

ITEM NO. 4

FILE NO: 20/30675
EDRMS NO: 58-2017- 4-1
58-2017- 1-1

PLANNING PROPOSALS FOR SEASIDE BOULEVARDE, FERN BAY AND 42 FULLERTON COVE ROAD, FULLERTON COVE

REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION
MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the planning proposal (**ATTACHMENT 4**) to amend the Port Stephens Local Environmental Plan 2013 for land at 42 Fullerton Cove Road, Fullerton Cove (Lot 14 DP 258848) to:
 - a. rezone the land from RU2 Rural Landscape to part B1 Neighbourhood Centre and part E2 Environmental Conservation.
 - b. remove the minimum lot size restrictions for the proposed B1 zoned land.
 - c. apply a building height restriction of 9 metres on the proposed B1 zoned land.
 - d. insert a local provision to restrict the retail gross floor area of development on the site to 1500sqm.
 - 2) Adopt the planning proposal (**ATTACHMENT 5**) to amend the Land Zoning Map, Lot Size Map and Height of Building Map under the Port Stephens Local Environmental Plan 2013 at 2, 4, 4A, 4B, and 6 Seaside Boulevarde, Fern Bay and 20, 22, 23, 24, 25 and 26 Sovereign Street, Fern Bay (Part of Lot 27, DP 270466, Lots 2, 3, 4, 20, 21 and 22, and Part of Lots 5, 19, 23 and 24, DP 280072) to rezone the land from B1 Neighbourhood Centre to R2 Low Density Residential.
 - 3) Forward the planning proposals to the NSW Department of Planning, Industry and Environment for Gateway determination and request authorisation to make the plans.
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**ORDINARY COUNCIL MEETING - 14 APRIL 2020
MOTION**

051	<p>Councillor Chris Doohan Councillor Jaimie Abbott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Note the proponent for the planning proposal (ATTACHMENT 5 to Item No. 4) at 2, 4, 4A, 4B, and 6 Seaside Boulevard, Fern Bay and 20, 22, 23, 24, 25 and 26 Sovereign Street, Fern Bay (Part of Lot 27, DP 270466, Lots 2, 3, 4, 20, 21 and 22, and Part of Lots 5, 19, 23 and 24, DP 280072) withdrew the planning proposal request on 9 April 2020.2) Adopt the planning proposal (ATTACHMENT 4 to Item No. 4) to amend the Port Stephens Local Environmental Plan 2013 for land at 42 Fullerton Cove Road, Fullerton Cove (Lot 14 DP 258848) to:<ol style="list-style-type: none">a. rezone the land from RU2 Rural Landscape to part B1 Neighbourhood Centre and part E2 Environmental Conservation.b. remove the minimum lot size restrictions for the proposed B1 zoned land.c. apply a building height restriction of 9 metres on the proposed B1 zoned land.d. insert a local provision to restrict the retail gross floor area of development on the site to 1500sqm.3) Forward the planning proposal to amend the Port Stephens Local Environmental Plan 2013 for land at 42 Fullerton Cove Road, Fullerton Cove (Lot 14 DP 258848) to the NSW Department of Planning, Industry and Environment for Gateway determination and request authorisation to make the plan.4) Does not adopt the planning proposal (ATTACHMENT 5 to Item No. 4) for the land at 2, 4, 4A, 4B, and 6 Seaside Boulevard, Fern Bay and 20, 22, 23, 24, 25 and 26 Sovereign Street, Fern Bay (Part of Lot 27, DP 270466, Lots 2, 3, 4, 20, 21 and 22, and Part of Lots 5, 19, 23 and 24, DP 280072).
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Giacomo Arnott, Chris Doohan, Glen Dunkley, Ken Jordan, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of the report is to recommend that Council adopt 2 planning proposals (**ATTACHMENT 4** and **ATTACHMENT 5**) to amend the Port Stephens Local Environmental Plan 2013 (LEP 2013) to provide an alternate location for a neighbourhood centre and local supermarket in Fern Bay.

Currently land at 2, 4, 4A, 4B, and 6 Seaside Boulevard, Fern Bay and 20, 22, 23, 24, 25 and 26 Sovereign Street, Fern Bay (Seaside Estate) is zoned for a neighbourhood centre.

The purpose of the planning proposals is to identify an alternate location at 42 Fullerton Cove Road, Fullerton Cove for the neighbourhood centre and enable residential development at Seaside Estate. A locality plan is provided at (**ATTACHMENT 1**).

The planning proposal for 42 Fullerton Cove Road, Fullerton Cove (Fullerton Cove Proposal) seeks to rezone land from RU2 Rural Landscape to B1 Neighbourhood Centre and E2 Environmental Conservation.

The planning proposal for Seaside Estate (Seaside Proposal) seeks to rezone land from B1 Neighbourhood Centre to R2 Low Density Residential.

The planning proposals respond to the outcomes in the draft Fern Bay and North Stockton Strategy (draft FBNSS) to support the development of a neighbourhood centre in Fern Bay.

During the exhibition of the draft FBNSS, submissions were received supporting the establishment of a neighbourhood centre to service Fern Bay and a petition with 634 signatures was presented to Council in support of the Fullerton Cove Proposal.

The Fern Bay and North Stockton Commercial Lands Study (Hill PDA Study) prepared in 2017 identified the land at 42 Fullerton Cove Road, Fullerton Cove to be more suitable to meet future demand for commercial development than the land at Seaside Estate.

A summary of each planning proposal and their respective property details is provided below:

42 Fullerton Cove Road Proposal	
Date Lodged:	4 April 2017.
Proponent:	Monteath & Powys Surveyors on behalf of landowners.
Subject Property:	42 Fullerton Cove Road, Fullerton Cove (Lot 14 DP 258848).

MINUTES ORDINARY COUNCIL - 14 APRIL 2020

42 Fullerton Cove Road Proposal	
Site Area:	~ 6.7 hectares.
Current Zoning:	RU2 Rural Landscape.
Proposed Zoning:	Part B1 Neighbourhood Centre. Part E2 Environmental Conservation.
Current Minimum Lot Size (MLS):	20 hectares.
Proposed MLS:	B1 zoned land - no specified minimum lot size. E2 zoned land - 20 hectares.
Key Issues:	A Biodiversity Development Assessment Report (BDAR) will be prepared should the planning proposal receive a Gateway determination to proceed. The BDAR will inform the final zone boundaries. A revised Flood and Drainage Study will be prepared should the planning proposal receive a Gateway determination to proceed. Future retail development will be limited to a gross floor area of 1,500 square metres.
Supporting Studies:	Fern Bay and North Stockton Commercial Lands Study 2017 (Hill PDA (on behalf of Newcastle City Council and Port Stephens Council), 2017)

Seaside Estate Proposal	
Date Lodged:	2 February 2017.
Proponent:	Monteath & Powys Surveyors on behalf of landowners.
Subject Property:	2, 4, 4A, 4B, 5, 20, 21, 22, 23, 24 ,25 and 26 Seaside Boulevard, Fern Bay (Part of Lot 27, DP 270466, Lots 2, 3, 4, 20, 21 and 22, and Part of Lots 5, 19, 23 and 24, DP 280072).
Site Area:	~ 1 hectare.
Current Zoning:	B1 Neighbourhood Centre.
Proposed Zoning:	R2 Low Density Residential.
Current MLS:	No specified minimum lot size.
Proposed MLS:	500sqm.
Key Issue:	Without the 42 Fullerton Cove Road Proposal proceeding, rezoning the only B1 zoned land in Fern Bay would mean a neighbourhood supermarket in Fern Bay could not be achieved.

An assessment of the planning proposals is provided in the attached strategic planning assessment reports (**ATTACHMENT 2** and **ATTACHMENT 3**).

Existing and surrounding land uses

The land subject to the Fullerton Cove Proposal (Fullerton Cove Site) is located at the intersection of Fullerton Cove Road and Nelson Bay Road (**ATTACHMENT 1**). The Fullerton Cove Site is currently used for residential purposes and has been cleared of vegetation around the existing dwellings. The remainder of the site is vegetated.

The surrounding land use zones are a mixture of rural, residential and environmental conservation. The neighbouring properties consist of residential and rural dwellings, rural activities including livestock grazing and a wedding venue with guesthouse at Stanley Park. The nearest commercial development that offers day to day grocery items is the Stockton IGA located 8 kilometres to the south. The land opposite the Fullerton Cove site has approval for a caravan park on the site.

The land subject to the Seaside Proposal (Seaside site) is located within Seaside Estate, Fern Bay (**ATTACHMENT 1**). The Seaside site has existing approval under State Significant Development (MP 06-0250) for the subdivision of land into 6 commercial lots. The associated construction of roads, drainage and vegetation clearing has been completed.

The surrounding land use zones to the Seaside site are R2 Low Density Residential and E2 Environmental Conservation as part of the Seaside Estate residential release area. The Seaside Estate is nearing completion and consists of 1 and 2-storey residential dwellings, a child care facility, parkland and surrounding native bushland with high environmental values.

Suitability of the sites

In 2017, the City of Newcastle and Port Stephens Council commissioned Hill PDA to prepare the Fern Bay and North Stockton Commercial Lands Study 2017 (Hill PDA Study) to assess the suitability of potential supermarket sites across Fern Bay, Fullerton Cove and North Stockton.

Although the Seaside site was already zoned for commercial uses, the Hill PDA Study found it to be the least suitable of 6 sites in the area due to its disconnected location, limited exposure, small walking catchment and poor accessibility (only left in/left out access is available to the site).

The Fullerton Cove site was assessed as more suitable than the Seaside site due to its central location, exposure to Nelson Bay Road, site accessibility and the site area available for development.

While the Hill PDA Study identified the Stockton Residential Centre as the preferred location for a new town centre, the Fullerton Cove Proposal is seeking to enable a smaller scale neighbourhood centre with a maximum retail gross floor area of 1,500sqm. A maximum gross floor area of 1,500sqm will allow for the development of a neighbourhood supermarket and speciality retail without undermining a future town centre in Stockton. The Hill PDA Study determined there is likely sufficient projected demand for a neighbourhood centre and a higher order town centre in the Fern Bay and North Stockton locality.

The remainder of the Fullerton Cove site is proposed to be zoned E2 Environmental Conservation in order to protect the ecological values of the site.

The Seaside site is considered suitable for residential development as it is located within an existing residential area, is in close proximity of employment opportunities and will not increase demand for infrastructure or services.

The Fullerton Cove site was previously the subject of a planning proposal for a commercial rezoning that was refused by the State government in 2013. A key reason for refusal was a lack of strategic justification for commercial development in that location. The draft FBNS and the Hill PDA Study now provide the strategic justification for the Fullerton Cove Proposal to proceed.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Stage 1 planning proposal fees for: Seaside Proposal paid on 02/02/17. Fullerton Cove Proposal paid on 04/04/17.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that there is insufficient land available in the surrounding area resulting in a lack of commercial facilities and services for the community.	Low	Adopt the recommendations of this report.	Yes
There is a risk that future development at 42 Fullerton Cove Road will be at risk during flood events and may impact biodiversity values, resulting in significant impacts.	Low	Adopt the recommendations of this report that will include the preparation of a Biodiversity Development Assessment Report and revised Flooding and Drainage Study should the planning proposal receive Gateway determination to proceed.	Yes
There is a risk that without the Fullerton Cove Proposal proceeding, rezoning the Seaside Estate B1 zoned land would mean a neighbourhood supermarket in Fern Bay could not be achieved.	Low	Adopt the recommendation of this report to proceed with the Fullerton Cove Proposal.	Yes
There is a risk that commercial development outside of the future town centre will impact the viability of the new centre, resulting in a lack of commercial land uses to support the community.	Low	Adopt the recommendations of this report to limit the maximum retail gross floor area at 42 Fullerton Cove Road to 1,500sqm.	Yes

Environmental Planning and Assessment Act 1979

The planning proposals are being processed in accordance with Part 3 of the Environmental Planning and Assessment Act 1979. Should Council resolve to adopt the planning proposals, they will be forwarded to the NSW Department of Planning, Industry and Environment (DPIE) for a Gateway determination, including a request for authorisation to make the plan.

Port Stephens Local Environmental Plan 2013

The Fullerton Cove Proposal seeks to amend the LEP 2013 by rezoning the land from RU2 Rural Landscape to B1 Neighbourhood Centre and E2 Environmental Conservation. The area proposed to be zoned B1 Neighbourhood Centre is approximately 2.5 hectares and will be accompanied by no specific minimum lot size and a maximum building height of 9 metres.

The area proposed to be zoned E2 Environmental Conservation is approximately 4.2 hectares and will retain the existing 20 hectare minimum lot size and no maximum height of building control. The final area of the proposed E2 zone will be informed by a Biodiversity Development Assessment Report should the planning proposal receive a Gateway determination to proceed.

A new local provision will be introduced limiting the maximum retail gross floor area to 1,500sqm, ensuring the neighbourhood centre will not undermine the viability of a future town centre at the Stockton Residential Centre.

The Seaside Proposal seeks to amend the LEP 2013 by rezoning the subject land from B1 Neighbourhood Centre to R2 Low Density Residential. The rezoning will be accompanied by a minimum lot size of 500sqm and a maximum height of buildings of 9 metres.

Regional Plans

The planning proposals are consistent with the vision and goals outlined in the Hunter Regional Plan 2036 and the Greater Newcastle Metropolitan Plan 2036.

The Fullerton Cove Proposal will grow the economy in Port Stephens, support business growth, provide jobs closer to homes, protect natural areas and create great public spaces where people can come together.

The Seaside Proposal will provide additional housing within an existing urban area that is close to jobs and services at Williamtown, Tomago and Newcastle City.

Draft Port Stephens Local Strategic Planning Statement

The draft Port Stephens Local Strategic Planning Statement (LSPS) is recently off public exhibition.

The Fullerton Cove Proposal is consistent with the LSPS as it will make local business growth easier, provide infrastructure to support communities, conserve biodiversity values and create people friendly spaces.

The Seaside Proposal is consistent with the LSPS as it will ensure suitable land supply for housing and could increase diversity of housing choice.

Draft Port Stephens Local Housing Strategy (Live Port Stephens)

The draft Port Stephens Local Housing Strategy (Live Port Stephens) is recently off public exhibition.

The Fullerton Cove Proposal is consistent with Live Port Stephens as it will facilitate liveable communities by providing a convenient location for the community to access groceries, come together and grow connections.

The Seaside Proposal is consistent with Live Port Stephens as it will facilitate new housing within an existing urban area and support land uses that are consistent with local character.

Port Stephens Planning Strategy 2011

The Port Stephens Planning Strategy 2011 (PSPS) identifies Fern Bay within the Eastern Growth Corridor.

The Fullerton Cove Proposal is consistent with the PSPS as it will increase employment and provide convenience retail for the day to day needs of the surrounding residents.

The Seaside Proposal is consistent with the PSPS as it will provide additional housing supply and diversity within Fern Bay.

Draft Fern Bay and North Stockton Strategy

The draft FBNSS will guide future development and community infrastructure in Fern Bay and North Stockton.

The Fullerton Cove site is located within Precinct 6 'Fullerton Cove' of the draft FBNSS. The draft FBNSS supports a secondary neighbourhood centre, with a neighbourhood supermarket to complement the future town centre in Precinct 1. The Fullerton Cove Proposal is consistent with the draft FBNSS as it will protect environmentally significant land as well as facilitate a neighbourhood centre in Fern Bay that will not undermine the future town centre identified in the draft FBNSS.

The Seaside site is located within Precinct 5 'Seaside Estate' of the draft FBNS. The Seaside Proposal is consistent with the draft FBNS as it will provide additional housing supply that will not contribute to urban sprawl and will utilise existing infrastructure and services.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic

The planning proposals are expected to deliver a range of social and economic outcomes for the existing and future community, including:

- Increased employment opportunities in the Port Stephens local government area (LGA) and Hunter Region through construction jobs to carry out building works, as well as ongoing employment through retail and transport jobs to service the future commercial development.
- Increased provision of housing within an existing residential neighborhood.
- Increased population to grow the Fern Bay area and support the future Stockton town centre as well as a future neighbourhood centre in Fullerton Cove.
- Increased commercial opportunities for businesses in the Port Stephens LGA.
- Increased expenditure within the Port Stephens LGA.
- Increased liveability for residents in the Fern Bay and Fullerton Cove through the provision of day to day retail services.
- Reduced travel time for Fern Bay and Fullerton Cove residents to access everyday essentials such as groceries.

Given the number of community submissions received during the exhibition of the draft FBNS in support of the outcomes the planning proposals achieve, they are considered to respond to community needs and have a positive impact on the community.

Environmental

Flooding and ecological matters (as detailed below) have been assessed and are considered able to be resolved following any Gateway determinations to proceed.

CONSULTATION

Internal

Internal consultation was undertaken with the Natural Resources and Development Engineering units. Further detailed investigations, detailed below, will be required should the planning proposals receive Gateway determinations to proceed.

Natural Resources

The Natural Resources unit have reviewed the planning proposals and accompanying studies.

The Natural Resources unit have identified ecological matters that require further consideration in relation to the Fullerton Cove Proposal. The land contains high biodiversity values including endangered ecological communities, wetlands, koala habitat and threatened fauna that require further consideration through a Biodiversity Development Assessment Report (BDAR). A BDAR will be prepared should the planning proposal receive a Gateway determination to proceed. Additionally, the future boundaries of the proposed B1 Neighbourhood Centre and E2 Environmental Conservation zones will be informed by the BDAR.

The Seaside Proposal is supported by the Natural Resources unit with no outstanding matters to be resolved.

Development Engineering

The Development Engineering unit have reviewed the planning proposals and accompanying studies on flooding, drainage and traffic.

The Development Engineering unit have identified matters that require further consideration in relation to the Fullerton Cove Proposal. The land is located in a high hazard flood storage area as well as in the major flow path for local catchment runoff. The majority of the proposed development area is low-lying and currently acts as a storage area. To address these matters, a revised flood and drainage study will need to be prepared should the planning proposal receive a Gateway determination to proceed.

The Seaside Proposal is supported by the Development Engineering unit and all matters identified are of minor significance and may be resolved should the planning proposal receive a Gateway determination to proceed.

External

External consultation has been undertaken during the preparation of the draft FBNS which was exhibited from 31 October 2019 to 29 November 2019. The draft FBNS proposed that a neighbourhood centre should be established to service Fern Bay. During exhibition, Council undertook a targeted social media campaign and held the 'Fern Bay Fiesta', where Council staff were available to discuss the draft FBNS.

In response to the exhibition of the draft FBNS, submissions were received that supported the outcomes of the Fullerton Cove Proposal and provision for a local supermarket in the area. Additionally, a petition of 634 signatures in support of the Fullerton Cove Proposal was provided to Council during public access on the 26 November 2019.

Consultation with the community and State government agencies will be undertaken in accordance with any Gateway determination. It is anticipated that the planning proposals will be exhibited for a minimum 28 days should they receive Gateway determinations to proceed.

OPTIONS

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

ATTACHMENTS

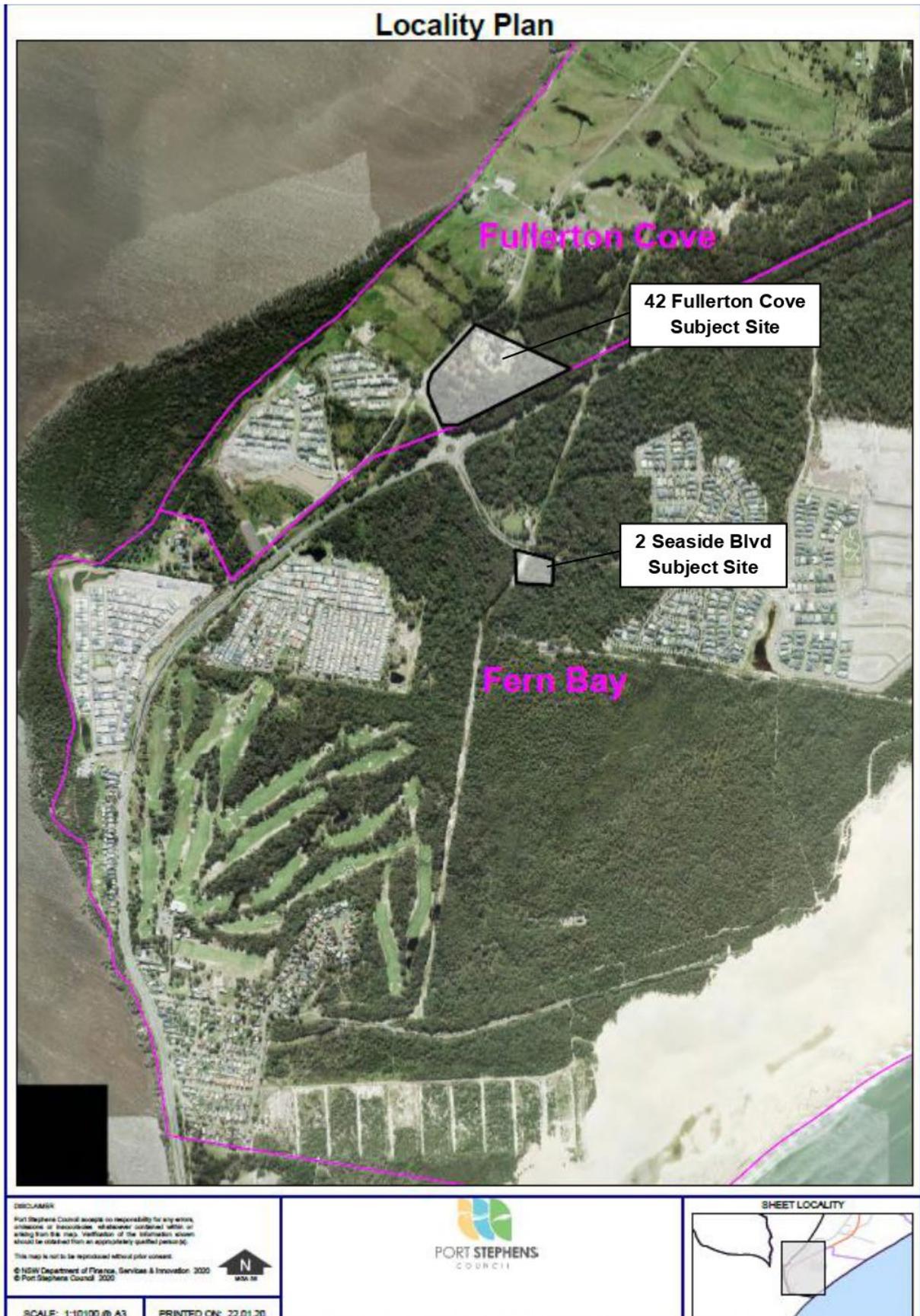
- 1) Locality Plan.
- 2) Fullerton Cove Assessment Report.
- 3) Seaside Estate Assessment Report.
- 4) Fullerton Cove Proposal. (Provided under separate cover)
- 5) Seaside Proposal. (Provided under separate cover)

COUNCILLORS ROOM

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

TABLED DOCUMENTS

Nil.





Our Ref: 58-2017-4-1

11 February 2020

STRATEGIC PLANNING ASSESSMENT REPORT

Assessment of written request made to the Council by a person for the preparation of a planning proposal under Part 3 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Application No.	58-2017-4-1
Applicant Name	Monteath & Powys on behalf of Christine Jordan
Applicant Address	C/- Monteath & Powys Pty Ltd PO Box 2270 DANGAR NSW 2309
Site Location Details	Lot 14 DP 258848 - 42 Fullerton Cove Road, Fullerton Cove
Proposal Summary	The planning proposal (PP) seeks to rezone RU2 Rural Landscape to part B1 Neighbourhood Centre and part E2 Environmental Conservation and introduce a local provision limiting the GFA of retail floorspace to 1,500sqm. The B1 zoning is intended to facilitate the development of a supermarket.
Eligible for Planning Proposal Preparation?	Yes
Adequate Information?	Yes
Planning proposal to be prepared?	Yes

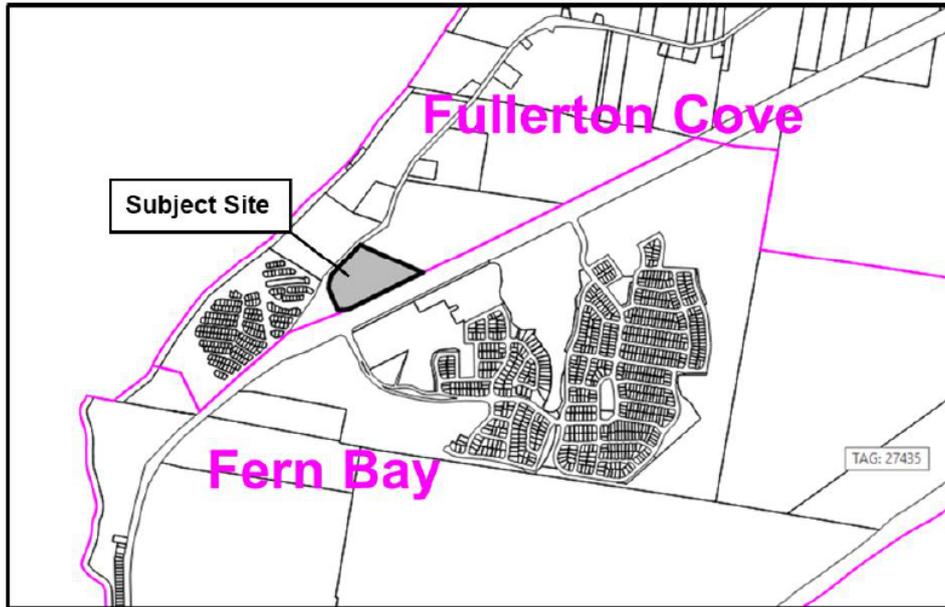
The application has been reviewed to determine whether it sufficiently addresses the requirements for preparation of a planning proposal under the EP&A Act and guidelines issued under s3.33(3) of the EP&A Act.

RECOMMENDATION

Based on the information lodged for the application the rezoning request is considered to have sufficient merit to warrant preparation of a planning proposal by Council.

It is recommended that a planning proposal be prepared for the rezoning request and lodged with the NSW Department of Planning, Industry and Environment for Gateway determination.

SITE IDENTIFICATION PLAN



INTERNAL REFERRALS

Internal Body	Referral Response
Development Engineers	<p>Application not supported.</p> <p>Flooding concerns have not yet been adequately addressed and given the sites location within High Hazard flood storage it is not recommended that the application can be supported with the information currently submitted.</p> <p>The PP is inconsistent with Ministerial Direction 3.4, the Improving Transport Choice Guidelines and the Right Place for Business and Services Planning Policy. The proposed development site is located within a high hazard flood storage area as well as the major flowpath for the local catchment runoff. The majority of the proposed development area is low-lying and acts as a storage area.</p> <p>The flooding and Stormwater Management Study report has made assumptions in the modelling and lacks details on catchment parameters, assumed storage levels for individual sub-catchments, actual flowpath from upstream to downstream, required flow width for water to pass through, required culvert size/s etc.</p> <p>RFI</p> <ul style="list-style-type: none"> - proposed development will need to provide replacement storage as well the culvert upgrading works - water quality target could be achieved, but detailed assessment will be necessary once the development footprint is known

Internal Body	Referral Response
Natural Resources	<p>The PP has been updated to indicate the need for a more detailed flood study post-Gateway. It is considered appropriate to provide this information post-Gateway.</p> <hr/> <p>Application not supported.</p> <p>Further information is required to determine the impact of rezoning and subsequent development of the subject site. The proposal is inconsistent with Ministerial Directions 2.1, 2.2, 4.3, 4.4, the Coastal management Act and NSW Guidelines for Coastal Management. The site contains wetlands, high biodiversity values including two Endangered Ecological Communities and supplementary koala habitat and the site drains to a RAMSAR listed wetland.</p> <p>RFI</p> <ul style="list-style-type: none"> - a Stage 1 Biodiversity Assessment needs to be prepared to determine whether there is likely to be serious and irreversible impacts that may prohibit future development - the PP to be updated to consider Coastal Management SEPP and Directive 2.2 - the PP should consider rezoning to E2 Environmental Conservation instead of E3 Environmental Management - the PP requires improved consideration of the Watagan to Stockton Green Corridor - the ecological assessments are dated and no longer satisfy current environmental requirements <p>The PP has been updated to rezone land to E2 Environmental Conservation instead of E3 Environmental Management and has indicated the need for a Biodiversity Development Assessment Report post-Gateway. The boundaries of the proposed B1 zone will be informed by the BDAR. Additionally, the PP has been updated to better address SEPPs and MDs.</p>

INFORMATION ASSESSMENT

TABLE 1 – STRATEGIC MERIT ASSESSMENT

Assessment of technical information

Information	Applicable	Lodged	Adequacy
Considerations under s3.33(2) of the EP&A Act			
Statement of objectives or intended outcomes of the proposed instrument	Yes	Yes	Adequate
Explanation of the provisions that are to be included in the proposed instrument	Yes	Yes	Adequate
Justification for the objectives, outcomes and provisions of the proposed instrument.	Yes	Yes	Adequate
Maps containing sufficient detail to indicate the substantive effect of the proposed instrument	Yes	Yes	Adequate
Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument	Yes	Yes	Adequate
Projected timeline of the plan making process	Yes	Yes	Adequate
Strategic Planning Context and Strategic Merit			
Assessment of consistency with relevant regional plan(s)	Yes	Yes	Adequate

Assessment of Consistency with the Hunter Regional Plan

The PP has demonstrated consistency with the following directions:

- Direction 6 Grow the economy of Midcoast and Port Stephens
- Direction 8 Promote innovative small business and growth in the service sectors
- Direction 14 Protect and connect natural areas
- Direction 17 Create healthy built environments through good design
- Direction 21 Create a compact settlement
- Direction 26 Deliver infrastructure to support growth and communities

The PP is inconsistent with Direction 16 Increase resilience to hazards and climate change however, it is appropriate for consistency with this direction to be addressed through further investigations post-Gateway.

Information	Applicable	Lodged	Adequacy
Assessment of consistency with relevant district plan(s)	Yes	Yes	Adequate

Assessment of Consistency with the Greater Newcastle Metropolitan Plan

The PP has demonstrated consistency with the following strategies:

- Strategy 8 Address changing retail consumer demand
- Strategy 9 Plan for jobs closer to the metro frame
- Strategy 10 Create better buildings and great places
- Strategy 11 Create more great public spaces where people come together
- Strategy 13 Protect rural amenity outside urban areas

The PP is inconsistent with Strategy 14 Improve resilience to natural hazards however, it is appropriate for consistency with this direction to be addressed through further investigations post-Gateway.

Assessment of consistency with relevant Council strategy (or strategies) endorsed by the NSW Department of Planning, Industry and Environment.	Yes	Yes	Adequate
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Assessment of Consistency with Local Strategies and Policies

Draft Local Strategic Planning Statement (endorsed by Council for exhibition)

The PP has demonstrated consistency with the following planning priorities:

- Planning Priority 2 Make business growth easier
- Planning Priority 6 Plan infrastructure to support communities
- Planning Priority 7 Conserve biodiversity values and corridors
- Planning Priority 9 Protect and preserve productive agricultural land
- Planning Priority 10 Create people friendly spaces

The PP is inconsistent with Planning Priority 8 Improve resilience to hazards and climate change however, it is appropriate for consistency with this priority to be addressed through further investigations post-Gateway.

Port Stephens Planning Strategy (PSPS) 2011 (not endorsed by DPIE)

The PSPS identifies Fullerton Cove as part of the Eastern Growth Corridor. The PP is considered to be consistent with the objectives of the PSPS as it will increase employment and provide convenience retail for the day to day needs of the surrounding residents.

Draft Fern Bay and North Stockton Strategy (FBNSS)

The FBNSS identifies the subject site within Precinct 6 Fullerton Cove. The PP has demonstrated consistency with the following planning principles:

Information	Applicable	Lodged	Adequacy
<ul style="list-style-type: none"> Environment Planning principle – Protect important environmental assets and enhance biodiversity connections Overall Structure Plan Outcome – Support the development of a neighbourhood centre in Fern Bay Precinct 6 Outcome – Consider rezoning land mapped as containing an endangered ecological community to an environmental zone Precinct 6 Outcome – Undertake a detailed assessment of the 'Request to Amend the Port Stephens Local Environmental Plan' submitted for 42 Fullerton Cove Road, Fullerton Cove 			
Site-Specific Merit			
Does the proposal have site-specific merit, having regard to the natural environment (including known significant environmental values, resources or hazards)?	Yes	Yes	Adequate Majority of the site is to be rezoned to E2 Environmental Conservation with the remaining footprint to be informed by a BDAR.
Does the proposal have site-specific merit, having regard to the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal?	Yes	Yes	Adequate The PP could facilitate improved liveability for residents as well as provide jobs and services for the area.
Does the proposal have site-specific merit, having regard to the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision?	Yes	Yes	Adequate The existing infrastructure is able to accommodate the PP. Applicant proposes to undertake future drainage works.
Site Description/Context			
Aerial photographs	Yes	Yes	Adequate
Site photos	N/A	No	Site photos are not required for the LEP amendment request.

TABLE 2 – SEPP ASSESSMENT

Assessment against State Environmental Planning Policies (SEPPs)

SEPP	Overview	Applicable	Consistency
SEPP No. 44 - Koala Habitat Protection	Encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	Yes	Adequate The ecological assessment found the proposal was unlikely to have a significant impact upon koala habitat. It is appropriate for a BDAR to be conducted post Gateway to further address koala habitat.
SEPP No. 55 - Remediation of Land	Contains state-wide planning controls for the remediation of contaminated land. The policy requires councils to be notified of all remediation proposals and requires lodgement of information for rezoning proposals where the history of use of land is unknown or knowledge incomplete.	Yes	Adequate Given the subject sites position within the greater PFAS management zone, it is considered appropriate to provide a Stage 1 Contamination Report post-Gateway.
SEPP (Coastal Management) 2018	Promotes an integrated and co-ordinated approach to land use planning in the coastal zone consistent with the objects of the <i>Coastal Management Act 2016</i> .	Yes	Adequate It is appropriate for a revised Flood Study to be prepared following a Gateway determination.
SEPP (Infrastructure) 2007	Provides greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency.	Yes	Adequate It is considered appropriate for a Traffic Impact Study to be provided post Gateway.
SEPP (Primary Production and Rural Development)	Aims to protect the biodiversity values of trees and other vegetation in non-rural areas of NSW and preserve the amenity of such areas through the preservation of trees and other vegetation.	Yes	Adequate
Conclusion			
The PP has adequately demonstrated consistency with the relevant State Environmental Planning Policies.			

TABLE 3 – MINISTERIAL DIRECTION ASSESSMENT

Assessment against Ministerial Directions

Ministerial Direction	Overview	Applicable	Consistency
1. Employment and Resources			
1.1	Business and Industrial Zones	Applies to planning proposals affecting existing or proposed business or industrial zone land. By requiring consistency with the objectives of the direction, retention of areas of business and industrial zoned land, protection of floor space potential, and/or justification under a relevant strategy/study; the direction seeks to protect employment land in business and industrial zones, encourage employment growth in suitable locations and support the viability of identified centres.	Yes Adequate The PP will encourage employment growth in a suitable location, and will support the residential community and will impact on the existing employment cluster at Stockton town centre.
1.2	Rural Zones	Provides for protection of the agricultural production value of rural land by requiring planning proposals to be justified by a relevant strategy or study if they seek to rezone rural zoned land to a residential, business, industrial, village or tourist zone or increase the permissible density of rural (except RU5) zoned land.	Yes Adequate The PP is inconsistent with this direction as it seeks to rezone rural land without strategic merit however, it is considered to be of minor significance due to the site specific merit and the social and economic benefits Additionally, the site is not used for agricultural purposes, and a small neighbourhood centre would be in keeping with the character of the surrounding rural and residential lands.
1.4	Oyster Aquaculture	Provides for the protection of priority oyster aquaculture areas and surrounds from land uses that may adversely impact upon water quality and consequently, on the health of oysters and oyster consumers.	Yes Adequate
1.5	Rural Lands	Applies to planning proposals relating to land where the SEPP (Rural Lands) 2008 applies.	Yes Adequate The PP is inconsistent with this direction as it seeks to

Ministerial Direction	Overview	Applicable	Consistency	
	By requiring consistency with the rural planning principles and rural subdivision principles of SEPP (Rural Lands) 2008, or justification under a relevant strategy, the direction seeks to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.		rezone rural land without strategic merit, however it is considered of minor significance due to the site specific merit and the social and economic benefits.	
2. Environment and Heritage				
2.1	Environment Protection Zones	Applies to all planning proposals. Provides for the protection and conservation of environmentally sensitive areas, by ensuring that planning proposals do not reduce the environmental protection standards applying to such land unless it is suitably justified by a relevant strategy or study or is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	Yes	Adequate The PP seeks to rezone ~4.2ha of RU2 land to E2 Environmental Conservation, increasing the protection of the high biodiversity values on site. It is considered appropriate for the B1 zoned land is to be guided by the BDAR post-Gateway.
2.2	Coastal Management	Applies to land within a coastal zone, as defined in the <i>Coastal Management Act 2016</i> . The direction seeks to protect and manage coastal areas of NSW. Proposals must include provisions that give effect to and are consistent with the objects of the <i>Coastal Management Act 2016</i> , the Coastal Management Manual and Toolkit, Coastal Design Guidelines and any relevant Coastal Management Program certified by the Minister.	Yes	Adequate. The PP is likely to have a positive impact on amenity within the area. The PP is unlikely to exacerbate potential impact of coastal processes and coastal hazards. It is considered appropriate for a more detailed flood study to be undertaken post-Gateway.
2.3	Heritage Conservation	Requires relevant planning proposals to contain provisions to facilitate the conservation of items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Yes	Adequate No known heritage items are located on site. Consultation will be undertaken post-Gateway.

Ministerial Direction	Overview	Applicable	Consistency
3. Housing, Infrastructure and Urban Development			
3.4	Integrating Land Use and Transport	Requires planning proposals, which seek to create, alter or remove a zone or provision relating to urban land (including land zoned for residential, business, industrial, village or tourist purposes), to be consistent with the aims, objectives and principles of 'Improving Transport Choice – Guidelines for planning and development' and 'The Right Place for Business and Services – Planning Policy' or that they be suitably justified under a relevant strategy or study or be of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	Yes Adequate
3.5	Development Near Regulated Airports and Defence Airfields	Applies development criteria and consultation requirements to planning proposals that seek to create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome. Inconsistency with the development criteria and/or consultation requirements can be considered if the inconsistency is suitably justified under a relevant strategy or study or is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	Yes Adequate The PP will not facilitate development above the height trigger map for the RAAF.
4. Hazard and Risk			
4.1	Acid Sulfate Soils	Requires the provisions of planning proposals must be consistent with the Acid Sulfate Soils Planning Guidelines and other such relevant provisions provided by the Director-General of the Department of Planning, except where the proposal is suitably justified under a	Yes Adequate It is appropriate for this to be addressed during the development application stage.

Ministerial Direction	Overview	Applicable	Consistency
	relevant strategy or study or where non-compliance is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).		
4.3 Flood Prone Land	Applies requirements for planning proposals that seek to create, remove or alter a zone or a provision that affects flood prone land except where non-compliance is of minor significance in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate).	Yes	Adequate The PP is inconsistent with this direction but it is considered to be of minor significance. It is appropriate for a more detailed flood study to be prepared following a Gateway determination.
4.4 Planning for Bushfire Protection	Applies requirements for planning proposals affecting land mapped as being bushfire prone land (or land in proximity to such land); except where the Commissioner of the NSW Rural Fire Service has issued written advice to Council that, notwithstanding the noncompliance with the requirements; the NSW Rural Fire Service does not object to progression of the planning proposal.	Yes	Adequate It is appropriate for a Bushfire Risk Assessment to be provided post-Gateway.
5. Regional Planning			
5.10 Implementation of Regional Plans	Requires that planning proposals be consistent with relevant regional strategies released by the Minister for Planning, except where, in the opinion of the Secretary of the NSW Department of Planning and Environment (or nominated delegate); the inconsistency is considered to be of minor significance and the intent of the strategy is not undermined.	Yes	Adequate The PP has demonstrated consistency with the Hunter Regional Plan and the Greater Newcastle Metropolitan Plan.
Conclusion			
The PP has demonstrated consistency with the relevant Ministerial Directions. Any inconsistencies			

TABLE 4 –TECHNICAL CONTENT ASSESSMENT

Assessment of technical information

Information	Applicable	Lodged	Adequacy
Traffic and Transport Considerations			
Traffic impact assessment	Yes	No	A Traffic Impact Study will be provided following a Gateway determination.
Environmental Considerations			
Bushfire risk assessment	Yes	No	A bushfire risk assessment is appropriate to provide following a Gateway determination.
Acid sulphate soil assessment	Yes	No	An acid sulphate soil assessment is not required to enable preparation of an initial planning proposal seeking Gateway determination.
Preliminary ecological assessment	Yes	Yes	Adequate
Biodiversity Development Assessment Report (BDAR)	Yes	No	A Biodiversity Development Assessment Report will be provided following a Gateway determination.
Flooding and Stormwater Management Study	Yes	Yes	A preliminary flood study has been provided. A more detailed flood study will be provided following a Gateway determination.
Contamination assessment	Yes	No	A Stage 1 Contamination Report is not required to enable preparation of an initial planning proposal seeking gateway determination.
Economic considerations			
Commercial Lands Study	Yes	Yes	Adequate

Note:

This report has been prepared on the basis of information submitted at the time of lodgement of the LEP amendment request and in consideration of the planning requirements applying at the time of assessment.

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