



Seaside Boulevard, Fern Bay Planning Proposal

**Proposed amendment to Port Stephens Local
Environmental Plan 2013**



PORT STEPHENS
COUNCIL

CONTENTS

Seaside Boulevarde, Fern Bay Planning Proposal	1
ATTACHMENTS	3
FILE NUMBERS.....	3
SUMMARY	3
BACKGROUND	4
SITE.....	4
PART 1 – Intended Outcome.....	7
PART 2 – Explanation of provisions	7
PART 3 – Justification	8
Section A – Need for the planning proposal.....	8
Q1. Is the planning proposal a result of any strategic study or report?	8
Q2. Is the planning proposal the best means of achieving the objective or is there a better way?	9
Section B – Relationship to strategic planning framework	10
Q3. Will the planning proposal give effect to the objectives and actions of the Hunter Regional Plan or Greater Newcastle Metropolitan Plan (or any exhibited draft plans that have been prepared to replace these)?.....	10
Q4. Will the planning proposal give effect to a council’s endorsed local strategic planning statement, or another local strategy or strategic plan?	14
Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?	18
Q6. Is the planning proposal consistent with applicable Ministerial Directions?	20
Section C – Environmental, social and economic impact	32
Q7. 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?.....	32
Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	32
Q9. Has the planning proposal adequately addressed any social and economic effects?	33
Section D – State and Commonwealth interests	33
Q10. Is there adequate public infrastructure for the planning proposal?	33

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?	33
PART 4 – Mapping	34
PART 5 – Community consultation	34
PART 6 – Project timeline	35

ATTACHMENTS

- ATTACHMENT 1** – Current Zoning Plan
- ATTACHMENT 2** – Proposed Land Zoning Map
- ATTACHMENT 3** – Current Lot Size Map
- ATTACHMENT 4** – Proposed Lot Size Map
- ATTACHMENT 5** – Current Height of Building Map
- ATTACHMENT 6** – Proposed Height of Building Map
- ATTACHMENT 7** – Fern Bay & North Stockton Commercial Lands Study
- ATTACHMENT 8** – AHIMS Search Result

FILE NUMBERS

Council:	To be provided following lodgement.
Department:	To be provided at Gateway determination.

SUMMARY

Purpose:	The purpose of this planning proposal is to amend the <i>Port Stephens Local Environmental Plan 2013</i> (LEP) to enable the development of additional housing within the Seaside Estate, Fern Bay.
Subject land:	Part of Lot 27, DP 270466 Lots 2, 3, 4, 20, 21, 22, DP 280072 Part of Lots 5, 19, 23 & 24, DP 280072 2, 4, 4A, 4B, and 6 Seaside Boulevard, Fern Bay 20, 22, 23, 24, 25 and 26 Sovereign Street, Fern Bay
Proponent:	ADW Johnson on behalf of Ano Nuevo Island Unit Trust

Proposed changes:

- Rezone from B1 Neighbourhood Centre to R2 Low Density Residential;
- Introduce a minimum lot size of 500 square metres; and
- Amend the height of buildings from 8 metres to 9 metres

Area of land:

1 hectare

Lot yield:

~ 6 lots

BACKGROUND

The planning proposal seeks to amend the *Port Stephens Local Environmental Plan 2013* (LEP) to enable low density residential development on 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).

The site is zoned B1 Neighbourhood Centre and the planning proposal seeks to rezone the land to R2 Low Density Residential.

A separate planning proposal at 42 Fullerton Cove Road, Fullerton Cove (Fullerton Cove Proposal PP-2021-1011) that seeks to replace the B1 zone to be removed by this planning proposal has received Gateway Determination from the Department of Planning, Industry and Environment. The Fullerton Cove Proposal is currently on Pre-Exhibition and is considered the most suitable location for a neighbourhood centre.

SITE

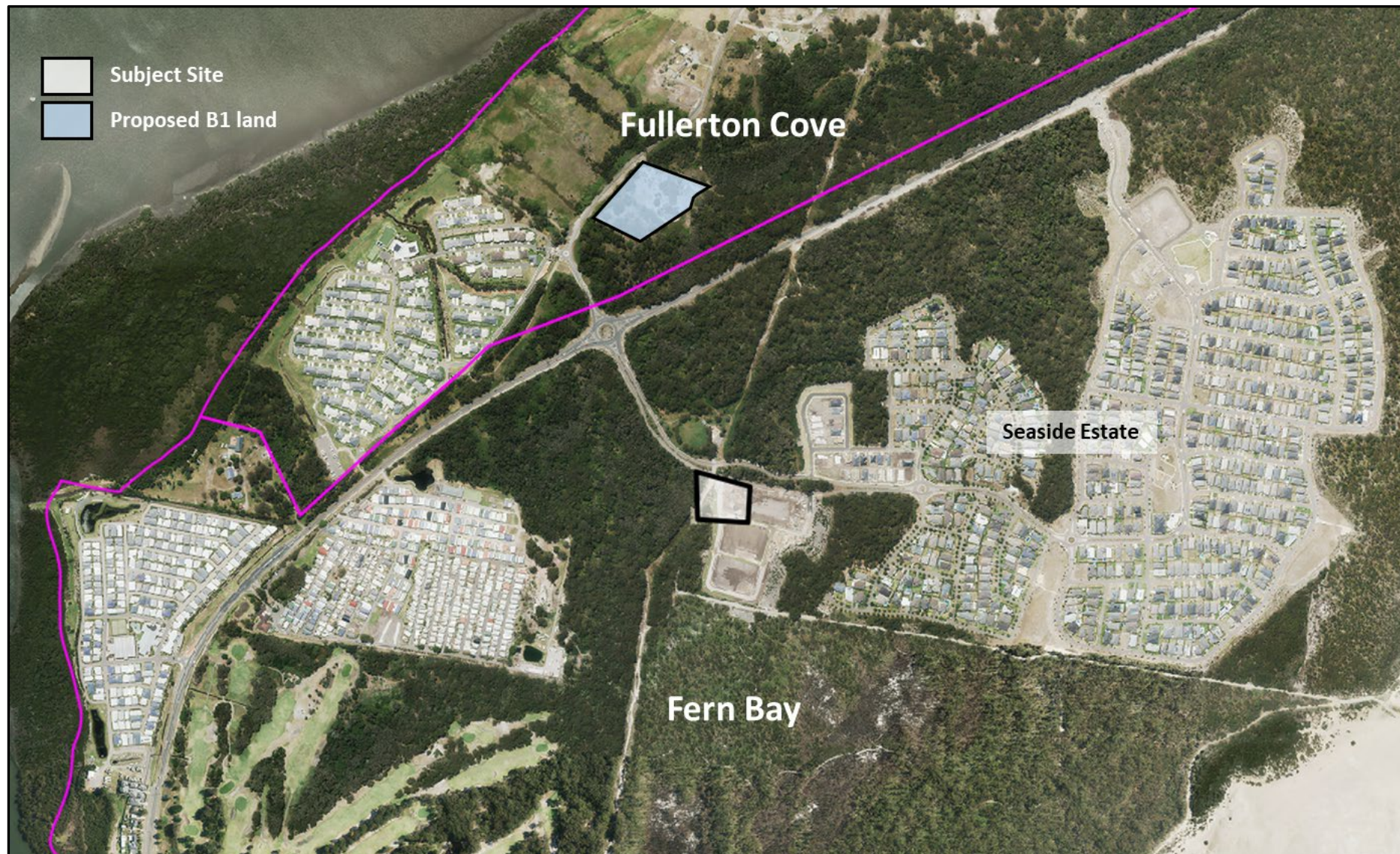
The proposed rezoning area is approximately 1 hectare and forms part of a major project, the Seaside Estate Residential Subdivision (MP 06_0250). Subdivision of the site has already been undertaken and is not intended to be altered in the event of a rezoning. Approximately 6 residential lots can be gained from the rezoning. **Figure 1** identifies the subject site.

Figure 1 – Lot layout for Seaside Estate, Fern Bay



The surrounding lands are zoned R2 Low Density Residential and E2 Environmental Conservation. The estate consists of low density residential dwellings, a childcare centre and two parks. The Fullerton Cove Proposal is located approximately 800 metres northwest of the subject site (**Figure 2**).

Figure 2 - Locality



PART 1 – Intended Outcome

The intended outcome of the planning proposal is to enable low density residential development within the Seaside Estate.

The proposal will allow the site to provide additional residential housing within the Seaside Estate. It is intended that the B1 Neighbourhood Centre will be relocated to a more suitable site at 42 Fullerton Cove Road, Fullerton Cove.

PART 2 – Explanation of provisions

The intended outcome of the planning proposal will be achieved by the following amendments to the *Port Stephens Local Environmental Plan 2013*:

- Amend Land Zoning Map Sheet LZN_004A (**ATTACHMENT 1**) from B1 Neighbourhood Centre to R2 Low Density Residential (**ATTACHMENT 2**)
- Amend Lot Size Map Sheet LSZ_004A from no specified minimum lot size (**ATTACHMENT 3**) to 500 square metres (**ATTACHMENT 4**)
- Amend Height of Building Map Sheet HOB_004A from I 8 metres (**ATTACHMENT 5**) to J 9 metres (**ATTACHMENT 6**)

Figures 3, 4 and 5 indicate the proposed changes to the Land Zoning Map, Lot Size Map and Height of Building Map.

Figure 3 – Existing and proposed land zoning map



Figure 4 – Existing and proposed lot size map



Figure 5 – Existing and proposed height of building map



PART 3 – Justification

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the result of the Hill PDA Fern Bay and North Stockton Commercial Lands Study 2017 (Hill PDA Study) (**ATTACHMENT 7**) prepared for City of Newcastle and Port Stephens councils to guide the development of a land use strategy for Fern Bay and North Stockton.

The Hill PDA Study assessed the suitability of the subject site, as well as five alternative sites, to accommodate a new town centre in the Fern Bay and North Stockton area. Of the sites assessed, the subject site was found to be the least favourable due to issues regarding its location, exposure,

accessibility, and walkable catchment. The unsuitability of the subject site for commercial use is discussed in greater detail in Section B (page 13).

The Stockton Residential Centre (SRC) was found to be the most suitable location for a new town centre. The SRC site however, requires further strategic planning, including rezoning, before the vision of a future mixed use town centre can be realised.

The Fullerton Cove site was also assessed as a potential town centre and scored higher than the subject site. The Fullerton Cove site is currently the subject of a planning proposal (PP-2021-1011) to facilitate a neighbourhood centre. The Fullerton Cove Proposal seeks to relocate the B1 zoned land that will be removed from Seaside Estate as a result of this planning proposal.

It is noted that Council does not wish to extinguish all opportunities for a neighbourhood centre within the Fern Bay locality. The subject site would not be rezoned to R2 Low Density Residential until the Fullerton Cove Proposal is certain and imminent. A Gateway Determination for the rezoning of 42 Fullerton Cove Road to B1 Neighbourhood Centre was issued on the 12th October 2020. The submission of the subject planning proposal will support the progression of PP-2021-1011 through to final implementation.

Q2. Is the planning proposal the best means of achieving the objective or is there a better way?

The intended outcome of the planning proposal is to enable low density residential development at Seaside Estate.

Under the existing B1 Neighbourhood Centre zone, residential development is limited to:

- Attached dwellings;
- Boarding houses; and
- Shop top housing.

These categories of residential development are not compatible with the existing neighbourhood which consists of dwelling houses and dual occupancies. Rezoning the site to R2 Low Density Residential will enable residential development compatible with the existing local character of the Seaside Estate.

As provided in the Hill PDA Study, the site is not considered suitable for a new town centre to service the surrounding areas of Fern Bay, Fullerton Cove and Stockton. While some commercial uses, such as a neighbourhood shop, may be appropriate, the scale of these uses (i.e. no greater than 100sqm) would require an area significantly less than the existing B1 zone. Furthermore, the proposed R2 zone will still allow neighbourhood shops to be developed.

The planning proposal is therefore considered the best means of achieving residential development on the subject site.

Section B – Relationship to strategic planning framework

Q3. Will the planning proposal give effect to the objectives and actions of the Hunter Regional Plan or Greater Newcastle Metropolitan Plan (or any exhibited draft plans that have been prepared to replace these)?

a) Does the proposal have strategic merit?

Hunter Regional Plan 2036

The *Hunter Regional Plan 2036* (HRP) applies to the Port Stephens local government area (LGA) and is an applicable consideration for this planning proposal.

Fern Bay is identified as a centre of local significance and earmarked as an area to deliver future housing and urban renewal opportunities in the HRP.

The HRP identifies a regional priority for Port Stephens to “leverage proximity to major global gateways – and its attractive and valuable natural environment and coastal and rural communities – to generate economic growth and diversity”.

The planning proposal seeks to support this priority by enabling the development of a neighbourhood centre in a more suitable location. The Hill PDA study found the subject site to be unsuitable for the development of a town centre. Enabling an alternative location to be developed will provide more economic growth and diversity than developing the existing B1 Neighbourhood Centre zoned land.

The most relevant direction and action from the HRP include:

- *Direction 23 – Grow centres and renewal corridors; and*
- *Action 23.1 – Concentrate growth in strategic centres, local centres and urban renewal corridors to support economic and population growth and a mix of uses.*

The planning proposal will facilitate the above by providing additional housing within a local centre and within 20 minutes of the strategic centres of Newcastle City and Raymond Terrace.

The planning proposal is also consistent with:

- *Direction 8 – Promote innovative small business and growth in the service sectors* as the proposed R2 zoning permits small businesses, including neighborhood shops, with consent and the business zone will be relocated to a more appropriate site (subject to a separate planning proposal);

- *Direction 13 – Plan for greater land use compatibility* as it will not remove important agricultural land or create any potential conflict between land uses;
- *Direction 14 – Protect and connect natural areas* as it will avoid the clearing of any further native vegetation;
- *Direction 15 – Sustain water quality and security* as future development will be required to manage storm water in accordance with the Port Stephens Development Control Plan 2014 (DCP);
- *Direction 16 – Increase resilience to hazards and climate change* as the land is mapped as Low Hazard Flood Fringe and is suitable for residential development;
- *Direction 17 – Create healthy built environments through good design* as it will provide additional housing in an area that has planned infrastructure (e.g. footpaths and shared paths) to connect to parks, shops and services.
- *Direction 21 – Create a compact settlement* as the Seaside Estate is an existing approved subdivision and the provision of additional housing will not have any adverse environmental, social or economic impacts; and
- *Direction 24 – Protect the economic functions of employment land* as the existing B1 zone will be relocated a more appropriate site (subject to a separate planning proposal). Additionally, the Hill PDA Study shows this will not impact on the viability of a future town centre.

The planning proposal is consistent with the HRP as it will provide additional housing within an existing residential neighbourhood, in close proximity to employment opportunities, without increasing demand for infrastructure and services.

Greater Newcastle Metropolitan Plan 2036

The *Greater Newcastle Metropolitan Plan 2036* (GNMP) applies to part of the Port Stephens LGA, including Fern Bay, and is an applicable consideration for this planning proposal.

The GNMP identifies Fern Bay as an area “where housing and infrastructure opportunities should be maximised while protecting the transport connection between the Newcastle Airport and Newcastle Port”. The subject site is identified within a housing release area in the GNMP (**Figure 6**).

The planning proposal seeks to support this vision by providing housing within an existing residential neighbourhood where all infrastructure requirements have been achieved.

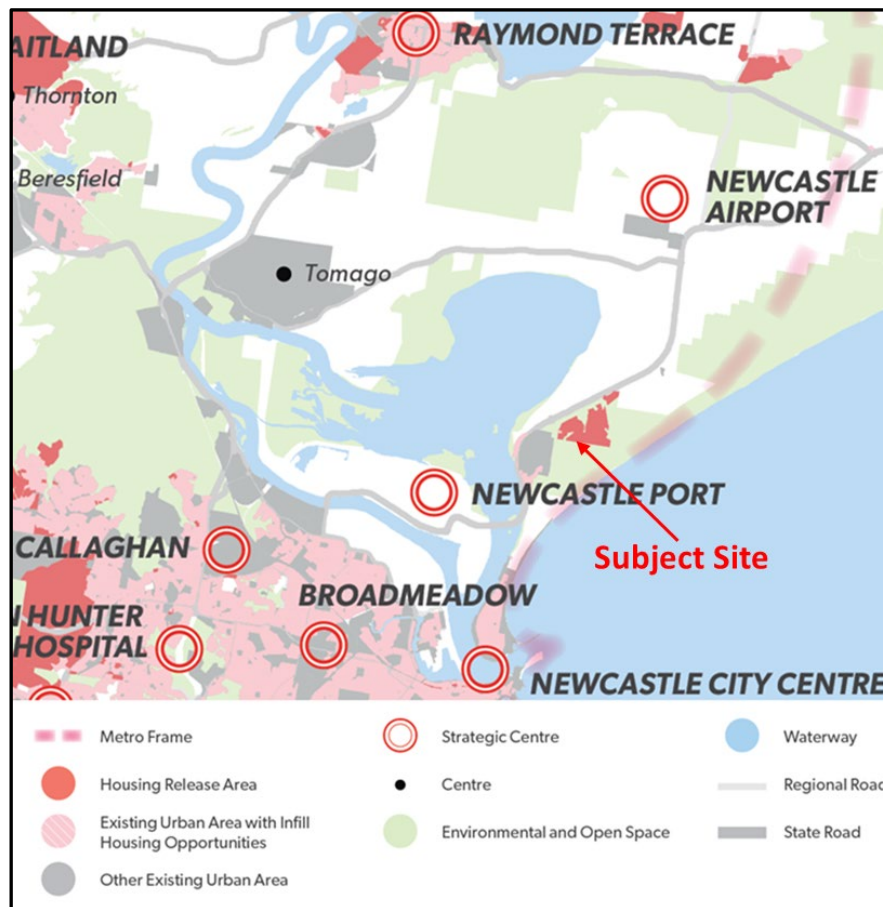
The planning proposal is consistent with:

- *Strategy 2 – Grow the airport and aerospace and defence precinct at Williamtown* as it will provide additional housing (and workers) within 15min drive of Williamtown;

- *Outcome 3 – Deliver housing close to jobs and services* as it will provide homes close to jobs and services including employment clusters at Williamtown, Tomago, Raymond Terrace and Newcastle;
- *Strategy 8 – Address changing retail consumer demand* as a more suitable site will be rezoned (subject to separate planning proposal) for retail purposes to service local residents and benefit from passing trade on Nelson Bay Road;
- *Strategy 9 – Plan for jobs closer to homes in the Metro frame* as above;
- *Strategy 12 – Enhance the Blue and Green Grid and the urban tree canopy* as the site will be landscaped and street trees planted during future development;
- *Strategy 14 – Improve resilience to natural hazards* as the land is mapped as Low Hazard Flood Fringe and is suitable for residential development;
- *Strategy 16 – Prioritise the delivery of infill housing opportunities within existing urban areas* as the proposal seeks to provide additional housing within the Seaside Estate, an existing urban area;
- *Strategy 17 – Unlock housing supply through infrastructure coordination and delivery* as the land is serviced by existing infrastructure and will provide additional housing in an appropriate location; and
- *Strategy 20 – Integrate land use and transport planning* as the proposal will access an existing bus route (136) to Stockton (south) and Newcastle Airport (north).

The planning proposal is consistent with the GNMP as it will provide additional housing within a housing release area, in close proximity to employment opportunities, without increasing demand for infrastructure and services.

Figure 6 - Identification of the subject site in the Housing Opportunities map from the Greater Newcastle Metropolitan Plan 2036 (page 42)



b) Does the proposal have site specific merit, having regard to the following?

Natural Environment

The proposed change in land use is unlikely to incur any additional impacts on the natural environment.

The subject site has already been assessed for development under the existing approval (MP 06_0250) for Seaside Estate, Fern Bay. Rezoning the land from B1 Neighbourhood Centre to R2 Low Density Residential will not alter the lot layout or require any additional land clearing. **Figure 1** (page 5) displays the lot layout where Lots 2, 3, 4, 20, 21 and 22 are wholly within the B1 zoned land and have already been cleared.

Land Uses

The Hill PDA Study (**ATTACHMENT 7**) assessed the suitability of the subject site to accommodate a new town centre of 4,000 – 6,500sqm area. The Hill PDA Study found the site to be unsuitable for the following reasons:

- Location – The site would only be conveniently located for residents of Seaside Estate.
- Exposure – The site does not have exposure to a major arterial road with limited opportunities to attract passing trade. The site also has no exposure to inward traffic due to an existing vegetated lane separation.
- Accessibility – The subject site does not have direct access to a major road with the area accessed via a single entry/exit via Seaside Blvd, with only left in/left out access.
- Walkable catchment – The site has a relatively small walking catchment. Approximately some 300 to 400 of the existing and future dwellings within Seaside Estate, Fern Bay are estimated to be within walking distance.

The land proposed to be rezoned to B1 Neighbourhood Centre at 42 Fullerton Cove has been assessed by the Hill PDA Study and found to be a more suitable location for a town centre than the subject site. Out of a possible maximum score of 40, the site at Fullerton Cove scored 25 while the subject site at Seaside Estate scored 17.

Services and Infrastructure

The proposed change in land use is unlikely to incur any additional infrastructure needs.

The site benefits from the existing infrastructure provided as part of the Seaside Estate Major Project (MP 06_0250) including sewer, water supply, power and communications. As evident in **Figure 1** (page 5), the clearing and subdivision of the site and construction of roads have been completed.

Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another local strategy or strategic plan?

Port Stephens Community Strategic Plan 2018 - 2028

The Port Stephens Community Strategic Plan 2018 – 2028 seeks to identify community aspirations and priorities over a 10-year time period and outline role of Council in delivering these priorities. The Plan identifies four key focus areas (comprising 'Our Community', 'Our Place', 'Our Environment' and 'Our Council') of the community's vision for the local area and provides directions and objectives on how to achieve these priorities

The planning proposal is consistent with the following components of the plan:

- *P3 Thriving and safe place to live* – The proposed rezoning will unlock the development potential of the site to support well-maintained and lived in low density residential development that can be delivered via fast tracked planning process (i.e. complying development). Currently, the site presents as under-utilized vacant land which can encourage anti-social behaviors. Additional residential land in the locality will also promote housing affordability by unlocking additional land supply.

- *E3 Ecosystem function* – The proposed rezoning will assist in the ongoing protection and enhancement of the local natural environment by locating additional housing within already disturbed lands, thereby reducing the strain on greenfield sites to meet housing targets.
- *E3 Environmental Sustainability* – The proposal will help reduce the community's environmental footprint through enabling additional low density residential development within the footprint of existing disturbed lands, thereby reducing the strain on greenfield sites to meet housing targets.

Port Stephens Local Strategic Planning Statement

The Port Stephens Local Strategic Planning Statement (LSPS) identifies the 20-year land use vision for planning in the Port Stephen LGA and sets out social, economic and environmental planning priorities for the future. The LSPS provides the local level strategic actions to give effect to State Government regional plans such as the Hunter Regional Plan 2036 and the greater Newcastle Metropolitan Plan 2036.

The proposed rezoning aligns with the following Planning Priorities described by the LSPS:

- *Planning Priority 4 Ensure suitable land supply* as it will provide additional housing on land that is serviced and unconstrained.
- *Planning Priority 5 Increase diversity of housing stock* as the R2 Low Density Residential zone enables a greater diversity of low to medium density housing formats than the B1 Neighbourhood Centre zone.
- *Planning Priority 7 Conserve biodiversity values and corridors* by enabling residential development within an area that has already been cleared, thereby minimizing additional impacts to biodiversity values.

Live Port Stephens Local Housing Strategy

The Live Port Stephens Local Housing Strategy (LHS) provides the road map to accommodate people who want to live in our LGA over the next 20 years. The LHS seeks to:

- Ensure suitable land supply;
- Improve on housing affordability;
- Increase diversity of housing choice; and
- Facilitate livable communities.

Live Port Stephens identifies Fern Bay as a centre with convenient links to major employment areas.

The planning proposal is consistent with the following planning priorities from Live Port Stephens:

- *Priority 1.1 Ensure adequate supply of new housing* as it will contribute additional housing within an identified centre;
- *Priority 2.1 Respond to housing stress* as the release of additional residential land will promote downward pressure on housing affordability, and thereby assist in the easing of housing stress;
- *Priority 2.2 Provide more affordable housing near jobs* as it will provide housing in proximity to major employment areas including Newcastle, Williamstown and Tomago;
- *Priority 2.2 Reduce the cost of new housing* by enabling more economic, alternative planning approval pathways for future development within the site through existing legislation provisions (such as the Housing Code under the *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008*);
- *Priority 3.1 Facilitate new housing within existing urban areas* as it will provide additional housing within the existing residential neighbourhood Seaside Estate; and
- *Priority 3.2 Encourage a range of housing types and services* as the proposed R2 Low Density Residential zone permits a broader range of residential accommodation types (such as dwelling houses, attached dwellings; dual occupancies, group homes, multi-dwelling housing, secondary dwellings, semi-detached dwellings and seniors housing) within the site when compared to the B1 Neighbourhood Centre zone.

The planning proposal is consistent with Live Port Stephens as it will provide additional housing supply in a suitable location with access to major employment areas.

Fern Bay and North Stockton Strategy

The Fern Bay and North Stockton Strategy (FBNSS) (**ATTACHMENT 7**) has been developed by Port Stephens Council and the City of Newcastle to guide future development and ensure sufficient infrastructure for the growing community. The subject site is located within Precinct 5 of the FBNSS and identified in **Figure 8**.

The most relevant principles from the FBNSS are:

- *Housing – 1. Focus housing growth in locations that maximise infrastructure and services* as the subject site is located in Seaside Estate which is an established urban area that is connected to all relevant urban services and infrastructure.
- *Housing – 2. Deliver greater housing supply and choice* as the proposed zoning will enable greater diversity of residential land use forms than that permissible under the current B1 Neighbourhood Centre zone.
- *Housing – 3. Limit urban sprawl and impacts on the natural environment* as the subject site is located within the footprint of an existing urban area of Fern Bay, and will thereby limit encroachment into greenfield sites.

The planning proposal will facilitate housing in a location within the existing urban footprint of the Seaside Estate that maximises existing infrastructure, limits urban sprawl and limits impacts on the natural environment.

The most relevant outcome from the FBNSS is:

- *Precinct 5 – Undertake a detailed assessment of the ‘Request to Amend the Port Stephens Local Environmental Plan’ submitted for 2 Seaside Boulevarde, Fern Bay*

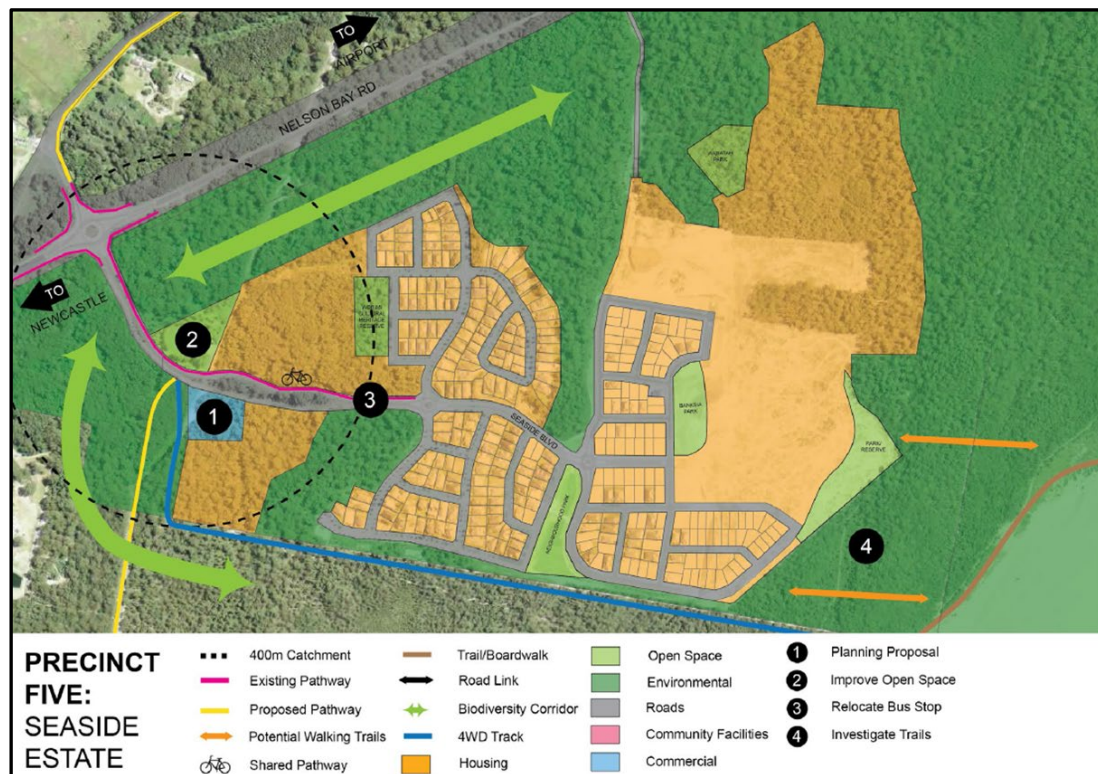
The above outcome relates to this planning proposal. This outcome has been achieved during the progression of this planning proposal.

The planning proposal is also consistent with:

- *Environment Principle 2 Protect the coast and increase resilience to natural hazards* as it is not within the coastal zone and is on Low Hazard Flood Fringe land that is considered suitable for residential development;
- *Environment Principle 3 Protect important environmental assets and enhance biodiversity connections* as it will not result in any further native vegetation removal;
- *Open Space and Community Facilities Principle 1. Optimise access* as the site is within a walkable distance and directly opposite a local park;
- *Transport Principle 1. Prioritise pedestrians and cyclists* as the site will have access to existing and planned foot paths and shared paths;
- *Transport Principle 2. Support public transport ridership* as the site will access an existing bus route (136) to Stockton (south) and Newcastle Airport (north); and
- *Transport Principle 3. Maintain the integrity of Nelson Bay Road as a regional transport corridor* as future development will not create any new access onto Nelson Bay Road.

The planning proposal is consistent with the FBNSS as it seeks to provide additional housing utilising existing infrastructure and will support proposals to establish a neighbourhood centre at 42 Fullerton Cove Road and a town centre at the Stockton Residential Centre.

Figure 7 - Identification of the subject site within the Fern Bay and North Stockton Strategy (page 35).



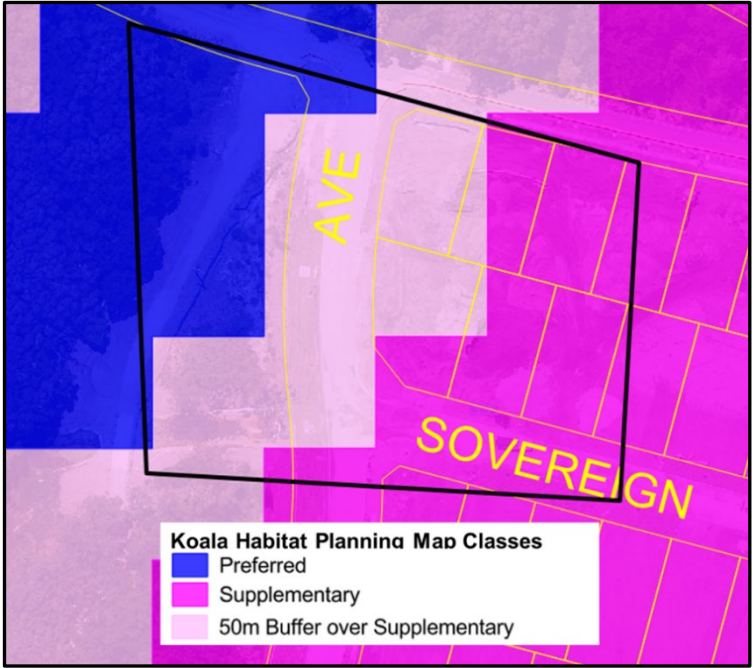
Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

An assessment of relevant State Environmental Planning Policies (SEPPs) against the planning proposal is provided in the table below.

Table 1 – Relevant State Environmental Planning Policies

SEPP	Consistency and Implications
SEPP 55 – Remediation of Land	<p>Clause 6 of the <i>State Environmental Planning Policy 55 – Remediation of Land</i> (SEPP 55) requires Councils to consider the likely contamination of land before it can be rezoned.</p> <p>In considering the potential for contamination of the land in June 2010, the Director General of the NSW Department of Planning determined that there was no evidence that the site proposed for the Seaside Estate was contaminated.</p> <p>Given the assessments previously carried out, the existing urban zone and nature of the land, it is considered that the site is not contaminated and no further assessment is required.</p>

SEPP	Consistency and Implications
SEPP Infrastructure 2007	<p>The Infrastructure SEPP may apply to development on the subject site; however, it is considered that there is sufficient infrastructure capacity in the existing networks to support the proposal.</p> <p>All relevant infrastructure and services are available within the area and will be connected as part of the future development of the land. It is considered that there is sufficient infrastructure capacity in the existing road networks to support the proposal.</p> <p>The proposal is unlikely to have any adverse impacts on existing infrastructure.</p>
SEPP (Koala Habitat Protection) 2021	<p>This policy applies to the subject site as Port Stephens is a Local Government Area listed in Schedule 1 of the SEPP and is not located within RU1, RU2 or RU3 zoned land.</p> <p>The Port Stephens Comprehensive Koala Plan of Management (CKPoM) was prepared in accordance with Part 3 of the (now repealed) SEPP 44 – Koala Habitat Protection. Appendix 2 of the CKPoM sets out the performance criteria for planning proposals, which have been addressed below.</p> <p>a. <i>Not result in development within areas of preferred koala habitat;</i></p> <p>The portion of the subject site identified for development does not contain preferred koala habitat (Figure 9).</p> <p>b. <i>Allow only for low impact development within areas of Supplementary Koala Habitat and Habitat Linking Areas;</i></p> <p>The planning proposal will enable low impact residential development within the subject site as permitted with consent in the R2 Low Density Residential zone.</p> <p>c. <i>Minimise the removal of any individual preferred koala food trees, where ever they occur on the site;</i></p> <p>The rezoning will not result in any additional clearing of koala food trees or other native vegetation.</p>

SEPP	Consistency and Implications
	<p>d. <i>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</i></p> <p>The Seaside Estate is surrounded by E2 Environmental Conservation land to provide habitat and linkages for koalas. The rezoning would not impact on existing koala movements.</p> <p>A Flora and Fauna Assessment of Seaside Estate has previously been undertaken. Land clearing works have already been completed. The proposal will not incur any additional clearing and is unlikely to impact on koala habitat or movement.</p> <p>Figure 8 – Koala Habitat Mapping</p>  <p>The map displays a grid of land parcels. A large area on the left is colored blue, representing 'Preferred' habitat. To its right, a large area is colored pink, representing 'Supplementary' habitat. A light pink buffer zone is visible along the boundary between the blue and pink areas. A black outline encloses a specific region within the pink area. Yellow text 'AVE' is written vertically, and 'SOVEREIGN' is written diagonally across the pink area. A legend box in the bottom right corner identifies the colors: blue for 'Preferred', pink for 'Supplementary', and light pink for '50m Buffer over Supplementary'.</p>


Q6. Is the planning proposal consistent with applicable Ministerial Directions?

An assessment of relevant Ministerial Directions against the planning proposal is provided in the table below.

Table 2 – Relevant Ministerial Directions

Ministerial Direction	Consistency and Implications
1. Employment and Resources	
<p>1.1 Business and Industrial Zones</p> <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> • encourage employment growth in suitable locations; • protect employment land in business and industrial zones; and • support the viability of identified centres. 	<p>This Direction applies because the proposal relates to land currently zoned B1 Neighbourhood Centre.</p> <p>A planning proposal must:</p> <p><i>(a) give effect to the objectives of this direction</i></p> <p>The planning proposal will remove employment opportunities on the subject site but will facilitate the rezoning of land at 42 Fullerton Cove Road, Fullerton Cove to provide a more suitable location for a neighbourhood centre as evidenced by the Hill PDA Fern Bay and North Stockton Commercial Lands Strategy (Attachment 7).</p> <p><i>(b) retain the areas and locations of existing business and industrial zones</i></p> <p>The proposal seeks to remove approximately 2,200sqm of developable business zoned land as the site is unsuitable for commercial development and more appropriate land can be provided at 42 Fullerton Cove Road, Fullerton Cove as per the Hill PDA Study.</p> <p><i>(c) not reduce the total potential floor space area for employment uses and related public services in business zones</i></p> <p>The proposal will reduce the potential floor space area for employment uses on the subject site. The Fullerton Cove Proposal however, seeks to replace the business zone, leading to an overall increase in B1 zoned land in the area.</p> <p><i>(d) not reduce the total potential floor space area for industrial uses in industrial zones</i></p> <p>The planning proposal will not impact on the potential floor space area of industrial zones.</p> <p><i>(e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment.</i></p> <p>As identified in Section B, the planning proposal is consistent with the HRP and the GNMP.</p>

Ministerial Direction	Consistency and Implications
	<p>The proposal is inconsistent with this direction but it is of minor significance as the subject site is unsuitable for commercial development. A more appropriate location at 42 Fullerton Cove Road is intended to replace the business zone subject to this proposal which will increase the overall availability of commercial land in the area.</p> <p>It is noted the subject site would not be rezoned until the Fullerton Cove Proposal (PP-2021-1011) is certain and imminent in order to maintain the current supply of business zoned land in Fern Bay. As at the time of preparing this document, the Fullerton Cove Proposal has received Gateway Approval and is at the 'Gateway Implementation' stage of the rezoning process.</p> <p>The inconsistency of the planning proposal with this direction is considered to be of minor significance.</p>
2. Environment and Heritage	
<p>2.1 Environmental Protection Zones</p> <p>The objective of this direction is to protect and conserve environmentally sensitive areas.</p>	<p>The subject site does not include any environmentally significant areas but is adjacent to E2 Environmental Conservation zoned land.</p> <p>A planning proposal must:</p> <p><i>Include provisions that facilitate the protection and conservation of environmentally sensitive areas.</i></p> <p>Flora and Fauna Assessment was undertaken as part of the project approval (MP 06_0250) for Seaside Estate. The proposal does not change or alter the findings or outcomes of the assessment or impact any existing conservation area or habitat.</p> <p>The planning proposal is consistent with this direction.</p>
<p>2.2 Coastal Management</p>	<p>The subject site is not mapped within the NSW Coastal Management Zone (Figure 10).</p>

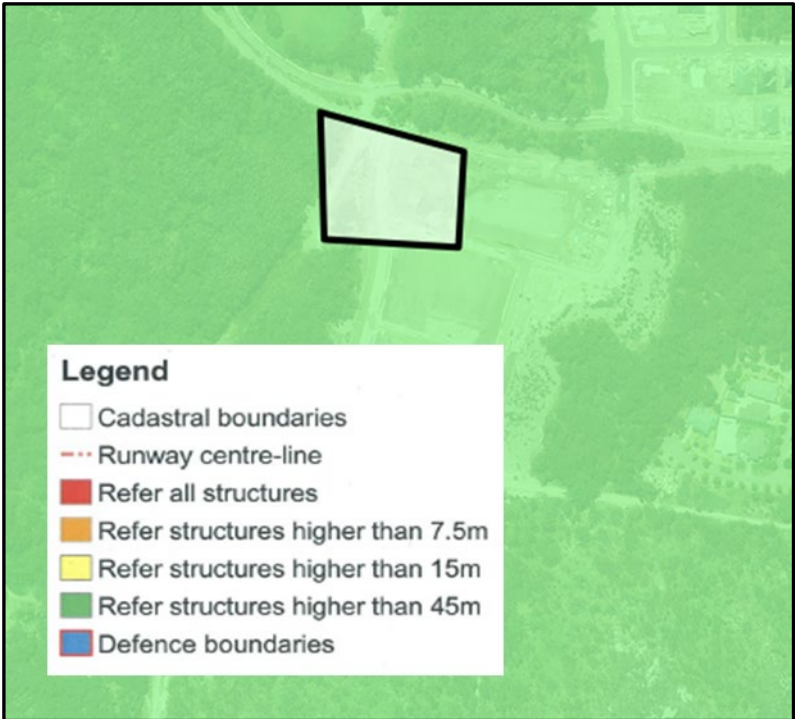
Ministerial Direction	Consistency and Implications
	<p>Figure 9 – Coastal management mapping</p> 
<p>2.3 Heritage Conservation</p> <p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>	<p>The site does not contain any listed items of heritage significance listed in the LEP.</p> <p>The site is not identified as an area of potential archaeological value. Nonetheless, condition D18 of the existing approval requires sub-surface monitoring of all future works for non-Aboriginal objects.</p> <p>A search of the AHIMS database (ATTACHMENT 8) of the subject site has been undertaken and several items of Aboriginal heritage were identified as being recorded in or near the subject site. As part of the project approval relating to MP 06_0250, an Aboriginal Heritage Assessment was undertaken. The subdivision layout for Seaside Estate was amended to incorporate the findings of this assessment.</p> <p>A Cultural Heritage Management Plan was prepared in consultation with the Worimi Aboriginal Land Council and applies to the site.</p> <p>Rezoning the site from B1 to R2 is unlikely to impact on heritage items as the approved lot layout will not change. Future development of the site will adhere to the provisions within the Cultural Heritage Management Plan.</p> <p>The planning proposal is consistent with this direction.</p>

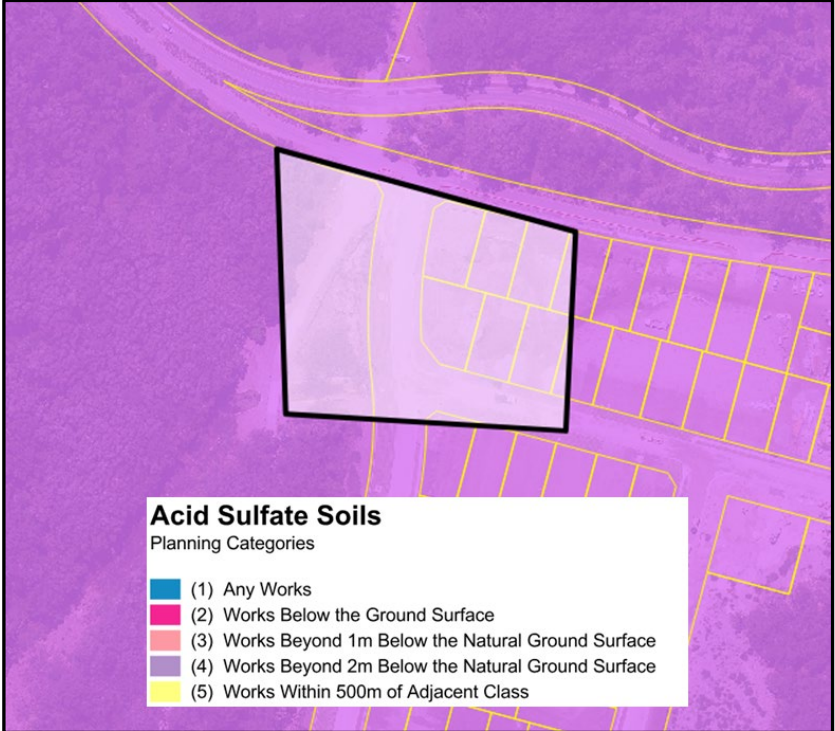
Ministerial Direction	Consistency and Implications
<p>2.6 Remediation of Contaminated Land</p> <p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p>	<p>The subject site is not located within an investigation area nor is the site considered a 'significantly contaminated area' as defined by the Contaminated Lands Management Act 1997.</p> <p>In considering the potential for contamination of the land in June 2010, the Director General of the NSW Department of Planning determined that there was no evidence that the site proposed for the Seaside Estate was contaminated.</p> <p>Given the assessments previously carried out, the existing urban zone and nature of the land, it is considered that the site is not contaminated and no further assessment is required.</p> <p>The planning proposal is consistent with this direction.</p>
3. Housing, Infrastructure and Urban Development	
<p>3.1 Residential Zones</p> <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and 	<p>This Direction applies because the planning proposal seeks to create an R2 Low Density Residential zone.</p> <p>A planning proposal must include provisions that encourage the provision of housing that will:</p> <p><i>(a) broaden the choice of building types and locations available in the housing market</i></p> <p>The planning proposal will increase the number of houses available in the housing market.</p> <p><i>(b) make more efficient use of existing infrastructure and services</i></p> <p>The planning proposal will provide housing where existing infrastructure is provided.</p> <p><i>(c) reduce the consumption of land for housing and associated urban development on the urban fringe</i></p> <p>The subject site is located within an existing residential neighbourhood on land zoned for urban development.</p> <p><i>(d) be of good design.</i></p>

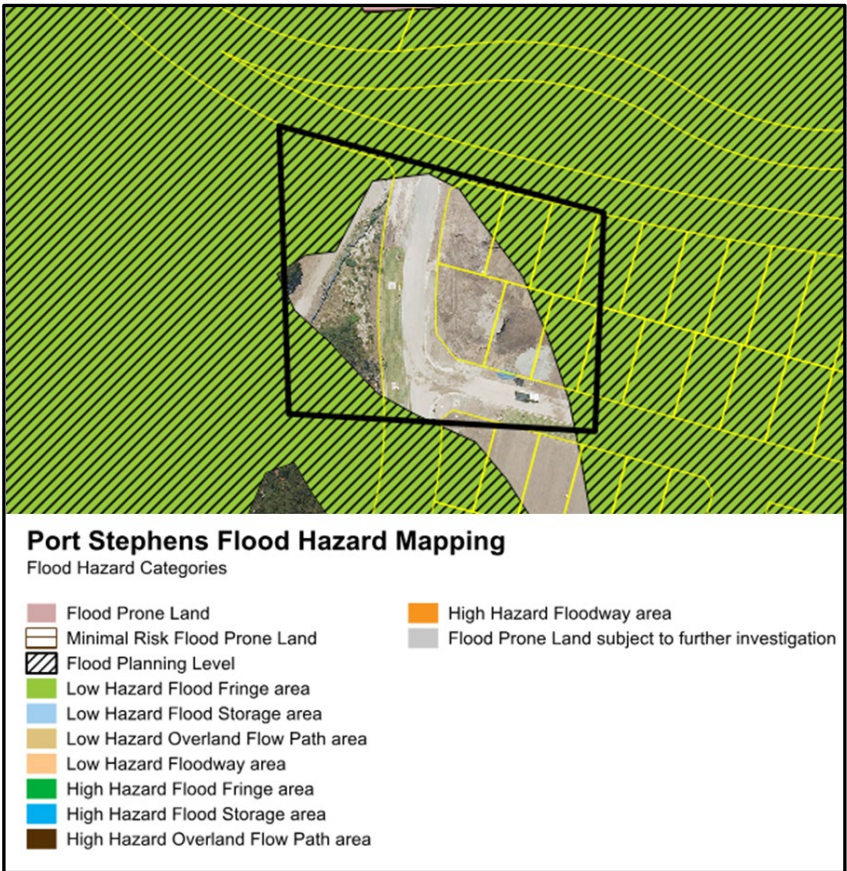
Ministerial Direction	Consistency and Implications
<ul style="list-style-type: none"> minimise the impact of residential development on the environment and resource lands. 	<p>Future development of the site will be subject to the DCP.</p> <p>A planning proposal must, in relation to land to which this direction applies:</p> <p><i>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it)</i></p> <p>The land is already adequately serviced as a result of the existing approval for Seaside Estate (MP 06_0250).</p> <p><i>(b) not contain provisions which will reduce the permissible residential density of land.</i></p> <p>The planning proposal is seeking to introduce a residential zone, the permissible residential density of land will increase as a result of this proposal.</p> <p>It is considered that the proposal is consistent with the objectives of this direction as the subject site is located within an existing residential neighbourhood on land that can make more efficient use of existing infrastructure and services.</p> <p>The planning proposal is consistent with this direction.</p>
<p>3.4 Integrating Land Use and Transport</p> <p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the sustainable transport objectives</p>	<p>This direction applies because the planning proposal will create a residential zone.</p> <p>The planning proposal is consistent with the aims, objectives and principles of <i>Improving Transport Choice – Guidelines for planning and development (DUAP 2001)</i> and <i>The Right Place for Business and Services – Planning Policy (DUAP 2001)</i> as detailed below.</p> <p>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p><u>Improving Transport Choice</u></p> <p>The planning proposal is consistent with the following development principles of <i>Improving Transport Choice</i>:</p>

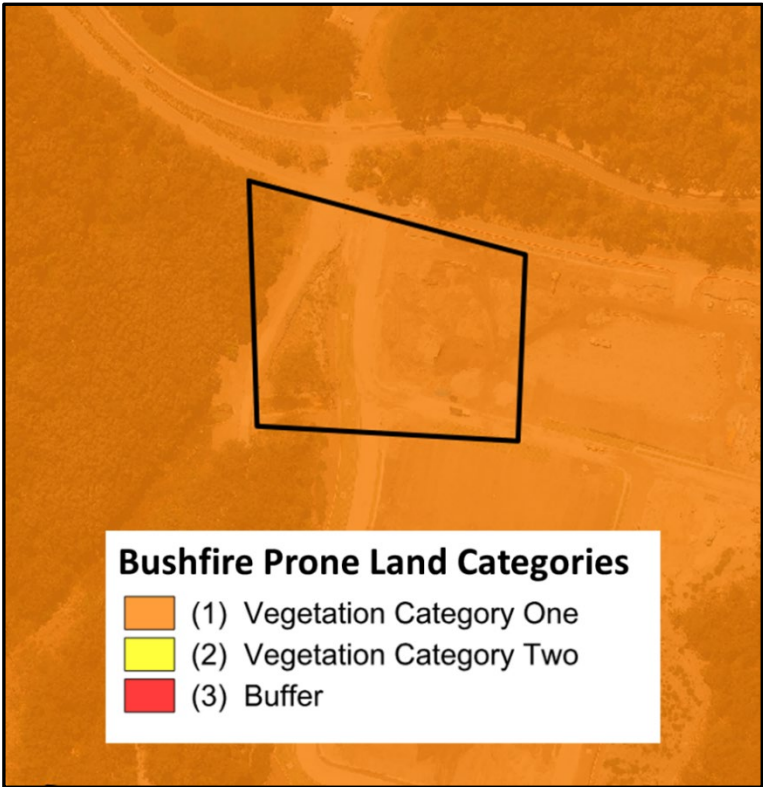
Ministerial Direction	Consistency and Implications
	<p><i>1. Concentrate in centres</i> – The subject site is located within an existing centre. The site is approximately 300m from the nearest bus stop.</p> <p><i>2. Mix uses in centres</i> – The site has limited accessibility with only left in/left out available to the site. This limitation is more appropriate for residential development than commercial development as provided in the Hill PDA Study.</p> <p><i>3. Align centres within corridors</i> – The site is located 300m from Nelson Bay Road, a major transport corridor.</p> <p><i>4. Link public transport with land use strategies</i> – The planning proposal is consistent with the FBNSS which has considered and established goals for public transport in Fern Bay.</p> <p><i>5. Connect streets</i> – There is 1 bus stop on Seaside Boulevard and 2 on Nelson Bay Road within walking distance of the site.</p> <p><i>6. Improve pedestrian access</i> – The subdivision allows for walking connectivity and footpaths have already been constructed.</p> <p><i>7. Improve cycle access</i> – The subject site is located within cycling distance of several existing residential neighbourhoods.</p> <p><i>8. Manage parking supply</i> – Parking will be addressed at the development application stage and dwellings will require consistency with the DCP.</p> <p><i>9. Improve road management</i> – The roads have already been constructed and provide sufficient capacity to cater for the proposal.</p> <p><i>10. Implement good design</i> – The existing subdivision of the site considered the needs of pedestrians, cyclists and public transport users.</p> <p><u>The Right Place for Businesses and Services</u></p> <p>The planning proposal is consistent with the following strategies from <i>The Right Place for Businesses and Services</i>:</p> <p><i>1. The right location</i> – The site is currently isolated commercial land. As it is unsuitable for commercial</p>

Ministerial Direction	Consistency and Implications
	<p>development the planning proposal seeks to rezone the land for residential purposes.</p> <p>2. <i>The right centre</i> – The subject site is inconsistent with the right centre, making it better suited to residential development rather than commercial.</p> <p>The planning proposal is consistent with this direction.</p>
<p>3.5 Development Near Regulated Airports and Defence Airfields</p> <p>The objectives of this direction are to: ensure the effective and safe operation of regulated airports and defence airfields; ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</p>	<p>This direction applies because the site is mapped within the RAAF Base Obstacle Limitations or Operations Surface Map and Height Trigger Map (Figure 11).</p> <p>The site is mapped within the range requiring structures higher than 45m to be referred to the Commonwealth Department of Defence.</p> <p>In the preparation of a planning proposal that sets controls for the development of land near a defence airfield, the relevant planning authority must:</p> <p>(a) <i>consult with the Department of Defence if:</i></p> <ul style="list-style-type: none"> (i) <i>the planning proposal seeks to exceed the height provisions contained in the Defence Regulations 2016 – Defence Aviation Areas for that airfield; or</i> (ii) <i>no height provisions exist in the Defence Regulations 2016 – Defence Aviation Areas for the airfield and the proposal is within 15km of the airfield.</i> <p>The planning proposal seeks to amend the building height limit from 8m to 9m and will not exceed height provisions.</p> <p>(b) <i>for land affected by the operational airspace, prepare appropriate development standards, such as height controls.</i></p> <p>The subject land is affected by the RAAF Base Weapons Range Height Trigger restricting structures over 45m (Figure 11). The planning proposal seeks to amend the building height limit from 8m to 9m.</p> <p>(c) <i>not allow development types that are incompatible with the current and future operation of that airfield.</i></p> <p>The subject site is located 7km from Newcastle Airport and RAFF Base Williamtown. Residential housing at this location would support the current and future use of the</p>

Ministerial Direction	Consistency and Implications
	<p>airfields by providing additional housing opportunity for employees and service people of the base</p> <p>While not required, consultation will be undertaken with the Department of Defence should the planning proposal receive a Gateway determination to proceed.</p> <p>Figure 10 – RAAF Base Williamtown and Salt Ash Air Weapons Range Height Trigger Map</p>  <p>The planning proposal is consistent with this direction.</p>
4. Hazard and Risk	
<p>4.1 Acid Sulfate Soils</p> <p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>	<p>This direction applies because the site is mapped as containing Class 4 acid sulfate soils (Figure 12).</p> <p>As the rezoning will not increase the permissible density for development, this direction can be addressed during the development application stage. The provisions of Clause 7.1 <i>Acid sulfate soils</i> of the LEP will apply to any future development and suitable to manage this issue.</p>

Ministerial Direction	Consistency and Implications
	<p>Figure 11 - Acid sulfate soil mapping</p>  <p>Acid Sulfate Soils Planning Categories</p> <ul style="list-style-type: none"> (1) Any Works (2) Works Below the Ground Surface (3) Works Beyond 1m Below the Natural Ground Surface (4) Works Beyond 2m Below the Natural Ground Surface (5) Works Within 500m of Adjacent Class <p>The planning proposal is consistent with this direction.</p>
<p>4.3 Flood Prone Land</p> <p>The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Policy and the principles of the Floodplain Development Manual 2005 and to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the</p>	<p>This direction applies because parts of the subject site are identified as flood prone land (Figure 13).</p> <p>The planning proposal is seeking to rezone commercial land to residential. The proposal will not impact on potential flood behaviour on or off site as the subdivision, clearing, road and drainage works have already been completed at the subject site. As the lot layout is not proposed to be amended following a rezoning, there will be no increase in development.</p> <p>The flood risk for the subject site is the same or lower than the surrounding existing residential zoned land.</p> <p>The LEP contains existing provisions that give effect to and are consistent with the NSW Flood Prone Land Policy, which are not proposed to be amended.</p>

Ministerial Direction	Consistency and Implications
<p>potential flood impacts both on and off the subject land.</p>	<p>Figure 12 - Port Stephens flood hazard mapping</p>  <p>Port Stephens Flood Hazard Mapping Flood Hazard Categories</p> <ul style="list-style-type: none"> Flood Prone Land Minimal Risk Flood Prone Land Flood Planning Level Low Hazard Flood Fringe area Low Hazard Flood Storage area Low Hazard Overland Flow Path area Low Hazard Floodway area High Hazard Flood Fringe area High Hazard Flood Storage area High Hazard Overland Flow Path area High Hazard Floodway area Flood Prone Land subject to further investigation <p>The planning proposal is consistent with this direction.</p>
<p>4.4 Planning for Bushfire Protection</p> <p>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; and to encourage sound management of bush fire prone areas.</p>	<p>This direction applies because the subject site is identified as bushfire prone land (Figure 14).</p> <p>Consultation with the Commissioner of the NSW Rural Fire Service will be undertaken should the planning proposal receive a Gateway determination to proceed.</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) have regard to <i>Planning for Bushfire Protection 2019</i> (b) introduce controls that avoid placing inappropriate developments in hazardous areas (c) ensure that bushfire hazard reduction is not prohibited within the APZ <p>The planning proposal is consistent with this direction as the adjoining land has the equivalent risk and is zoned for residential purposes. Additionally, the objectives of this direction can be achieved at the development application stage through a Bushfire Assessment Report.</p>

Ministerial Direction	Consistency and Implications
	<p>Figure 13 - Bushfire prone land mapping</p>  <p>Bushfire Prone Land Categories</p> <ul style="list-style-type: none"> (1) Vegetation Category One (2) Vegetation Category Two (3) Buffer <p>The planning proposal is consistent with this direction.</p>
5. Regional Planning	
<p>5.10 Implementation of Regional Plans</p> <p>The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional plans.</p>	<p>This direction applies as the subject site is located within the boundaries of the Hunter regional Plan (HRP)</p> <p>As identified in Section B, the planning proposal is consistent with the HRP as it will provide additional housing within an existing residential neighbourhood, in close proximity to employment opportunities, without increasing demand for infrastructure and services.</p>

Section C – Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

A Flora and Fauna Assessment was undertaken for the Seaside Estate development. The existing approval for clearing, earthworks, roadwork, stormwater, and servicing provisions for sewer, water supply, power and communications were based on this assessment.

As clearing required for future development has been completed (**Figure 13**), there are no critical habitats or threatened species, populations or ecological communities, or their habitats that will be adversely affected as a result of the proposal.

Figure 14 – Extent of clearing and construction works



Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. As clearing required for future development has been completed, there are no further impacts anticipated as a result of this planning proposal.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The proposal will result in the following positive social and economic effects:

- Employment opportunities in the Port Stephens LGA and Hunter Region from construction works;
- Increased provision of housing within an existing residential neighbourhood; and
- An increased population to support a future neighbourhood centre in Fullerton Cove (subject to a separate planning proposal).

Removing business zoned land in Fern Bay may have a negative social and economic impact on the local community where an undersupply of retail floor area has been identified. Therefore, the site will not be rezoned to residential until the Fullerton Cove Proposal is certain and imminent.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

The subject site has been cleared with roads and drainage constructed (**Figure 13**). The site can be connected to all infrastructure services due to its location within Seaside Estate, Fern Bay.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

During the assessment and determination of the Seaside Estate Subdivision (MP 06_0250) consultation with the Department of Defence, the Rural Fire Service, Department of Water and Energy, Primary Industries and NSW National Parks and Wildlife Services was undertaken.

Further consultation with relevant State and Commonwealth agencies can be undertaken following a Gateway determination to proceed. The following agencies will be consulted with:

- NSW Rural Fire Service
- Commonwealth Department of Defence
- Hunter Water Corporation
- Worimi Aboriginal Land Council

PART 4 – Mapping

ATTACHMENT 1 – Current Zoning Plan LZN_004A

ATTACHMENT 2 – Proposed Zoning Map – Map Amendment to Land Zoning Map – Sheet LZN_004A from B1 Neighbourhood Centre to R2 Low Density Residential Zone

ATTACHMENT 3 – Current Lot Size Map LSZ_004A

ATTACHMENT 4 – Proposed Lot Size Plan – Map amendment to Lot Size Map – Sheet LSZ_004A from no specified minimum to 500 square metres

ATTACHMENT 5 – Current Height of Building Map Sheet HOB_004A

ATTACHMENT 6 – Proposed Height of Buildings Map – Map amendment to Height of Buildings Map – Sheet HOB_004A from I 8 metres to J 9 metres

PART 5 – Community consultation

External consultation has been undertaken during the preparation of the draft Fern Bay and North Stockton Strategy. Submissions received during the exhibition period indicate a desire for a neighbourhood centre and supermarket to be located within the area, including a petition in support of the Fullerton Cove Proposal.

Community consultation will be undertaken in accordance with the Gateway determination.

Notice of the public exhibition period will be placed in the local newspaper, The Examiner. The exhibition material will be on display at the following locations during normal business hours:

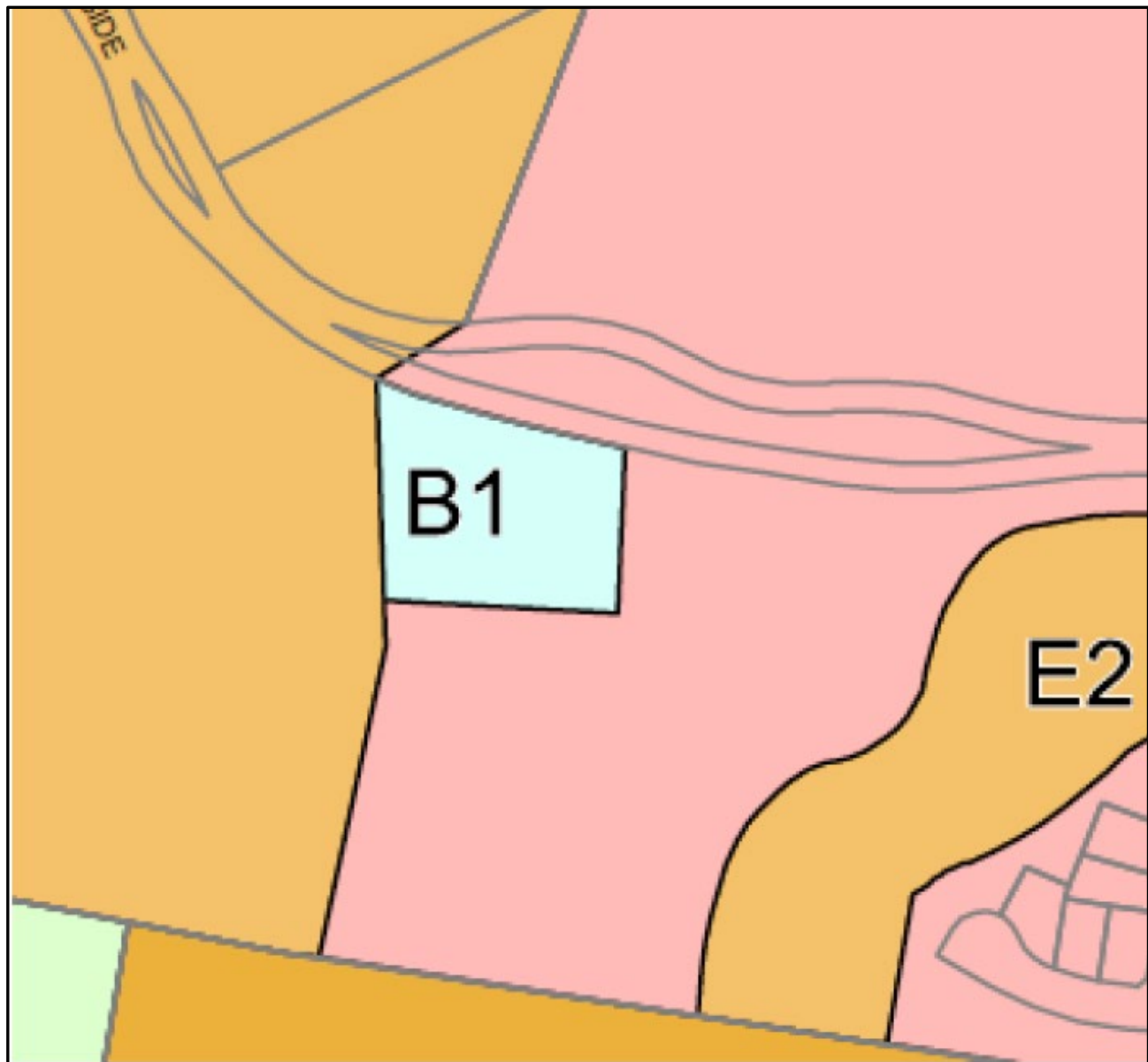
- Council's Administration Building, 116 Adelaide Street, Raymond Terrace
- Raymond Terrace Library, Port Stephens Street, Raymond Terrace

The planning proposal will also be available on Council's website.

PART 6 – Project timeline

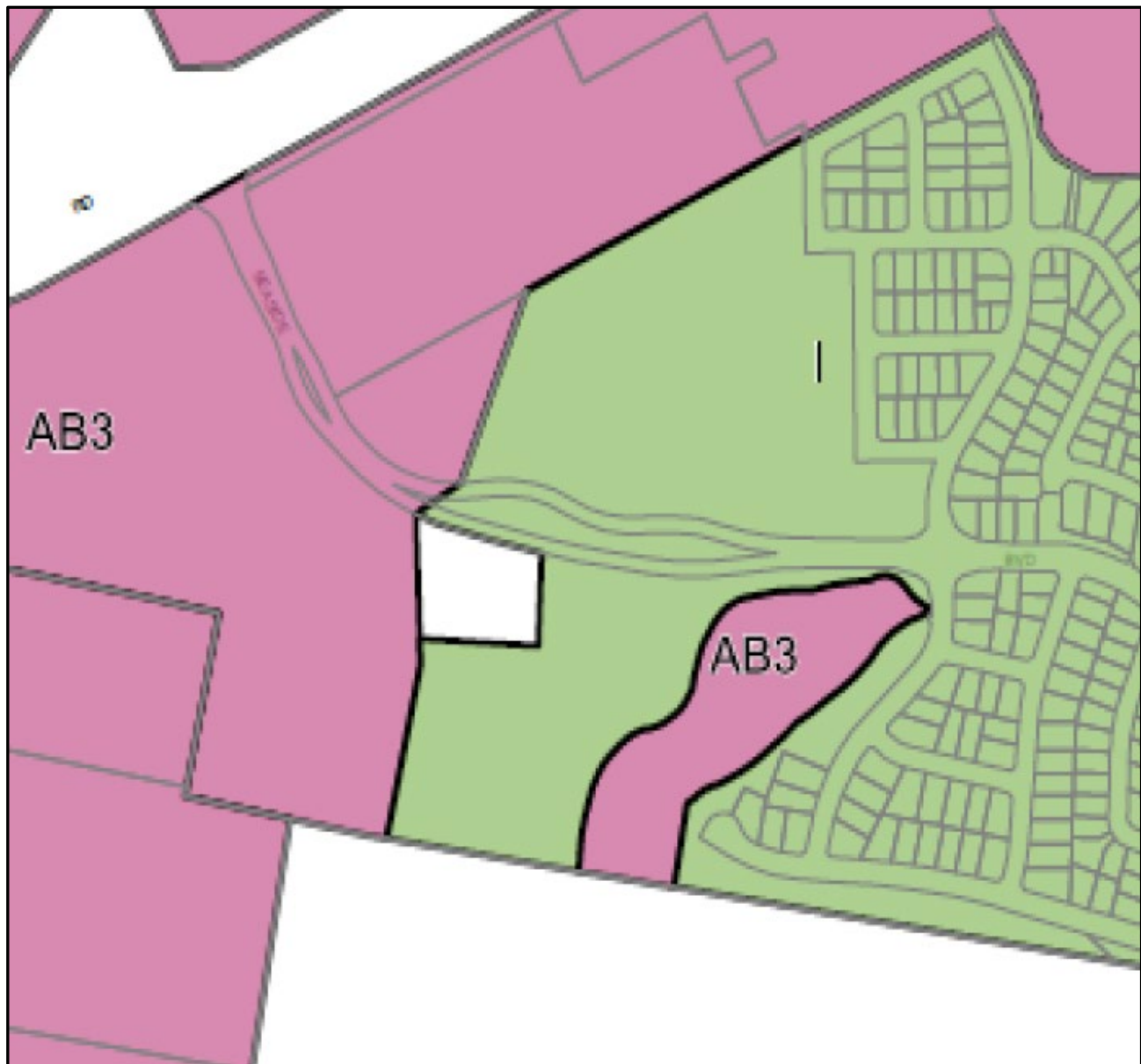
The planning proposal is expected to be reported to Council following the completion of the public exhibition period. It is noted that the Fullerton Cove Proposal currently has Gateway Approval and is additional studies relating to PP-2021-1011 have been completed. The subject proposal will support the progression of PP-2021-1011 through the remainder of the LEP Amending process. The following timetable is proposed:

	May '21	Jun '21	Jul '21	Aug '21	Sep '21	Oct '21	Nov '21	Dec '21	Jan '22	Feb '22
Gateway Determination										
Agency Consultation										
Further Studies										
Public Exhibition										
Review of Submissions										
Council Report										
Parliamentary Counsel										





ATTACHMENT 3 – Current Lot Size Map



ATTACHMENT 4 – Proposed Lot Size Map



ATTACHMENT 5 – Current Height of Building Map



ATTACHMENT 6 – Proposed Height of Building Map



ATTACHMENT 7 – Fern Bay & North Stockton Commercial Lands Study

Information referenced in this report can be inspected upon request.

ATTACHMENT 8 – AHIMS Search Result

Information referenced in this report can be inspected upon request.