

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 19 December 2016

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

PE2

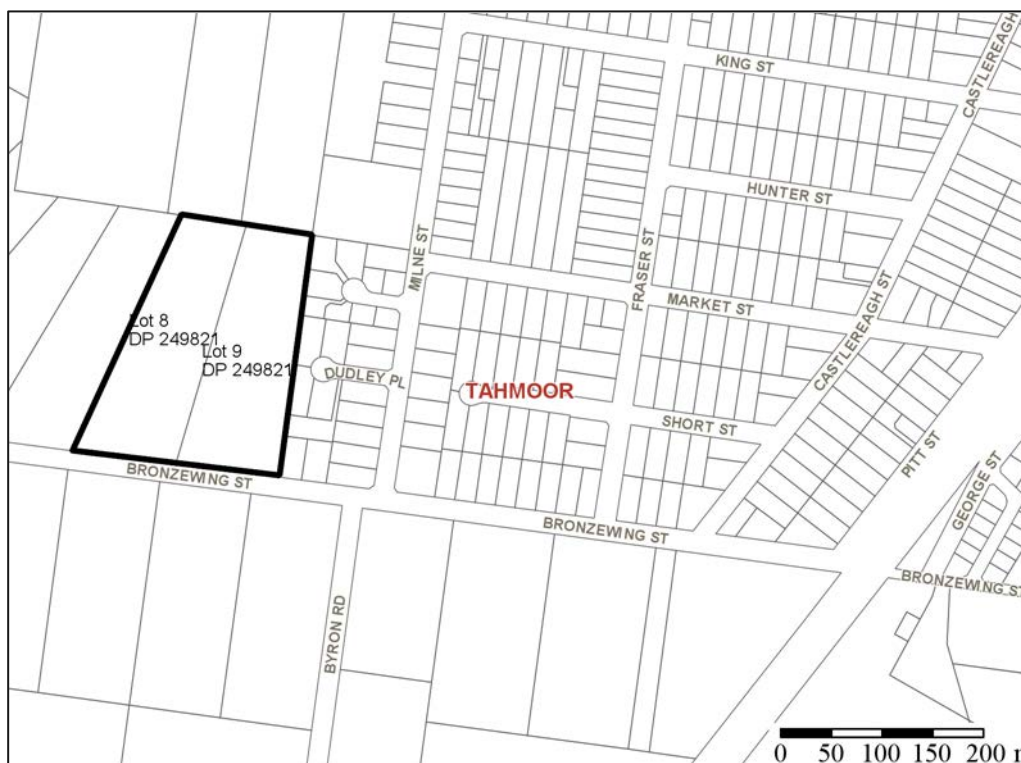
**Planning Proposal – Bronzewing Street, Tahmoor**

41

TRIM 6115

**Applicant:** Rhodes Haskew Associates  
**Owner:** Mr J & Mrs R Dinallo

Planning & Economy



© Wollondilly Shire Council. © LP

↑  
LOCATION MAP N

Stage	Completed
Preliminary notification	13 April 2012
Gateway Determination	14 February 2013
Consultation with Public Agencies	14 November 2014
Specialist Studies	29 September 2016
Public exhibition/community consultation	9 November 2016
Referred to Minister for Publication	

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

**EXECUTIVE SUMMARY**

- This Planning Proposal seeks to amend the provisions of Wollondilly Local Environmental Plan, 2011 as they apply to Nos 55 and 65 Bronzewing Street, Tahmoor.
- It is proposed to change the zone from rural to residential; to change the minimum lot size, the maximum height of building and; to add biodiversity provisions.
- Amendments to the site-specific provisions of Wollondilly Development Control Plan 2011 are also proposed.
- The Planning Proposal is consistent with the Key Policy Directions and Assessment Criteria to Council's Growth Management Strategy.
- No submissions were received in response to Community Consultation.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended:
  - That Council support the Planning Proposal in the same form that it was publicly exhibited.
  - That the Planning Proposal be forwarded to the Greater Sydney City Commission for finalising including addressing the objection from Subsidence Advisory NSW.
  - That Council indicate their strong concern to the NSW State Government, Subsidence Advisory NSW and the Department of Planning and Environment with the lack of consultation and perceived issues with the co-existence agreement approach.
  - That Council amend the Wollondilly Development Control Plan 2016 and place the draft amendments on public exhibition.
  - That the applicant and persons who made submissions be notified of Council's decision.

**REPORT**

**1.1 SITE DESCRIPTION**

The site is situated at the south-western edge of urban land in Tahmoor and has an area of 4.046 ha as outlined in the table below:

Address and Lot details	Area in ha
55 Bronzewing - Lot 9 DP 249821	2.023
65 Bronzewing - Lot 8 DP 249821	2.023
Total	4.046

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

The site is located on the western side of the Main Southern Railway line on the northern side of Bronzewing Street and approximately 1km from Tahmoor Railway Station. Tahmoor Commercial Centre is located a further 200-300m from the site. It adjoins developed urban residential land on the eastern boundary, rural residential land to the west and Tahmoor sportsground is situated immediately to the north-west. Mature trees are scattered over the site and there is small area of bushland in the north west which links to bushland on the adjoining sportsground.

**1.2 DESCRIPTION OF PROPOSAL**

The application proposes to amend the provisions of Wollondilly LEP as they apply to the subject site to:

- change the Land Zoning map from Zone RU4 – Primary Production Small Lots to Zone R2 Low Density Residential and;
- change the Lot Size map to amend the 2 hectare minimum to a minimum lot size of 700m<sup>2</sup> and;
- change the Height of Buildings map from no height limit to a maximum height of 9m and;
- include part of the site on the Natural Resources Biodiversity map.

**1.3 GATEWAY DETERMINATION**

A Gateway Determination was issued dated 14 February 2013. The Determination permitted the proposal to proceed. The Gateway Determination granted that the inconsistency with Section 117 Direction 1.2 Rural Zones is of minor significance and no further approval is required in relation to this Direction. The conditions of the Gateway Determination are summarised in the following table with comments as to how these have been addressed in the Planning Proposal process.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

<b>Gateway Condition</b>	<b>Addressed by:</b>
1. Additional information regarding hydrology, traffic and transport and bushfire hazard is required and the planning proposal is to be amended to reflect the outcomes of these studies.	Specialist studies were completed and all matters are able to be addressed satisfactorily without the need to amend the planning proposal.
2. Amend the project timeline within the planning proposal to reflect the 12 month timeframe allocated for completing the Local Environmental Plan (LEP).	The timeframe has been extended until 27 January 2017 and the planning proposal has been amended to reflect this new timeframe.
3. Consult with the Department of Trade & Investment (Mineral Resources and Energy) as per the requirements of S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries.	Consultation was undertaken prior to public exhibition and Mineral Resources and Energy had no objection to the rezoning proceeding subject to future housing being in accordance with mine subsidence guidelines. They have reiterated this advice during public exhibition of the proposal but have indicated that they may provide further advice as it appears the site has not been undermined.
4. Amend the planning proposal to include additional information on Flora & Fauna and demonstrate consistency with S117 Direction 2.1 Environmental Protection Zones and SEPP 44 Koala Habitat Protection. Consult with Commonwealth Department of Sustainability, Environment, Water, Population and Communities. If required amend the Natural Resources Biodiversity Map to reflect the outcomes of this additional information.	Completed. No response was received from the Commonwealth Department. The Natural Resources Biodiversity Map has been amended to reflect the findings of the Flora and Fauna report and further assessment undertaken by Council's Environment staff. Although the site contains some remnant native vegetation it does not satisfy the criteria for Koala habitat and therefore is not inconsistent with SEPP 44.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

<b>Gateway Condition</b>	<b>Addressed by:</b>
5. Council is to consult with the Mine Subsidence Board in accordance with S117 Direction 4.2 Mine Subsidence and Unstable Land and amend the planning proposal if necessary prior to undertaking public exhibition.	<p>Consultation was undertaken prior to public exhibition and the Mine Subsidence Board at that time had no objections to the rezoning proceeding subject to any future development seeking approval from the Board.</p> <p>Further consultation was undertaken during the public exhibition of the planning proposal and the Mine Subsidence Board (now Subsidence Advisory NSW) objected to the rezoning as according to their information undermining of the site has not occurred as yet.</p>
6. Consult with NSW Rural Fire Service as per S117 Direction 4.4 Planning for Bushfire Protection and amend the planning proposal if necessary.	Completed. The site is able to meet bushfire protection guidelines.
7. Demonstrate that the site satisfies the requirements of State Environmental Planning Policy No. 55 (SEPP 55) - Remediation of Land.	An initial site contamination assessment was undertaken in accordance with SEPP 55 and included as part of the public exhibition material. The site is considered to be suitable for residential development but remediation is required in some parts of the site.
8. Community consultation is required for 28 days.	Completed
9. Consultation is required with a number of public authorities.	Completed. Details provided later in this report.
10. A public hearing is not required.	Noted.
11. A timeframe of 12 months to complete the LEP.	This timeframe has been extended until 27 January 2017.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

**1.4 MINING SUBSIDENCE ISSUES**

The Gateway Determination required Council to undertake consultation with the Mine Subsidence Board (MSB) and NSW Trade & Investment - Resources & Energy. Advice was received from both these government agencies in 2014 that the planning proposal site has been undermined and that there was no concern with future development and mining subsidence provided any future application for development sought advice from the MSB.

Further consultation was undertaken with these agencies during public exhibition of the planning proposal in October-November 2016. The Mine Subsidence Board now part of Subsidence Advisory NSW (SA NSW) has advised that the site has not been undermined as Longwall 38 has yet to be commenced. While land around the site was undermined, this one area was left with only preliminary workings undertaken. SA NSW recommends that the proponent agrees on a co-existence framework with Tahmoor Colliery before the application to rezone the land is approved. SA NSW considers that rezoning should not occur until Government has a better understanding of the potential subsidence impacts of the development.

The NSW Government has yet to incorporate the proposed co-existence framework into the Mine Subsidence Compensation Act 1961 (MSCA) and at the time of writing this report consultation had yet to be undertaken with Local Government, other agencies involved in mineral resource management or with the collieries. There is no real understanding of how the co-existence framework will operate. SA NSW proposed to meet with Council to discuss the changes in early December.

Tahmoor Colliery was contacted and also advised that they were concerned about the lack of consultation regarding the proposed changes to the MSCA and the introduction of the co-existence framework. There is limited understanding by the Colliery as to how the process to achieve a co-existence framework would be undertaken.

Council has received information provided by the Department of Planning & Environment to the proponent (Tesrol) of the Clearview Planning Proposal which has similar mine subsidence issues. This letter included advice recommending that both the proponent and the colliery prepare individual 'subsidence liability cost prediction assessments' based on a list of 'cost considerations and common assumptions'. This list (attached) is extremely detailed and would require input by experienced specialists in mining subsidence impacts, public liability and building.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

It is considered unreasonable to expect the proponent for this relatively small planning proposal to undertake such an onerous examination of impacts which would be both very expensive and time consuming. There is no real understanding of what a co-existence agreement would involve and the real possibility that no agreement would be able to be reached with the colliery. Council has a number of planning proposals that may potentially be impacted by this new process and further information with regard to these is being sought from Subsidence Advisory NSW.

As there is no timeframe provided for the undermining of the site, this results in the planning proposal being left in limbo which is of great concern given the length of time it has taken to reach this stage. The contradictory information provided by the NSW government agencies is of concern and has hindered the ability of Council to achieve the timely completion of this planning proposal.

It is also noted that the Department of Planning and Environment has supported other rezonings in the Tahmoor area that would be affected by mining operations.

**CONSULTATION**

**2.1 FORMAL CONSULTATION WITH COUNCIL STAFF THAT PROVIDE SPECIALIST COMMENT**

The following comments on the Planning Proposal were received from Council staff:

**Manager Infrastructure Planning**

There are no impacts on the site from mainstream flooding that need consideration but there may be issues with impacts from the proposal due to increased site coverage with the intended zoning.

A portion of the site drains north and the balance to the south. Both directions directly impact downstream properties and without proper management will cause a nuisance. The southern portion drains to Bronzewing Street with limited drainage infrastructure present and then into downstream properties. Consideration will need to be given to methods for managing stormwater both on the site and within the drainage network. These matters should be manageable within the development application framework.

The adjoining recently subdivided land to the north has made provision for a future road and shared pathway connection at the end of Manorina Place which would enable this site to be connected through to Thirlmere Way.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

**Manager Environmental Services**

Advice was received that reference should be made in the planning proposal to the State Environmental Planning Policy 44 - Koala Habitat Protection (SEPP 44). The Wollondilly Local Government Area (LGA) is included in the list of Local Government Areas covered by SEPP 44. This SEPP contains criteria for the classification of land within these LGA's as Core Koala Habitat. It requires that consent not be provided for any development on land identified as being Core Koala Habitat without a Plan of Management. The Bronzewing Street site does not satisfy the criteria as Koala Habitat and consequently SEPP 44 does not have any implications for this proposal.

Sydney Hinterland Transition Forest was identified in the Flora and Fauna Assessment and is an Endangered Ecological Community. However Council's Environmental section considers the site contains Shale Sandstone Transition Forest which is a Critically Endangered Ecological Community (CEEC). To support this finding, numerous diagnostic species for the CEEC were recorded on the site by the Environment section. The CEEC is identified on the Natural Resources Biodiversity Map and shall not be cleared or otherwise disturbed unless the impacts are offset through biobanking or similar conservation arrangement as detailed in the Biodiversity section of Volume 1 in Development Control Plan 2016.

**2.2 CONSULTATION WITH PUBLIC AGENCIES**

Consultation was undertaken with the following Government agencies as required under the Gateway Determination:

- Sydney Water
- Office of Water
- NSW Transport
- NSW Rural Fire Service
- Mine Subsidence Board
- NSW Trade & Investment - Resources and Energy
- Office of Environment and Heritage - Heritage & Environment Divisions
- Greater Sydney Local Land Services
- Endeavour Energy
- Department of Primary Industries - Agriculture
- Commonwealth Department of Sustainability, Environment, Water, Population and Communities.

The following is a summary of the matters raised by public authorities and assessment comments.



**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

**Sydney Water**

Sydney Water has advised that there is adequate capacity with regard to the existing water and wastewater infrastructure to service the proposed future development on the site.

**Comment**

Noted

**Office of Water**

The Office of Water reviewed the planning proposal after the Gateway Determination and had no comment to make.

**Comment**

Noted

**NSW Transport - Roads & Maritime Services (RMS)**

The RMS advises that as the site is located further than 90m from the classified road (Remembrance Drive) it would not require a referral to them under the Infrastructure SEPP. The RMS consider it is more appropriate for Councils to determine if proposed access arrangements are acceptable from a network perspective. Accordingly the RMS entrusts Council to assess the traffic implications of this planning proposal.

**Comment**

It is considered that the road network has the capacity to cater for the additional traffic generated by development of the site for residential purposes. Land adjoining to the north was rezoned residential in July 2014 and subdivision has since been approved and constructed. This subdivision includes a road which can be extended onto the subject site to provide for both vehicular and pedestrian traffic and improve connectivity for future residents to Thirlmere Way and the sportsground. It is proposed to include a requirement for this road connection in the site-specific provisions of Wollondilly Development Control Plan 2016.

**NSW Rural Fire Service (NSW RFS)**

The NSW Rural Fire Service has raised no objections to the planning proposal subject to any future application for development meeting the requirements under Planning for Bushfire Protection 2006. Requirements would include the provision of Asset Protection Zones and utilities and suitable design of public roads.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

Comment

The NSW RFS comments are noted. It is important to ensure that the provision of Asset Protection Zones does not require the clearing of any vegetation protected under the NSW Threatened Species Conservation Act 1995. To ensure vegetation is not impacted by the NSW RFS 10/50 vegetation clearing rules a future subdivision plan should indicate the location of Asset Protection Zones. These requirements are proposed to be included in site-specific provisions in Wollondilly DCP 2016.

**Office of Environment and Heritage - Heritage Office**

The Heritage Office noted that the planning proposal site does not contain State or Local heritage items. They recommend that prior to finalisation of this planning proposal, a Baseline Archaeological Assessment be undertaken to inform the proposed rezoning, subdivision and subsequent development to ensure that no 'relics' as defined under the *Heritage Act 1977* are present. A relic means any deposit, artefact, object or material evidence that:

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance.

Comment

A European Heritage Impact assessment was undertaken as the planning proposal site adjoins land on which a locally listed heritage item, a house, at 37 Milne Street, Tahmoor, is situated. There would be no heritage impacts on this cottage from development of the site.

The European Heritage Impact Assessment found that this house is a late 19th century farm cottage which was originally on a large parcel of land that also included the planning proposal site. As the planning proposal site is likely to have been part of a farm there is some likelihood that there are farming implements or 'relics' associated with the farm use.

It is proposed to include site-specific requirements in Wollondilly Development Control Plan 2016 for a Baseline Archaeological Assessment to be undertaken as part of any development application for subdivision to provide a process for locating, excavating, recording and conserving any potential 'relics' during construction of the subdivision on this site.

**Office of Environment and Heritage - Environment Office**

The Environment Office has provided comments with regard to three matters detailed as follows:

**Aboriginal Cultural Heritage**

The OEH were concerned with the original Aboriginal Cultural Heritage assessment as it was not undertaken using the correct methodology. OEH noted that the assessment placed on public exhibition has been amended.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

Comment

An Aboriginal Cultural Heritage assessment was undertaken and found that overall the site is considered to have low value and no further archaeological assessment is required. However the report recommends that should works on the site uncover archaeological items the statutory provisions under the NSW National Parks Act and Wildlife Act 1974 would require work to cease and an archaeological assessment to be undertaken. If human archaeological remains are found there are requirements to cease work and notify the police and the Office of Environment and Heritage. Provisions relating to these requirements are included within Volume 1 of Wollondilly Development Control Plan 2016.

**Biodiversity**

The site contains scattered remnant Shale Sandstone Transition Forest (SSTF) vegetation which is a Critically Endangered Ecological (CEEC) community. The Office of Environment are seeking to ensure SSTF is conserved through the application of an environmental zone particularly in the north western corner adjoining the vegetation on the Tahmoor Sportsground site or through larger lot sizes. There is also concern to ensure that any asset protection zones do not encroach on the SSTF.

Comment

The SSTF has been mapped on the Natural Resources Biodiversity map which is linked to Clause 7.2 Biodiversity Protection in Wollondilly LEP and details protection measures for native vegetation. This vegetation can only be cleared if it is offset through the biobanking process. Recommendations in the Flora and Fauna report included maintaining connectivity particularly through retention of mature trees and to encourage additional planting of indigenous species. Building envelopes and APZs that do not encroach on the SSTF should also be detailed in any future subdivision plan. These provisions are proposed to be included in site specific provisions in Wollondilly DCP 2016.

**Floodplain Risk Management**

OEH were concerned with the limited information provided to assess potential floodplain and climate change impacts.

Comment

An assessment of flood risk indicated that the site is not affected by mainstream flooding and overland flow is minimal. Climate change impacts would also be unlikely to significantly alter flood risk. Potential localised flooding would be able to be resolved through on-site detention and connections to stormwater infrastructure and would be assessed as part of any future development application.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

**Greater Sydney Local Land Services (GS LLS)**

The GS LLS is responsible for implementing the objectives of the Native Vegetation Act 2003 including to protect native vegetation of high conservation value. They support the proposed protection of areas containing vegetation of moderate conservation value under the provisions of the Natural Resources Biodiversity Map. The GS LLS support an increase in the proposed 700 sqm minimum lot size and/or a variation in lot sizes across the site so as to minimise the removal of native vegetation for the bushfire APZ or in the future under the NSW RFS 10/50 Clearing Code. Any clearing should be mitigated through appropriate offset areas such as biobanking.

**Comments**

As noted by the GS LLS the inclusion of land of moderate conservation value on the Natural Resources Biodiversity Map will ensure vegetation is not cleared unless it is offset elsewhere. It is also proposed to include site-specific provisions in Wollondilly DCP 2016 to retain large mature trees for connectivity and habitat. This may require some lots to be larger than the minimum. In parts of the site impacted by bushfire hazard, particularly in the north west of the site larger lots will be required to ensure adequate APZs are able to be provided.

**Mine Subsidence Board (MSB)**

After the Gateway Determination was received; Council received advice that there was no objection to the planning proposal and that future developers should contact the MSB for building guidelines. More recent advice has indicated that the site has not been undermined and a co-existence agreement with the proponent and the colliery is recommended prior to the rezoning being finalised. An agreement may include future development adhering to mine subsidence guidelines.

**Comment**

Section 1.4 Mining Subsidence Issues provides comments on the MSB submission.

**NSW Trade & Investment - Resources & Energy (NSW TI-RE)**

Consultation with NSW TI-RE was undertaken after the Gateway Determination was received and they advised that the site had been undermined and that there was no objection to the development. NSW TI-RE reiterated this advice during public exhibition.

**Comment**

On learning that the site has not been undermined NSW TI-RE advised that they may be making further comment. No further comment has been received at the time of writing this report so it is assumed that they are not objecting to the planning proposal.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

**Department of Primary Industries (DPI) - Agriculture**

The Agriculture division of DPI's main concern is to ensure that urban development is well separated from agricultural activities to avoid land use conflict. To address potential conflict with regard to horticultural development on adjoining land holdings to the west, the urban development should include a landscaped or physical buffer for the western edge of Lot 8 and new land purchasers should be notified of the potential for nearby agricultural activities impacting local amenity.

**Comment**

To reduce potential for land use conflict on the adjoining land to the west a landscape or physical buffer is proposed. This requirement would be included in site-specific requirements in Wollondilly DCP 2016. Council currently provides advice on Section 149 Certificates regarding potential activities on rural land. These certificates are obtained by prospective purchasers of land and aim to reduce potential for rural land use conflict.

**Endeavour Energy**

Endeavour Energy has advised of low voltage and high voltage overhead power lines provided to the road frontage. They have no objections to the planning proposal.

**Comment**

Noted.

No response was received from the Commonwealth Department of Sustainability, Environment, Water, Population and Communities.

Other local organisations that were consulted are as follows:

- Tharawal Aboriginal Land Council
- Cubbitch Barta
- Tahmoor Colliery – Glencore.

No submissions were received from Tharawal Aboriginal Land Council and Cubbitch Barta.

**Tahmoor Coal - Glencore**

Tahmoor Coal noted that previous advice provided by NSW Trade & Investment Mineral Resources Branch is incorrect in stating that the site has been undermined. They have raised a number of concerns relating to the timeframe of the public exhibition and the significant impacts on the economic viability of its mining operations through potential mine subsidence impact and potential sterilisation of coal resources. They have requested a further four weeks to consider these impacts.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

Tahmoor Coal considers changes to the Mine Subsidence Compensation Act 1961 incorporating the co-existence agreement process should be legislated prior to further assessment of this planning proposal. Tahmoor Coal has indicated that the Land Use Conflict Assessment should have included coal mining. They consider that the planning proposal is premature and should be refused until after mining has been undertaken.

Comment

As detailed in section 1.4 Mine Subsidence Issues Council was given advice from both the Mine Subsidence Board and NSW Trade & Investment that the site had been undermined. Accordingly there was no necessity for consideration of any land conflict in this regard. Tahmoor Coal was consulted after advice was received from Subsidence Advisory NSW during the public exhibition that the planning proposal site had not been undermined and that there would be a need for the proponent to enter into a co-existence agreement with the colliery. As Tahmoor Coal has provided a comprehensive response and no further information is required at this stage it is not considered necessary to provide a further four weeks consultation.

Tahmoor Coal has not indicated any support for the co-existence approach at this time and considers the planning proposal should be refused until after mining has occurred. However no indication has been given as to when the colliery is likely to be mining Longwall 38. This lack of certainty means that the planning proposal is unable to be finalised for an indefinite period. This is a concern and has implications with regard to social and economic development in terms of the Shire's future housing supply and growth.

**2.3 COMMUNITY CONSULTATION**

The Gateway Determination specified a 28 day period of community consultation and public exhibition. The public exhibition was held from 12 October until the 9 November 2016. During this time the Planning Proposal, specialist studies and other documents as required by the Gateway Determination were made available for public viewing on Council's website, at Council's Administration Building and at Wollondilly Library. A public notice was placed in the local newspaper. Letters were sent to adjoining and nearby landowners and those who made previous submissions. At the close of the consultation period no submissions had been received from the community.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

**2.4 PLANNING PROPOSAL**

The Planning Proposal has been prepared in accordance with Section 55 to the EP&A Act, 1979 and the guidelines published by the DP&E. The Planning Proposal has not been revised from the publicly exhibited version.

Council's options are:

1. Resolve to support the Planning Proposal in the form as described in Section 2.11 to this report.
2. Resolve to support the Planning Proposal in another form. With this option a new Gateway Determination, amended specialist studies and a new public exhibition period may be required.
3. Resolve not to support the Planning Proposal. With this option there is no further action to be taken on the Planning Proposal other than to inform the applicant, submitters and the DP&I that the Planning Proposal has been terminated. The applicant could choose to submit a new Planning Proposal. There are no appeal rights through the Land and Environment Court against Council' refusal to support the Planning Proposal at this stage of the process.

Option 1 is the recommendation of this report.

**2.5 A PLAN FOR GROWING SYDNEY**

The Plan has a vision for a city where there is housing choice with homes that meet our needs and lifestyle and are affordable. Additional residential land in this outer urban location would assist in provision of a range of housing and in meeting affordable housing targets for the metropolitan area.

**2.6 SYDNEY DISTRICTS - PRIORITIES FOR SOUTH WEST SUB REGION**

A priority for accelerating housing supply around established areas while protecting the natural environment is able to be met by this planning proposal.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

**2.7 SECTION 117 MINISTERIAL DIRECTIONS**

**Ministerial Direction 4.2 Mine Subsidence and Unstable Land**

The planning proposal was consistent with this direction as Council received information from the Mine Subsidence Board prior to community consultation indicating that they had no objection to the planning proposal. During public exhibition and community consultation an objection to the planning proposal was received from Subsidence Advisory NSW. The planning proposal is now inconsistent with direction 4.2 and will require an approved strategy to justify this inconsistency. Unfortunately as previously noted the purported co-existence agreement is considered onerous for this site and potentially unworkable.

It is considered that the planning proposal is consistent with all other relevant ministerial directions.

**2.8 STATE ENVIRONMENTAL PLANNING POLICIES**

State Environmental Planning Policies have been satisfactorily addressed during assessment of the planning proposal.

**2.9 AMENDMENT TO THE STATE ENVIRONMENTAL PLANNING POLICY (MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES) (COAL SEAM GAS EXCLUSION ZONES) 2013**

The 2 km exclusion zone around residential land for coal seam gas mining applies to this land as it is adjacent to existing residential land.

**2.10 WOLLONDILLY GROWTH MANAGEMENT STRATEGY**

A review of the key policy directions in the Growth Management Strategy in relation to this planning proposal is detailed as follows:

<b>Key Policy Direction</b>	<b>Comment</b>
<b>General Policies</b>	
P1 All land use proposals need to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.	It is considered that the planning proposal meets all the relevant Key Policy Directions and Assessment Criteria contained within the GMS other than Direction P21 with regard to protection of mineral resources.
P2 All land use proposals need to be compatible with the concept and vision of "Rural Living" (defined in Chapter 2 of the GMS).	The proposal is generally consistent with the concept and vision of 'Rural Living'.



**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

<b>Key Policy Direction</b>	<b>Comment</b>
P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.	Council consulted with the community at the beginning of the planning proposal process in 2012 and during public exhibition.
P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.	No such representations have been made regarding this draft proposal and it is considered that this Key Policy Direction has been satisfied.
P5 Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.).	The planning proposal site is well located for urban growth and is able to be serviced by the extension of existing infrastructure.
<b>Housing Policies</b>	
P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.	The Bronzewing Street site is identified in the Growth Management Strategy as potentially being suitable for residential development.
P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.	A mix of housing types is anticipated when this site is developed.
P9 Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of towns (on the "rural fringe").	The lot size is larger than those within the Picton Tahmoor Thirlmere Precincts but is considered suitable for land near the urban edge. Some lots are likely to be larger to account for environmental constraints.
P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.	The Bronzewing Street site is located immediately adjacent to residential land.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

<b>Key Policy Direction</b>	<b>Comment</b>
<b>Integrating Growth and Infrastructure</b>	
P17 Council will not support residential and employment lands growth unless increased infrastructure and servicing demands can be clearly demonstrated as being able to be delivered in a timely manner without imposing unsustainable burdens on Council or the Shire's existing and future community.	The Planning Proposal is able to be serviced with reticulated water and sewer, provide adequate drainage and will upgrade the road and pedestrian network. Development contributions would assist in funding local infrastructure.
P18 Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating new housing in and around our existing population centres.	The Bronzewing Street site is well located and with proposed shared pathway routes and connections through to Thirlmere Way will be able to better access community facilities and public transport.
P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.	The Bronzewing Street site is located adjacent to the existing Tahmoor township.
P20 The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.	The Bronzewing Street site is within the Picton/Thirlmere/Tahmoor area and is identified as being a suitable location for residential growth.
<b>Rural and Resource Lands</b>	
P21 Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire's lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes.	The planning proposal site has not been undermined and therefore there is a need to ensure mineral resources are not sterilised by any future proposed development. A pragmatic strategy such as mine subsidence building guidelines that would allow the planning proposal to proceed while ensuring the mineral resources are able to be mined in the future is required.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

**2.11 FINAL FORM OF PLANNING PROPOSAL**

The final form of the planning proposal in terms of the provision required to amend Wollondilly Local Environmental Plan are detailed in the next

**2.11.1 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN, 2011 (WLEP 2011)**

Based on the specialist studies and consultation and engagement there are no changes to the Planning Proposal as exhibited.

The Planning Proposal seeks amendments to WLEP 2011 as described below:

- Amend the Land Zoning Map from Zone RU4 Primary Production Small Lots to Zone R2 Low Density Residential as shown in Attachment 2.
- Amend the Lot Size Map from a minimum lot size category of 2 hectares to 700 square metres as shown in Attachment 3.
- Amend the Height of Buildings Map from no Maximum Building Height to a Maximum Building Height category of 9 metres as shown in Attachment 4.
- Amend the Natural Resources Biodiversity Map to include "sensitive land" as shown in Attachment 5.

**2.11.2 WOLLONDILLY DEVELOPMENT CONTROL PLAN, 2016 (WDPC 2016)**

Amendments to Controls for Specific Locations in Wollondilly Development Control Plan are proposed.

These amendments are detailed as follows:

<b>Volume 3 Subdivision</b>	<b>Comment</b>
<b>Controls for Specific Locations</b>	
Contamination	Parts of the site are potentially contaminated and further investigation and remediation will be required.
European Heritage	To require a Baseline Archaeological Assessment to be undertaken as part of any development application for subdivision to provide a process for locating, excavating, recording and conserving any potential 'relics' during construction of the subdivision.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

<b>Volume 3 Subdivision</b>	<b>Comment</b>
Shared pathways	To require connections to shared pathways that link to Tahmoor Railway Station along Bronzewing Street and to Thirlmere Way via Maniora Place.
Road connections	Provide a road connection to the adjoining Maniora Place to the north and for any future development to the west.
Trees, Vegetation and landscaping	To protect remaining large native trees for the purpose of habitat and connectivity and ensure indigenous vegetation is used for landscaping. To ensure asset protection zones do not impact on remnant native vegetation.
Buffer	To provide a landscaping buffer to the west of the site to reduce potential land use conflict with regard to agricultural activities.

**FINANCIAL IMPLICATIONS**

Funding for this project to date has been achieved through Council's adopted Fees and Charges.

Council has experienced a record increase in the number of Planning Proposals submitted in addition to the Wilton New Town project. Note that the Wilton New Town Growth Centre project is not a planning proposal but has had significant impact on Strategic Planning resources. All proposals which result in an increased intensity of land use within the Shire shall also lead to increased demand for Council services and facilities over time. Council will need to consider this in the adopted budget and forward estimates.

**ATTACHMENTS IN A SEPARATE BOOKLET**

1. Co-existence agreement guidelines.
2. Draft Amendment to Land Zoning Map.
3. Draft Amendment to Lot Size Map.
4. Draft Amendment to Height of Building Map.
5. Draft Amendment to Natural Resources Biodiversity Map.
6. Draft Amendments to Wollondilly Development Control Plan 2016.

**PE2 – Planning Proposal – Bronzewing Street Tahmoor**

**RECOMMENDATION**

1. That Council support the Planning Proposal for land being Lots 8 & 9 DP 249821 (No.55 & 65) (Bronzewing Street) Tahmoor).

To amend Wollondilly Local Environmental Plan, 2011 as follows:

- amend the Land Zoning Map from Zone RU4 Primary Production Small Lots to Zone R2 Low Density Residential and;
  - amend the Lot Size Map from a minimum lot size of 2 hectares to a minimum lot size of 700 square metres and;
  - amend the Height of Buildings Map from no maximum building height to a maximum building height of 9 metres and;
  - amend the Natural Resources Biodiversity Map to include 'sensitive land' identified on the planning proposal site.
2. That in accordance with Section 59 to the Environmental Planning and Assessment Act, 1979 the Planning Proposal be forwarded to the Greater Sydney City Commission with a request to make arrangements for the drafting of the amended Local Environmental Plan and that the Commission consider the use of mine subsidence surface guidelines for future development of the site to address the objection from Subsidence Advisory NSW.
  3. That Council indicate their strong concern to the NSW State Government, the Department of Planning & Environment and Subsidence Advisory NSW with the lack of consultation, the unclear process and the onerous nature of the proposed co-existence agreement approach yet to be legislated under the Mining Subsidence Compensation Act 1961.
  4. That the Draft amendments to Wollondilly Development Control Plan 2016 are placed on public exhibition in accordance with the Environmental Planning and Assessment Regulations and the findings of the public exhibition and community consultation reported back to Council.
  5. That the applicant and persons who made submissions regarding the Planning Proposal be notified of Council's decision.