ITEM NO. 4 FILE NO: 16/461537

RM8 REF NO: PSC2016-02354

# PLANNING PROPOSAL - 74 SOUTH STREET, MEDOWIE (LOT 712 DP 1077195)

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT SECTION

MANAGER

GROUP: DEVELOPMENT SERVICES

#### RECOMMENDATION IS THAT COUNCIL:

1) Adopt the planning proposal at **(ATTACHMENT 2)** for the purpose of section 55 of the *Environmental Planning and Assessment Act 1979* (NSW) to amend the *Port Stephens Local Environmental Plan 2013* in respect of 74 South St Medowie (Lot 712 DP 7077195) to:

- a) Amend the Land Zone Map to rezone the subject land from R5 Large Lot Residential to R2 Low Density Residential;
- b) Amend the Lot Size Map to reduce the minimum lot size from 2,000m<sup>2</sup> to 900m<sup>2</sup>; and
- c) Amend the Height of Building Map to 9m.
- 2) Be consistent with their existing developed minimum lot size and include an additional administrative amendment to the minimum lot size map in respect of 66 South St (Lot 5 DP 280007); 68 South St (Lot 4 DP 280007); 70 South St (Lot 3 DP 280007); and 72 South St (Lot 2 DP 280007) to reduce the minimum lot size shown from 2,000m² to 900m².
- 3) Submit the planning proposal to the NSW Department of Planning and Environment for a gateway determination including a request for the delegation of plan making functions.

Councillor Peter Kafer left the meeting at 06:06pm during debate in Committee of the Whole

Councillor Peter Kafer returned to the meeting at 06:12pm during debate in Committee of the Whole.

# ORDINARY COUNCIL MEETING - 13 DECEMBER 2016 COMMITTEE OF THE WHOLE RECOMMENDATION

Mayor Bruce MacKenzie Councillor Ken Jordan

That the recommendation be adopted.

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Sally Dover, Ken Jordan, Paul Le Mottee, and John Morello.

Those against the Motion: Crs Geoff Dingle, Chris Doohan, Peter Kafer, John Nell and Steve Tucker.

The Motion was carried on the casting vote of the Mayor.

# ORDINARY COUNCIL MEETING - 13 DECEMBER 2016 MOTION

# 354 Councillor Paul Le Mottee Councillor Ken Jordan

It was resolved that Council:

- 1) Adopt the planning proposal at **(ATTACHMENT 2)** for the purpose of section 55 of the *Environmental Planning and Assessment Act 1979* (NSW) to amend the *Port Stephens Local Environmental Plan 2013* in respect of 74 South St Medowie (Lot 712 DP 7077195) to:
- a) Amend the Land Zone Map to rezone the subject land from R5 Large Lot Residential to R2 Low Density Residential;
- b) Amend the Lot Size Map to reduce the minimum lot size from 2,000m<sup>2</sup> to 900m<sup>2</sup>; and
- c) Amend the Height of Building Map to 9m.
- 2) Be consistent with their existing developed minimum lot size and include an additional administrative amendment to the minimum lot size map in respect of 66 South St (Lot 5 DP 280007); 68 South St (Lot 4 DP 280007); 70 South St (Lot 3 DP 280007); and 72 South St (Lot 2 DP 280007) to reduce the minimum lot size shown from 2,000m² to 900m².
- 3) Submit the planning proposal to the NSW Department of Planning and Environment for a gateway determination including a request for the delegation of plan making functions.

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Those for the Motion: Mayor Bruce MacKenzie, Crs Sally Dover, Ken Jordan, Paul Le Mottee, and John Morello.

Those against the Motion: Crs Geoff Dingle, Chris Doohan, Peter Kafer, John Nell and Steve Tucker.

The Motion was carried on the casting vote of the Mayor.

#### **BACKGROUND**

The purpose of this report is to recommend that Council prepare a planning proposal for gateway determination to facilitate a minor two-lot subdivision at 74 South St Medowie and administrative amendment to apply consistent lot size provisions for adjacent existing lots (66, 68, 70, 72 South St Medowie).

Subject land (ATTACHMENT 1)

74 South St Medowie (Lot 712 DP 1077195)

 $2,070m^2$ 

Existing zoning and min. lot size: R5 Large Lot Residential and 2,000m<sup>2</sup> Recommended zoning & min. lot size: R2 Low Density Residential and 900m<sup>2</sup>

Potential lot yield:

Recommended planning proposal:

One (additional)

(ATTACHMENT 2)

Proponent planning proposal:

(ATTACHMENT 3)

Proponent: Monteath and Powys (on behalf of owner)

Administrative Amendment: Amend Lot Size map from 2000m<sup>2</sup> to 900m<sup>2</sup>

66 South Street (Lot 5 DP 280007) 68 South Street (Lot 4 DP 280007) 70 South Street (Lot 3 DP 280007) 72 South Street (Lot 2 DP 280007)

# Planning Proposal

The objective of the planning proposal **(ATTACHMENT 2)** is to facilitate minor infill low density residential development (one into two lots) at 74 South Street. The proposal is low impact and consistent with the existing character of the immediate area. The street-front width of future lots will be consistent with the existing development directly opposite and east. The site adjoins smaller 900m<sup>2</sup> lots on its eastern boundary. Environmental and drainage issues will be resolved at the development application stage.

A further minor administrative component of the planning proposal is to amend the lot size map to  $900m^2$  for the adjoining land to the east (66, 68, 70 and 72 South St) to address an existing anomaly. These sites are already developed to a minimum area of  $900m^2$  however the lot size map shows a minimum lot size of  $2,000m^2$ . No additional subdivision will be facilitated by the change (it is administrative only).

# Proponent Planning Proposal

The recommended Council planning proposal follows the lodgement of a planning proposal by the proponent for 74 South Street (only) (ATTACHMENT 3). The

intended outcomes for 74 South Street are consistent between each planning proposal.

#### **COMMUNITY STRATEGIC PLAN**

Strategic Direction	Delivery Program 2013-2017
Sustainable Development.	Provide Strategic Land Use Planning Services.
	Provide Development Assessment and Building Certification Services.

#### FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications if Council resolves to proceed with the planning proposal.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	Yes		Future subdivision will be subject to local infrastructure contributions in accordance with the Port Stephens Development Contributions Plan 2007.
External Grants	No		
Other	Yes	\$5,250	Category B Stage 1 – Lodgement (up to gateway) rezoning fee in accordance with Port Stephens Fees and Charges Schedule 2016-2017.

# **LEGAL, POLICY AND RISK IMPLICATIONS**

# Environmental Planning and Assessment Act 1979 (NSW)

Council is the relevant planning authority for the preparation of the planning proposal under the *Environmental Planning and Assessment Act 1979* (NSW). If Council resolves to adopt the planning proposal it will be forwarded to the NSW Department of Planning and Environment for a gateway determination including a request for the delegation of plan-making functions.

## Regional Planning

The planning proposal is consistent with the Hunter Regional Plan goal to create greater housing choice and jobs, including for new housing to be focused in established areas through infill development.

# Local Planning

The site is within the study area for the purposes of the draft revised Medowie Planning Strategy. It is not specifically identified; however planning proposals for minor infill development are able to be considered on their merits.

# Port Stephens Local Environmental Plan 2013

The planning proposal will be implemented through the amendment of *Port Stephens Local Environmental Plan 2013* mapping for land zoning, minimum lot size and building height as recommended.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the NSW Department of Planning and Environment will not issue a gateway determination. recommend that the proposal be considered as part of a 'housekeeping' amendment to the LEP.	low	Resolve to prepare the planning proposal and forward it to the NSW Department of Planning and Environment for a gateway determination (if the planning proposal is considered as part of a housekeeping amendment it could be delayed by other more complex amendments).	Yes

#### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no social, economic and environmental implications for Council in proceeding with the planning proposal. Any environmental implications are suitable to be addressed at the development application stage.

#### MERGER PROPOSAL IMPLICATIONS

There are no merger implications.

#### CONSULTATION

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

#### Internal

The planning proposal has been subject to internal referral with drainage issues to be addressed at the development application stage.

# External

Formal consultation requirements will be set by a gateway determination issued by the NSW Department of Planning and Environment. It is only intended to refer the planning proposal to the NSW Rural Fire Service to confirm if a bushfire threat assessment is required.

If the planning proposal proceeds past gateway determination, it will be placed on public exhibition and adjoining landowners, and those landowners affected by the administrative component (66, 68, 70, 72 South St), will be notified in writing.

# **OPTIONS**

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

## **ATTACHMENTS**

- 1) Subject Land.
- 2) Council Planning Proposal.
- 3) Proponent Planning Proposal. (Provided under separate cover)

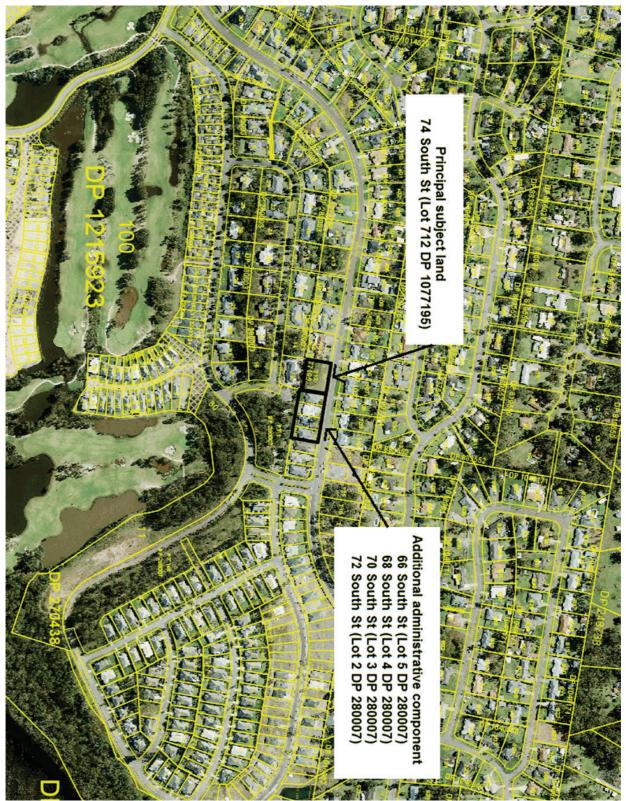
## **COUNCILLORS ROOM**

Nil.

# **TABLED DOCUMENTS**

Nil.

ITEM 4 - ATTACHMENT 1 SUBJECT LAND.







#### ITEM 4 - ATTACHMENT 2 COUNCIL PLANNING PROPOSAL.

#### SUMMARY

This planning proposal sets out the justification for proposed changes to planning controls to allow additional development on land at 74 South Street, Medowie. It also seeks to undertake an administrative mapping amendment for adjoining land to the east

Subject land: 74 South Street (Lot 712 DP 1077195)

Subject land area: 2070m<sup>2</sup>

Existing zoning and min. lot size:

R5 Large Lot Residential & 2,000m<sup>2</sup>

Proposed zoning and min. lot size:

R2 Low Density Residential & 900m<sup>2</sup>

Potential lot yield: One additional (with development consent)

Additional administrative Amend lot size map from 2,000m<sup>2</sup> to 900m<sup>2</sup>

component: 66 South Street (Lot 5 DP 280007)

68 South Street (Lot 4 DP 280007) 70 South Street (Lot 3 DP 280007) 72 South Street (Lot 2 DP280007)

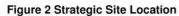
The principal subject land is 74 South Street, a vacant and mostly cleared site of 2070m². It is surrounded residential development with 900m² lots at the eastern boundary. The aim is to facilitate the infill low density residential development (one into two lots). The proposal is low impact and consistent with the existing character of the immediate area. Environmental and drainage issues are suitable to be resolved at the development application stage. Streetscape character will be retained with the width of future lots consistent with the existing development directly opposite and adjoining to the east (see Figure 1 Site Location).

A further minor administrative component of the planning proposal is to amend the lot size map to 900m² for the adjoining land to the east (66, 68, 70a and 72 South St) to address an existing anomaly. These sites are already developed to a minimum area of 900m² however the lot size map shows a minimum lot size of 2,000m². No additional subdivision will be facilitated by the change (it is administrative only).

The location of the land is shown in Figure 1 Site Location and Figure 2 Strategic Site Location.

No additional supporting studies are proposed, with the exception of a potential bushfire threat assessment following referral to the Rural Fire Service. Any impacts (vegetation, drainage) are suitable to address at the development application stage.







#### ITEM 4 - ATTACHMENT 2 COUNCIL PLANNING PROPOSAL.

#### PART 1 – Objective of the proposed Local Environmental Plan

The objectives of the planning proposal are to permit a two-lot subdivision in order to facilitate low density residential development at 74 South Street and to apply consistent minimum lot size provisions in the immediate area.

#### PART 2 - Explanation of the provisions to be included in proposed LEP

The objectives of this planning proposal will be achieved by the following amendments to LEP the mapping:

- Amending the Land Zoning Map to rezone 74 South Street (only) from R5 Large Lot Residential (ATTACHMENT 2) to R2 Low Density Residential in accordance with the Proposed Land Zoning Map (ATTACHMENT 3);
- Amending the Lot Size Map to change the minimum lot size for 74 South Street from 2,000m<sup>2</sup> (ATTACHMENT 4) to 900m<sup>2</sup> for 74 South Street (and additionally for 66, 68, 70, 72 South Street) in accordance with the Proposed Lot Size Map (ATTACHMENT 5); and
- Amending the Port Stephens Local Environmental Plan 2013 Height of Buildings Map (ATTACHMENT 6) to 9m for 74 South Street (only) in accordance with the Proposed Height Building Map (ATTACHMENT 7).

#### PART 3 - Justification for the Planning Proposal

#### SECTION A - Need for the Planning Proposal

#### Is the planning proposal a result of any strategic study or report?

The planning proposal is not the direct result of any strategic study or report. The planning proposal is a minor infill site located within an urban growth area identified by the Medowie Planning Strategy.

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

The planning proposal is the only means to facilitate additional subdivision of 74 South Street at this time. Addressing the lot size anomaly of the adjoining land could potentially be deferred for a general amendment to the LEP.

#### Is there a community benefit?

There is minor community benefit from the planning proposal by the future provision of one additional allotment.

#### SECTION B - Relationship to Strategic Planning Framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

#### **Hunter Regional Plan**

The Hunter Regional Plan was released in late 2016. Although very minor in scale, the proposal is consistent with Goal 4 to create greater housing choice and jobs, including for new housing to be focused in established areas through infill development. It is consistent with Direction 21 to create a compact settlement including the following associated actions:

- Action 21.1 Promote development that respects the landscape attributes and the character of the metropolitan areas, towns and villages (the proposal is consistent with lots size immediately to the east);
- Action 21.2 Focus development to create compact settlements in locations with established services and infrastructure (the proposal is for infill development with access to existing services);
- Action 21.4 Create a well-planned, functional and compact settlement pattern that responds to settlement planning principles and does not encroach on sensitive land uses, including land subject to hazards, on drinking water catchments or on areas with high environmental values (the site is not within the drinking water catchment and does not have high environmental values);
- Action 21.6 Provide greater housing choice by delivering diverse housing, lot types and sizes, including small-lot housing in infill and greenfield locations (the proposal is for infill development that maintains the character of the character of the area); and
- Action 21.7 Promote new housing opportunities in urban areas to maximise the use of existing infrastructure (the proposal balances existing character with better use of existing infrastructure).

# 5. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

#### Port Stephens Community Strategic Plan

The planning proposal is consistent with Port Stephens Community Strategic Plan direction to balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations and the delivery program to provide strategic land use planning services.

#### Port Stephens Planning Strategy

The planning proposal is consistent with the Port Stephens Planning Strategy which identifies Medowie as a priority infill and new release area. The planning proposal facilitates minor infill development.

#### **Medowie Planning Strategy**

The site is within an urban growth area for the purposes of the draft revised Medowie Planning Strategy. It is not specifically identified. Planning proposals for minor infill development are suitable for consideration on their own merit.

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# 6. Is the planning proposal consistent with applicable state environmental planning policies?

**Table 1 Relevant State Environmental Planning Policies** 

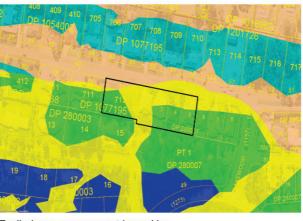
# SEPP 44 – Koala Habitat Protection

The relevant objectives of the CKPOM are to: evaluate and rank habitat throughout the LGA; identify priority conservation areas and strategies to protect significant habitat and populations; identify threats; provide for the long-term survival of populations by addressing conservation strategies to effectively address each of the threats; provide for restoration of degraded areas: ensure that adequate detail is provided with development applications in order to assess, minimise and ameliorate

# Consistency and Implications

The Port Stephens Comprehensive Koala Plan of Management (CKPOM) is applied in Port Stephens for the purposes of implementing SEPP 44.

Assessment is that the CKPOM performance criteria for rezoning have limited practical application because of the infill location of the site and minimal vegetation on site and surrounding development. In any case, indicative Council koala habitat mapping from 2006 shows 'Preferred 100m Buffer over Marginal Habitat' (green) and '100m Buffer over Cleared Land' (yellow).



Preliminary assessment based is:

 Not result in development within areas of preferred koala habitat:

No impact.

- Allow only for low impact development within areas of Supplementary Koala Habitat and Habitat Linking Areas;
   No impact.
- Minimise the removal of any individual preferred koala food trees, where ever they occur on the site;

The type of trees on site has not been confirmed.

likely impacts; provide guidelines and development standards to protect koalas and habitat; provide for the effective implementation and monitoring of the CKPOM.	d. Not result in development which would sever koala movement across the site generally and for minimising the likelihood of impediments to safe/unrestricted koala movement.					
	The site is already surrounded by residential development.					
	Under the above circumstances and the characteristics of the site and surrounding development, any inconsistency with the CKPOM performance criteria for rezoning is minor.					
	Any inconsistency of the planning proposal with the CKPOM performance criteria for rezoning is minor.					
SEPP 55 – Remediation of	This SEPP is relevant because the planning proposal seeks to identify land for minor additional development.					
Land This SEPP aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.	The use of the site will remain consistent with the current zoning (i.e. residential). A single additional allotment (only) will be facilitated and the site is not identified on Council's contaminated land register.					
	The planning proposal satisfies the provisions of this SEPP.					

# 7. Is the planning proposal consistent with applicable Ministerial Directions?

**Table 2 Relevant Ministerial Directions** 

Ministerial Direction	Consistency and Implications				
2.1 Environment Protection Zones The objective of this direction is to conserve environmentally sensitive areas.	This direction applies whenever a relevant planning authority prepares a planning proposal. It provides that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.  The planning proposal satisfies this direction because the site is not environmentally sensitive.  The planning proposal is consistent with this direction.				
2.3 Heritage Conservation  The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	This direction applies whenever a relevant planning authority prepares a planning proposal. It provides that a proposal must contain provisions that facilitate the conservation of environmental heritage and Aboriginal heritage.  There are no items of european heritage on the site or listed in the LEP. Investigations into potential for indigenous heritage have not been undertaken by the proponent.				
	Heritage can be managed through the existing planning instruments, legislation and regulations that apply to the land.				
	The planning proposal is consistent with this direction.				
3.1 Residential Zones  The objectives of this direction are to encourage a variety and choice of housing types to provide for existing and future housing needs; make efficient use of infrastructure and services and ensure housing has access to infrastructure and services; minimise impact of residential development on the environment and resource lands.	This direction applies because the planning proposal affects land within an existing residential zone. The planning proposal is consistent with this direction because it will facilitate provision of a single additional lot on an infill site. It will make use of existing infrastructure and minimises impact on the environment.  The planning proposal is consistent with this direction.				

#### 3.4 Integrating Land Use and Transport

The objective of this direction is to ensure that development achieves the following objectives: improving access to housing, jobs and services by walking, cycling and public transport; increasing the choice of available transport and reduce dependence on cars; reducing travel demand including the number trips generated by the development and the distances travelled, especially by car; supporting the efficient and viable operation of public transport services.

This direction applies because the planning proposal will create a zone relating to urban land.

The planning proposal is consistent with this direction because it seeks to provide infill development within an existing urban area. It will add to the use of existing transport infrastructure in the area and build upon its.

The planning proposal is consistent with this direction.

#### 3.5 Development Near Licensed Aerodromes

The objectives of this direction are: to ensure the effective and safe operation of aerodromes; to ensure that operation their is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and to ensure development for residential purposes of human occupation, if situated within ANEF contours of between 20 and 25, incorporates appropriate mitigation measures so that development is not adversely affected by aircraft noise.

This direction applies because Medowie is in proximity to RAAF Base Williamtown, Newcastle Airport and the Salt Ash Air Weapons Range. The site is not affected by the ANEF 2012 or 2025 maps – however land outside of ANEF contours can still be affected by aircraft noise and activities.

Any inconsistency with this direction is minor and is suitable to be addressed at the development application stage because of the minor infill extent of additional development.

Any inconsistency with this direction is minor.

#### 4.1 Acid Sulfate Soils

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.

The site is nominated as Class 5 soils, requiring consent for works within 500m of adjacent soil classes. This is the lowest risk classification. The issue will be managed through existing provisions of the LEP.

The planning proposal is consistent with this direction.

#### ITEM 4 - ATTACHMENT 2 COUNCIL PLANNING PROPOSAL.

#### 4.4 Planning for Bushfire Protection

The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.

This direction applies because part of the site is mapped as bushfire prone. The direction provides that, in the preparation of a planning proposal, the relevant planning authority must consult with the Commissioner of the RFS following receipt of a Gateway Determination, and prior to undertaking community consultation, and take into consideration any comments so made.

A bushfire threat assessment has not been undertaken. This issue is appropriately addressed subdivision and dwelling application stages. It is proposed to refer the planning proposal to the RFS following a gateway determination, and prior to public exhibition, to seek confirmation whether a bushfire threat assessment is relevant at this time.

Consistency of the planning proposal with this direction will be confirmed by referral to the RFS.

# 5.1 Implementation of Regional Strategies

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.

This direction refers to the Lower Hunter Regional Strategy which has recently been replaced by the Hunter Regional Plan.

The planning proposal is consistent with the relevant goal of the Hunter Regional Plan to create greater housing choice and jobs, including for new housing to be focused in established areas through infill development. It is consistent with the relevant direction to create a compact settlement and the associated actions.

The planning proposal is consistent with this direction.

#### ITEM 4 - ATTACHMENT 2 COUNCIL PLANNING PROPOSAL.

#### SECTION C - Environmental, Social and Economic Impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There is little or no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal. There are a small number of native trees on site within an established residential area.

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

There are no other likely environmental effects as a result of the planning proposal.

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

There are limited or no social and economic effects because of the single additional lot yield.

#### SECTION D - State and Commonwealth interests

#### 11. Is there adequate public infrastructure for the planning proposal?

Reticulated sewer and water infrastructure is available consistent with existing surrounding urban development. This issue appropriately addressed at the development application stage.

12. What are the views of the State and Commonwealth public authorities consulted in accordance with the gateway determination?

It is only proposed to undertake consultation with the RFS regarding bushfire threat.

## Part 4 - Mapping

The proposed mapping amendments to the LEP are included as attachments.

### Part 5 - Details of Community Consultation

Community consultation will be undertaken in accordance with the gateway determination. It is proposed to exhibit the planning proposal for 14 days (low-impact proposal) and to notify in writing the adjoining landowners and those landowners affected by the administrative component (66, 68, 70, 72 South St).

Notice of the public exhibition period will be placed in the local newspaper and exhibition material will be made available on Council's website and during normal business hours at Council's Administration Building in Raymond Terrace.

# ITEM 4 - ATTACHMENT 2 COUNCIL PLANNING PROPOSAL.

Part 6 - Project timeline

The following timetable is proposed:

	Dec 2016	Jan 2017	Feb 2017	Mar 2017	April 2017	May 2017	June 2017	July 2017	Aug 2017	Sept 2017	Oct 2017	Nov 2017
Council Report												
Gateway Determination												
Agency Consultation												
Public Exhibition												
Review Submissions												
Council Report												
Parliamentary Counsel												

