent with the direction if it is justified by a study prepared in support of the planning proposal which gives consideration to the objectives of the direction. The objective of the direction is to protect the agricultural production value of rural land.

The Planning Proposal is inconsistent with Direction 9.1(1)(a) in that it seeks to rezone part of the site from RU2 Rural Landscape to R2 Low Density Residential. However it is supported by an Agricultural Assessment and Land Use Conflict Risk Assessment report that considers:

- the agricultural productive value of the land as well as the anticipated impacts to agriculture as a result of future development enabled by the Planning Proposal
- the potential land use conflicts between the proposed urban zones and the adjoining rural zoned land.

The report did not identify any agricultural or land use conflict constraints to future development enabled by the Planning Proposal. It found no agricultural activity currently on the site and no sensitive agricultural activities on adjacent land. The site contains low quality agricultural resources and limited agricultural capability. The impacts to agriculture as a result of the Planning Proposal are found to be negligible.



In terms of land use conflicts, the report found that there are several potential moderate and high risk land use conflicts relating to the Planning Proposal. However, these potential conflicts are determined to be consistent with existing potential residential development and agricultural land use conflicts in the site locality

#### Ministerial Direction 9.2 Rural Lands

**Planning proposal consistency assessment:** Consistent

#### Justification:

Direction 9.2(1) requires that the Planning Proposal must:

- **(a) be consistent the with the Hunter Regional Plan 2041 and Port Stephens LSPS**

Objective 9 of the Region Plan seeks to sustain and balance productive rural landscapes. Objective 9 contains strategies that relate to mineral resources, rural towns and villages, and equine and viticulture. Similarly, the Port Stephens LSPS contains Planning Priority 9 that seeks to protect and preserve productive agricultural land.

The Agricultural Assessment and Land Use Conflict Risk Assessment report that supports the Planning Proposal demonstrates that the site does not contain productive agricultural land that needs to be protected. The agricultural and rural landscape objective and strategies from the Region Plan, and planning priority from the LSPS does not apply to the site.

- **(b) be consider the significance of agriculture and primary production to the State and rural communities**

The Agricultural Assessment and Land Use Risk Conflict Risk Assessment report did not identify any agricultural or land use conflict constraints to future development enabled by the Planning Proposal. It found no agricultural activity currently on the site and no sensitive agricultural activities on adjacent land. The site contains low quality agricultural resources and limited agricultural capability. The impacts to agriculture as a result of the Planning Proposal are found to be negligible.

- **(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**

The Planning Proposal seeks to retain high value biodiversity areas within a C3 Environmental Management zone, which will result in an 33 ha increase in the zoned conservation area on the site. The C3 zone includes the existing sand dune that has cultural heritage values.

- **(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**

The Planning Proposal has been prepared with regard to the existing topography, environmental characteristics and natural hazards on the site. A concept masterplan has been prepared to demonstrate how a residential subdivision can occur that overcomes existing constraints on the site.

- **(e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities**

The Agricultural Assessment and Land Use Risk Conflict Risk Assessment report did not identify any agricultural or land use conflict constraints to future development enabled by the Planning Proposal. It found no agricultural activity currently on the site and no sensitive agricultural activities on adjacent land. The site contains low quality agricultural resources and limited agricultural capability. The impacts to agriculture as a result of the Planning Proposal are found to be negligible.

- **(f) support farmers in exercising their right to farm**

The Agricultural Assessment and Land Use Risk Conflict Risk Assessment report did not identify any agricultural or land use conflict constraints to future development enabled by the Planning Proposal. It found no agricultural

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activity currently on the site and no sensitive agricultural activities on adjacent land. The site contains low quality agricultural resources and limited agricultural capability. The impacts to agriculture as a result of the Planning Proposal are found to be negligible.

- **(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 use**

The Agricultural Assessment and Land Use Risk Conflict Risk Assessment report did not identify any agricultural or land use conflict constraints to future development enabled by the Planning Proposal. It found no agricultural activity currently on the site and no sensitive agricultural activities on adjacent land. The site contains low quality agricultural resources and limited agricultural capability. The impacts to agriculture as a result of the Planning Proposal are found to be negligible.

- **(h) consider State significant agricultural land identified in chapter 2 of the *State Environmental Planning Policy (Primary Production) 2021* for the purpose of ensuring the ongoing viability of this land**

The site is not identified as State significant agricultural land.

- **(i) consider the social, economic and environmental interests of the community.**

A housing and community needs assessment has been undertaken to support the Planning Proposal. It considers the increase in residential population on existing social and community infrastructure, and the housing needs of the community. The environmental characteristics of the site have informed the concept masterplan to demonstrate how a residential subdivision could occur with minimising environmental impacts.

**Direction 9.2(2)** requires that the Planning Proposal must demonstrate the following in relation to the change in minimum lot size on the existing land zoned C3 Environmental Management:

- **(a) is consistent with the priority of minimum rural land fragmentation and land use conflict, particularly between residential and other rural land uses**

The part of the Lot 903 DP 634550, 293 Gan Gan Road zoned C3 Environmental Management contains a current minimum lot size of 20 hectares. The Planning Proposal seeks to increase the overall land zoned C3 on the site by 33 ha, with a reduced area of C3 on Lot 903 and associated lot size. The C3 zoned land is not rural land or capable of being used for rural purposes. As such, it is consistent with this direction.

- **(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 Agricultural Assessment and Land Use Risk Conflict Risk Assessment report did not identify any agricultural or land use conflict constraints to future development enabled by the Planning Proposal. It found no agricultural activity currently on the site and no sensitive agricultural activities on adjacent land. The site contains low quality agricultural resources and limited agricultural capability. The impacts to agriculture as a result of the Planning Proposal are found to be negligible. As such, it is consistent with this direction.

- **(c) where it is for rural residential purposes: i. is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres ii. is necessary taking account of existing and future demand and supply of rural residential land.**  
**Note: where a planning authority seeks to vary an existing minimum lot size within a rural or conservation zone, it must also do so in accordance with the Rural Subdivision Principles in clause 5.16 of the relevant Local Environmental Plan.**

Not applicable. The Planning Proposal does not seek to rezone land for rural residential purposes.



## 6.2 Site-specific merit

In order to satisfy site-specific merit, the LEP Making Guideline requires the Planning Proposal to identify the potential environmental, social, and economic impacts of the proposal and outline proposed mitigation measures and justification.

There are several naturally occurring features and contextual attributes on the site that have been thoroughly considered in preparing the Planning Proposal to ensure that future development does not result in any detrimental environmental, social or economic impacts which cannot be reasonably managed.

The Planning Proposal is supported by a range of studies and reports outlined in the table below. The outcomes and conclusions of these studies and reports show that the proposal does not include any unreasonable or unmanageable environmental, social or economic impacts.

The Planning Proposal demonstrates through the concept masterplan and the supporting technical reports how the site can be made suitable for the resultant development.

The response in the following Sections C, D and E demonstrate that the site has site-specific merit.

**Table 18: Supporting technical reports to establish site-specific merit**

| Technical study   | Consultant                         |
|---|------------------------------------|
| Planning Proposal   | Mecone                             |
| Urban Design Report   | BJA Architecture                   |
| Biodiversity Constraints Assessment Report                    | RPS Group                          |
| Biodiversity Development Assessment Report                    | Wildthing Environmental Consulting |
| Aboriginal Cultural Heritage Assessment                       | McCardle Cultural Heritage Pty Ltd |
| Traffic Impact Assessment                                     | Park Transit                       |
| Conceptual Stormwater Management Strategy                     | Martens & Associates               |
| Riparian Management Strategy                                  | Martens & Associates               |
| Hydrogeological Assessment                                    | Martens & Associates               |
| Flood Assessment  | Martens & Associates               |
| Wetland Hydrodynamic Assessment                               | Martens & Associates               |
| Preliminary Site Investigation                                | Martens & Associates               |
| Geotechnical and Acid Sulfate Soils Assessment                | Martens & Associates               |
| Bushfire Risk Assessment                                      | Blackash Consulting                |
| Agricultural Assessment and Land Use Conflict Risk Assessment | Minesoils                          |
| Infrastructure Servicing Assessment                           | Martens & Associates               |
| Housing Needs Study   | Hill PDA                           |
| Social and Community Needs Assessment                         | Hill PDA                           |



### 6.2.1 Section C – Environmental, Social and Economic Impact

#### 6.2.1.1 Q8. 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?

A Biodiversity Constraints Assessment Report (**BCAR**) has been prepared by RPS Group and a Biodiversity Development Assessment Report (**BDAR**) has been prepared by Wildthing Environmental Consultants to support the Planning Proposal.

The BCAR was prepared to identify areas of low, moderate and high biodiversity constraints within the site. The BDAR has been prepared in accordance with the Biodiversity Assessment Method (**BAM**) to assess the biodiversity impacts and offsetting obligation of the Planning Proposal under the *Biodiversity Conservation Act 2016* (**BC Act**) and *Biodiversity Conservation Regulation* (**BC Regulation**).

The BDAR found that the Planning Proposal has included avoidance principles through strategic positioning of future development within lower quality habitat and the retention of the majority of habitat identified by the BCAR as containing high biodiversity constraints. The majority of the future development footprint has been located in previously cleared land containing existing edge effects.

#### Direct, indirect and prescribed impacts

The BDAR found that the Planning Proposal will result in an incremental loss of habitat for a number of threatened species occurring within the local area. The BDAR outlines the direct, indirect and prescribed impacts as a result of the Planning Proposal, including the removal of 32.18 ha of native vegetation. However, the BDAR found that the Planning Proposal would not result in serious and irreversible impacts. It includes recommendations to minimise and manage impacts and lists ecosystem species credits and species credit species requiring offsetting as a result of the proposal.

#### Port Stephens Comprehensive Koala Plan of Management

A review of the Port Stephens Comprehensive Koala Plan of Management (**CKPoM**) - Koala Habitat Planning Map found that the mapping was inconsistent with the on-ground assessment. All development applications in the Port Stephens LGA will be required to comply with the provisions of the CKPoM.

The area of impact as a result of the Planning Proposal to koala habitat under the CKPoM is shown below:

- preferred koala habitat – 2.34ha
- supplementary koala habitat – 20.14 ha
- 50 m buffer over cleared land – 30.50 ha
- cleared land – 7.43 ha.

The BDAR found that a total of 117 identified *Eucalyptus robusta* (Swamp Mahogany) will be removed as a result of the Planning Proposal, which is koala feed tree species. However, there is scope to plant compensatory trees within the site as part of reforestation. It outlines a number of measures as part of future development that can be implemented to minimise the threat to koalas.

#### Commonwealth Environment Protection and Biodiversity Conservation Act 1999

A total of 29.47 ha of nationally threatened ecological community (**TEC**), Coastal Swamp Sclerophyll Forest of New South Wales and South East Queensland was identified for removal within the site for future development. This will result in an incremental reduction of this TEC in the local area. However, the Planning Proposal will retain and enhance 66.49 ha of this TEC within the site. Given the occurrence of large areas of adjoining and nearby Coastal Swamp Sclerophyll Forests, the proposal is unlikely to require referral under the EPBC Act.

An additional 6.72 ha of reforestation within structurally intact vegetation will occur as a result of the proposal. A total of 52.40 ha will be zoned as C3 Environmental Management, which is an increase of 32.92 ha from the current zoned area.





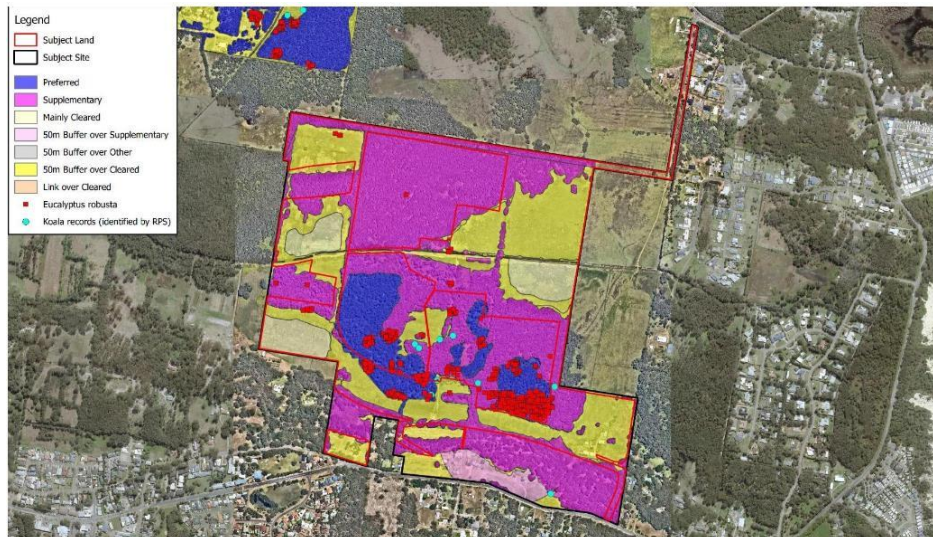
The BDAR identified the following four nationally threatened species within the site:

- Pteropus poliocephalus (Grey-headed Flying Fox) - Vulnerable
- Phascolarctos cinereus (Koala) - Endangered
- Chalinolobus dwyeri (Large-eared Pied Bat) – Endangered
- Persicaria elatior (Tall Knotweed) – Vulnerable.

The BDAR found that the incremental loss of habitat of the Grey-headed Flying Fox, Large-eared Pied Bat and Tall Knotweed within the local area is unlikely to lead to a long-term decrease in the size of an important population of these species given the proximity of large areas of similar habitat outside the site.

In relation to the presence of koalas, the BDAR found that the Planning Proposal has the potential to lead to a long-term decrease in the size of the population, given the removal of preferred and supplementary koala habitat and the increase in threats to koalas from the proposal, such as vehicle strike, dog attack and drowning in pools. The concept masterplan has therefore been thoughtfully designed with the following consideration of koalas:

- retention of 75.51 ha of native vegetation for preferred koala habitat
- revegetation of 6.72 ha with structurally intact habitat
- nine strategically identified fauna underpasses to facilitate the movement of koala throughout the site and adjoining habitat
- incorporate koala fencing and educational signage as part of future development
- retention of 699 of the 816 specimens of *Eucalyptus robusta* (Swamp Mahogany).



**Figure 35: Revised koala habitat mapping**

Source: Wildthing Environmental Consultants



6.2.1.2 Q9. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

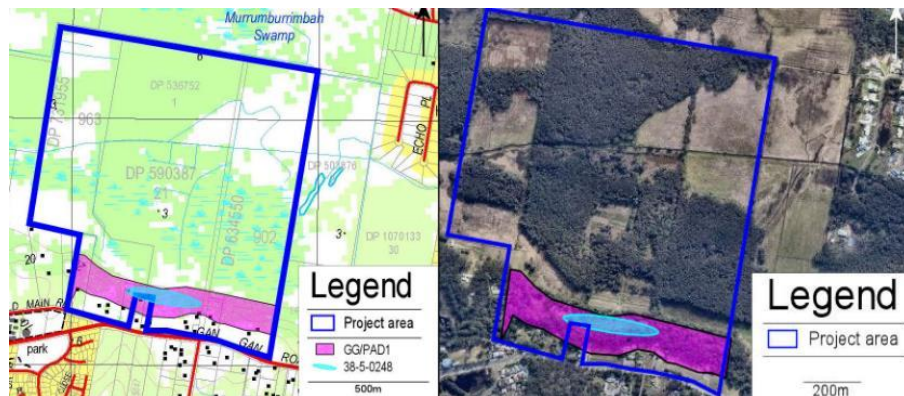
#### Aboriginal heritage

An Aboriginal Cultural Heritage Assessment has been prepared in support on the Planning Proposal. It found that the AHIMS register shows that one Aboriginal Place and 72 known Aboriginal sites are recorded within five kilometres of the site.

The low-lying depression situated north of the dunes is identified as unsuitable for Aboriginal camping or burial. However, the dunes situated to the south of the site are identified as a Potential Archaeological Deposit (PAD) GG/01 and is associated with AHIMS site #38-5-0248.

AHIMS site #38-5-0248 was assessed as being of low archaeological / scientific significance due to the highly disturbed nature of the site. However, GG/01 was assessed as being of high archaeological / scientific significance due to the undisturbed nature of the site (complex) and likely connects to additional sites along the dune. This area is proposed to be zoned C3 Environmental Management, which will enable the area of high archaeological / scientific significance to be protected.

The AHIMS report demonstrates the suitability of the Planning Proposal and the concept masterplan, and provides recommendations to guide the future development of the site, particularly surrounding the dunes.



**Figure 36: Location of archaeological items**

Source: McCordle Cultural Heritage



### Access and transport

A Traffic and Parking Report has been prepared by ParkTransit in support of the Planning Proposal. It presents a traffic and parking assessment and determines the implications of the projected change in traffic activity on the surrounding road network as a result of the Planning Proposal.

#### Local road network

The site is bound by several local streets which could potentially facilitate future street access. These include:

- Gan Gan Road to the south
- potential future connection from Saltbush Avenue connecting to Frost Road to the northeast
- potential future connection from Harris Road to Old Main Road to the southwest.

The following intersections were modelled:

- Gan Gan Road and Clark Street
- Gan Gan Road and Frost Street
- Frost Street and Nelson Road.

The modelling results indicate that these intersections currently operate well below their capacity during the evening peak periods and will continue as a result of the Planning Proposal. This demonstrates that the Planning Proposal has no detrimental impact on the operation of the road network.

The report also considered intersection arrangements. The following intersection arrangements:

- Frost Road and Saltbush Avenue: needs to be upgraded to include a channelised right turn to support the operation of the site
- Gan Gan Road and Clark Street: a new access road on the northern side is required, thereby forming a priority controlled 4-way intersection
- Gan Gan Road and new access road (south eastern corner of the site): this will comprise a T-intersection with Gan Gan Road retaining priority. This intersection treatment is sufficient to support the relatively low traffic demand at this access point.

#### Public transport

Bus services within vicinity of the site are operated by the Port Stephens Coaches and are accessible via the bus stop located on Gan Gan Road at Clarke Street along the frontage of the site. These services also travel along Frost Road with the nearest bus stop approximately 500 metres from the northern side of the proposed development near the Saltbush Avenue intersection. The bus route numbers are 130, 133, and 135 and occur with a frequency of approximately 30 minutes between services.

#### Active transport

The Planning Proposal and concept masterplan identifies potential opportunities for active transport in the form of pedestrian and cycle networks through greenspaces and along the internal road network. The report identifies that the site is ideally situated between the town of Anna Bay and the Nelson Bay Peninsula, which provides an incentive for cyclists / pedestrians to pass through the area as an attractive alternative to using Gan Gan Road or Nelson Bay Road. This may have the effect of increasing the mode share of active travel within the region; providing better amenity for people seeking to travel between Anna Bay, One Mile and Nelson Bay.

#### Conclusion

The report concludes the following:

- the Planning Proposal will not negatively impact the current traffic conditions
- the Planning Proposal will not generate any increase in safety risk to pedestrians or drivers as a result of the potential access and parking configuration
- the new access roads identified on the concept masterplan will be accessible by all users including emergency vehicles
- active travel initiatives have been considered and may increase mode share for cycling with the area.



#### Conceptual Stormwater Management Strategy

A Conceptual Stormwater Management Strategy has been prepared by Martens and Associates Pty Ltd to support the Planning Proposal. The Strategy includes a series of plans that identifies design contours, future development extents, locations for stormwater treatment, stormwater treatment outlets, corrected watercourses, retained watercourses, retaining walls and culverts / pipes. The Strategy was prepared in conjunction with the concept masterplan to demonstrate how the site can be developed as a result of the Planning Proposal.

#### Riparian Management Strategy

A Riparian Management Strategy report has been prepared by Martens and Associates Pty Ltd to support the Planning Proposal. The objective of the Strategy is to investigate existing riparian conditions within the site and provide recommendations for long-term riparian corridor management. The approach included the following:

- complete an initial mapping of watercourses using the Hydroline spatial data
- ground truthing of watercourse locations and conditions
- watercourse classification based on the Strahler stream ordering scheme
- assessment of watercourse values.

The Riparian Management Strategy includes the following:

- watercourses to be retained and enhanced where possible
- vegetation riparian corridors to be protected, restored and rehabilitated to maintain or improve the shape, stability (or geomorphic form) and ecological functions of watercourses
- riparian treatment strategy for size treatment categories
- riparian activities.

#### Hydrogeological Assessment

A Hydrogeological Assessment report has been prepared by Martens and Associates Pty Ltd to support the Planning Proposal. The report assessed the likely groundwater impacts arising from future residential development and provides recommendations for additional assessment and management measures.

Based on the assessment, the report concludes the following:

- site groundwater is generally shallow, unconfined and responsive to rainfall, particularly to the north of the sand dune
- groundwater to the south of the sand dune is typically deeper and less responsive to minor rainfall events
- contamination risk to sensitive receptors or future development is expected to be low
- NSW Government HEVAE mapping identifies several medium to high value groundwater dependent ecosystems across the site
- groundwater dewatering is expected to be limited to removal of groundwater in soil pore space from the excavation of soils below the water table in limited areas of the site (basins and drainage channel)
- a comprehensive risk assessment of groundwater hazards has been completed, including documentation of a range of potential impact mitigation measures. The risk assessment found that based on the adopted risk mitigation measures, risks to groundwater arising from future residential development is acceptable, ranging from very low to low. On this basis, hazards to groundwater can be appropriately managed through conventional methods and significant impacts to the groundwater environment is not expected to arise from future residential development
- groundwater modelling should be completed at development application stage to guide implementation of mitigation measures (such as appropriate water sensitive urban design measures and recharge areas) to confirm the findings of the risk assessment
- a groundwater and surface water monitoring plan should be prepared at the development application stage.



### Flood Assessment

A Flood Assessment report has been prepared by Martens and Associates Pty Ltd to support the Planning Proposal. The objectives of the Flood Assessment were as follows:

- use the catchment hydraulic model (TUFLOW) to determine the site flood characteristics for the 1% annual exceedance probability (**AEP**) flood (with and without climate change) and probable maximum flood (**PMF**) events
- import site survey data and increase the TUFLOW model resolution to allow detailed hydraulic modelling of the site in existing and proposed conditions
- prepare relevant flood maps including flood extents, depths, levels, velocities, hazards and impacts.
- comment on flood characteristics and model outcomes in existing and proposed conditions
- provide preliminary flood risk management comments
- prepare a compliance assessment in accordance with Ministerial Direction Section 9.1 Direction 4.1 Flooding.

### Hydraulic modelling

The following two hydraulic models were adopted in the Flood Assessment report:

- north of the sand dune: The 'regional' TUFLOW model from Council's accepted Jacobs Flood Study was used as the basis for undertaking detailed hydraulic modelling at the site north of the sand dune
- south of the sand dune: The Martens and Associates TUFLOW model was used as the basis for undertaking detailed hydraulic modelling at the site south of the sand dune.

### Flood results

The Flood Assessment report includes flood mapping results (flood levels, depths, velocities, hazards and water level afflux) for the critical duration 1% AEP flood (with and without climate change) and PMF events in existing and proposed conditions. The scenarios with and without tailwater levels were enveloped to show the maximum flood characteristics, and the results from the two flood models north and south of the sand dune were combined on the same maps.

### Proposed flood conditions

The Flood Assessment report demonstrates the following flood conditions will result from the concept masterplan:

- north of the sand dune:
  - outside of proposed residential and road areas, proposed flood conditions are largely unchanged from existing conditions, and the proposed development does not materially alter local flood characteristics
  - importantly, high tailwater levels cause a 'bathtub effect' on site, associated with low flood velocities and negligible flood conveyance. Although the proposed development includes fill in flood affected areas, the placement of fill within the 'bathtub' does not materially displace floodwater or constrict the floodplain
  - the proposed residential lots have been raised above the flood planning level (**FPL**) of 3.04 mAHD, being the 1% AEP (with climate change) plus 0.5 m freeboard
  - the proposed residential areas are also flood free in all events up to and including the PMF
- south of the sand dune:
  - for the southwestern area of the site:
    - aside from shallow low hazard (up to H1) flooding of the proposed road at the site entrance, future development is flood free in all events up to and including the PMF event
    - the proposed swale west of the residential area redirects floodwaters from the existing puddle towards the proposed pipe which drains floodwaters to Council's public drainage system
  - for the southern site area immediately west of the existing R2 Low Density Residential zoned land on the site:
    - design of this area has not been undertaken as part of the grading or stormwater design



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- despite this, the area remains flood free up to and including the 1% AEP with climate change event, and is only affected by shallow (generally < 0.3 m deep) low hazard (primarily H1 and a small area of H2 within the drainage line) flood waters up to and including the PMF event
- as part of future development, this area can be developed by proposing fill for residential lots, which would have no impact on the 1% AEP (with and without climate change) (since it is flood free in these events) and would have negligible impacts in the PMF event (due to only being affected by shallow low hazard flooding).

**Offsite flood impacts**

The Flood Assessment report demonstrates the following in relation to offsite flood impacts:

- future development has negligible offsite impacts on the floodplain environment in all modelled flood events
- there is a small area outside the site boundary in the 1% AEP event at the proposed road crossing at the northeastern site boundary. The area of impact is limited to rural areas and does not affect residential properties. Overall, this impact is considered minor and can be resolved at the development application stage
- there are very minor areas impacted offsite above 20 mm in all modelled flood events at the southwest corner of the site. However, these have a negligible area (up to 32 sqm) and are considered to be within the resolution of the model. Further, this is offset by the reduction in PMF levels on private property and the road reserve (total area of up to 3,400 sqm) arising from the proposed swale and pipe, which provides a net benefit to the local floodplain environment
- these flood impacts are of immaterial significance and are considered acceptable.

**Flood risk management**

North of the sand dune, the site is primarily affected by long duration, large scale flooding from the Tilligerry Creek catchment. The concept masterplan raises all future habitable areas and roads to the flood planning level (FPL), which is above the PMF level, and therefore residential dwellings will not be affected by flood events up to and including the PMF. Future residents can safely evacuate the site via Saltbush Avenue which is also above the PMF level.

South of the sand dune, the site is also affected by long duration flooding from the local catchment. Similar to future development north of the sand dune, all habitable areas have flood immunity up to and including the PMF. Gan Gan Road is flood free up to and including the 1% AEP with climate change event, and at worst is affected by low flood hazards (H1 – generally safe for people vehicles and buildings) in the PMF event. Residents from both sides of the sand dune can therefore safely evacuate the site via Gan Gan Road.

The Flood Assessment report identifies the following to mitigate risks associated with flooding:

- evacuation is the preferred emergency response strategy over shelter-in-place, although safe shelter-in-place is available above the PMF level
- evacuation can occur during the peak of the PMF event, and site access to the Council road network (Gan Gan Road and Saltbush Avenue) will not be cutoff by flooding in all events up to and including the PMF
- rising flood egress along the access roads is available for both pedestrians and vehicles, and evacuation can occur in all stages of a flood event up to and including the PMF event
- Nelson Bay Ambulance Station is outside the PMF extents and reliable vehicular access from the development north of the sand dune to the station is available. The proposed evacuation route to the station is northwest via Frost Road, northeast via Nelson Bay Road, then west via Salamander Bay. The total distance to the station is approximately 4.9 km, and can be driven to in approximately five minutes from the site
- Gan Gan Road is trafficable in all events up to and including the PMF, and hence evacuation to Anna Bay is available up to and including the PMF
- residents should be aware of weather forecasts and warnings by subscribing to NSW State Emergency Service (SES), BOM, Early Warning Network and other relevant warning systems.





### Conclusion

The conclusion of the Flood Assessment report demonstrates the following:

- outside of proposed residential and road areas, flood conditions are largely unchanged from existing conditions, and future development does not materially alter local flood characteristics
- future development on the site can be made flood free in the 1% AEP flood (with and without climate change) and PMF events
- the elements that comprise future development on the site are above the FPL and PMF levels
- future development in accordance with the concept masterplan will have acceptable offsite flood impacts
- future development can be compatible with the existing floodplain environment
- safe evacuation and shelter-in-place is available on the site up to and including the PMF event
- compliance with the requirements of Ministerial Direction 4.1 Flooding can be achieved.
- a groundwater and surface water monitoring plan should be prepared at the development application stage.

### Wetland Hydrodynamic Assessment

A Wetland Hydrodynamic Assessment report has been prepared by Martens and Associates Pty Ltd to support the Planning Proposal. The report is a preliminary assessment to determine the likely impact of development anticipated under the Planning Proposal and the scope of any anticipated impact mitigation measures.

On the basis of the wetland hydrodynamic modelling undertaken, significant impacts on wetland ecology are not anticipated to occur due to the Planning Proposal. Whilst there are some areas where water levels and inundation durations are likely to increase, these changes are not material and will remain within the hydrological regime conditions currently experienced by the existing wetlands. The following conclusions are made:

- The existing wetland hydrodynamics in more frequent storm events (< 2 year ARI) are largely driven by direct rainfall over the wetland and groundwater conditions rather than upslope catchment flows.
- During more frequent storm events, overland flows are generally shallow and very slow moving. Areas of ponded water, often hydraulically disconnected, are common across the low lying poorly drained land that comprises the wetland ecosystem. Ponded areas may persist for up to 10+ days in lower lying areas.
- Under future conditions foreshadowed by the Planning Proposal, wetland hydrodynamics are not anticipated to materially change such that there would be an impact on the wetland.
- Whilst the impacts assessed in the report are not considered significant, there are a number of mitigation measures that can be considered during the development application stage. These include:
  - improving flow connectivity below internal access roads between residential
  - replacement overland flow paths where these are impacted by site filling works
  - design stormwater basins to spread flows where direct discharge to a watercourse is not possible.

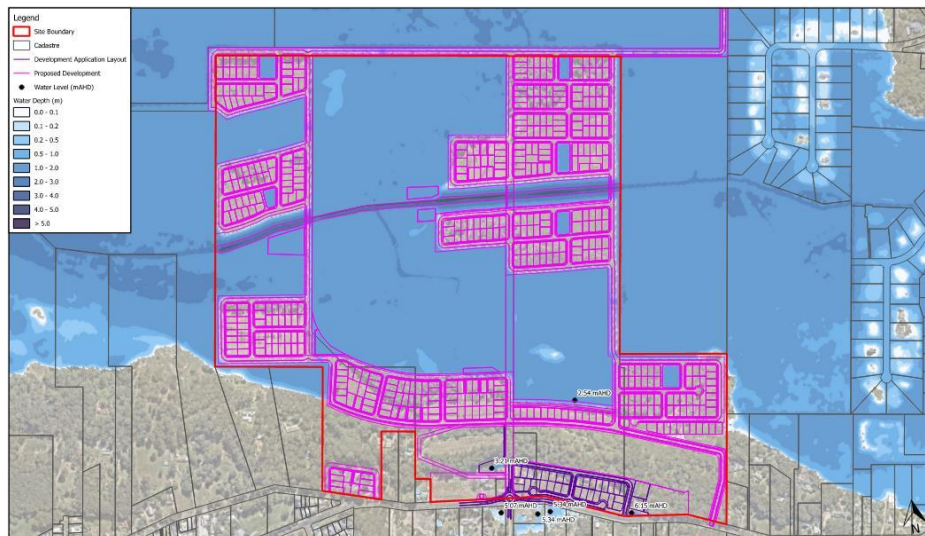


Figure 37: 1% AEP climate change enveloped results – proposed condition water level & water depth

Source: Martens and Associates

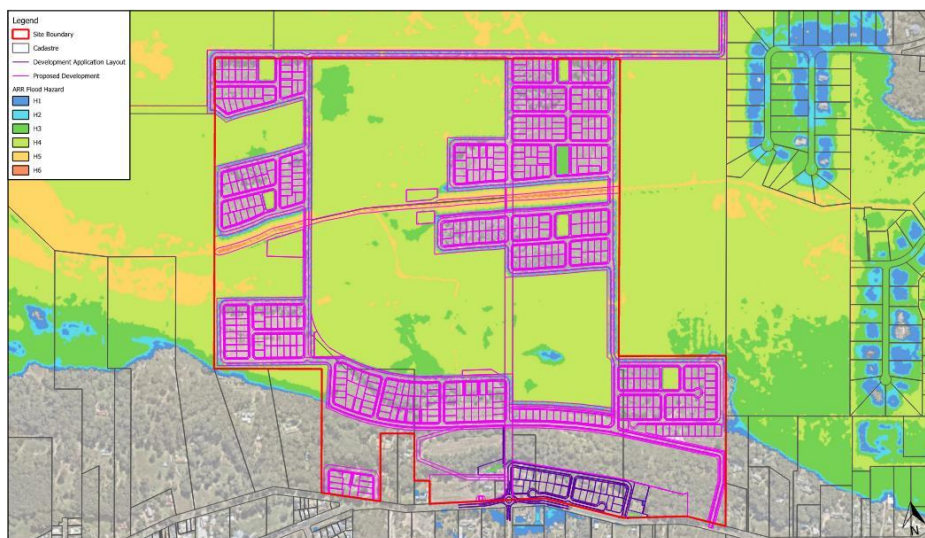


Figure 38: 1% AEP climate change enveloped results – proposed condition ARR flood hazard categories

Source: Martens and Associates



### Coastal management

The site is not identified on any of the following maps under the Resilience and Hazards SEPP 2021:

- coastal wetlands and littoral rainforests area map
- coastal vulnerability area map
- coastal environment area map
- coastal use area map.

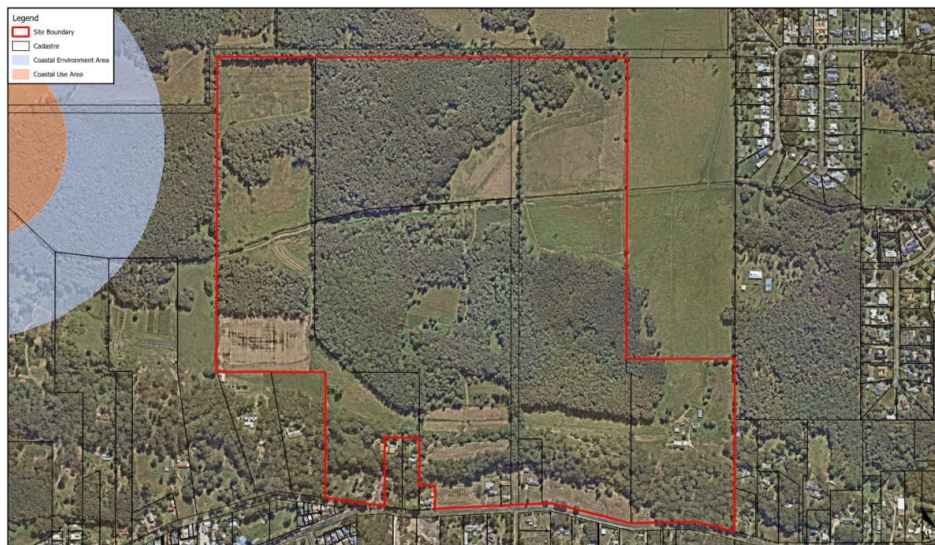
The nearest coastal wetland identified in the Resilience and Hazards SEPP is located approximately 600 m to the northeast of the site.

The site is also outside the boundaries of the Port Stephens Coastal Management Program.

However the site is impacted by tidal inundation, which maps the highest possible tidal water level that could occur, as well as coastal inundation, which is associated with storm resulting in storm surge and waves. The extent of tidal and coastal inundation reflects the 1% AEP flood extent.

Council requires the FPA is to be set to the 1% AEP flood with climate change plus 500 mm freeboard. The Flood Assessment report adopts Council's Coastal Management Program for increased climate change ocean levels which gives a more conservative 1% AEP climate change flood level on the site than the Council adopted Jacobs Flood Study. The adopted FPA is therefore conservative and demonstrates that the site can be developed as a result of the Planning Proposal.

The Flood Assessment report demonstrates that the proposed residential lots can be raised above the flood planning level (FPL) of 3.04 mAHD, being the 1% AEP (with climate change) plus 0.5 m freeboard. The proposed residential areas are also flood free in all events up to and including the PMF.



**Figure 39: Coastal zones**  
Source: Martens and Associates



### Geotechnical and Acid Sulfate Soils Assessment

A Geotechnical and Acid Sulfate Soils Assessment report has been prepared by Martens and Associates Pty Ltd in support the Planning Proposal.

#### Groundwater

The results of the groundwater monitoring are as follows:

- ground responds relatively rapidly to incident rainfall, which can cause groundwater to rise rapidly as water infiltrates the ground within the local area
- mean groundwater levels were generally reflective of surface topography, tending to be shallow ( $\approx 0.3$  mbgl) in low-lying areas to the north of the Sand Dune and deeper in the southern portion of the Site (to the south of Sand Dune), ranging typically between 2.2 m to 4.0 mbgl (0.3 to 2.2 mAHD)
- proposed cut for lot development (in the southeastern portion of the site) is unlikely to intercept the permanent groundwater table
- proposed cut for the channel widening and basins will likely intercept the permanent groundwater table. However, channel widening and basin construction is expected to be undertaken without the need for mechanical dewatering (i.e. pumping to draw down water levels). As a result, the altered channel and the basin are not expected to adversely affect current groundwater levels
- future residential subdivision is not expected to adversely impact (i.e. lower) the groundwater table on the site or on adjacent land.

#### Acid sulfate soils

The Port Stephens LEP 2013 maps the majority of the site as Class 3 land, with a small portion in the south of the site, along Gan Gan Road (including the Sand Dune), mapped as Class 4 land. Works on Class 3 land have the potential to pose an environmental risk, if works extend 1 m below the natural ground surface and are likely to lower the water table more than 1 m below the natural ground surface. On this basis, a preliminary geomorphic acid sulfate soils assessment was undertaken.

The assessment identified that there is widespread potential acid sulfate soils present across the areas of the site to the north of the sand dune. The sand dune and area south of the sand dune does not contain potential acid sulfate soils or actual acid sulfate soils.

The presence of potential acid sulfate soils within the site is expected to be appropriately managed during construction stage, subject to the above additional works being undertaken. Proposed cut for the channel widening and basin(s) construction may intercept the permanent groundwater table at the site. However, as excavation works are expected to be completed without mechanical dewatering, these works and the future residential subdivision in general are unlikely to adversely impact (i.e. lower) the groundwater table at the site and neighbouring lands. If, however, any future dewatering works (either temporary or long term) are proposed as part of future development works, they will require a detailed assessment of the impact of dewatering on site potential acid sulfate soils and any neighbouring Class 1 – 4 mapped land.

The report identifies the following potential hazards with regards to acid sulfate soils:

- unmanaged potential acid sulfate soils material being exposed to air and acidifying following excavation works
- groundwater level changes as a result of drainage modification works (basins and channel widening) potentially impacting groundwater and surface water quality
- construction of dwelling footings being impacted by acid sulfate soils.

These hazards can be managed to result in a low risk via mitigation measures.

The report concludes that future residential subdivision is likely to result in negligible impacts on the existing groundwater system and pose minimal environmental risk as a result of acid sulfate soils, subject to implementation of an acid sulfate soils management plan and recommendations presented in the assessment report at the development application stage.





#### Geotechnical assessment

The assessment report considered the geotechnical conditions at the site. It found that the risk of land-sliding as a result of the future development or risk of slope instability impacting future development is expected to be low subject to the recommendations presented in the report and adoption of relevant Australian Standards and industry guidelines.

The assessment report provides recommendations for future residential subdivision relating to the following:

- sand dune hillslope engineering practices for future construction
- site preparation and earthworks
- long term settlement management
- drainage requirements
- soil erosion control
- site classification
- construction considerations.

It recommends additional geotechnical assessment is carried out at the development applications stage to further develop and support the final design. The assessment report does not identify that the Planning Proposal can't proceed.

#### Land contamination

A Preliminary Site Investigation report was prepared by Martens and Associates in support of the Planning Proposal. The report investigated the following:

- historical and current activities and uses on the site and the adjacent land which could potentially result in land contamination
- areas of environmental concern and associated contaminants of potential concern to assist the concept masterplan
- the suitability of the site for the proposed land uses and any recommendations for additional investigation.

It was completed using information obtained from a desktop study, site inspection observations and review of historical aerial photography and past environmental investigation reports.

The report found:

- there is no NSW Environment Protection Authority or Department of Defence records of contamination on the site
- the Planning Certificates for each lot on the site do not identify matters relating to contaminated land under section 59(2) of the *Contaminated Land Management Act 1997*
- there are no potentially contaminating activities within 500 metres of the site
- there is a low potential risk posed by PFAS contaminants to be present on the site
- there is no evidence of stored chemicals or waste observed on the site
- there is no visible soil staining, odour or other indicators of contamination on the site.

It found the potential contamination sources on the site include:

- fill material (including stockpiles) from past construction / development or raising levels for vehicle access
- horticultural land use within the site from historical activities
- former and existing buildings and structures.

#### Conclusion

The report concludes that the potential land contamination risks to human health and ecology will require further characterisation. However, based on the current available site data, it is unlikely that significant site wide contamination will be identified in future investigation works that would preclude the proposed future land uses. The additional site investigation and (if required) remediation can be completed at the development application stage. Subject to future investigations, the report concludes that the site can be made suitable for the proposed residential land uses.



### Bushfire

The site is impacted by bushfire prone land, including category 1, category 3, and buffer area bushfire risk categories. The category 1 land generally follows the pattern of dense vegetation across the site. As such, a Strategic Bushfire Study report has been prepared by Blackash Bushfire Consulting in support of the Planning Proposal. The study considers the suitability of the Planning Proposal with respect to bushfire risk within and affecting the site.

The report finds that the Planning Proposal has been designed to meet the bushfire requirements of the *Environmental Planning and Assessment Act 1979*, specifically Ministerial Direction 4.3 Planning for Bush Fire Protection. The report demonstrates compliance with Planning for Bushfire Protection 2019, that the proposed zoning is appropriate to allow for adequate emergency access, egress, and water supplies, and to ensure that future compliance with Planning for Bushfire Protection is achievable.

The concept masterplan has been designed with the intent of creating a bushfire resilient community. A bushfire ring road has been indicated along the site's perimeter in accordance with the requirements of NSW Rural Fire Service 'Planning for Bushfire Protection 2019'. The concept masterplan demonstrates that appropriate asset protection zones, access and egress, and infrastructure can be delivered.

### Conclusion

The study found that the Planning Proposal can satisfy the Aim, Objectives and requirements within Planning for Bushfire Protection to provide for the protection of life and the minimisation of impact on property, while having due regard to the development potential, site characteristics and protection of the environment.

The study provides a conservative assessment of bushfire risk and followed the Aim and Objectives of Planning for Bushfire Protection, Section 2.3 Strategic Planning, and specifically addressed the requirements of Chapter 4 – Strategic Planning. In meeting the requirements of Planning for Bushfire Protection, the Planning Proposal also satisfies the requirements of the Ministerial Direction 4.3 Planning for Bushfire Protection. The suitability of the Planning Proposal has considered the broad landscape scale risk and the site-specific requirements of Planning for Bushfire Protection.

The study found that the Planning Proposal can satisfy the detailed criteria to be assessed at the development application. All future development will be supported by Asset Protection Zones to meet the minimum standard of <29kW/m<sup>2</sup> at building exposures and will be further assessed at the development application stage. The Planning Proposal meets the Acceptable Solution requirements of Planning for Bushfire Protection and should be supported with respect to bushfire risk management.

The study concludes that the Planning Proposal will result in suitable uses on the site, and the bushfire protection measures demonstrated in the report comply with the Aim and Objectives of Planning for Bush Fire Protection 2019, the Ministerial Direction 4.3 Planning for Bush Fire Protection, and allows for the site to be rezoned with respect to bushfire matters.





Figure 40: Acceptable solution APZ

Source: Blackash Bushfire Consulting



Figure 41: Bushfire Attack Level (BAL) assessment

Source: Blackash Bushfire Consulting





### Agricultural Assessment and Land Use Conflict Risk Assessment

An Agricultural Assessment and Land Use Conflict Risk Assessment (LUCRA) report was prepared by Minesoils in support of the Planning Proposal. The report considers:

- the agricultural productive value of the land as well as the anticipated impacts to agriculture as a result of future development enabled by the Planning Proposal
- the potential land use conflicts between the proposed urban zones and the adjoining rural zoned land.

The report did not identify any agricultural or land use conflict constraints to future development enabled by the Planning Proposal. It found no agricultural activity currently on the site and no sensitive agricultural activities on adjacent land. The report identifies the following key impacts on agricultural land:

- land uses immediate to the site and broader locality will not change as a result of the Planning Proposal, and there will be no fragmentation or displacement of existing agricultural enterprises or industries
- the Planning Proposal will permanently remove 50 ha of agriculturally capable land, resulting in the permanent removal of an estimated \$52,550 per year. This represents 0.1% of the gross value of agriculture in the Port Stephens LGA
- the Planning Proposal will not negatively impact any existing agricultural enterprise outside of the site
- the Planning Proposal will have a negligible impact on local, regional and state agricultural services
- the Planning Proposal will not impact critical mass thresholds of agricultural enterprises needed to attract and maintain investment in agricultural service industries and infrastructure
- there will be no direct or indirect impacts to the soil resources in the locality outside the site
- no impacts are anticipated on the availability of current water resources used by neighbouring landholders
- the Planning Proposal will have a negligible impact on local and regional agricultural infrastructure
- there is unlikely to be any impacts from on agriculture that can't be managed on the site from pest species, biosecurity, air quality and dust, traffic and noise and vibration.

### Conclusion

The report established the potential productivity of the site, identified the key land use conflicts risks associated with the Planning Proposal, and determined the key impacts to agriculture as a result of the proposal. The report identifies the following key findings:

- the site contains low quality agricultural resources and limited agricultural capability
- the LUCRA identified eight high and medium risk potential perceived or actual conflicts
- the impacts on agriculture as a result of the Planning Proposal are determined to be permanent but limited to the site only. These impacts are summarised as the following:
  - permanent removal of approximately 50 ha of land capable for agricultural use, representing 0.4% of land used for agriculture in Port Stephens LGA
  - permanent removal of potential agricultural primary productivity to the estimated value of up to \$52,550 per year, representing 0.1% of gross commodities value of agriculture within the Port Stephens LGA
  - permanent impacts to soil resources and agricultural capability within the site where surface disturbance occurs, noting existing low quality of soil resources and limited agricultural capability.

Based on these findings, the conclusions of the assessment are as follows:

- there are several potential moderate and high risk land use conflicts relating to the Planning Proposal. However, these potential conflicts are determined to be consistent with existing potential residential development and agricultural land use conflicts in the site locality
- impacts to agriculture as a result of the Planning Proposal is considered negligible.



6.2.1.3 Q10. *Has the planning proposal adequately addressed any social and economic effects?*

**Housing needs**

A Housing Needs Assessment report has been prepared by Hill PDA in support of the Planning Proposal. The report considers the strategic policy context and undertakes a review of the socio-demographic and housing characteristics in the study area, which is defined as the Anna Bay SA2. The intent of the report is to inform the justification for additional residential housing in the local area to meet the current and future needs of the population.

This assessment is based on the principles and findings from various strategic planning policies, including:

- meeting anticipated residential demand growth in Anna Bay
- increasing housing density in the LGA (in suitable locations)
- providing more diverse housing
- addressing housing affordability concerns
- providing accessible housing (including for seniors and people with a disability).

The report provides population and housing projections for the study area and Port Stephens LGA. This is then used to develop a projection of the future residential population on the site resulting from the Planning Proposal. The concept masterplan demonstrates that the site could accommodate 584 dwellings with a projected population of 1,402 people.

The key findings of the report are outlined below.

- Population projections for the local area and LGA suggest a trend toward smaller household sizes, signalling a need for a greater number of smaller dwellings in the area in the future.
- The surrounds and LGA have a low proportion of medium and high density housing, with separate house overwhelmingly being the dominant typology. The Planning Proposal will assist in increasing housing diversity in the local area and LGA, aligning with strategic directions to increase housing diversity.
- By increasing housing diversity, the proposal will assist in meeting a need for a wider variety of dwellings types and sizes, enabling residents to remain part of the community as their requirements change (most particularly, enabling ageing in place).
- Rental data indicates that all property types have demonstrated an increase in median weekly rent, and median rent for townhouses has increased the most. Bonds lodged on flats and townhouses have been consistently lower than separate houses. This suggests that an increased amount of smaller dwellings in the market could aid in improving local affordability, particularly with the local rates of rental and mortgage stress.
- The Planning Proposal will assist in improving alignment between housing stock and household size, with small households being overrepresented in separate dwellings, suggesting an unmet demand for smaller sized dwellings. Indeed, at the 2021 Census, almost 14 per cent of separate dwellings within the study area had three or more spare bedrooms, again suggesting a mismatch in the size and diversity of dwellings being delivered within the area.
- This misalignment is also highlighted in the Port Stephens LHS, with the proposal supporting the delivery of the strategy providing opportunities to improve housing affordability in the area by adding to the local housing supply and allowing existing residents to downsize, positively impacting the supply of larger homes for families looking to live in the area.



### Social and community needs

A Community Infrastructure Needs Assessment report has been prepared by Hill PDA in support of the Planning Proposal. The report presents an assessment of the current and projected social infrastructure needs associated with the projected 584 new dwellings and 1,402 population generated by the Planning Proposal.

The assessment considered infrastructure needs at a local 800 m walking catchment of the site and a district catchment across the Tomaree Peninsula. It considered the supply of the following types of infrastructure:

- child care facilities: long day care, preschools and outside hours school care
- community facilities: libraries, community halls and centres, and arts and cultural facilities
- open space and recreation facilities: parks, sportsgrounds, playgrounds and sports courts/facilities.

### Child care facilities

The report states that the Planning Proposal generates an increased demand of 12 local day care places, 23 preschool places and 20 outside school hours care places. It found that there is sufficient capacity within existing local day care places and outside school hours care facilities, however, there is limited child care facilities. It found that one additional preschool facility is required as a result of the Planning Proposal. This can be provided on the site by future landowners as centre-based child care facilities and home-based child care facilities are permitted with consent in the proposed R2 Low Density Residential zone under Port Stephens LEP.

### Community facilities

The report states that the Planning Proposal does not generate demand for any additional community facilities, based on the relatively small increase in population expected on the site and the proximity to an existing community hall. There is an existing need within the LGA for an arts and cultural space, which is not generated solely by the Planning Proposal.

### Open space and recreation

The report states that the projected population will generate a negligible demand on the majority of categories of open space and recreation needs. There is sufficient local open space within the local catchment surrounding the site. However, the report found that the Planning Proposal generates demand for the following categories of open space and recreation:

- 0.8 ha for a district sportsground
- 1 playground facility
- 1 tennis court facility (or equivalent sports court).

It is envisaged that the details around the provision of these facilities will either be by the Port Stephens contributions framework or a future planning agreement.



## 6.2.2 Section D – Infrastructure (Local, State and Commonwealth)

### 6.2.2.1 Q11. Is there adequate public infrastructure for the Planning Proposal?

An Infrastructure Servicing Assessment report has been prepared by Martens and Associates in support of the Planning Proposal. The scope of the assessment includes the following:

- determine the availability of existing utility services adjacent to the site
- estimate water and sewer generation rates from future development
- advise on the likely capacity of the existing services infrastructure to service future development
- consider infrastructure delivery requirements.

#### Water supply

There is existing water supply infrastructure in the vicinity of the site. Preliminary servicing advice obtained from Hunter Water identifies that there is currently sufficient capacity in the local water supply network to service future development, subject to a formal Water Servicing Report confirming the development connection points, security of supply, pressure management and staged servicing requirements.

Preliminary network modelling was undertaken to assess demand to determine the adequacy of existing water supply infrastructure and likely augmentation required to service future development. It concluded the following:

- there is sufficient flow and minimum pressure available at the most hydraulically disadvantaged lot for all stages of future development shown on the concept masterplan
- most of the potable water demand on the site is drawn from the existing Main A, with the maximum demand on the existing Main D being in the order 3 – 4 L/s.

#### Sewer

There is existing sewerage connection and system components in the vicinity of the site. Preliminary servicing advice obtained from Hunter Water identifies that the existing Boulder Bay Wastewater Treatment Plant has sufficient capacity to service future development. A Wastewater Servicing Strategy will be required to confirm the available network capacity and likely system upgrades required to service all stages of future development.

The strategy proposes a pressure sewer system to be used for future development, given the site topography is relatively flat and elevations to the north of the sand dune are generally of the order of 2-3 metres AHD.

The report assessed the likely minimum site sewer requirements, including likely infrastructure requirements, connection points to the existing Hunter Water reticulated sewerage system and likely upgrades required to the existing Hunter Water services. It found the following:

- early stages of future development will be directed to the existing system servicing Anna Bay via a new pressure main along Gan Gan Road
- later stages will be serviced by a pressure sewer, with each dwelling pumping to a main, directing flows to a new Sewage Pumping Station (SPS) on the site, likely in the north-east corner of the site. The new SPS will pump sewage to the One Mile SPS and will require a new dedicated main, approximately 1.5 km in length. It is likely that One Mile SPS and downstream rising mains may require upgrading, depending on further discussions with Hunter Water and detailed study at the development application stage
- design of the reticulated site sewer for each stage will be completed at the development application stage.





### **Electricity supply**

Preliminary servicing advice has been obtained from Ausgrid as the local electricity supplier to the site. It advises that:

- new underground high and low voltage cables, conduits, pillar, streetlights and substations will be required, with underground electricity reticulation the preferred option
- the existing 11 kV network has sufficient capacity to supply the expected additional load (estimated to be approximately 2 MVA)
- any load greater than 2 MVA will require augmentation of the existing 11 kV.

A detailed design of the reticulated electricity network servicing the site is required at the development application stage.

### **Telecommunications and broadband**

Telstra is required to provide reticulated telecommunications services to all stages of future development. It is anticipated that telecommunications will be provided in underground conduits within site road reserves, with pits provided to enable individual property connections as required.

Similarly, NBN is present in the Gan Gan Road reserve adjacent to the site. As such, reticulated NBN will also be available to all site stages and will also likely be contained within underground conduits within site road reserves.

Detailed design of telecommunications and NBN supply works will be required at detailed design stage of the development.

### **Gas**

Reticulated gas supply is not available at the site and unlikely to be available in the near future.

### **Stormwater drainage**

Road stormwater drainage will be required for all stages of future development. This will include:

- formalised concrete kerbs (barrier or roll kerb) and associated roadside gutters
- pit and pipe drainage including inlet and outlet works
- water quantity and quality control works (i.e. energy dissipation / erosion controls, water quality measures such as gross pollutant traps, wetlands, bioremediation basins, etc.).

Stormwater drainage design will be required at detailed design stage of the development and be subject to the requirements of Port Stephens Council engineering specifications and Port Stephens Council (2021) Development Control Plan. A Conceptual Stormwater Management Strategy has been prepared by Martens and Associates to support the Planning Proposal and has informed the concept masterplan.

### **Conclusion**

The Infrastructure Servicing Assessment report confirms that there is adequate public infrastructure available to servicing future residential land uses resulting from the Planning Proposal. The upgrades and provision of new infrastructure to cater for the increased demand of new residents is likely to be staged in line with the delivery model at the development application stage. The single ownership of the site enables this infrastructure to be coordinated and delivered as part of an overall site wide masterplanned development.



### 6.2.3 Section E – State and Commonwealth Interests

#### 6.2.3.1 Q12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

Preliminary consultation occurred with relevant State agencies as part of the pre-lodgement scoping meeting. Further consultation with relevant State and Commonwealth authorities will be undertaken during the assessment of the Planning Proposal.

#### Preliminary consultation

On 7 March 2024, preliminary engagement was undertaken between the proponent and Council Officers. Matters discussed concerned the proposed concept masterplan, housing opportunities on the site and the unique opportunities the site presents in terms of strategic location and community benefits. At that meeting, Council Officers provided the following feedback to the proponent:

- the draft revised Local Housing Strategy does not specifically identify the site for housing opportunity
- the major constraints on the site relate to flooding and stormwater management, biodiversity and bushfire
- Council has prepared a draft Coastal Management Program that will need to be considered in preparing the planning proposal request
- a Scoping Report pre-lodgement meeting is required in accordance with the LEP Making Guideline.

#### Scoping Report

On 19 April 2024, a Scoping Report was submitted to Council requesting a pre-lodgement meeting. The Scoping Report provided an overview of the concept masterplan and strategic merit of the intended planning proposal, as well as a discussion on the site-specific considerations and how these are intended to be addressed within the planning proposal request. It was acknowledged that detailed technical studies have not been provided for review and as such, detailed feedback could not be provided by Council or other authorities at this stage on these matters.

#### • Strategic Merit

The Scoping Report addressed the capability of the project to demonstrate strategic merit against the Hunter Regional Plan 2041, the Local Strategic Planning Statement, and the draft revised Local Housing Strategy. It outlined the following strategic merit matters for discussion at the pre-lodgement meeting:

- consistency with the Hunter Regional Plan 2041
- consistency with the LSPS
- consistency with the revised Local Housing Strategy.

#### • Site-Specific Merit

The Scoping Report identified a number of site constraints that are required to be managed as part of the planning proposal, particularly flooding, biodiversity and bushfire risk. It outlined the following site-specific merit matters for discussion at the pre-lodgement meeting:

- flooding
- biodiversity
- bushfire
- land use zones and density
- land reservation acquisition
- concept masterplan and supporting documentation.



#### Scoping Report feedback and pre-lodgement meeting

On 2 July 2024, Council Officers provided written feedback on the scoping proposal, followed by a pre-lodgement scoping meeting on 18 July 2024. A copy of the letter is provided as an attachment to the Planning Proposal. The letter states that the Scoping Report was referred to the following State government agencies for advice:

- NSW Department of Planning, Housing & Infrastructure (DPHI)
- NSW Department of Climate Change, Energy, the Environment and Water (Biodiversity and Conservation Division) (BCD)
- NSW Department of Planning, Housing & Infrastructure (Crown Lands)
- NSW Department of Primary Industries – Agriculture (DPI Agriculture)
- NSW Department of Primary Industries - Fisheries (DPI Fisheries)
- Transport for NSW (TfNSW)
- NSW Department of Planning, Housing & Infrastructure (Heritage NSW)
- Hunter Water Corporation (HWC)
- NSW State Emergency Service (SES)
- NSW Rural Fire Service (RFS)
- NSW Department of Education, School Infrastructure (Education)
- Anna Bay Drainage Union
- NSW Department of Health (Health) (no response was received).

A summary of the State government agencies responses is provided below, with a Planning Proposal response.

**Table 19: Response from State agencies to the Scoping Report**

| State agency | Response  | Planning Proposal response  |
|--------------|---|---|
| DPHI         | Inconsistent with Objective 7 of the Hunter Regional Plan 2041  | Justification addressed in the Planning Proposal.   |
|              | Need to address consistency with Ministerial Directions   | Consistency with Ministerial Directions addressed.  |
| Crown Lands  | Transfer of affected Crown roads to Council where required for the public road network.                   | Noted.  |
| BCD          | <b>Biodiversity</b>   |   |
|              | Demonstrate consistency with Ministerial Direction 3.1 Conservation Zones                                 | Consistency with Ministerial Direction 3.1 Conservation Zones considered.   |
|              | The Hunter Regional Plan requires protection of areas of High Environmental Value                         | An BCAR and BDAR have been prepared in support of the Planning Proposal that considers biodiversity impacts, threatened entities, the CKPoM and wildlife corridors. |
|              | Avoid and minimise impacts to biodiversity  |   |
|              | The proposal will likely impact threatened entities that have been recorded on the site                   |   |
|              | Inconsistent with the Port Stephens Comprehensive Koala Plan of Management (CKPoM)                        |   |
|              | Inconsistent with the Anna Bay Strategy and Town Plan   |   |
|              | Potential impact to wildlife corridors that link the Tomaree Peninsula with the Worimi Conservation Lands |   |
|              | Likely indirect impacts from changes to hydrological conditions and edge effects                          |   |
|              | <b>Flooding</b>   |   |

## ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL REPORT.



|                         |  |  |
|-------------------------|--|--|
|                         | Not consistent with Ministerial Direction 4.1 Flooding   | A Flood Assessment has been prepared in support of the Planning Proposal that considers Ministerial Direction 4.1 Flooding.  |
|                         | <b>Coastal Management</b>  |  |
|                         | Inconsistent with Ministerial Direction 4.2 Coastal Management   | Inconsistency with Ministerial Direction 4.2 Coastal Management justified in the Planning Proposal.  |
| SES                     | The proposal will increase the number and exposure of residents to flood risk  | A Flood Assessment has been prepared in support of the Planning Proposal that considers Ministerial Direction 4.1 Flooding. It demonstrates that residential development can occur on filled pads above the PMF and that future residents can be safely evacuated. |
|                         | The proposal will likely result in an increase in government spending on emergency management services, flood mitigation and emergency response measures, and transfer the flood risk to SES for warning, evacuation and potential rescue  |  |
|                         | Ensure fill does not create High Flood Islands   |  |
|                         | Critical infrastructure must be located above the PMF  |  |
|                         | Subdivision design must provide rising road access from all lots   |  |
|                         | Prepare a Flood Impact Risk Assessment to address existing and post-development conditions   |  |
|                         | Consider flood warning and evacuation demand on the road network   |  |
|                         | Seek advice from BCD on flood behaviour  |  |
|                         | Consider consistency against Ministerial Direction 4.1 Flooding  |  |
| Anna Bay Drainage Union | <b>Flooding</b>  | A Flood Assessment has been prepared in support of the Planning Proposal that addresses these matters.   |
|                         | Reference current flood mapping  |  |
|                         | The site is subject to flooding from the local sub catchment and wider Anna Bay catchment  |  |
|                         | Flooding is caused by significant intermittent rainfall events and geomorphology and hydrology   |  |
|                         | Lived experience if inundation from a 1:100 year ARI does not correlate with modelling   |  |
|                         | The site has historically required SES rescues following rain events   |  |
|                         | Introduction of fill will increase flooding on neighbouring properties   |  |
|                         | Consider: <ul style="list-style-type: none"> <li>potential flooding from the Hunter River</li> <li>rainfall increase, runoff intensities and sea level risk</li> <li>resilience of infrastructure and services to rising sea levels</li> <li>advice from BCD and NSW Flood Inquiry 2022</li> <li>longitudinal study with input from community on lived experience to understand inundation</li> <li>engage with DPI Fisheries</li> <li>seek approval for flood gates to be installed</li> <li>how development will not adversely affect neighbouring residences</li> </ul> |  |
|                         | <b>Bushfire</b>  |  |

## ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL REPORT.



|                 |  |  |
|-----------------|--|--|
|                 | Consider the peat swamp on the site during construction and occupation, which has previously caught fire   | Noted.   |
|                 | <b>Acid Sulfate Soils</b>  |  |
|                 | Proposed development will potentially significantly impact acid sulfate levels of the Main Drain and Tilligerry Creek  | A Geotechnical and Acid Sulfate Soils Assessment has been prepared in support of the Planning Proposal. It concludes that there is no impediment to the Planning Proposal proceeding, with further assessment required at the development application stage. |
|                 | Consider: <ul style="list-style-type: none"> <li>whether acidification of soils will expand or intensify</li> <li>impacts on drain water quality, volumes and marine environment</li> <li>cumulative impacts</li> </ul>  |  |
| DPI Fisheries   | Key considerations: <ul style="list-style-type: none"> <li>Key fish habitat</li> <li>Acid sulfate soils and drainage issues</li> <li>Potential direct impacts to key fish habitat and indirect impacts to water quality within the marine park sanctuary zone and priority oyster aquaculture</li> </ul> | The Planning Proposal is supported by the following reports: <ul style="list-style-type: none"> <li>Flood Impact Assessment</li> <li>Stormwater Management Strategy</li> <li>Riparian Management Strategy</li> <li>BCAR and BDAR.</li> </ul>                 |
|                 | Existing drainage network is inadequate to meet demand   |  |
|                 | Assess potential impacts on aquatic habitat assessment and ground and surface water hydrological assessment  |  |
| Heritage NSW    | Assess likelihood of relics and management requirements  | There are no non-indigenous heritage items on the site. An Aboriginal Cultural Heritage Assessment report has been prepared in support of the Planning Proposal.   |
|                 | Prepare an Aboriginal Cultural Heritage Assessment   |  |
|                 | Consider impacts to the Aboriginal cultural landscape, including visual corridors  |  |
|                 | Identify measures to limit Aboriginal cultural landscape values  |  |
|                 | Develop management, mitigation and conservation mechanisms on Aboriginal cultural heritage   |  |
| RFS             | Provide a Bushfire Risk Assessment addressing Planning for Bushfire Protection 2019  | A Strategic Bushfire Study has been prepared in support on the Planning Proposal demonstrating consistency with Planning for Bushfire Protection 2019 and Ministerial Direction 4.3.   |
|                 | Consider public road access  |  |
|                 | Demonstrate consistency with Ministerial Direction 4.3 Planning for Bushfire Protection  |  |
| TfNSW           | Provide a Traffic and Transport Strategy   | A Traffic Impact Assessment has been prepared in support of the Planning Proposal.   |
| HWC             | A preliminary advice letter has been provided to the proponent   | Noted  |
| Education       | Growth can be accommodated within existing schools at Anna Bay Primary School and Tomaree High School  | Noted  |
|                 | Consider NSW Government's Movement and Place Framework and bus-capable roads to support access to schools  |  |
| DPI Agriculture | The site is not biophysically high-quality agricultural land, but the area is capable and appears to be used for some agricultural purposes  | An Agricultural Assessment and Land Use Conflict Risk Assessment report has been prepared in support of the Planning Proposal.   |
|                 | Agricultural activities exist on the site  |  |
|                 | Undertake a Land Use Conflict Risk Assessment consistent with Strategy 9.6 of the Hunter Regional Plan   |  |



## 7 Part 4 – Maps

The table below outlines the proposed amendments to the Port Stephens LEP 2013 maps. The draft maps are included as an attachment to this Planning Proposal.

**Table 20: Schedule of map amendments**

| Map                              | Current Control  | Proposed Control   |
|----------------------------------|--|--|
| Land Zoning Map                  | <ul style="list-style-type: none"> <li>Part RU2 Rural Landscape</li> <li>Part C3 Environmental Management</li> <li>Part R2 Low Density Residential.</li> </ul>   | <ul style="list-style-type: none"> <li>Part C3 Environmental Management</li> <li>Part RE1 Public Recreation</li> <li>Part R2 Low Density Residential.</li> </ul>   |
| Lot Size Map                     | <ul style="list-style-type: none"> <li>20 ha on the C3 Environmental Management zoned land and the majority of the RU2 Rural Landscape zoned land</li> <li>4 ha on the RU2 Rural Landscape zoned land on Lot 1 DP 503876, 321 Gan Gan Road, Anna Bay</li> <li>500 sqm on the R2 Low Density Residential zoned land.</li> </ul> | <ul style="list-style-type: none"> <li>500 sqm on the proposed R2 Low Density Residential zoned land</li> <li>The following minimum lot sizes on land proposed as C3 Environmental Management, which reflects the location on the concept masterplan: <ul style="list-style-type: none"> <li>1 ha</li> <li>2 ha</li> <li>4 ha</li> <li>10 ha.</li> </ul> </li> </ul> |
| Height of Buildings Map          | <ul style="list-style-type: none"> <li>No maximum height of buildings control applying to the RU2 Rural Landscape and C3 Environmental Management zoned land</li> <li>9 m maximum height of buildings control for the R2 Low Density Residential zoned land.</li> </ul>  | <ul style="list-style-type: none"> <li>9 m maximum height of buildings control for the proposed R2 Low Density Residential zoned land.</li> </ul>  |
| Land Reservation Acquisition Map | <ul style="list-style-type: none"> <li>No part of the site is identified on the Land Reservation Acquisition Map.</li> </ul>   | <ul style="list-style-type: none"> <li>The part of the site proposed to be zoned RE1 Public Recreation is identified as Local Open Space in which Council is the relevant acquisition authority.</li> </ul>  |
| Urban Release Area Map           | <ul style="list-style-type: none"> <li>The part of the site zoned R2 Low Density Residential is mapped as an Urban Release Area.</li> </ul>  | <ul style="list-style-type: none"> <li>The part of the site proposed to be zoned R2 Low density Residential.</li> </ul>  |





## 7.1 Existing Land Zoning Map



### LEGEND:

#### Zone

- SP2 INFRASTRUCTURE
- RU2 RURAL LANDSCAPE
- R2 LOW DENSITY RESIDENTIAL
- R5 LARGE LOT RESIDENTIAL
- RE1 PUBLIC RECREATION
- RE2 PRIVATE RECREATION
- B2 LOCAL CENTRE
- C1 NATIONAL PARKS & NATURE RESERVES
- C2 ENVIRONMENTAL CONSERVATION
- C3 ENVIRONMENTAL MANAGEMENT
- C4 ENVIRONMENTAL LIVING
- SUBJECT SITE

Figure 42: Existing Land Zoning Map

Source: BKA Architecture

## 7.2 Proposed Land Zoning Map



### LEGEND:

#### Zone

- SP2 INFRASTRUCTURE
- RU2 RURAL LANDSCAPE
- R2 LOW DENSITY RESIDENTIAL
- R5 LARGE LOT RESIDENTIAL
- RE1 PUBLIC RECREATION
- RE2 PRIVATE RECREATION
- B2 LOCAL CENTRE
- C1 NATIONAL PARKS & NATURE RESERVES
- C2 ENVIRONMENTAL CONSERVATION
- C3 ENVIRONMENTAL MANAGEMENT
- C4 ENVIRONMENTAL LIVING
- SUBJECT SITE

Figure 43: Proposed Land Zoning Map

Source: BKA Architecture



### 7.3 Existing Lot Size Map



**LEGEND:**  
Minimum Lot Size (sq m)

|              |
|--------------|
| 500          |
| W 4000       |
| Y 1ha        |
| Z1 2ha       |
| Z2 4ha       |
| AB1 10ha     |
| AB2 20ha     |
| AB3 40ha     |
| SUBJECT SITE |

Figure 44: Existing Lot Size Map

Source: BKA Architecture

### 7.4 Proposed Lot Size Map



**LEGEND:**  
Minimum Lot Size (sq m)

|              |
|--------------|
| 500          |
| W 4000       |
| Y 1ha        |
| Z1 2ha       |
| Z2 4ha       |
| AB1 10ha     |
| AB2 20ha     |
| AB3 40ha     |
| SUBJECT SITE |

Figure 45: Proposed Lot Size Map

Source: BKA Architecture



## 7.5 Existing Height of Buildings Map



Figure 46: Existing Height of Buildings Map  
Source: BKA Architecture

## 7.6 Proposed Height of Buildings Map

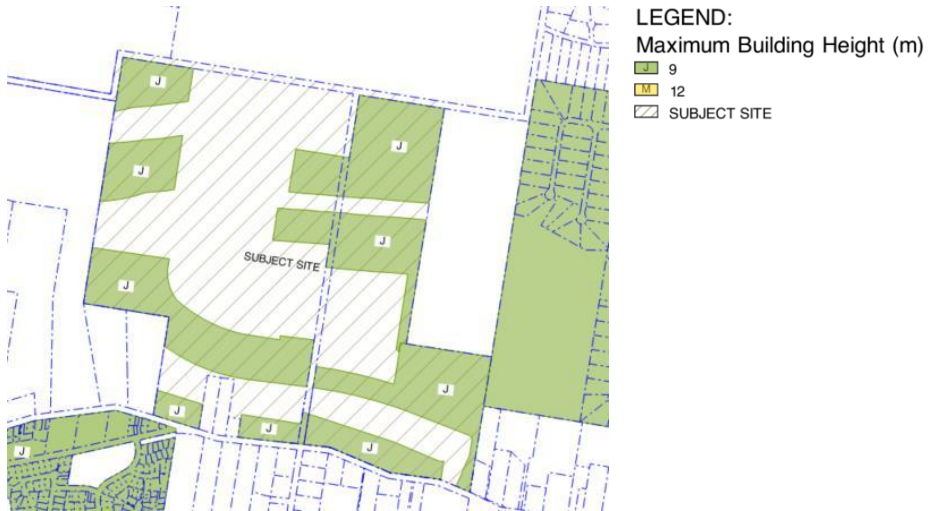


Figure 47: Proposed Height of Buildings Map  
Source: BKA Architecture



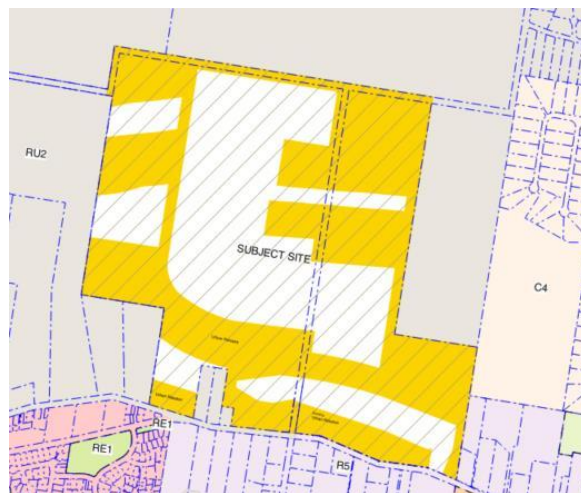
### 7.7 Existing Urban Release Area Map



LEGEND:  
Urban Release Area  
Urban Release Area  
SUBJECT SITE

Figure 48: Existing Urban Release Area Map  
Source: BKA Architecture

### 7.8 Proposed Urban Release Area Map



LEGEND:  
Urban Release Area  
Urban Release Area  
SUBJECT SITE

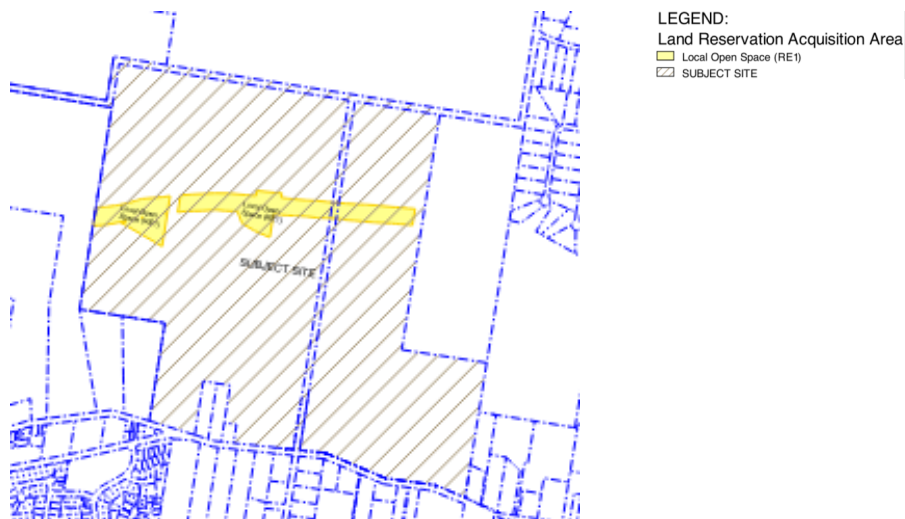
Figure 49: Proposed Urban Release Map  
Source: BKA Architecture



## 7.9 Existing Land Reservation Acquisitions Map

N/A

## 7.10 Proposed Land Reservation Acquisitions Map



**Figure 50: Proposed Land Reservation Acquisition Map**

Source: BKA Architecture

## 8 Part 5 – Community consultation

The Planning Proposal will be made publicly available following issue of a Gateway determination by DPHI. The public exhibition of the Planning Proposal will be undertaken in accordance with Council's Community and Engagement Strategy and conditions of the Gateway determination.





## 9 Part 6 – Project timeline

The LEP Making Guideline includes 'benchmark timeframes' (working days) for the preparation, progress and determination of a planning proposal. The benchmark timeframes are the maximum length of time each stage in the process is expected to take. The timeframes for which an LEP is made is determined by DPPI and set out in the Gateway determination.

The Planning Proposal is classified as 'complex' under the LEP Making Guideline. Complex planning proposals have a maximum benchmark timeframe of 420 days (excluding Stage 1 – Pre-lodgement). Based on the benchmark timeframes, the anticipated timeframe for completion of the Planning Proposal is outlined in the table below.

**Table 21: Indicative project timeline for complex planning proposal**

| Stage   | Timeframe       | Date                     |
|---|-----------------|--------------------------|
| <b>Stage 2 – Planning Proposal</b>                      | <b>120 days</b> |                          |
| Lodgement of the Planning Proposal                      |                 | December 2024            |
| Consideration by Council                                |                 | January 2024-March 2025  |
| Council decision  |                 | April 2025               |
| Issue to DPPI for Gateway Determination                 |                 | April 2025               |
| <b>Stage 3 – Gateway determination</b>                  | <b>45 days</b>  |                          |
| Gateway determination                                   |                 | June 2025                |
| <b>Stage 4 – Post-Gateway</b>                           | <b>70 days</b>  |                          |
| Pre-exhibition  |                 | September 2025           |
| <b>Stage 5 – Public exhibition and assessment</b>       | <b>115 days</b> |                          |
| Commencement and completion of public exhibition period |                 | September – October 2025 |
| Consideration of submissions                            |                 | October 2025             |
| Post exhibition review and additional studies           |                 | November 2025            |
| Consideration of final Planning Proposal by Council     |                 | December 2025            |
| <b>Stage 6 – Finalisation</b>                           | <b>70 days</b>  |                          |
| Submission to the Department for finalisation           |                 | December 2025            |
| Finalisation of LEP amendment                           |                 | February 2026            |
| Publication of LEP amendment                            |                 | March 2026               |





## 10 Conclusion

The Planning Proposal has been prepared in support an amendment to the Port Stephens LEP 2013 to enable residential, environmental management and open space land use outcomes on the site.

The Planning Proposal has been prepared in accordance with:

- Section 3.33 of the *Environmental Planning and Assessment Act 1979*
- the NSW Department of Planning and Environment's Local Environmental Plan Making Guidelines
- relevant Section 9.1 Ministerial Directions.

The Planning Proposal demonstrates that it has site-specific and strategic merit to enable an amendment to Port Stephens LEP 2013. Specifically, the Planning Proposal demonstrates that:

- it is consistent with the Hunter Regional Plan 2041
- it responds to the housing needs in the Port Stephens LGA
- it is consistent with relevant Local Minister Directions and state environmental planning policies
- the site can be developed with consideration to its topographical and environmental characteristics and natural hazards.

The Planning Proposal seeks to implement the place-based masterplan for the site to enable an urban residential community to be developed that incorporates an R2 Low Density Residential zone that permits a range of housing typologies, and recreation and environmental management outcomes that is designed to respect the topographical and environmental characteristics and natural hazards on the site.

The Planning Proposal will result in the following positive outcomes for the Port Stephens LGA:

- promotion of housing affordability and diversity through the introduction of a variety of dwellings typologies enabled by the R2 Low Density Residential zone
- increase the conservation area on the site through revegetation, retention and rehabilitation of areas of high biodiversity significance
- improve stormwater management and flooding on the site
- incorporate walking and cycling opportunities as part of a future residential masterplanned community.



# Appendices

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ANNA BAY EAST.

## STRATEGIC PLANNING ASSESSMENT REPORT



## STRATEGIC PLANNING ASSESSMENT REPORT (SPAR)

|                               |   |
|-------------------------------|---|
| <b>Application No.</b>        | 58-2024-48-1  |
| <b>Applicant Name</b>         | Mecone Group Pty Ltd (prepared for AB Rise Pty Ltd)   |
| <b>Applicant Address</b>      | Suite 1204b, Level 12 179 Elizabeth Street<br>Sydney NSW 2000   |
| <b>Site Location Details:</b> | <p>The subject land is comprised of 7 allotments with a combined area of approximately 125 ha:</p> <ul style="list-style-type: none"> <li>• Lot 963 DP 731955 (196 Old Main Road, Anna Bay)</li> <li>• Lot 21 DP 590387 (263 Gan Gan Road, Anna Bay)</li> <li>• Lot 23 DP 590387 (269 Gan Gan Road, Anna Bay)</li> <li>• Lot 1 DP 536752 (271 Gan Gan Road, Anna Bay)</li> <li>• Lot 901 DP 634550 (273 Gan Gan Road, Anna Bay)</li> <li>• Lot 902 DP 634550 (293 Gan Gan Road, Anna Bay)</li> <li>• Lot 1 DP 503876 (321 Gan Gan Road, Anna Bay)</li> </ul> <p>The subject land includes unformed Crown road.</p>  |
| <b>Proposal Summary</b>       | <ul style="list-style-type: none"> <li>• 584 dwellings on 476 lots (approximate)</li> <li>• Widening of Anna Bay Main Drain</li> <li>• Multiple stormwater basins</li> <li>• 3 road access points (2 from Gan Gan Road and 1 from Frost Road)</li> <li>• Filling for dwelling sites and roads</li> <li>• Removal of 32 ha of native vegetation</li> <li>• Management of environmental impacts through development design, rezoning additional land to C3 Environmental Management, revegetation works and the purchase of biodiversity offset credits through the NSW Biodiversity Offsetting Scheme</li> </ul> <p>Further detail is included in the submitted Planning Proposal (Mecone, 2024) and supporting technical studies.</p> |
| <b>Zoning</b>                 | <p>Existing zoning: RU2 Rural Landscape (101 ha) R2 Low Density Residential (4 ha) C3 Environmental Management (20 ha)</p> <p>Proposed zoning: R2 Low Density Residential (65 ha) (+61 ha)</p>  |

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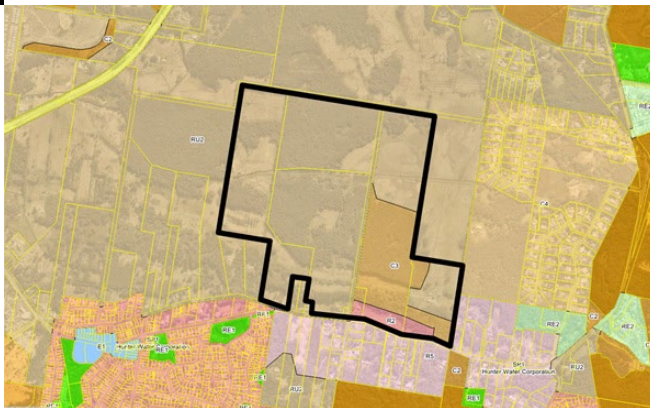
STRATEGIC PLANNING ASSESSMENT REPORT

increase); C3 Environmental Management (53 ha) (+33 ha increase); RE1 Public Recreation (7 ha) (+7 ha increase)

Site location



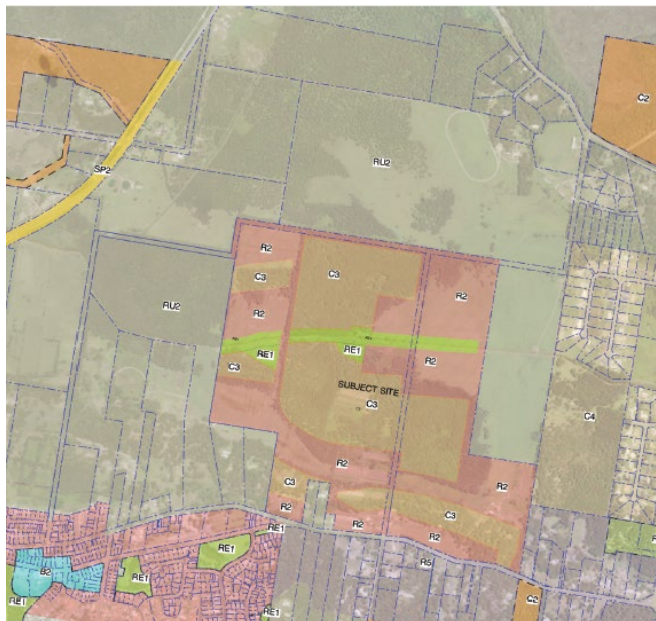
Existing Zoning



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Proposed Zoning



Concept Masterplan





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## STRATEGIC PLANNING ASSESSMENT REPORT

| Information               | Assessment  |
|---------------------------|---|
| <b>Internal referrals</b> |   |
| Development Engineering   | <p>The proposal is inconsistent with Ministerial Direction 4.1 Flooding requirements relating to the placement of significant fill within an area of heavily flood prone land.</p> <p>There is residual risk associated with the design by the fact that it relies on significant fill and topographical alterations to realise the potential development.</p> <p>The proposal widens a section of Anna Bay Main Drain, creating a pinch point downstream of the development which is not supported.</p> <p>These risks include potential cumulative impacts for properties in the vicinity and in the catchment.</p> <p>The proposal is inconsistent with Ministerial Direction 4.2 Coastal Management. The Direction does not support rezoning which would enable increased development or more intensive land use on land within a coastal vulnerability area (CVA) identified by State Environmental Planning Policy (Resilience and Hazards) 2021.</p> <p>The introduction of the CVA mapping for the site is forthcoming with the finalisation Coastal Risk Planning Clause Planning Proposal (PP-2023-2568) adopted by Council on 25 June 2024 and currently awaiting gazettal at the time of writing.</p> <p>The CVA will include land mapped as subject to coastal inundation and tidal inundation by the Port Stephens Coastal Risk Management Program (CMP) that applies to the site.</p> <p>There are concerns that access to the site via Frost Road would require significant upgrades. The road reserve of Frost Road is constrained and it may not be possible to provide sufficient road widening to allow for construction of an auxiliary lane to Saltbush Avenue as proposed.</p> <p>Significant upgrades would be required to manage the safety risk of traffic attempting to turn out of Frost Road onto Nelson Bay Road.</p> |
| Natural Systems           | <p>The proposal will result in the removal of 32 ha of vegetation of high environmental value.</p> <p>The proposal is inconsistent with the environmental objectives and strategies of the Hunter Regional Plan 2041.</p> <p>The planning proposal is inconsistent with the environmental objectives of Ministerial Direction 1.1 Implementation of Regional Plans and Ministerial Direction 3.1 Conservation Zones.</p> <p>The proposal is inconsistent with the Port Stephens Comprehensive Koala Plan of Management performance criteria</p>   |

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## STRATEGIC PLANNING ASSESSMENT REPORT

|  |  |                 |
|--|--|-----------------|
|  | for rezoning. The proposal would remove 2.34 ha of Preferred Koala Habitat, 30.5ha of buffer area, 20.14 ha of Supplementary Koala Habitat and 117 preferred koala feed trees ( <i>Eucalyptus robusta</i> ). The proposal will substantially restrict movement of koalas across the site.  |                 |
| Heritage   | The submitted Aboriginal Cultural Heritage Assessment Report (ACHAR) addresses the significance of the local ridgeline area. However, the potential impacts of the concept masterplan specifically including roadways, utilities infrastructure and drainage on the Aboriginal landscape are not considered to have been sufficiently addressed.             |                 |
| Development Planning   | <p>Future development may be inconsistent with the objectives of the proposed zones R2 Low Density Residential and C3 Environmental Management if flooding and drainage constraints are not resolved.</p> <p>A development control plan will be required to coordinate the road network, bushfire, flooding and ecological constraints.</p>                  |                 |
| Community Assets   | The provision of a centrally located district park providing 1.5 ha of usable recreation space is consistent with open space provision standards. However, the land identified in the concept masterplan is unsuitable. It is located along a linear drainage area, flood prone, within a bushfire asset protection zone and it is not rectangular in shape. |                 |
| <b>State agency referrals – preliminary scoping proposal referrals</b>                                   | <b>Sent</b>  | <b>Received</b> |
| Department of Planning, Housing and Infrastructure   | 24/04/2024   | 21/05/2024      |
| Department of Climate Change, Energy, the Environment and Water - Biodiversity and Conservation Division | 24/04/2024   | 20/05/2024      |
| Transport for NSW  | 24/04/2024   | 09/05/2024      |
| Rural Fire Service   | 24/04/2024   | 16/05/2024      |
| Department of Primary Industries (Agriculture)   | 24/04/2024   | 22/05/2024      |
| Department of Primary Industries (Fisheries)   | 24/04/2024   | 26/06/2024      |
| Hunter Water Corporation   | 24/04/2024   | 17/05/2024      |

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|  |            |            |
|--|------------|------------|
| Crown Lands  | 24/04/2024 | 28/05/2024 |
| Department of Education  | 24/04/2024 | 28/05/2024 |
| State Emergency Service (SES)  | 24/04/2024 | 24/05/2024 |
| Department of Climate Change, Energy, the Environment and Water - Heritage | 24/04/2024 | 20/05/2024 |
| Anna Bay Drainage Union  | 24/04/2024 | 29/05/2024 |

| Information  | Assessment   |
|--|--|
| <b>Department of Planning Guide to preparing planning proposals</b>              |  |
| <b>Part 1 – Statement of objectives or intended outcomes of the proposed LEP</b> | <p>The submitted intended outcomes of the proposal are:</p> <ul style="list-style-type: none"> <li>To enable development of a low density residential community that responds to the topographical and environmental characteristics and natural hazards on the site</li> <li>To enable housing supply, diversity and affordability to address demand in the Port Stephens LGA</li> <li>To conserve areas of high biodiversity significance</li> <li>To provide an integrated open space network connecting key natural features on the site, with a key focus on a reconstructed and rehabilitated Anna Bay Main Drain.</li> </ul> <p>(Planning Proposal, page 25)</p> <p>The submitted concept masterplan provided with the proposal shows the intended development outcome. Key aspects are:</p> <ul style="list-style-type: none"> <li>approximately 584 new dwellings on land zoned R2 Low Density Residential with an estimated population of approximately 1,402 people</li> <li>an additional 33 ha of land zoned C3 Environmental Management, being an increase from 20 ha to 53 ha, proposed to be revegetated and enhanced as part of future development</li> <li>7 ha of public open space on land zoned RE1 Public Recreation</li> <li>reconstruction and widening of Anna Bay Main Drain to accommodate increased flood volumes</li> <li>multiple stormwater treatment basins to manage water</li> </ul> |

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## STRATEGIC PLANNING ASSESSMENT REPORT

|   |   |
|---|---|
|   | <p>quality</p> <ul style="list-style-type: none"> <li>supporting and integrating local streets, pedestrian network and cycling infrastructure.</li> </ul> <p>(Planning Proposal, page 26)</p> <p>The proposal submitted by the proponent adequately describes and demonstrates the intended outcomes.</p>   |
| <p><b>Part 2 – Explanation of the provisions that are to be included in the proposed LEP</b></p>                                  | <p>The proposal provides adequate explanation of the provisions that are to be included in the proposed LEP.</p> <p>The proposal seeks to rezone the site from part RU2 Rural Landscape and part C3 Environmental Management to:</p> <ul style="list-style-type: none"> <li>part R2 Low Density Residential</li> <li>part C3 Environmental Management</li> <li>part RE1 Public Recreation</li> </ul> <p>A 4 ha part of the site fronting Gan Gan Road is already zoned R2 Low Density Residential and is subject to a separate development application for subdivision.</p> <p>The proposal seeks to apply a minimum lot size of 500m<sup>2</sup> on land zoned R2 Low Density Residential with an accompanying height of building of 9m. This is consistent with the typical minimum lot size and height of building used in the R2 Low Density Residential zone.</p> <p>The proposed minimum lot size on land zoned C3 Environmental Management ranges between 1 ha, 2 ha, 4 ha and 10 ha. The intent is to reflect the ability for this land to be subdivided from the R2 Low Density Residential zone.</p> <p>Areas identified for development are proposed to be mapped as Urban Release Area, which requires public utility infrastructure and a site-specific development control plan for the site to be in place prior to development consent being issued at the development application (subdivision) stage under Part 6 'Urban release areas' of the LEP. The submitted intent is to enable consideration of further detailed planning for the site as part of future development applications.</p> |
| <p><b>Part 3 – Justification of strategic and potential site-specific merit, outcomes, and the process for implementation</b></p> | <p>The subject site is not identified for housing in the Hunter Regional Plan 2041 (HRP) or Port Stephens Local Housing Strategy (LHS) and Housing Supply Plan (HSP). It is being considered as a site-specific proposal.</p> <p>The proposal submits it is responding to a change in circumstances, as a result of changes to population and demographic trends and associated needs such as housing or jobs. The change in circumstance submitted by the proponent is a greater demand for housing in Port Stephens than has been planned for in strategic documents.</p>   |

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The proposal submits there is a shortfall of housing to meet State government housing projections in Port Stephens. It notes the LHS and HSP focus on delivering 9,823 dwellings by 2041 in the LGA, a shortfall of 1,277 dwellings from the HRP forecast of 11,100 dwellings by 2041. The proposal states this shortfall is exacerbated by more recent NSW Government population projections that forecast an increase of 6,653 people for the Port Stephens LGA above HRP projections.

It is acknowledged that, if the proposal proceeds and the site is rezoned and developed, it could contribute to housing supply in the LGA by the provision of more than 500 dwellings. This is a positive potential outcome of the proposal. However, there are significant inconsistencies with the strategic planning framework which do not support the proposal proceeding as outlined in this assessment.

To provide for housing supply in Port Stephens, the LHS has sufficient flexibility to strategically consider alternative sites for housing to respond to the housing targets of the HRP by the planned year of 2041.

The LHS recognises the need to monitor, update and amend the LHS (and the HSP) to ensure that it accurately reflects the external factors that will change over time and respond to opportunities that may emerge.

Action 1.2 requires that Council review the LHS every five years. This provides a regular opportunity for Council and the community to consider the collective vision for the future of land use planning and housing development in Port Stephens.

When Council adopted the LHS and HSP, Council considered this site and resolved not to identify it for future housing (Council meeting 25 June 2024). Council resolved that there was insufficient evidence to indicate that the significant environmental, cultural and infrastructure issues could be overcome. Based on the current assessment of the proposal and supporting information, it is considered that the site and strategic planning issues remain unresolved to support rezoning or the inclusion of the site in the LHS and HSP.

Proceeding with the proposal is inconsistent with the adopted and endorsed strategic planning framework for Port Stephens under the LHS and HSP, which do not identify the site, in addition to the other strategic planning challenges identified in this assessment such as inconsistencies with the HRP and a number of Directions issued by the Minister for Planning under section 9.1 of the Environmental Planning and Assessment Act 1979.

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## STRATEGIC PLANNING ASSESSMENT REPORT

**Section A – Need for the planning proposal**

**Q1.** Is the planning proposal a result of an endorsed LSPS, strategic study or report?

No. The planning proposal is not the result of an endorsed LSPS, strategic study or report. The site is not identified for a change in land use by the Port Stephens Local Strategic Planning Statement (LSPS) or the LHS and HSP.

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

No. Given the significant constraints of the site and strategic inconsistencies, the planning proposal is not the best means of achieving the intended objective of increasing housing supply in Port Stephens. There are alternative sites identified for rezoning in the HSP that can provide housing supply and are consistent with State, regional and local planning frameworks.

**Section B – Relationship to strategic planning framework**

**Q3.** Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The site is not identified as a suitable location for future housing in the HRP.

The site and the Anna Bay area are not identified as a priority location for housing in the HRP (HRP Figure 15 'Priority locations for future housing around Williamtown').

OBJECTIVE 3: Create 15-minute neighbourhoods to support mixed, multi-modal, inclusive and vibrant communities

The proposal is generally able to satisfy Objective 3 'Create 15-minute neighbourhoods to support mixed, multi-modal, inclusive and vibrant communities' including the related strategies of the HRP.

The proposal is supported by a concept masterplan and an Urban Design Report showing the proposal could facilitate green spaces and streets and alternative transport (such as walking and cycling). The R2 Low Density Residential zone provides the opportunity for uses such as 'neighbourhood shops', 'community facilities', 'health consulting rooms' to support the proposal. However, the site is proposing a large residential development approximately 1.5 kilometres from the Anna Bay town centre, leading to additional vehicle use and traffic if future residents do not use alternative transport.

OBJECTIVE 5: Plan for 'nimble neighbourhoods', diverse housing and sequenced development

The proposal is able to satisfy some aspects of Objective 5 'Plan for 'nimble neighbourhoods', diverse housing and sequenced development' including related strategies of the HRP. The proposal seeks to facilitate approximately 584 dwellings within the R2 Low Density Residential zone, which permits a range of dwelling types such as single dwellings, dual occupancies and multi-dwelling housing. The proposal seeks to facilitate a coordinated outcome for the site, consistent with the submitted Urban Design Report. A staging plan is included for the orderly sequencing of



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development. However, the majority of the site is separated from Anna Bay, being located north of the local ridgeline, which forms a natural and visual boundary for the existing urban settlement.

OBJECTIVE 6: Conserve heritage, landscapes, environmentally sensitive areas, waterways and drinking water catchments

The proposal is inconsistent with the strategies of Objective 6 'Conserve heritage, landscapes, environmentally sensitive areas, waterways and drinking water catchments' of the HRP, including related strategies.

The proposal is inconsistent with Strategy 6.3 'Planning proposals will ensure the biodiversity network is protected within an appropriate conservation zone unless an alternate zone is justified following application of the 'avoid, minimise, offset hierarchy'. The vegetation on the low-lying areas located north of the local ridgeline is identified on the NSW Biodiversity Values Map. The proposal has identified approximately 32 hectares of this vegetation to be removed, with impacts to be managed by placing additional land into the C3 Environmental Conservation zone, revegetation of cleared areas, and the purchase of biodiversity offset credits under the NSW Biodiversity Offsets Scheme. The removal of vegetation with high biodiversity value, in an area that is not identified for development in the HRP, LHS and HSP, and the Anna Bay Strategy and Town Plan 2008 (Anna Bay Strategy) is inconsistent with the HRP.

It is not demonstrated that the proposal is consistent with the strategies of the HRP for heritage. Although the ACHAR submitted with the proposal provides a well-researched assessment for the area in general, it does not address the potential impacts caused by the proposed concept masterplan. For example, it does not assess the potential heritage impacts of two roads proposed to be constructed over the local ridgeline.

The proposal does not demonstrate it is consistent with heritage Strategies 6.6 'Local strategic planning will ensure all known places, precincts, landscapes and buildings of historic, scientific, cultural, social, archaeological, architectural and aesthetic significance to the region are identified and protected in planning instruments' and Strategy 6.7 'Local strategic planning will consider Aboriginal cultural and community values in future planning and management decisions' of the HRP.

OBJECTIVE 7: Reach net zero and increase resilience and sustainable infrastructure

The proposal is inconsistent with Objective 7 'Reach net zero and increase resilience and infrastructure of the HRP' and the related planning strategies for resilience and climate change.

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The site is mapped as flood prone (primarily high hazard

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## STRATEGIC PLANNING ASSESSMENT REPORT

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flood storage) with overland flow paths and defined floodways on site. The site is additionally mapped as subject to coastal inundation and tidal inundation in the CMP.

The proposal seeks to overcome these constraints by filling the land. This would involve importing extensive fill (which has not been quantified) to make roads and residential land flood free. This intended approach is inconsistent with the HRP and presents significant risk, should the proposed solutions be unable to be implemented following rezoning.

The proposal is inconsistent with Strategy 7.7 'Local strategic planning will demonstrate alignment with the NSW Government's natural hazard management and risk mitigation policy framework' of the HRP. The NSW natural hazard management and risk management framework does not encourage the rezoning of land for residential development in areas subject to flooding and coastal risk.

The proposal is inconsistent with Strategy 7.8 'Local strategic planning will ensure future residential areas are not planned in areas where:

- residents are exposed to a high risk from bushfire, flood and/or coastal hazards, considerate of how these may be impacted by climate change
- evacuation is likely to be difficult during a bushfire or flood due to its siting in the landscape, access limitations, hazard event history and/or size and scale
- any existing residential areas may be placed at increased risk
- increased development may cause evacuation issues for both existing or new occupants'.

The proposal is inconsistent with this strategy because it seeks to create a future residential area of more than 500 dwellings where residents will be exposed to bushfire, flood and coastal hazards. The proposal seeks to overcome this constraint by seeking to fill the land. This approach does not resolve the objective of the HRP and the aim to avoid placing residents in locations of known risk.

In considering the proposal, the SES provided preliminary comment during the scoping process that the proposal is on a high-risk floodplain. In its comments, the SES:

- recommended not proceeding with the planning proposal as this would increase the number and exposure of residents to flood risk due to significant flooding constraints
  - commented the proposal is likely to result in significant increased requirements for government spending on emergency management services, flood mitigation and emergency response measures
  - commented the proposed development would further
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increase the complexity of flood operations for the LGA, and directly transfer the risk to SES for warning, evacuation, and potentially rescue.

**Q4.** Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GCC, or another endorsed local strategy or strategic plan?

*Port Stephens Local Strategic Planning Statement*

The proposal is inconsistent with, or only gives limited effect to the Port Stephens Local Strategic Planning Statement (LSPS).

The LSPS notes that "Port Stephens has a housing market that is supply driven and without an adequate supply of land in the right locations, housing affordability is likely to be negatively impacts" (LSPS, page 24). LSPS Planning Priority 4 is to 'Ensure suitable land supply'. The proposal seeks to provide 584 dwellings. Should the proposal be implemented, it would make a positive contribution to housing supply.

Notwithstanding the above, the related action in the LSPS is Action 4.1 'Prepare and implement a local housing strategy to ensure suitable land supply and other planning priorities for housing identified in the LSPS'. The LHS and HSP were adopted by Council on 25 June 2024 and do not identify the site for housing.

The proposal is inconsistent with Planning Priority 7 'Conserve biodiversity values and corridors' of the LSPS. Notwithstanding the measures to manage environmental impacts set out in the proposal, it will result in the removal of 32 ha of vegetation with high environmental value and does not adequately consider the location and function of biodiversity corridors on site.

The proposal is inconsistent with Planning Priority 8 'Improve resilience to hazards and climate change' of the LSPS. The site is subject to coastal hazards including coastal and tidal inundation as mapped by the CMP. Rezoning the subject land will place future residents within an area known to be subject to coastal hazards.

*Port Stephens Local Housing Strategy and Housing Supply Plan*

The site is not identified for housing in the LHS and HSP.

The proposal provides a response to each of the criteria in Appendix 1 'Greenfield Housing Criteria' of the LHS and includes supporting studies where relevant.

The proposal is inconsistent with the Greenfield Housing Criteria because it seeks to rezone land that has the potential to be isolated in flood events. The proposal does not demonstrate compliance with the Flood Risk

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|  | <p>Management Manual and the associated toolkits, as outlined in this assessment.</p> <p>The proposal is inconsistent with the Greenfield Housing Criteria because it seeks to rezone land identified as containing high biodiversity value identified on the NSW Biodiversity Values Map and does avoid land containing native vegetation. The proposal responds to this criteria through the provision of a Biodiversity Assessment Report (BDAR), the proposed biodiversity impacts are not supported for the reasons outlined in this assessment.</p> <p>The proposal partially satisfies the Greenfield Housing Criteria for Aboriginal cultural heritage. It includes an initial assessment of the likelihood of Aboriginal cultural heritage values through the submission of an ACHAR.</p> <p>The proposal adequately responds to the Greenfield Housing Criteria for aircraft noise, bushfire, land slope, mineral resources, non-Aboriginal cultural heritage, drinking water catchment, and infrastructure and services.</p>   |
| <i>Anna Bay Strategy and Town Plan 2008</i>  | <p>The planning proposal is inconsistent with the Anna Bay Strategy.</p> <p>The land located to the north of the local ridgeline forms the majority of the proposal and is not identified for residential development by the Anna Bay Strategy. Only areas of the site fronting Gan Gan Road and part of Old Main Road are identified. This includes the land located at 263-321 Gan Gan Road approved for subdivision by the NSW LEC on 18 March 2025 for 34 residential lots and 5 residual lots (DA 16-2023-583-1) and 196 Old Main Road.</p> <p>The proposal is inconsistent with a key principle of the Anna Bay Strategy 'To protect the landscape setting'. This includes the vegetated local ridgeline to the north of the town, which forms a natural and visual boundary for the existing urban settlement in Anna Bay. The proposal is inconsistent because it proposes two roads over the local ridgeline, impacting upon the landscape setting, and by providing extensive settlement to the north and separate from the existing urban settlement.</p> <p>The proposal will create further settlement expansion far in excess of the existing and future scale of development envisioned by the Anna Bay Strategy. The proposal seeks to facilitate more than 500 new dwellings in a location not identified for potential housing. This is a substantial increase in the Anna Bay locality, which had a total of 2,035 private dwellings at the 2021 ABS Census.</p> |
| <b>Q5.</b> Is the planning proposal consistent with any other applicable State and regional studies or strategies? | There are no other relevant State and regional studies or strategies that apply.  |

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## STATE ENVIRONMENTAL PLANNING POLICY (SEPP) ASSESSMENT

**Q6.** Is the planning proposal consistent with applicable State Environmental Planning Policies?

| SEPP   | Assessment  |
|--|---|
| <b>SEPP (Biodiversity and Conservation) 2021</b> |   |
| Chapter 4 - Koala habitat protection 2021        | <p>The proposal is inconsistent with the Port Stephens Comprehensive Koala Plan of Management.</p> <p>The proposal seeks to remove of 2.34 ha of Preferred Koala Habitat, 30.5 ha of buffer area, 20.14 ha of Supplementary Koala Habitat and 117 preferred koala feed trees (<i>Eucalyptus robusta</i>). The proposal will also substantially restrict movement of koalas across the site.</p> <p>The proposal is inconsistent with the Port Stephens Comprehensive Koala Plan of Management performance criteria for rezoning, which requires rezoning to:</p> <ul style="list-style-type: none"> <li>• not result in development within areas of Preferred Koala Habitat or defined Habitat Buffers;</li> <li>• allow for only low impact development within areas of Supplementary Koala Habitat and Habitat Linking Areas;</li> <li>• minimise the removal of any individuals of preferred koala food trees, where ever they occur on the site; and 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.</li> </ul> |
| <b>SEPP (Resilience and Hazards) 2021</b>        |   |
| Chapter 2 - Coastal Management                   | <p>Mapping for the CMP identifies the site as subject to coastal and tidal inundation.</p> <p>Coastal and tidal inundation areas are to be mapped as a Coastal Vulnerability Area (CVA) for inclusion in the SEPP (Resilience and Hazards) 2021.</p> <p>The introduction of the CVA mapping for the site is forthcoming with the finalisation Coastal Risk Planning Clause Planning Proposal (PP-2023-2568) adopted by Council on 25 June 2024 and currently awaiting gazettal at the time of writing.</p> <p>The CVA mapping has implications for any future development on the site, for example future development applications for subdivision and dwellings. Clause 2.9 'Coastal vulnerability area' of the SEPP (Resilience and Hazards) 2021 has additional development assessment considerations for land mapped as CVA, indicating the unsuitability of the site for rezoning and future development.</p>  |
| Chapter 4 – Remediation of Land                  | <p>The proposal satisfactorily addresses the requirements of SEPP (Resilience and Hazards) 2021 Chapter 4 'Remediation of land'.</p>  |

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**SEPP (Primary Production) 2021**Chapter 2 – Primary  
production and rural  
development

The proposal does not sufficiently address the provisions of this SEPP.

During the scoping proposal stage, NSW Department of Primary Industries (Fisheries) (DPI Fisheries) noted the following potential impacts of the proposal:

- Potential direct impacts to key fish habitat at the development site (reclamation of wetland habitat and removal of aquatic vegetation)
- Potential indirect impacts to water quality within the marine park sanctuary zone and to priority oyster aquaculture areas caused by: runoff from acid sulfate soils during construction activities; urban stormwater impacts; changes to groundwater and surface water hydrology leading to ongoing impacts from ASS in the catchment
- The existing drainage network is inadequate to meet the current demands of the locality.

Any future development of this site would need to consider the effects of proposed development on the marine environment, including oyster aquaculture.

**MINISTERIAL DIRECTION ASSESSMENT**

**Q7.** Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions) or key government priority?

| Ministerial Direction | Assessment |
|-----------------------|------------|
|-----------------------|------------|

**Focus area 1: Planning Systems**1.1 Implementation of  
Regional Plans

The proposal is inconsistent with the HRP for the reasons set out previously in this assessment.

**Focus area 3: Biodiversity and Conservation**

3.1 Conservation Zones

The proposal is inconsistent with this Direction.

If the planning proposal proceeds, it will result in the removal of 32 hectares of high value vegetation.

The site is an environmentally sensitive area with a number of endangered ecological communities and threatened flora and fauna present, as evidenced by the submitted Biodiversity Development Assessment Report (Wildthing, 2024) (BDAR) and Biodiversity Constraints Assessment Report (RPS, 2023) (BCAR).

The proposal submits that it is consistent with this Direction because it does not reduce the amount of existing land zoned for conservation purposes on the site. The existing C3 Environmental Management zoned land will remain and



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increase by 33 hectares, from approximately 20 hectares to a total of 53 hectares. Other proposed measures to manage environmental impacts include site design, proposed revegetation of cleared areas, and the purchase of credits under the NSW Biodiversity Offset Scheme.

There is an area along the north of the local ridgeline that is currently zoned C3 Environmental Management and is proposed to be zoned R2 Low Density Residential. This area provides a locally important biodiversity corridor and is inappropriate to rezone for urban development. Its rezoning is inconsistent with the Direction.

The proposal does not sufficiently protect existing areas of environmental sensitivity through conservation zonings and does not comply with the requirement to not reduce the conservation standards of lands already zoned C3 Environmental Management. The proposal is inconsistent with this Direction.

3.2 Heritage  
Conservation

The proposal does not demonstrate consistency with this Direction.

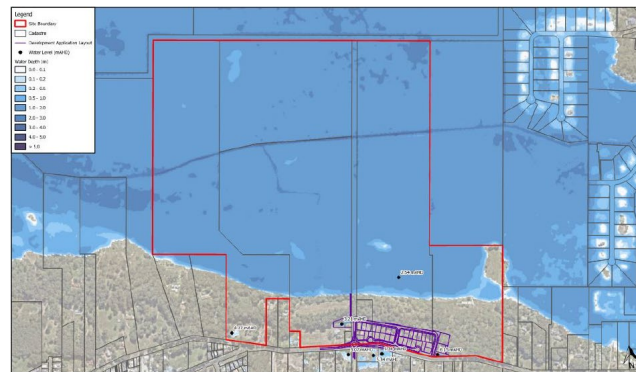
The concept masterplan specifically including roadways, utilities infrastructure and drainage on the Aboriginal landscape demonstrates there may be significant heritage impacts that have not been addressed.

**Focus area 4: Resilience and Hazards**

## 4.1 Flooding

The proposal is inconsistent with this Direction because it seeks to rezone approximately 50 hectares of land within a high hazard flood storage area for residential use.

The following figure indicates the flooding of the subject land:



('1% AEP climate change enveloped results – existing condition water level & water depth' Planning Proposal, page 8)

The proposal requires the placement of significant fill within flood prone land, which is largely defined as high hazard flood storage area with overland flow paths and defined floodways.

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The volume of fill required to make the site suitable for residential use is not quantified in the proposal. However supporting studies indicate filling of up to approximately 2 - 3m above existing ground level within proposed lots and roadways would be required to make the site suitable for residential use.

The potential volume of fill and extensive works required to make the land flood free is not considered as being of minor significance to justify the inconsistencies of the proposal against the requirements of the Direction.

The proposal submits that although the existing site is within the flood planning area, the Flood Assessment (Martens, 2024) demonstrates that the proposed earthworks can raise residential land and access above the flood planning level (FPL) and probable maximum flood (PMF) level. The proposal submits that, once the fill is imported and the landform established, the future development will be flood free with minor impact. This intended approach is inconsistent with the requirements of the Direction, which provides that a proposal must not rezone land within the FPA to a residential zone, permit development for the purposes of residential development in high hazard areas, or permit a significant increase in the development and or dwelling density of that land.

The placement of significant fill, combined with the lack of cumulative impact assessment within the catchment, as well as the extensive scale of the proposal within the flood planning area, is in excess of what could reasonably be considered to be of minor inconsistency to justify the proposal against the requirements of this Direction.

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4.2 Coastal Management The proposal is inconsistent with this Direction because it seeks to rezone approximately 50 hectares of land to be identified as a coastal vulnerability area (CVA) by SEPP (Resilience and Hazards) 2021.

The introduction of the CVA mapping for the site is forthcoming with the finalisation of the Coastal Risk Planning Clause Planning Proposal (PP-2023-2568) adopted by Council on 25 June 2024 and currently awaiting gazettal at the time of writing.

This Direction provides that a planning proposal must not rezone land which would enable increased development or more intensive land-use on land within a CVA or that has been identified as affected by a current or future coastal hazard in a study.

The proposal submits the site is not identified on any maps under the SEPP (Resilience and Hazards) 2021 and is outside the boundaries of the CMP. However, as outlined in the assessment against the SEPP (Resilience and Hazards) 2021, CVA SEPP (Resilience and Hazards) 2021 mapping for the site is forthcoming with the finalisation of the Coastal Risk Planning Clause Planning Proposal (PP-2023-2568).

The inconsistencies of the proposal with this Direction are not supported and are not of minor significance, given the location

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|   | of the land within the forthcoming CVA and the extent of development proposed.   |
| 4.3 Planning for Bushfire Protection              | <p>This Direction applies because the site is mapped as bushfire prone land.</p> <p>The proposal includes a concept masterplan, Urban Design Report and Strategic Bushfire Study (Blackash, December 2024) that include bushfire asset protection zones and provision for access and egress to and from the site.</p> <p>The Strategic Bushfire Study concludes the proposal can satisfy the aims, objectives and requirements of Planning for Bushfire Protection 2019 to provide for the protection of life and the minimization of impact on property, while having due regard to the development potential, site characteristics and protection of the environment.</p> <p>Consultation with the RFS would be required to determine consistency with this Direction.</p>   |
| 4.4 Remediation of Contaminated Land              | The proposal is consistent this Direction, subject to following the recommendations of the Preliminary Site Investigation (Martens, 2024).   |
| 4.5 Acid Sulfate Soils                            | <p>The proposal is located on low-lying land mapped as Class 3 Acid Sulfate Soils to the north of the local ridgeline. There is widespread potential acid sulfate soils present across this area.</p> <p>The proposal is supported by a Geotechnical and Acid Sulfate Soils Assessment (Martens, 2024). It states the proposed residential subdivision is likely to result in negligible impacts on the existing groundwater system and pose minimal environmental risk as a result of acid sulfate soils, subject to implementation of an acid sulfate soils management plan and the recommendations presented in the submitted report.</p> <p>Notwithstanding the recommendations of the Geotechnical and Acid Sulfate Soils Assessment (Martens, 2024) the potential rezoning and subsequent development of the land increases the risk of exposing acid sulfate soils and negative environmental impacts for the downstream catchment including Tilligerry Creek and Port Stephens.</p> <p>The DPI (Fisheries) provided advice expressing concern about the potential for impact of the proposal on downstream local fisheries and oyster aquaculture in Port Stephens from acid sulfate soils impacts.</p> <p>There is a risk that the proposal is not able to satisfy Ministerial Direction 4.5 Acid Sulfate Soils and may lead to adverse impacts to the environment from acid sulfate soils.</p> |
| <b>Focus area 5: Transport and Infrastructure</b> |  |
| 5.1 Integrating Land Use and Transport            | This Direction applies because the proposal will create an urban zone. The Direction relevantly provides that a proposal must locate zones for urban purposes that are consistent with   |

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'Improving Transport Choice – Guidelines for planning and development (DUAP 2001)'.

The proposal is consistent with some of the objectives of this Direction. The concept masterplan identifies potential opportunities for active transport in the form of pedestrian and cycle networks through greenspaces and along the internal road network that will connect to the Anna Bay town centre. It notes there is a bus stop located on Gan Gan Road at Clark Street. However, the proposal is seeking to facilitate more than 500 dwellings on a site approximately 1.5 km from Anna Bay commercial centre and 6 km from Salamander Bay commercial centre, which is likely to lead to increased travel demand especially by car.

The planning proposal demonstrates some consistency with this Direction.

#### Focus area 6: Housing

##### 6.1 Residential Zones

The planning proposal seeks to apply the R2 Low Density Residential to facilitate housing. This zone permits a broad range of housing types including single dwellings, dual occupancies and multi-dwelling housing, attached dwellings and seniors housing.

Future infrastructure servicing may be provided to the site, subject to consultation with service providers and preparation of an infrastructure servicing strategy.

The Department of Education was consulted during the scoping stage and advised that the proposed growth can be accommodated within existing schools.

The proposal is able to demonstrate positive urban design outcomes within the site, consistent with the submitted Urban Design Report (BKA Architecture, 2024). The proposal is supported by an Infrastructure Servicing Assessment (Martens, 2024) and a Community Needs Assessment (Hill PDA, 2024).

The proposal does not satisfy the part direction to reduce the consumption of land for housing and associated urban development on the urban fringe. The site is located beyond the local ridgeline, which forms the visual and physical containment of the town as described in the Anna Bay Strategy, and is also not identified for housing in the LHS and HSP.

The inconsistency of the proposal with part c) of this Direction is not of minor significance.

#### Focus area 9: Primary Production

##### 9.1 Rural Zones

This Direction applies because the proposal is seeking to rezone parts of the site from RU2 Rural Landscape to R2 Low Density Residential.

The proposal is supported by an Agricultural Assessment and Land Use Conflict Risk Assessment (Minesoils, 2024) (LUCRA). The LUCRA identified that the site is not biophysical strategic

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|  | <p>agricultural land, and there are no critical industry clusters or State Significant Agricultural Land mapped within the project area. The LUCRA concludes that:</p> <ul style="list-style-type: none"> <li>• There are several potential moderate and high risk land use conflicts relating to the proposal. However, these potential conflicts are determined to be consistent with existing potential residential development and agricultural land use conflicts in the Project locality</li> <li>• Impacts to agriculture as a result of the proposal should be considered negligible</li> <li>• Notwithstanding the recommendations of the LUCRA, it is noted that the proposal will result in the loss of approximately 50 ha of land capable of agricultural use, on land that is not identified in a planning strategy for urban use.</li> </ul> <p>Any inconsistency of the proposal with this direction may be of minor significance, subject to consultation with the DPI (Agriculture).</p> |
|--|--|
| 9.2 Rural Lands  | <p>This Direction applies because the proposal is seeking to rezone parts of the site from RU2 Rural Landscape to R2 Low Density Residential.</p> <p>The proposal is supported by an Agricultural Assessment and LUCRA. The LUCRA identified that the site is not biophysical strategic agricultural land, and there are no critical industry clusters or State Significant Agricultural Land mapped within the project area.</p> <p>Any inconsistency of the proposal with this direction is likely to be of minor significance, subject to consultation with the DPI (Agriculture).</p>  |
| Information  | Assessment   |
| <b>Section C – Environmental, social and economic impact</b>   |  |
| <p><b>Q8.</b> 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?</p> | <p>Threatened species, ecological communities and their habitats would be adversely affected as a result of the proposal.</p> <p>The proposal would result in the removal of 32.18 ha of habitat for 15 threatened species including:</p> <ul style="list-style-type: none"> <li>• <i>Crinia tinnula</i> (Wallum Froglet)</li> <li>• <i>Phascolarctos cinereus</i> (Koala)</li> <li>• <i>Petaurus norfolcensis</i> (Squirrel Glider)</li> <li>• <i>Persicaria elatior</i> (Tall Knotweed)</li> <li>• <i>Corybas dowlingii</i> (Red Helmet Orchid)</li> <li>• <i>Vespadelus troungtoni</i> (Eastern Cave Bat)</li> <li>• <i>Chalinolobus dwyeri</i> (Large-eared Pied Bat)</li> <li>• <i>Ninox strenua</i> (Powerful Owl) breeding</li> </ul>   |

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- *Tyto novaehollandiae* (Masked Owl)
  - *Miniopterus australis* (Little Bentwing-bat).
  - *Haliaeetus leucogaster* (White-bellied Sea-Eagle) breeding
  - *Pteropus poliocephalus* (Grey-headed Flying-fox)
  - *Glossopsitta pusilla* (Little Lorikeet)
  - *Saccolaimus flaviventris* (Yellow-bellied Sheath-tail-bat)
  - *Scoteanax rueppellii* (Greater Broad-nosed Bat).

The proposal would result in the removal 29.47 ha of endangered ecological community (EEC) including:

- Removal of 2.73 ha of PCT 4006, Northern Paperbark-Swamp Mahogany Saw-sedge Forest (EEC)
- Removal of 26.74ha of PCT 4004, Northern Melaleuca quinquenervia Swamp Forest Central Coast and Lower North Coast (EEC).

In addition to direct impacts, the proposal will have additional impacts on threatened species habitat through severing and highly restricting locally significant biodiversity corridors. Whilst fauna crossing structures are proposed, the proposal will largely fragment the habitat on site.

There are potential substantial changes to hydrology that would occur through the extensive filling of the site. These changes to hydrology may have substantial additional impacts on adjacent areas of EEC, which have not been considered in the submitted BDAR.

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**Q9.** Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Additional impacts are likely to include downstream effects such as flooding/increased sedimentation of waterways, increased nutrients, decreased water quality, invasions of exotic species and the development of acid sulfate soil impacts.

A Biodiversity Management Plan (BMP) is proposed to be developed and implemented for the during the construction phase and for 5 years during the operational phase of the development. This would manage short-term impacts associated with exotic weeds only. However, there are no long-term monitoring and management plans to mitigate other potential impacts.

The BDAR concludes that there is unlikely to be a significant impact on any Commonwealth listed entity. However, given the level of impact to habitat connectivity to this species, it is considered that Commonwealth referral for the endangered Koala may be required as a result of the proposal.

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**Q10.** Has the proposal adequately addressed any social and environmental effects?

Positive social effects may be achieved through additional housing supply. However the proposal is located within a flood planning area and will result in the removal of 32 hectares of vegetation with high environmental value. Any positive social impacts through increased housing supply are not justified in light of the likely significant environmental risks and impacts

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associated with the proposal.

#### Section D – Infrastructure (Local, State and Commonwealth)

**Q11.** Is there adequate public infrastructure for the planning proposal?

The proponent has submitted an Infrastructure Servicing Assessment (Martens, 2024) to accompany the proposal, with upgrades and service extensions to be staged with any delivery in further consultation with relevant service providers.

The scoping proposal was referred to the Department of Education, who advised that the proposed growth could be accommodated within existing schools.

#### Section E – State and Commonwealth Interests

**Q12.** What are the views of state and federal public authorities consulted in order to inform the Gateway determination?

Preliminary consultation was undertaken with various State authorities as identified in this assessment report for the scoping proposal phase, and their advice was provided to the proponent to assist in informing their preparation of the proposal. Key agency concerns include those raised by SES and BCD.

SES recommended to not proceed with the proposal.

BCD advised the site is heavily constrained given its hydrological and biodiversity values, and the proposal is not supported from a flood risk management perspective as the likely extent of filling proposed is far in excess of what could reasonably be considered to be a minor inconsistency with Ministerial Direction 4.1 Flooding.

**Part 4 – Maps**, where relevant, to identify the effect of the planning proposal and the area to which it applies

The maps included with the proposal adequately identify the effect of the planning proposal and the area to which it applies.

**Part 5 – Details of the community consultation** that is to be undertaken on the planning proposal

Council wrote to adjoining landowners to inform them that the proposal had been lodged and is under initial assessment. Community consultation requirements may be set by any Gateway determination issued by DPHI.

**Part 6 – Projected timeline of the plan making process**

The projected timeline as detailed in the proposal is considered adequate for a 'complex' proposal, consistent with the LEP Making Guideline.

#### TECHNICAL CONTENT ASSESSMENT

Assessment of technical information

##### Supporting plans and studies

##### Assessment

Flood Assessment (Martens, 2024)

The site is flood prone (primarily high hazard flood storage).

The proposal relies on the placement of significant fill within a

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flood prone area to make the future development flood free.

The submitted Flood Assessment concludes that:

- Outside of proposed residential and road areas, proposed flooding conditions are largely unchanged from existing conditions, and the proposed development does not materially alter local flood characteristics
- The proposed development area of the Site is flood free in the 1% AEP flood (with and without climate change) and PMF events
- The proposed development elements are above the Flood Planning Level and Probable Maximum Flood levels
- The proposed development would have acceptable offsite flood impacts
- The proposed development is compatible with the existing floodplain environment
- Safe evacuation and Shelter In Place is available on the Site up to and including the PMF event
- Compliance with Ministerial Direction flood planning requirements is achieved.

The proposal adopts the position that, once the fill is imported and the new landform is established, the future development provisions are consistent with Ministerial Direction 4.1 Flooding. However, the extent of filling required is not considered to be of minor significance. It is further understood that the State government assesses consistency with the Direction based on current landform, further highlighting the difficulty in seeking to rezone the site for residential use.

It is agreed that the northern catchment hydraulically acts as a storage area during significant floods. By its definition, this area is sensitive to changes that impact on the available storage in the catchment during a flood.

The submitted Flood Assessment demonstrates negligible impacts of the fill as a result of the proposed development. It is, however, likely that there is a threshold for the amount of fill that can be brought into the catchment before it makes a material impact on the floodplain due to the loss of flood storage areas. Consideration is not given to the cumulative impacts of the proposal to ensure filling is appropriate in this catchment. Additionally, the area is not identified in strategic land use plans (HRP, LHS, HSP, Anna Bay Strategy) to support cumulative filling.

For the reasons outlined previously in this assessment, the proposal is not supported from a flood perspective.

Should the proposal proceed, the Flood Assessment would likely require referral to BCD and the SES for further technical assessment.

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Conceptual Stormwater Management Strategy (Martens, 2024)

The Conceptual Stormwater Management Strategy shows the intended development concept for the site including drainage lines and location of stormwater detention basins to support the proposal.

Assessment has identified the following stormwater concerns:

- It is proposed to drain Catchment F to the existing basin at the intersection of Gan Gan Road and Essington Way. This basin has limited capacity to accept additional flow with known ponding issues in the area during recent storm events. It is recommended runoff be directed elsewhere where practical. Alternatively, a full hydraulic assessment of the basin would need to be carried out to ensure there is sufficient capacity to handle additional flows during the full range of storm events.
- Catchment E hydraulic assessment is required to ensure sufficient capacity in existing DA stormwater management system to handle any additional flows being redirected.
- The proposal appears to widen a section of Anna Bay Main drain creating a pinch point downstream of the development. This is not supported as it will create flow capacity issues at the pinch point.

The following observations were made on the submitted model that would need to be addressed during detailed design:

- Model boundaries should extend to the outlet to confirm downstream properties are unaffected
- Water level differences have been provided however velocity difference mapping has been excluded. Velocity mapping would need to demonstrate negligible impacts on neighbouring and downstream properties for a range of events including sensitivity scenarios for low and high tail water events
- Tailwater levels should be consistent for the entire duration as opposed to coincident and peak
- Peak flows through the culverts have been obtained from MA 2024 report. These should be modelled as constant inflow to ensure peak is captured
- The Clark St catchment should not be included in the "existing case" as it is not developed yet
- Confirm PMF event has considered climate change (i.e. 2100 event)
- Confirm 2D swales are captured by the 5m grid resolution.

Hydrogeological Assessment (Martens, 2024)

The Hydrogeological Assessment notes the potential earthworks to be undertaken:

- Filling of up to approximately 2 - 3m above existing ground level within proposed lots and roadways
- Excavation of up to 2.2m in a small area in the southeastern

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|  | <p>portion of the site</p> <ul style="list-style-type: none"> <li>Excavation up to approximately 2.5m below ground level for the widening of the existing drainage channel</li> <li>Construction of stormwater basins across the site to base levels of approximately -0.1m AHD.</li> </ul> <p>The Hydrological Assessment includes the summary conclusion that site groundwater is generally shallow, unconfined and responsive to rainfall, particularly to the north of the sand dune. Groundwater to the south of the sand dune is typically deeper and less responsive to minor rainfall events. It includes a risk assessment of groundwater hazards and potential impact mitigation measures.</p> <p>The Hydrological Assessment submits that, based on proposed mitigation measures, risks to groundwater arising from the proposed development are assessed as acceptable, ranging from low to very low. It concludes that, on this basis, hazards to groundwater can be appropriately managed through conventional methods, and significant impacts to the groundwater environment are not expected to arise from the proposal.</p> <p>Should the proposal proceed, the Hydrological Assessment may be sent to the relevant public authorities for further technical assessment.</p>   |
| Biodiversity Development Assessment Report (Wildthing, 2024) | <p>The site includes areas of high environmental value.</p> <p>The BDAR (Wildthing, 2024) included with the proposal is also accompanied by an earlier Biodiversity Constraints Assessment Report (RPS, 2023).</p> <p>The report identifies the Plant Community Types on the site, threatened species listed under the Biodiversity Conservation Act 2016, and direct, indirect and prescribed impacts. It includes identification of Ecosystem Credit Species and Species Credit Species requiring offsetting under the NSW Biodiversity Offsetting Scheme and recommendations to minimise and manage impacts.</p> <p>The BDAR identifies the proposal will result in the removal of 32.18ha of vegetation considered to be of high environmental value.</p> <p>The BDAR concludes the proposal will result in an incremental loss of habitat for a number of the addressed threatened species occurring within the local area. It concludes that, taking into account the recommendations to minimise and manage impacts within the report and the offsetting obligation, the impact can be minimised.</p> <p>The proposal's measures to manage impacts can be summarised as rezoning additional land to C3 Environmental Management (+33 ha), revegetation of parts of the site and the purchase of biodiversity offset credits through the NSW Biodiversity Offsetting Scheme (refer to the BDAR, page vi, for</p> |

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|  | <p>credit calculations).</p> <p>The BDAR notes that the combination of observation methods and recent scat findings confirms the ongoing and continued presence of koalas on the site, and identifies measures to be implemented to seek to minimise the threat to koalas.</p> <p>The proposal would remove 2.34ha of Preferred Koala Habitat, 30.5ha of buffer area, 20.14 ha of Supplementary Koala Habitat and 117 preferred koala feed trees (<i>Eucalyptus robusta</i>). The proposal will also substantially restrict movement of koalas across the site.</p> <p>The BDAR concludes that there is unlikely to be a significant impact on any Commonwealth listed entity. However, Council disagrees with this assessment for the Koala. Given the level of impact to habitat connectivity to this species, Council considered that Commonwealth referral for the endangered Koala may be required.</p> <p>Other impacts of the proposal are assessed as including:</p> <ul style="list-style-type: none"> <li>substantial impacts to habitat connectivity/corridors</li> <li>The retained habitat will be subject to substantial long-term impacts (habitat fragmentation, altered hydrological regimes, cat and dog attack, reduced viability of adjacent habitat due to noise, dust, light spill, edge effects and weed incursion, impact on waterbodies, water quality and hydrological processes, vehicle strike).</li> </ul> <p>Given the extent and nature of impacts that are proposed and likely to occur, the proposal does not adequately maintain and enhance areas of high environmental value.</p> <p>Should the proposal proceed, the BDAR would likely require referral to BCD for further technical assessment.</p> |
| Wetland Hydrodynamic Assessment (Martens, 2024)                            | <p>The site includes local wetlands mapped under Clause 7.9 Wetlands of the LEP.</p> <p>The submitted Wetland Hydrodynamic Assessment concludes that, on the basis of wetland hydrodynamic modelling undertaken, significant impacts on wetland ecology are not anticipated to occur. Whilst there are some areas where water levels and inundation durations are likely to increase, these changes are not material and will remain within the hydrological regime conditions currently experienced by existing wetlands.</p> <p>Should the proposal proceed, the Wetland Hydrodynamic Assessment may be referred to BCD and NSW Fisheries for further technical assessment.</p>   |
| Aboriginal Cultural Heritage Assessment (McCardle Cultural Heritage, 2023) | <p>The site includes the potential for Aboriginal heritage.</p> <p>The submitted ACHAR addresses the significance of the local ridgeline area. However, the potential impacts of the concept masterplan specifically including roadways, utilities infrastructure and drainage on the Aboriginal landscape are not sufficiently addressed.</p>  |

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|  | <p>For the reasons outlined previously in this assessment, the proposal is not supported from a heritage perspective and is inconsistent with the HRP and Ministerial Direction 3.2 Heritage Conservation.</p> <p>Should the proposal proceed, the ACHAR, would likely require referral to NSW Heritage for further technical assessment.</p>   |
| Housing Needs Assessment (Hill PDA, 2024)      | <p>The Housing Needs Assessment accompanying the proposal seeks to demonstrate the need for additional housing in the area to meet the dwelling projections of DPHI.</p> <p>As noted previously in this assessment, it is acknowledged that the proposal has the potential make a significant contribution to housing supply through the provision of more than 500 dwellings. However, the LHS and HSP have sufficient flexibility to strategically consider alternative sites for housing and to respond to the housing targets of the HRP by the planned year of 2041.</p>   |
| Urban Design Report (BKA Architecture, 2024)   | <p>Key concerns with the concept masterplan included in the Urban Design Report are:</p> <ul style="list-style-type: none"> <li>• 2 access roads proposed over the local ridgeline and connecting to Gan Gan Road</li> <li>• Potential future road access indicated on other adjoining Crown roads to the west.</li> </ul> <p>The concept masterplan appears to indicate potential further sites for consideration which would have additional broader planning implications for the area.</p> <p>Noting the above matters, the Urban Design Report adequately conveys the overall intent for the development of the site.</p>  |
| Traffic Impact Assessment (Park Transit, 2024) | <p>Assessment has identified the following key issues:</p> <ul style="list-style-type: none"> <li>• There is no justification provided for the traffic assignments assumed in the submitted report</li> <li>• The road reserve of Frost Road is quite constrained and it may not be possible to provide sufficient road widening to allow for construction of an auxiliary lane as proposed</li> <li>• Significant upgrades would be required to manage the safety risk of traffic attempting to turn out of Frost Road onto Nelson Bay Road</li> <li>• The proposed roundabout at Gan Gan Road/Clark Street would provide safe access to the site at this location.</li> </ul> <p>Should the proposal proceed, the Traffic Impact Assessment, would be referred to TfNSW for further technical assessment.</p> |
| Strategic Bushfire Study (Black Ash, 2024)     | <p>The Strategic Bushfire Study sufficiently considers how the proposal may be able to respond to the requirements of the RFS document Planning Bushfire Protection 2019. It identifies access and egress for the site and likely future bushfire asset</p>   |



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|  | <p>protection zone requirements for dwellings.</p> <p>Should the proposal proceed, the proposal including Strategic Bushfire Study will be referred to the RFS for further technical assessment.</p>  |
| Riparian Management Strategy (Martens, 2024)                   | <p>The Anna Bay Main Drain is located within the site.</p> <p>The proposal indicates the intent to widen the Anna Bay Main Drain for the extent of the site. Should the proposal proceed, the Riparian Management Strategy should be referred to the Anna Bay Drainage Union for comment.</p>   |
| Preliminary Site Investigation (Martens, 2024)                 | <p>The site includes agricultural land and uses.</p> <p>The Preliminary Site Investigation (Martens, 2024) investigates the site for potential for contamination risk sufficient for the current stage of the planning process. It concludes that some areas may require further investigation, however, considers it unlikely that significant site wide contamination will be identified in future investigation works that would preclude the proposed future use.</p> <p>The report considers that additional site investigation can be completed at a later planning stage. The report concludes that, subject to the findings of further investigations and (if required) remediation works, the site can be made available for the proposed residential land use.</p> <p>Assessment of the proposal satisfactorily addresses the requirements of SEPP Chapter 4 'Remediation of land' to enable the proposal to proceed.</p> |
| Infrastructure Servicing Assessment (Martens, 2024)            | <p>The proposal has the potential to generate additional infrastructure requirements including sewer and water infrastructure through the provision of more than 500 dwellings and 1,400 additional residents.</p> <p>Should the proposal proceed, the Infrastructure Servicing Assessment would likely be sent to the relevant infrastructure service providers (such as Hunter Water Corporation) for further technical assessment.</p>   |
| Geotechnical and Acid Sulfate Soils Assessment (Martens, 2024) | <p>The site is located in an area with Class 3 Acid Sulfate Soils (ASS).</p> <p>The submitted Acid Sulfate Soils Assessment concludes that proposed residential subdivision is likely to result in negligible impacts on the existing groundwater system and poses minimal environmental risk as a result of ASS, subject to implementation of an Acid Sulfate Soils Management Plan and recommendations presented in the report.</p> <p>Should the proposal proceed, the Geotechnical and Acid Sulfate Soils Assessment, would likely require referral to DPI (Fisheries) for assessment to consider the risk to the downstream fisheries including oyster aquaculture areas.</p>  |

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| Community Needs Assessment (Hill PDA, 2024)                                     | <p>The proposal has the potential to significantly increase the population in the area. The proposal estimates a potential population of 1,402 people.</p> <p>The submitted report calculated supply for local, district and region serving infrastructure types across the categories of child care facilities (long day care, preschools, and outside hours school care), community facilities (libraries, community halls and centres, and arts and cultural facilities) and open space and recreation facilities (parks, sportsgrounds, playgrounds, and sports courts/facilities).</p> <p>The report identified that while there was child care capacity within the surrounding suburbs, there were limited facilities available locally and a potential shortage of preschool places within the local catchment, with Birubi Point Community Preschool only providing 25 places at time of writing and a projected need for 24 additional places at full development.</p> <p>The report identified there is ample park area within the local catchment surrounding the site, and additional proposed open space provided by the proposal. It identified a potential shortage of playgrounds, however states this is addressed by the inclusion of a playground as part of the proposal's district park.</p> <p>The report acknowledges that while there is limited social infrastructure in direct proximity to the site, some social infrastructure can be accessed in the centres of Anna Bay, Salamander Bay and Nelson Bay.</p> <p>The Department of Education was consulted during the scoping process and advised the site sits within the existing intake areas for Anna Bay Primary School and Tomaree High School and, based on a review of the proposal and existing schools, confirm that the number of students projected to be generated could be accommodated by surrounding schools.</p> |
| Agricultural Assessment and Land Use Conflict Risk Assessment (Minesoils, 2024) | <p>The proposal is supported by an Agricultural Assessment and Land Use Conflict Risk Assessment (Minesoils, 2024) (LUCRA). The LUCRA identified that the site is not biophysical strategic agricultural land, and there are no critical industry clusters or State Significant Agricultural Land mapped within the project area.</p>   |

**RECOMMENDATION**

Based on the information lodged with the rezoning request, the planning proposal is considered to have insufficient merit to proceed to Gateway.

**SIGNATURE**

Matthew Borsato  
Senior Strategic Planner

**DATE**

4 April 2025