

VOWW opposes this rezoning proposal.

We agree that there are other adjacent R5 subdivisions like Brandy Hill, and much comment has been made about this in the proposal. However, neither Brandy Hill nor Eskdale estate are not, and never were, vital flood refuge/high ground for adjacent farmland. The value of the land in the rezoning proposal to farmers of adjoining Williams River floodplain will be dealt with in more detail in this submission.

The impact on existing residents of Sophia Jane Drive and the adverse impacts to native flora and fauna must be factored into this proposal in addition to the requirements of the farming community.

The proposal for rezoning of 792 Seaham Road is shown in this document to be flawed and full of inconsistencies. For example, the lot size is given as 44.23ha (p245), 38ha in the RCA Geotech report, 45ha (p28), and 40ha in the main body of the proposal. The number of lots also vary between 17, 18 and 19. While we understand that this is a DA issue, it certainly “muddies the waters” when trying to understand the potential environmental and social implications.

Adding to the confusion is the reference to 1ha block sizes (p8 – Ecological Assessment).

- *The purpose of this planning proposal is to amend the current lot size map over the site from 40ha to 1ha, to permit the subdivision of the site into eighteen (18) large residential allotments*
- *..... enabling the creation of seventeen (17) additional allotments, the minimum lot size map over the site needs to be amended to reflect a minimum lot size of 1ha.*

It is difficult not to treat the proposal as a DA for a subdivision, but in this lengthy document the proponent has in fact set out quite clearly why a rezoning should NOT be approved. All one needs to do is align the numerous maps produced to show that houses can't be built on most of the land unless the majority of the trees are removed contrary to the statements about minimal impact on trees and the environment. And this is just one contradiction. I have addressed some of those issues, to clarify our concerns about this proposal.

The main issues expanded on below deal with:

1. Agricultural land use conflict.
2. Social implications.
3. Environmental concerns.

**Adverse impact on neighbouring rural enterprises.**

The value of the land which is proposed to be rezoned has not been diminished in the eyes of the neighbouring farmers who have indicated that they need to have access to, or purchase this land to ensure the viability of their own farms.

- The land is essential high ground for cattle agistment during periods of flood on the Williams River floodplain. Major flooding events have been occurring with increased frequency and speed as was witnessed in the 2015 superstorm when many head of stock were lost due to the sudden rise in water levels from the intense rain in a short period of time and that was evident by the dead cattle and horses that were washed up to the fences along Seaham Road. Had it not been for the high ground available many more stock would have been lost. It is our understanding that stock cannot be returned to the floodplain for months after a flood as the cattle would die if they ingested the decaying vegetation and the soil is devoid

of oxygen thus inhibiting new growth.

- Agistment has historically been provided by farmers who have property on the higher ground adjoining the floodplain during such events.
- The financial loss to the economy in this area of Port Stephens has not been estimated should high ground be lost to development as is being proposed here and for 610 Seaham Road.
- The 'Agricultural Land Viability Assessment' written by Peake Land Management (p.404) does not take into consideration the former successful use of this property or that part of this holding that has already been sold to farmers who farm it successfully.
- No mention has been made of the value of this parcel of land as high ground for floodplain farmers and the farmers have been priced out because of the *assumption* of the proponent that rezoning will be successful and therefore the land value is assumed as R5 rather than RU1.
- As can be seen from this report, as a 45ha parcel of land on its own, it would not be viable for farming. But what the report does not show is the importance of that 45ha to the farmers who would incorporate that land into their existing farms for the security of high land for stock during times of flood. Over 450 hectares of floodplain land directly depend on the 45 hectares proposed for rezoning. Drainage canals to the north and south and the Williams River to the east mean that livestock can only be evacuated westward to this high ground.
- This land is a "limited resource" in this area in its topography (NSW Agriculture Policy 2004) and therefore a significant holding.
- The report prepared by Peake Land Management states that the land is degraded farmland and therefore not viable as productive farmland. However, historically the Eskdale property has been a successful organic cattle property with its own abattoir and butchery. Therefore, this section of the report should be rejected.
- Farmers have had agreements for agistment, as mentioned above but this has been largely ignored in this report. This proposal ignores the fact that the land is the vast majority of the remaining high ground for stock for the duration of the recovery of the floodplain after minor to major flood events. The grazing land extends between Seaham Road on the west, the Williams River to the east, Nelsons Plains to the south and Seaham to the north. As mentioned, there is very little remaining accessible high ground left for refuge and this will be more crucial with the acceleration of climate change.
- Councillors and planning staff must take into consideration the very real threat of climate change. In the north coast of NSW at this very moment (March, 2022) we can see the consequences of a flood that is not a 1 in 100-year flood, it is described by experts in the field as a 1 in 500-year flood and well above any records set ever. An extra 2 metres of water above the next most serious flood. That would have consequences for any development on 792 Seaham Rd as much of the land is already shown to be influenced by flood. And, according to climate scientists, these events will occur more frequently. It is only a matter of time before we see something similar here and stock and lives will be lost.

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- Rezoning of the land under consideration for residential purposes not only removes the agricultural productivity of the land itself, but the viability of many more hectares of grazing land to the east. That would be a big financial loss to the community, a loss in jobs and a lost rural environment for Port Stephens.
- Rezoning this or any other parcel of vital high ground would make livestock farming on the adjacent floodplain unviable, as there would be no refuge left for stock in times of flood. The cattle farmed on the floodplain produce thousands of kilos of beef for consumption, livelihood for the farming families as well as employment for many ancillary services such as vets, stock transport companies and other farming support services. If Port Stephens Council values rural communities it needs to show that now by rejecting this rezoning.
- This rezoning proposal is inconsistent with the DPIE as stated in many parts of this proposal. The Ministerial Directive relevant to Rural Zones was put in place to protect farmland thus ensuring the food security of our region and for the rest of the state.
- The ‘Rural Subdivision Principals’ cited in the Peak Land Management report include key principles to encourage:
  - *Minimization of rural land use conflicts, particularly between residential land use and other rural land uses.*

### ***“Key principles to encourage sustainable and profitable agricultural development and investment are:***

- *The land resource base on which agriculture depends is protected from fragmentation and alienation.*
- *The sustainable profitable agricultural use of rural land is promoted over lifestyle uses in agricultural areas.*
- *Critical farm and rural infrastructure are recognised and addressed in land use planning decisions.*
- *Farm amalgamation and farm adjustment capacity is maintained by sound land use planning decisions.*
- *The potential for conflict between adjoining land uses is prevented or minimised.*
- *Environmental and amenity impacts are avoided through good farm design that allows management of adverse on-site and off-site effects.*
- ***The current viability or profitability of a property is not a valid basis for farm subdivision.***
- Therefore, according to these clearly defined principles, the reference to the ‘current’ profitability of this parcel of land (p431) should not be considered by planners or councillors.
- On such important principles the proponent uses *justifiably inconsistent with Ministerial Directions* on many occasions, diminishing the intent of these very principles. These “justifications” are highly subjective, misleading and in no way seek to comply with the Ministerial Directives relevant to Rural Zones. As gazetted, from 1<sup>st</sup> March 2022, *the Ministerial Directives under section 9.1 of the Environmental Planning and Assessment Act should be followed to the extent of that inconsistency.* In other words, there should be no ‘justifiably inconsistent’ excuses. Therefore, because this rezoning proposal relies on so many ‘inconsistencies’, and the fact that the key principles are largely ignored, it should be rejected.

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- Ships are never sent to sea without lifeboats. This high ground is a vital lifeboat for stock sent to graze on the floodplain. Removal of this high ground undermines the viability of adjoining grazing enterprises covering approximately 1/3 of the floodplain (~460 hectares).

### **Social implications.**

At no stage has an assessment been conducted on the social implications for the surrounding community. No Surveys were done, no questions asked of the residents who have lived experience of many issues in this proposal. They were not consulted on:

- the change to their physical environment,
- the change to their physical outlook,
- the changes to the character and ambience or to their lifestyle,
- odour from neighbouring chicken farms,
- noise from quarry trucks
- koala sightings or signs thereof, existing bird and other wildlife concerns.

A 'desktop' study would not be able to speak to any of these issues but they are real issues that need to be addressed.

To suggest that no changes in views or view corridors will occur shows that local residents have not been consulted and that the review has not been done onsite. The sight corridor to the treescape or the floodplain views would be impacted on by one strategically placed shed or house. A new resident would now have that view but not the existing owner. This is quite common in many estates as view is not a guarantee when buying a property but in many cases such as this, where the character of the area is based on view and treescapes, existing owners feel cheated out of the very reason they chose to live here in the first place and there will be an inevitable change in market value for the affected owner.

### **Environmental Concerns.**

While DA issues may be dealt with by PSC at a later date, should the rezoning go ahead, there are an abundance of maps within this rezoning proposal showing:

- Tree positions
- Road placement
- Block sizes
- Road entry
- Flooding zones
- Waste water dispersal areas
- Aircraft noise zones
- Traffic noise

Many of these show restrictions for actual buildings. When you overlay all of these it shows how little land can actually be built on. Most large trees in these areas would need to be removed for the buildings and for safety, even though the report itself speaks to 'minimal' need for tree removal.

Has the cumulative effect of these restrictions been taken into consideration? If there are too many restrictions on lot placements and building envelopes then rezoning is pointless.

On p.20 much is made of the access via a sealed road and that road is named as Seaham Road. Yet, the maps all show that a new entry road will be off Sophia Jane Drive. It does not matter where the entry point off Sophia Jane Drive will be, to construct this road several large, significant spotted

gums will need to be removed. These trees are considered significant, not just to local residents but to the regional environment. They are trees with hollows which are nesting sites for a variety of bird species as well as native animals and are a significant part of the character of the area and environmentally significant.

The importance of the spotted gums to the bird environment and the importance of the koala feed trees has been minimised with terms such as “in the absence of environmental zoning”, “may be avoided”, “impacts to biodiversity are avoided and minimised”, “any future subdivision DA could avoid impacts to the majority of koala feed trees”. With koalas now listed as endangered such vague terms can no longer be acceptable. The consultant has made it quite clear that there will be considerable damage to this environment. According to the ecological report there are threatened ecological communities; spotted gum-ironbark to the east and swamp oak forest to the west.

*“Overall, there are two-hundred and sixty-eight hollow-bearing trees counted within the site, each containing multiple hollows that are suitable for a wide range of potentially occurring species. There are also 95 Koala feed trees within the site. These trees are predominantly old growth senescent trees”.*

*“Impacts of noise, dust, light and vibration upon fauna are difficult to predict. Potential impacts may include effects on predator-prey interactions and changes to mating and nesting behaviour”. (Refer to Ecological assessment p302-305).*

*“This assessment has identified important biodiversity values on the site (such as an abundance of large, hollow-bearing trees, two TECs and potential habitat for threatened fauna species).”*

*“... future developments may be designed to avoid or minimise removal of hollow-bearing trees and Preferred Koala Habitat.”*

These are all important issues that have not been adequately taken into consideration in this document. Terms like ‘may be’ and ‘minimise’ are vague and in light of the other statements such as ‘identified important biodiversity value’ poses the question: **“is PSC prepared to sacrifice this important biodiversity value for this area”?**

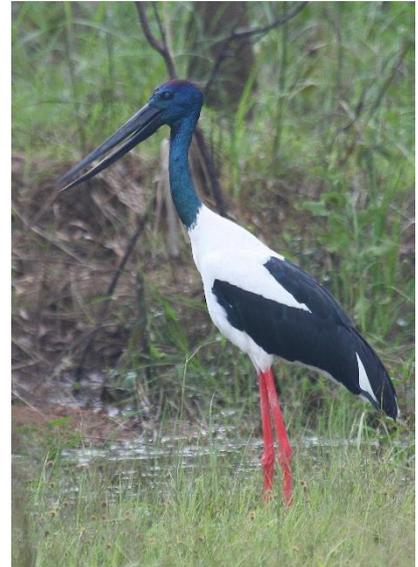
As has been mentioned before in this submission the maps that show all the constraints on this site that would reduce building envelopes, would make it difficult to rezone according to the wishes of the proponent.

It takes 120 years of growth before hollows are formed. Should these trees be removed, it could ultimately lead to the extinction of the birds in this region that rely on these hollows for nesting. The spotted gum forests have gradually been depleted in the wider Hunter region with the last remaining stands considered to be vitally important to a number of bird species. Along Seaham Road a vital spotted gum corridor remains from Ralston Road to Seaham. Glossy black cockatoos nest in these hollows and appear in this area on an annual basis. The grey-crowned babbler used to be common in this area but is now listed as being endangered and have been known to nest in this area. Yellow tailed black cockatoos are local residents of these trees.

With a higher density of people, we stand to lose the shy, ground dwelling birds such as the painted button quail, and others such as the speckled warbler, the brown tree creeper and Lewins Rail. Birds and animals need different landscape types and conditions to be able to survive drought and flood and the area in question provides habitat for all eventualities. In all but the most severe droughts the wetland to the east and the watercourse to the west provide refuge and food and in times of

flood migratory birds flock to the area. Egrets often graze the pastures on the west and roost either in the Seaham wetlands or the swamp to the north of the proposed rezoning. More housing will have an impact on these birds.

The swamps and wetlands of Port Stephens are known as important breeding grounds for larger birds, one of which is the black necked stork. They breed in the Hexham swamp and range widely for food, their favourite being eels. They are also territorial and to remove 'wet' areas such as along the Seaham Road boundary of this proposal would lead to the local extinction of this bird. There have been sightings of this bird in the creek opposite the end of Brandy Hill Drive and in the Seaham Wetlands.



Any spotted gum removed from the area proposed for rezoning would have a detrimental effect on the viability of local birdlife and the other animals that inhabit them. To suggest that there can be offsets in other areas is misleading. Reports show that the numbers of these trees are in decline and it is our understanding that through thorough evaluation the 'offset' principles have been shown to be ineffective and are being further reviewed by government.

Koalas are known to roam quite widely and that is certainly the case in and around the area in question. Residents have logged koala sightings from Hinton Road to Brandy Hill and Eskdale estate and only recently (13/1/22) a koala was sighted at 14 Brandy Hill Drive which is approximately 400m from 792 Seaham Rd. Other sightings have been made on the floodplain trees within a kilometre. These significant koala feed trees and other refuge trees need to be retained and the tree corridor in general is important to the diverse native birds and fauna of the area.

The report states (p16) that Brandy Hill quarry has no impact on this rezoning proposal. However, NO mention has been made of the impact of haulage truck traffic from the quarry on this area. Local residents can attest to the noise created by such trucks as they brake at the corner of Brandy Hill Drive and Seaham Road, accelerate uphill fully loaded past Sofia Jane Dr and travel through Nelsons Plains. Hanson, (by their own admission), cannot guarantee the roadworthiness or the driving habits of the contractors so the braking noise can be extreme and ongoing. This was part of the BHSAG's submission to the IPC and the commissioners agreed that this would have an impact on residents.

The proponent's plan to "plant fast growing trees and shrubs" along the western and southern boundaries to mitigate "potential" noise impacts from Seaham Road (p51) is a simplistic response to a serious noise issue. Residents along Brandy Hill Drive already have such trees and shrubs and the noise reduction from a truck under brakes is absolutely minimal.

### **Were any residents in the vicinity of the intersection of Brandy Hill Drive and Seaham Road asked about the impact of road noise to their quality of life?**

The proponent agrees that the site is located within 1km from poultry farms (p50) but does not give an accurate figure. It is actually 430m from the nearest poultry farm (as seen from the odour mapping) and even though the odour assessment report concludes that there would be no adverse effect, no one interviewed existing residents and again the proponent has suggested that trees be planted to mitigate odour. If the odour has been measured into this property it has obviously not been dispersed by the existing vegetation.

**Has any report been written on the kind of trees and shrubs that would be fast growing enough to mitigate the noise and odour?**

According to the report environmental biodiversity is acknowledged but effects on the landscape are considered minimal because of the large lot sizes. Statements such as: ".....it is reasonable to assume that the majority of key biodiversity/ecological constraints that are likely to be identified through a BDAR process at DA stage may be avoided." (p49) This kind of vague statement occurs regularly and does not give confidence into the accuracy of this report or that the proponent is making a genuine attempt at addressing the issues of biodiversity.

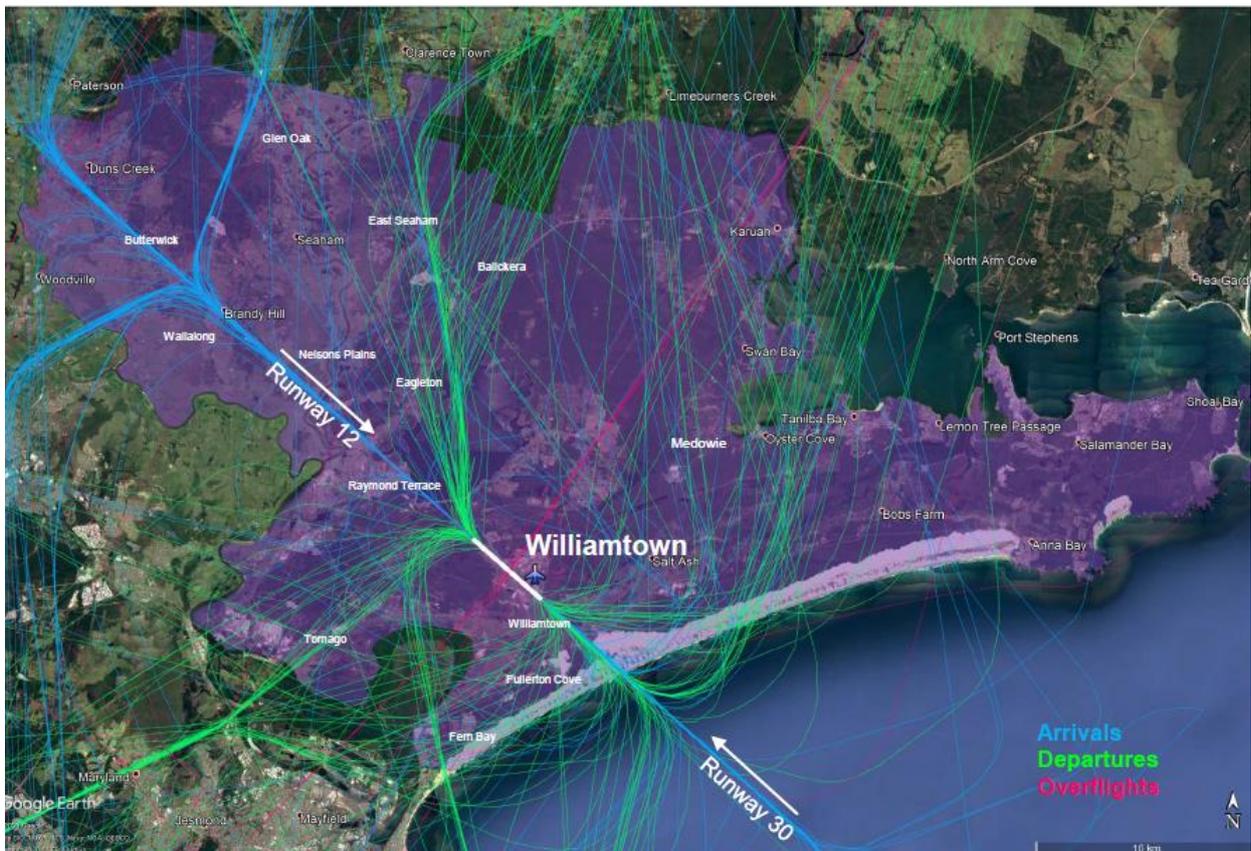
**Has a study been done on the implications of underground wastewater management dispersal on existing native vegetation?**

**Has a study been done on the seepage of waste water into the wetlands area to the East or the water course to the west?**

**Has a thorough report been done to show the impact on this land for flood events higher than the 1/100 year flood, taking into consideration the more frequently occurring heavy rain/East Coast Low events and the lived experience of the March 2022 1/500 year flood to the North Coast?**

Aircraft noise is addressed as "the property *MAY* be affected by aircraft noise". The map below shows the flightpath for civil aircraft in a report to PSC in 2019. Since then, there have been expanded services with larger international aircraft and the planes fly directly over the land in question.

RAAF jets cause *significantly* more noise than commercial aircraft and this has not been adequately addressed.



To allow rezoning for new housing developments honest information about aircraft noise must be provided. This proposal has failed to even consider this and, as in other sections of this report, aircraft noise is thought to be 'justifiably inconsistent with Ministerial Direction'.

*“What I hope to see in the future is clearer, better, more honest information about aircraft noise.”  
(Ron Brent Aircraft Noise Ombudsman Canberra)*

**Conclusions.**

The report prepared for this rezoning proposal ignores or trivialises many issues that are vital to this community and the environment.

- The value of floodplain farming to the Port Stephens economy and the value and necessity of high ground to those farmers has been ignored.
- The impact on local farming practices has not been evaluated.
- The biodiversity reports show the importance to local wildlife of the significant trees on this land but this has been minimalised in the report itself. If subdivided, the majority of the large trees would need to be removed to make way for roads, homes and out-buildings, or be subsequently removed for the safety of those buildings and the occupants.
- The loss of significant trees has not been sufficiently addressed.
- No social impact study was conducted where the existing local residents were consulted.
- Ministerial Directives have been downplayed with terms such as ‘justifiably inconsistent’. The new ruling states that ‘justifiably inconsistent’ is no longer a viable excuse.
- The new Federal Government listing for koalas has not been factored into this report.
- The effect of climate change has not been mentioned and this is key to the need for high ground for flood events on farm stock and will have an impact for essential services such as septic dispersal areas and the resultant seepage into creeks and wetlands.
- With all the environmental problems that are documented in this document is this land truly suitable for rezoning?

**On all of the above grounds this rezoning proposal must be rejected.**

We hope that this process of public submissions as requested by ‘Gateway’ is not dismissed lightly by PSC planning staff or by Councillors.

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Brandy Hill.  
(On Behalf of VOWW).