

**PLANNING CERTIFICATE PURSUANT TO
SECTION 10.7 ENVIRONMENTAL PLANNING
AND ASSESSMENT ACT 1979**

APPLICANT DETAILS:

**Rylan Loemker
65 Merrick Circuit
Kiama
NSW 2533**

Reference:

Issue Date: 25/10/2019

PROPERTY DESCRIPTION:

**21D School Drive TOMAGO NSW 2322
LOT: 11 DP: 270328**

Parcel No: 45464

Disclaimer

Information contained in this certificate relates only to the land for which this certificate is issued on the day it is issued. This information is provided in good faith and Council shall not incur any liability in respect of any such advice. Council relies on state agencies for advice and accordingly can only provide that information in accordance with the advice. Verification of the currency of agency advice should occur. For further information, please contact Council by telephoning (02) 4988 0255 or email plancert@portstephens.nsw.gov.au.

Title Information

Title information shown on this Planning Certificate is provided from Council's records and may not conform to information shown on the current Certificate of Title. Easements, restrictions as to user, rights of way and other similar information shown on the title of the land are not provided on this planning certificate.

Inspection of the land

The Council has made no inspection of the land for the purposes of this Planning Certificate.

PART A: INFORMATION PROVIDED UNDER SECTION 10.7(2)

Matters contained in this certificate apply only to the land on the date of issue.

1. Names of relevant planning instruments and DCPs

(1) The name of each environmental planning instrument that applies to the development on the land.

State Environmental Planning Policies

State Environmental Planning Policy No 21 – Caravan Parks

State Environmental Planning Policy No 33 – Hazardous and Offensive Development

State Environmental Planning Policy No 36 – Manufactured Home Estates

State Environmental Planning Policy No 44 – Koala Habitat Protection

State Environmental Planning Policy No 50 – Canal Estate Development

State Environmental Planning Policy No 55 – Remediation of Land

State Environmental Planning Policy No 64 – Advertising and Signage

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

State Environmental Planning Policy (Affordable Rental Housing) 2006

State Environmental Planning Policy (Building Sustainability Index BASIX) 2004

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (State and Regional Development) 2011

State Environmental Planning Policy (State Significant Precincts) 2005

State Environmental Planning Policy (Primary Production and Rural Development) 2019

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

Local Environmental Plan

Port Stephens Local Environmental Plan 2013

(2) The name of each proposed environmental planning instrument that will apply to the carrying out of development on the land and that is or has been the subject of community consultation or on public exhibition under the Act (unless Secretary has notified the Council that the making of the proposed instrument has been deferred indefinitely or has not been approved).

Draft State Environmental Planning Policies

No draft State Environmental Planning Policies affect the site the subject of this Certificate.

Draft Local Environmental Plan

Port Stephens Council has prepared a Planning Proposal seeking to amend the Port Stephens Local Environmental Plan 2013 to address the following matters:

- Update the zoning of the following land from RU2 Rural Landscape to SP2 Defence to reflect its ownership by the Commonwealth Department of Defence: 2117 Nelson Bay Road, Williamstown (Lot 1 DP 665835); 2119 Nelson Bay Road, Williamstown (Lot 1 DP 665836); 11A Lavis Lane, Williamstown (Lot 67 DP 753192); 14 Lavis Lane, Williamstown (Lot 3 DP 853312); and 40 Lavis Lane, Williamstown (Lot 3 DP 741996);
- Update the zoning of 601 Cabbage Tree Road, Williamstown (Lot 1 DP 195630) from RU2 Rural Landscape to E1 National Parks and Nature Reserves to reflect its ownership by the Minister Administering the National Parks and Wildlife Act 1974 (NSW) for addition to the Hunter Wetlands National Park;
- Update the zoning label of 57 Slades Road, Williamstown (Lot 21 DP 1053667) from SP2 Defence to SP2 Defence (Air Transport Facility) to reflect its commercial airport lease conditions;
- Update the zoning at 1 Tuncurry Close, Nelson Bay (Lot 6 Section 4 DP 242131) from R2 Low Density Residential to RE1 Public Recreation to reflect its existing ownership, dedication and use as public open space;
- Within the IN1 General Industrial Zone - add 'storage premises' as permissible with consent;
- Within the IN2 Light Industrial Zone - add 'mortuaries' and 'recreation facilities (indoor)' as permissible with consent;
- Within the RU2 Rural Landscape Zone - add 'recreation facilities (outdoor)' as permissible with consent;
- Address various minor split zone map alignments from recent subdivision and cadastral map shifts for the following properties: 47 Martens Avenue, Raymond Terrace (Lot 3 DP 854853); 51 Martens Avenue, Raymond Terrace (Lot 4 DP 854853); 64B Joseph Sheen Drive, Raymond Terrace (Lot 271 DP 1162356); 40 Joseph Sheen Drive, Raymond Terrace (Lot 413 DP 1221430); 40A Joseph Sheen Drive, Raymond Terrace (Lot 414 DP 1221430); 3 Orton Cl, Heatherbrae (Lot 126 DP 1092660); 2 Orton Cl, Heatherbrae (Lot 127 DP 1092660); 47 Camfield Dr, Heatherbrae (Lot 128 DP 1092660); 49 Camfield Drive, Heatherbrae (Lot 501 DP 1240934); 51 Camfield Dr, Heatherbrae (Lot 508 DP 1246458); 343 Masonite Rd, Heatherbrae (Lot 1202 DP 1174968); 470 Masonite Road, Heatherbrae (Lot 510 1246458); and 3 Speedy Lock Lane, Heatherbrae (Lot 101 DP 708242); and
- Correct errors in the numbering, address descriptions and mapping of various heritage items. It also includes: correcting the location of "Eskdale House" from 792 Seaham Road, Eagleton (Lot 100 DP 1064980) to 794 Seaham Road, Eagleton (Lot 102 DP 1064980); updating the listed significance of "Nelson Head Lighthouse Group - Nelson Head Lighthouse, cottages and reserve, including Apex Park and Christmas Bush Avenue oil-burning street lamps" at 5A Lighthouse Road, Nelson Bay (Part Lot 427 DP 39728) from "State" to "Local" heritage significance (note: this Item is not listed on the NSW State Heritage Register); and updating the listing of "Henry Halloran Group – stone wall west of Tanilba House at 30 Caswell Crescent (Lot 2 DP 548644) from "Local" to "State" significance (this Item is listed on the NSW State Heritage Register SHR 00029).

Development Control Plans

- (3) The name of each development control plan that applies to the carrying out of development on the land.

Port Stephens Development Control Plan 2014.

2. Zoning and land use under relevant Local Environmental Plan(s)

What is the identity of the zoning for the land?

IN1 General Industrial

Land Use Table – IN1 General Industrial

(a) The land is zoned IN1 General Industrial under the provisions of Part 2 in the Port Stephens Local Environmental Plan 2013.

(b) **Item 2 – Permitted without consent**

Nil

(c) **Item 3 – Permitted with consent**

Airstrips; Boat building and repair facilities; Boat launching ramps; Boat sheds; Correctional centres; Crematoria; Depots; Environmental facilities; Environmental protection works; Flood mitigation works; Freight transport facilities; Garden centres; General industries; Hardware and building supplies; Heavy industrial storage establishments; Heavy industries; Helipads; Heliports; Highway service centres; Industrial retail outlets; Industrial training facilities; Jetties; Landscaping material supplies; Light industries; Mortuaries; Neighbourhood shops; Oyster aquaculture; Places of public worship; Plant nurseries; Port facilities; Research stations; Restricted premises; Roads; Rural supplies; Sawmill or log processing works; Service station; Sex services premises; Signage; Stock and sale yards; Tank-based aquaculture; Timber yards; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Water supply systems; Wharf or boating facilities; Wholesale supplies

(d) **Item 4 - Prohibited**

Pond-based aquaculture; Any development not specified in item 2 or 3

(e) **Development Standard for the erection of a dwelling-house**

No development standard that fixes a minimum land dimension for the erection of a dwelling-house applies to the land.

(f) Does the land include or comprise a critical habitat?

Port Stephens Local Environmental Plan 2013 does not identify the land as including or comprising critical habitat.

(g) Is the land in a heritage conservation area?

The land is not located within a heritage conservation area under the Port Stephens Local Environmental Plan 2013.

(h) Is an item of environmental heritage situated on the land?

The land is not identified as containing an item of environmental heritage significance under the provisions in Port Stephens Local Environmental Plan 2013.

Note. The land subject of this certificate does not have a site specific clause applying to it.

2A. Zoning and land use under *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*

Not applicable to the Port Stephens Local Government Area.

3. Complying Development

Whether or not the land to which the certificate relates is land on which complying development may be carried out under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*?

Housing Code

Complying development under the General Housing Code MAY be carried out on the land.

Inland Code

Complying development under the Inland Code MAY be carried out on the land.

Rural Housing Code

Complying development under the Rural Housing Code MAY be carried out on the land.

Low Rise Medium Density Housing Code

Complying development under the Low Rise Medium Density Housing Code MAY be carried out on the land.

Greenfield Housing Code

Complying development under the Greenfield Housing Code MAY be carried out on the land.

Housing Alterations Code

Complying development under the Housing Alterations Code MAY be carried out on the land.

General Development Code

Complying development under the General Development Code MAY be carried out on the land.

Commercial and Industrial Alterations Code

Complying development under the Commercial and Industrial alterations Code MAY be carried out on the land.

Commercial and Industrial (New Buildings and Additions) Code

Complying development under the Commercial and Industrial (New Buildings and Additions) Code MAY be carried out on the land.

Container Recycling Facilities Code

Complying development under the Container Recycling Facilities code MAY be carried out on the land.

Subdivisions Code

Complying development under the Subdivision Code MAY be carried out on the land.

Demolition Code

Complying development under the Demolition Code MAY be carried out on the land.

Fire Safety Code

Complying development under the Fire Safety Code MAY be carried out on the land.

Note. If the land is a lot to which the Housing Code, Rural Housing Code, Low Rise Medium Density Housing Code, Greenfield Housing Code, Housing Alterations Code, General Development Code, or Commercial and Industrial (New Buildings and Additions) Code (within the meaning of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* applies, complying development may be carried out on any part of the lot that is not affected by the provisions of clause 1.19 of that Policy

4. (Repealed)

4A. (Repealed)

4B. Annual charges under *Local Government Act 1993* for coastal protection services that relate to existing coastal protection works

The land is not subject to annual charges under section 496B of the *Local Government Act 1993* for coastal protection services relating to existing coastal protection works to which the owner (or any previous owner) of the land has consented.

Note. "existing coastal protection works" are works to reduce the impact of coastal hazards on land (such as seawalls, revetments, groynes and beach nourishment) that existed before the commencement of section 553B of the *Local Government Act 1993*.

5. Mine Subsidence

Whether or not the land is proclaimed to be a mine subsidence district within the meaning of section 15 of the *Mine Subsidence Compensation Act 1961* or within an area declared to be a mine subsidence district under the *Coal Mine Subsidence Compensation Act 2017*.

The land is not within a proclaimed or declared mine subsidence district.

6. Road widening and road realignment

Council's records indicate that the land the subject of this Certificate is not affected by any road widening or road realignment under:- (1) Section 25 of the Roads Act 1993; or (2) any environmental planning instrument; or (3) any resolution of the Council.

7. Council and other public authority policies on hazard risk restrictions

Council's records indicate that the land subject of this certificate IS NOT affected by RAAF Base Williamtown & Salt Ash Weapons Range 2025 ANEF (10th August 2011); or the Aircraft Noise Planning Area within Port Stephens Development Control Plan 2014 - Chapter B7 Aircraft Noise for Buildings.

7A. Flood related development controls information

MINIMAL RISK FLOOD PRONE LAND - Development on the land or part of the land for the purposes of critical emergency response, recovery facilities and infrastructure and development which are particularly vulnerable to emergency response including group homes, seniors housing and child care facilities is subject to flood related development controls. If you wish to apply for a Flood Certificate, please refer to Council's Flood Certificate Information on our website at www.portstephens.nsw.gov.au

8. Land reserved for acquisition

Whether or not any environmental planning instrument or proposed environmental planning instrument makes provision in relation to the acquisition of the land by a public authority, as referred to in Section 3.15 of the Environmental Planning and Assessment Act 1979 (the Act).

The Port Stephens Local Environmental Plan 2013 DOES NOT provide for the acquisition of this land, or part thereof, by a public authority as referred to in Section 3.15 of the Act.

9. Contributions plans

The name of each contributions plan applying to the land

* Port Stephens Development Contributions Plan 2007.

* Port Stephens Fixed Development Contributions Plan 2006.

Note. These documents specify development contributions required towards the cost of providing additional community services or facilities if a property is developed. They are available on request from Council or can be viewed www.portstephens.nsw.gov.au.

9A. Biodiversity certified land

If the land is biodiversity certified land under Part 8 of the *Biodiversity Conservation Act 2016*, a statement to that effect.

No

Note. Biodiversity certified land includes land certified under Part 7AA of the *Threatened Species Conservation Act 1995* that is taken to be certified under Part 8 of the *Biodiversity Conservation Act 2016*.

10. Biodiversity stewardship sites

If the land is a biodiversity stewardship site under a biodiversity stewardship agreement under Part 5 of the *Biodiversity Conservation Act 2016*, a statement to that effect (but only if the council has been notified of the existence of the agreement by the Chief Executive of the Office of Environment and Heritage).

No

Note. Biodiversity stewardship agreements include biobanking agreements under Part 7A of the *Threatened Species Conservation Act 1995* that are taken to be biodiversity stewardship agreements under Part 5 of the *Biodiversity Conservation Act 2016*.

10A. Native vegetation clearing set asides

If the land contains a set aside area under section 60ZC of the *Local Land Services Act 2013*, a statement to that effect (but only if the council has been notified of the existence of the set aside area by Local Land Services or it is registered in the public register under that section).

The land DOES NOT contain a set aside area under section 60ZC of the Local Land Services Act 2013.

11. Bush fire prone land

Whether or not some, all or none of the land is bush fire prone land.

Part of the land is identified as bush fire prone land in Council's records. Further details of any applicable restrictions on development of the land may be obtained on application to Council. For further information, please contact Council's Duty Officer by telephoning 49880115.

12. Property vegetation plans

If the land is land to which a property vegetation plan under the *Native Vegetation Act 2003* (and that continues in force) applies, a statement to that effect (but only if the council has been notified of the existence of the plan by the person or body that approved the plan under that Act).

Council has not been notified of any Property Vegetation Plans under the *Native Vegetation Act 2003* (and that continues in force) that affect the land to which this certificate applies.

13. Orders under *Trees (Disputes Between Neighbours) Act 2006*

Whether an order has been made under the *Trees (Disputes Between Neighbours) Act 2006* to carry out work in relation to a tree on the land (but only if the council has been notified of the order).

The land is not affected by an order under the *Trees (Disputes Between Neighbours) Act 2006* (of which Council is aware).

14. Directions under Part 3A

Whether there is a direction by the Minister in force under section 75P(2)(c1) of the Act.

The land is not affected by a direction by the Minister, in force under section 75P(2)(c1) of the *Environmental Planning and Assessment Act 1979*.

15. Site compatibility certificates and conditions for seniors housing

If the land is land to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies:

- (a) Whether or not Council is aware of a current site compatibility certificate (seniors housing), in respect of the proposed development on the land.

Council is not aware of a site compatibility certificate (seniors housing) issued in respect of the subject land.

- (b) Whether or not any terms of a kind referred to in clause 18(2) of that Policy that have been imposed as a condition of consent to a development application granted after October 2007 in respect of the land.

No terms referred to in clause 18(2) of the policy have been imposed as a condition of development consent in respect of the land to which this certificate relates.

16. Site compatibility certificates for infrastructure, schools or TAFE establishments

Whether or not Council is aware of a valid site compatibility certificate (infrastructure) or site compatibility certificate (schools, or TAFE establishments) in respect of proposed development on the land.

Council is not aware of a valid site compatibility certificate (infrastructure) or site compatibility certificate (schools, or TAFE establishments) in respect of proposed development on the land.

17. Site compatibility certificates and conditions for affordable rental housing

- (1) Whether or not Council is aware of a current site compatibility certificate (affordable rental housing) in respect of proposed development on the land.

Council is not aware of a current site compatibility certificate issued under *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

- (2) Whether or not any terms of a kind referred to in clause 17 (1) or 38 (1) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* that have been imposed as a condition of consent to a development application in respect of the land.

The land is not affected by any terms of a kind (of which Council is aware) referred to in clause 17(1) or 38(1) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* that have been imposed as conditions of consent to a development application granted after 11th October, 2007 in respect of the land.

18. Paper subdivision information

- (1) The name of any development plan adopted by a relevant authority that applies to the land or that is proposed to be subject to a consent ballot.
(2) The date of any subdivision order that applies to the land.
(3) Words and expressions used in this clause have the same meaning as they have in Part 16C of *Environmental Planning and Assessment Regulation 2000*.

Not applicable.

19. Site verification certificates

Whether or not Council is aware of a current site verification certificate, in respect of the land.

Council is not aware of a current site verification certificate in respect of the land.

20. Loose-fill asbestos insulation

Whether or not the land includes any residential premises (as defined in Division 1A of Part 8 of the *Home Building Act 1989*) that are listed on a register of residential premises that contain or have contained loose-fill asbestos insulation.

The land DOES NOT include any residential dwelling identified on the Loose-Fill Asbestos Insulation Register as containing loose-fill asbestos ceiling insulation. For further information, please contact Department of Fair Trading by telephoning 13 77 88 or go to their website at www.fairtrading.nsw.gov.au.

21. Affected building notices and building product rectification orders

- (a) Whether or not there is any affected building notice of which the council is aware that is in force in respect of the land.

There is no affected building notice in force in respect of the land.

A statement of:

- (b) Whether there is any building product rectification order of which the council is aware that is in force in respect of the land and has not been fully complied with.

No

- (c) Whether any notice of intention to make a building product rectification order of which the council is aware has been given in respect of the land and is outstanding.

No

Additional matters

Note. The following matters are prescribed by section 59 (2) of the Contaminated Land Management Act 1997 as additional matters to be specified in a planning certificate:

- (a) Whether or not the land to which the certificate relates is significantly contaminated land within the meaning of that Act.
- (b) Whether or not the land to which the certificate relates is subject to a management order within the meaning of that Act.
- (c) Whether or not the land to which the certificate relates is the subject of an approved voluntary management proposal within the meaning of the Act.
- (d) Whether or not the land to which this certificate relates is subject to an ongoing maintenance order within the meaning of that Act.
- (e) Whether or not the land to which the certificate relates is the subject of a site audit statement within the meaning of that Act – if a copy of such statement has been provided at any time to the local authority issuing the certificate.

There are no prescribed matters under section 59(2) of the Contaminated Land Management Act 1997 to be disclosed.

PART B: INFORMATION PROVIDED UNDER SECTION 10.7(5)

This information is provided in accordance with section 10.7(5) of the *Environmental Planning and Assessment Act 1979*. Section 10.7(6) states that Council shall not incur any liability in respect of advice provided in good faith pursuant to section 10.7(5) of the Act. If this information is to be relied upon, it should be independently checked.

Heritage

Port Stephens Council must take into consideration the likely effect of proposed development on the heritage significance of a heritage item, heritage conservation area, archaeological site or potential archaeological site, and on its setting, when determining an application for consent to carry out development on land in its vicinity. Please contact Council's Development Assessment and Compliance Section by telephoning 49880115.

Aboriginal Archaeology

When determining a development application on known or potential archaeological sites of both Aboriginal and non-Aboriginal heritage significance, Port Stephens Council must consider an assessment of how the proposed development would affect the conservation of the site and any relic known or reasonably likely to be located at the site. Please contact Council's Development Assessment and Compliance Section on 49880115 for more information.

Tomago Aluminium Smelter Buffer Zone

This property is located within the Tomago Aluminium Smelter Buffer zone. Tomago Aluminium Company Pty Ltd are required to take all reasonable steps to acquire certain properties within this buffer zone. Please contact the Company Secretary, Tomago Aluminium Company Pty Limited, PO Box 405, Raymond Terrace NSW 2324 for further information.

Aircraft Noise

All areas of the Port Stephens Local Government Area are now, or are forecast to be, affected by aircraft noise from time to time. Further information concerning the degree of impact of noise from aircraft can be obtained by contacting Council's Strategy and Environment Section by telephoning 49880326.

Koala Habitat

Parts of the Port Stephens Local government Area are affected by Koala Habitat and subject to the Port Stephens Comprehensive Koala Plan of Management 2002 made under State Environmental Planning Proposal No. 44. Further information can be obtained from Council's Strategy & Environment Section on 49880326 or email plancert@portstephens.nsw.gov.au.

Invasive Species

Parts of the Port Stephens Local Government Area contain plants that pose a risk according to the *Biosecurity Act 2015* which may restrict the use of the land. For further information please contact Council's Strategy & Environment Section on 4988 0326 or email weeds@portstephens.nsw.gov.au

Development consents relating to the land

Please contact Customer Relations on (02) 4988 0255, for any enquiries regarding development consent over the land in the past 5 years.

Issued by Port Stephens Council Development Services Group,
on behalf of **Wayne Wallis, General Manager**