

PLANNING PROPOSAL

LITHGOW LOCAL ENVIRONMENTAL PLAN 2014

(AMENDMENT No 3)

88 Pipers Flat Road Wallerawang

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INTRODUCTION

A planning proposal has been requested to be prepared by the proponent Mr David McLoughlan on behalf of the registered landowners. The planning proposal request has been prepared by Anthony Daintith Town Planning Pty Ltd. This request forms the basis of this planning proposal.

This request was considered by Council at its **Ordinary Meeting of 23 July 2018**. Council resolved unanimously the following:

Minute No 18-187

1. Council supports the preparation of a Planning Proposal for Lot Y DP 407106, being 88 Pipers Flat Road Wallerawang to amend Lithgow Local Environment Plan 2014 as follows:
 - a. amend the land zone of the site from R5 Large Lot Residential to R2 Low Density Residential
 - b. amend the lot size from 2ha to 800m²
to enable the subdivision of the land for residential purposes.
2. The Planning Proposal documentation once prepared be forwarded to the Western Region office of NSW Department of Planning and Environment for a Gateway Determination.
3. Council advise NSW Department of Planning and Environment that it proposes to seek approval to use its delegated functions under S. 3.36(2)-(4) of the Act to make the plan following compliance with a Gateway Determination.
4. A **DIVISION** be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

What is a Planning Proposal

A planning proposal is a document that explains the intended effect of a proposed local environmental plan (LEP) and sets out the justification for making that plan. It will be used and read by a wide audience including the general community as well as those who are responsible for deciding whether or not the proposal should proceed. As such it must be concise and accessible to its audience. It must also be technically competent - founded on an accurate assessment of the likely impacts of the proposal and supported where necessary by technical studies and investigations.

The preparation of a planning proposal is the first step in preparing a LEP. Throughout the course of preparing the proposed LEP, the planning proposal evolves. This is particularly the case for complex proposals in which the initial gateway determination will confirm the technical studies and consultation required to justify the proposal. As the studies and consultation are undertaken, relevant parts of the planning proposal will be updated, amended and embellished.

SITE DESCRIPTION

The subject site is Lot Y DP 407106, 88 Pipers Flat Road and has an area of 1.366ha. It is located on the western corner of Brays Lane and Pipers Flat Road Wallerawang to the west of the Wallerawang town centre as highlighted in **Figure 1** below:



Figure 1 Locality Plan

The site is a regular shaped allotment that slopes gently to the northwest and is generally cleared of vegetation with the exception of some scattered trees towards the northern boundary.

The site contains a number of existing buildings as shown in **Figure 2** below that are used by a group home for respite activities.

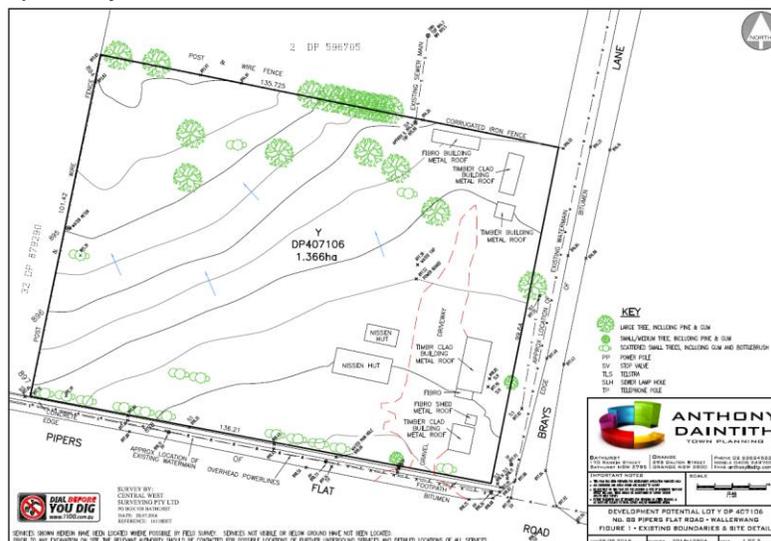


Figure 2 Site Detail

Photo 1: Subject land – looking west



Photo 2: Existing buildings



Photo 3: Northern portion of the site



Photo 4: Subject land



PART 1 OBJECTIVE OR INTENDED OUTCOMES

The objective of the Draft Planning Proposal is to amend Lithgow Local Environmental Plan to enable Lot Y DP 407106 to be further subdivided into residential allotments.

Figure 3 provides a proposed subdivision layout for the site that takes into account the servicing of each lot, the topography of the land and streetscape considerations to Pipers Flat Road.

To address the streetscape concerns along Pipers Flat Road (in particular the visual amenity of the town centre entry from the west, it is proposed to provide a vegetation buffer 3m wide as depicted on **Figure 3**.

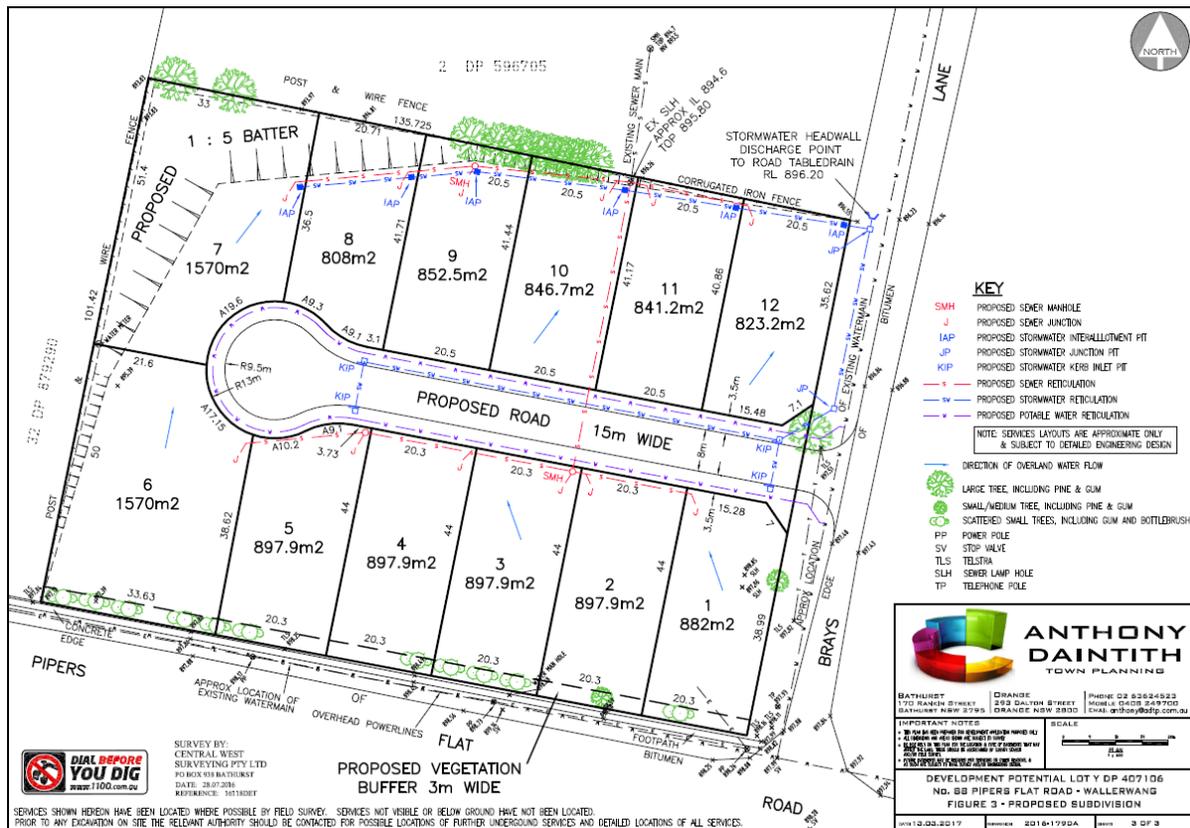


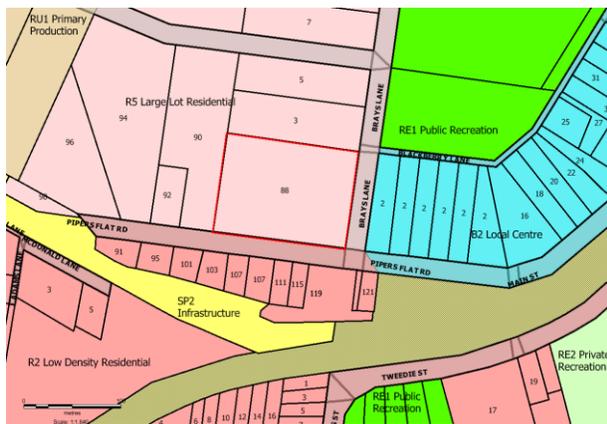
Figure 3: Potential Subdivision Layout

It is anticipated that each of the above proposed lots will be developed with single dwellings. They are not suited for higher density residential development and all but two proposed lots will be below the minimum lot size for dual occupancy and multi-dwelling housing in the proposed R2 Low Density Residential zone under Clause 4.1A of Lithgow Local Environmental Plan 2014.

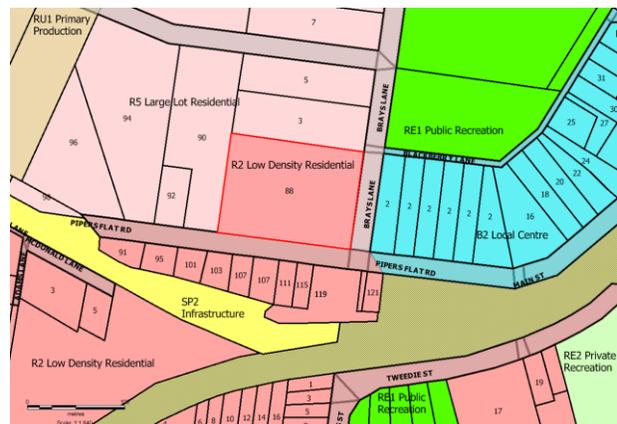
PART 2 EXPLANATION OF PROVISIONS

The Draft Planning Proposal seeks to amend Lithgow Local Environmental Plan to rezone the land from R5 Large Lot Residential to R2 Low Density Residential and change the applicable lot size from 2ha to 800m².

Figure 4 below shows the existing and proposed land use zones and development controls.



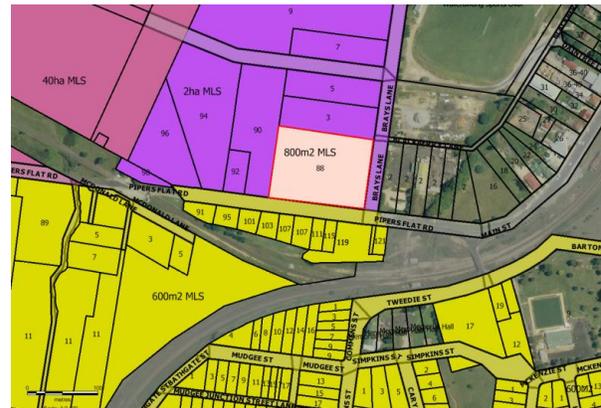
Current Zone



Proposed Zone



Current Lot Size (2ha)



Proposed Lot Size (800m²)

Figure 4 Existing and Proposed Zone and Lot Size

PART 3 JUSTIFICATION

Section A Need for Planning Proposal

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

The Planning Proposal is not the result of any strategic study or report. It has arisen as a private proposal for the development of the site and responds to a change in the supply and demand at the local level.

Supply and Demand for Land Wallerawang

In 2010, Mountain View Estate located to the south-west off Rydal Road Wallerawang was considered a sufficient standard residential supply over the life of the Lithgow Land Use Strategy (LUS) to meet the demand for housing that was estimated at approximately six 6 houses per year.

Since 2010, the take-up of housing lots within Wallerawang has taken place at a greater than predicted rate. Mountain View Estate has already sold out with re-selling only active in small numbers according to a local real estate agent. According to a local real estate agent the demand for housing lots within the area is not being met by current supply.

The LUS predicted that supply of residential land in the Mountain View Estate and other infill sites would take approximately 30 years to be exhausted. With significant take –up in 2013/14 and more recently 2016/17 the supply years have been substantially reduced.

The potential development yield of this site may provide a further two years of residential land supply before consideration may need to be given to other greenfield sites in the identified future urban areas beyond 2030 in the periodic review of the LUS and LEP scheduled for 19/20.

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

A change in zoning and the applicable minimum lot size that apply to the land under Lithgow Local Environmental Plan 2014 is the only means of achieving the objectives of this proposal.

Section B Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including Sydney Metropolitan Strategy and exhibited draft strategies)?

The applicable regional plan is the *Central West Orana Regional Plan*. The proposal is not inconsistent with the directions and actions of that Plan.

It is particularly consistent with the relevant *Direction 25 – Increase housing diversity and choice in particular Action 25.4 to locate higher density development close to town centres to capitalise on existing infrastructure and increase housing choice.*

Is the Planning Proposal consistent with a Council’s local strategy or other local strategic plan?

The Planning Proposal is demonstratively consistent with the following key principles that underpin endorsed Lithgow Land Use Strategy 2010-2030:

LUS Growth Management Principle	Guiding Principle	Comment
GM1 Thresholds to Growth	Future development should strengthen the desired settlement hierarchy, support and maintain strong commercial centres, minimise urban sprawl and environmental footprints and maximise infrastructure and service efficiencies.	<p>Consistent</p> <p>The development site reinforces the established settlement hierarchy by providing further housing opportunity in established town centres.</p> <p>The development site is an infill site located within the identified urban core of Wallerawang and has direct road and pedestrian links to the local commercial centre. The site can be serviced by existing infrastructure.</p>
GM2 Land Use Suitability and Capability	<p>Future development should be located on land that is suitable for the development and capable of supporting the proposed uses.</p> <p>Future development should avoid areas of environmental significance, significant natural and/or economic resource, potential hazard, high landscape or cultural</p>	<p>Consistent</p> <p>The development site is suitable for residential development.</p> <p>It is not affected by environmental or natural hazards or constraints.</p>

	heritage value, or potential increased risk associated with impacts of climate change.	
GM3 Infrastructure Provision	<p>Future development should only be permitted where it can be provided with adequate, cost effective physical and social infrastructure to match the expected population of each settlement area.</p> <p>Future development should not create the demand for the uneconomic provision of infrastructure.</p> <p>Future development should be designed and located to have well connected and accessible urban areas increasing the opportunity for public transport, cycling and walking for residents and visitors.</p>	<p>Consistent</p> <p>The development site can be fully serviced by existing head infrastructure and will not create the demand for uneconomic provision of infrastructure.</p> <p>The location of the site in close proximity to the commercial centre and local sporting areas promotes and encourages cycling and walking and less car dependency.</p>

Is the planning proposal consistent with applicable State Environmental Planning Policies?

Relevant State Environmental Planning Policies (“SEPPs”)

Council has reviewed all applicable State Environmental Planning Policies to determine the direct application and relevance to this Planning Proposal and has found that the proposal is consistent with all SEPPs and will not hinder the operation of those SEPPs during the development assessment phase.

The key relevant SEPP’s are SEPP 55 Remediation of land and Sydney Drinking Water Catchment SEPP 2011.

The preliminary investigation report (Appendix 2) accompanying the Planning Proposal has indicated that the subject land is suitable for residential land use without further investigation consistent with SEPP 55 Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land.

The site is within the Sydney Drinking Water Catchment and therefore any development resulting from the Planning Proposal will need to achieve a neutral or beneficial effect on water quality. Consultation with the Water NSW (Sydney Catchment Authority) prior to the issuing of the final Gateway Determination will determine the extent and timing of investigations such as MUSIC modelling that will be required.

Is the planning proposal consistent with applicable Ministerial Directions (S.9.1 of previous S117 directions)?

Relevant Ministerial Directions

Council assessment of the Planning Proposal indicates that it is consistent with the applicable Section 9.1 Planning Directions issued by the Minister for Planning in particular the following most relevant applicable directions:

Relevant Planning Direction	Comment
<p>Direction 3.1 Residential Zones</p> <p>When this Direction applies</p> <p>(3) This Direction applies when a relevant planning authority (Council) prepares a planning proposal that will affect land within:</p> <p>(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</p> <p>(b) any other zone in which significant residential development is permitted or proposed to be permitted.</p> <p>What a relevant planning authority (Council) must do if this Direction applies</p> <p>(4) A planning proposal must include provisions that encourage the provision of housing that will:</p> <p>(a) broaden the choice of building types and locations available in the housing market, and</p> <p>(b) make more efficient use of existing infrastructure and services, and</p> <p>(c) reduce the consumption of land for</p>	<p>The Planning Proposal is consistent with this direction.</p> <p>The proposal will:</p> <ul style="list-style-type: none"> • broaden the choice of new housing locations in the housing market of Wallerawang and in particular provide housing within close proximity to the town centre and sporting areas; • be capable of being serviced with existing infrastructure and services; • enable an infill site on the fringe of established urban development to be used to a higher capacity thereby reducing the consumption of land for housing; • provide opportunity for the site to be developed using good design principles; • be subject to Clause 7.10 of Lithgow Local Environmental Plan 2014 requiring essential services to be provided; and • increase the permissible housing density of the site which currently only allows for a maximum of two dwellings, one of

Relevant Planning Direction	Comment
<p>housing and associated urban development on the urban fringe, and (d) be of good design.</p> <p>(5) A planning proposal must, in relation to land to which this direction applies:</p> <p>(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), and</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p>	<p>which would be required to be dual occupancy.</p>
<p>Direction 3.4 Integrating Land Use Transport</p> <p>When this Direction applies:</p> <p>(3) This Direction applies when a relevant planning authority (Council) prepares a planning proposal that will, create, alter or remove a zone or provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</p> <p>What a relevant planning authority (Council) must do if this Direction applies:</p> <p>(4) 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>(a) Improving Transport choice- Guidelines for planning and development (DUAP 2001) and</p> <p>(b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</p>	<p>The Planning Proposal through providing housing choice in close proximity and connectivity to the Wallerawang Town Centre and established sporting areas and public transport nodes will reduce car dependency for the residents and enable cycling or walking or public transport to be transport of choice.</p> <p>The access to Brays Lane provides opportunity for planned vehicular access to the development without negatively impacting upon the Main Road traffic route on Pipers Flat Road or the nearby major rail overhead bridge (Black Bridge).</p>
<p>Direction 5.2 Sydney Drinking Water Catchment</p> <p>When this Direction applies:</p>	<p>The site is located within the Sydney Water Drinking Catchment. It is not within a Special Area.</p> <p>The site is capable of being fully serviced. The</p>

Relevant Planning Direction	Comment
<p>(3) This Direction applies when a relevant planning authority (Council) prepares a planning proposal that applies to land within the Sydney drinking water catchment</p> <p>What a relevant planning authority must do if this Direction applies:</p> <p>(4) Planning Proposal must be prepared in accordance with the general principle that water quality within the Sydney drinking water catchment should be protected:</p> <p>(a) new development within the Sydney drinking water catchment must have a neutral or beneficial effect on water quality, and</p> <p>(b) future land use in the Sydney drinking water catchment should be matched to land and water capability....</p>	<p>proposed subdivision and development will be required to achieve a neutral or beneficial effect on water quality as part of the development assessment process.</p> <p>The Lithgow Strategic Land and Water Capability Assessment 2009 has identified that the land has high capability for the land use category 4A Residential Sewered.</p> <p>Council will be required to consult with the Water NSW (Sydney Catchment Authority) and include a copy of any information received prior to a final Gateway Determination being made.</p>

Section C Environmental, social and economic impact

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.

The site is not identified on the Lithgow Biodiversity Environmental Sensitive Areas mapping. It is generally clear of significant vegetation and has in the past been developed and used for a variety of urban purposes.

Therefore the likelihood for any ecological impact is negligible.

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

The subject site has not been identified within the environmentally sensitive areas mapping for biodiversity or sensitive lands. It is, however, identified as having moderately high groundwater vulnerability. As the site will be fully serviced with water and sewer and stormwater it is not expected that the proposed use will negatively impact groundwater.

The site is also located to the south of the existing Wallerawang Wastewater Treatment Plant buffer zone and should not negatively impact upon the ordinary operations of the plant.

The site is not identified as being bush fire prone, flood liable or within a declared mine subsidence district.

The site is located within the Sydney Water Drinking Catchment and any future development must be able to demonstrate a neutral or beneficial effect on water quality in accordance with Sydney Drinking Water Catchment 2011 State Environmental Planning Policy. This matter will be addressed at the development assessment phase.

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

The planning proposal is considered unlikely to result in adverse social or economic impacts (and impacts are negligible).

The development of the land for residential purposes will support and strengthen the existing commercial and community precincts of Wallerawang.

Section D State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

The relative small scale of the proposal, resulting in less than 11 new residential lots (potential new population of 28 using the average household size of 2.56) is not significant enough to trigger any new or augmented state or commonwealth public infrastructure.

The site is currently serviced by essential water, sewer and electricity services and has two road frontages.

Any impact upon local essential infrastructure will be considered as part of the development assessment phase and mitigated through either development consent conditions or development servicing contributions.

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

Relevant state and government public authorities will be consulted as part of the process and/or considered prior to final Gateway Determination.

PART 4 MAPPING

The Planning Proposal will require amendment to the following maps of Lithgow Local Environmental Plan 2014 as indicated in **Figure 4**:

- Land Zoning Map LZN_002F
- Lot Size Map LSZ_002F

Council will prepare these maps in accordance with the *Standard Technical Requirements for Spatial Datasets and Maps- Version 2.10 August 2017* following the community consultation phase of the planning proposal.

PART 5 COMMUNITY CONSULTATION

The Gateway Determination will confirm community consultation requirements. It is likely that if this Planning Proposal is supported it would be a “low impact” proposal in accordance with Section 5.5.2 of “*A Guide to Preparing LEPs*” that would require exhibition for a period of not less than 14 days.

A “low impact” proposal is defined as “a planning proposal that, in the opinion of the person making the Gateway Determination is:

- Consistent with the pattern of surrounding land use zones/and or land uses;
- Consistent with the strategic planning framework;
- Presents no issues with regard to infrastructure servicing;
- Not a principal LEP;
- Does not re-classify public land.”

It is proposed that the Planning Proposal will be publicly notified by:

- A notice in the Village Voice in each week of the exhibition
- Adjoining landowners
- Notification on Councils website
- Display at Councils customer service centre and libraries

Council will also notify the government agencies prior to and concurrently with the public exhibition period unless directed otherwise through the Gateway Determination. In particular Council will consult with Water NSW (Sydney Catchment Authority) and Roads and Maritime Services.

PART 6 PROJECT TIMELINE

An indicative timeline to complete the plan making process is outlined below:

Key Stages of Consultation and Approval	Estimated Timeframe
Stage 1 Submission of Draft Planning Proposal to Department Regional Office	July/August 2018
Stage 2 Gateway Determination	September/October 2018
Stage 3 Public Exhibition and Government Agency Consultation	October/November 2018

Stage 4 Review/consideration of submissions	November 2018
Stage 5 Council Report	November 2018
Stage 6 Plan Making and Legal Drafting – (Council delegated functions)	December/January 2018
Stage 7 Notification of the LEP	February 2019

APPENDIX LIST

Appendix 1

Copy of Report to Ordinary Meeting of Council held on 23 July 2018 and Minute 18-187

Appendix 2

Copy of Preliminary Contamination Investigation – Envirowest Consulting – March 2017

Appendix 3

Completed Delegations Checklist

Document Control

Version	Date	Description	Responsible Officer
1.0	17/09/18	Planning Proposal – Pre Gateway	Sherilyn Hanrahan