

Planning Services

Gateway Determination Report

LGA	Dubbo Regional LGA
RPA	Dubbo Regional Council
NAME	Operational Review of Wellington LEP 2012
NUMBER	PP_2017_DREGI_004_00
LEP TO BE AMENDED	Wellington Local Environmental Plan 2012
ADDRESS	All Dubbo Regional LGA
DESCRIPTION	All Dubbo Regional LGA
RECEIVED	1 August 2017; DEEMED ADEQUATE: 13 October 2017
FILE NO.	17/10592-1
QA NUMBER	qA416215
POLITICAL DONATION DISCLOSURE	There are no known donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT DISCLOSURE	There are no known meetings or communications with registered lobbyists with respect to this proposal.
	It is noted that a submission from Mr Steven Guy representing MAAS Group Properties has been included as an attachment in the Planning Proposal.
LAND RELEASE DATA	N/A

INTRODUCTION

Description of Planning Proposal and Site Description

The Planning Proposal seeks to make housekeeping and other minor amendments to the Wellington LEP 2012, comprising fourteen (14) items. The proposal also aims to harmonise the Wellington LEP 2012 (WLEP2012) with the Dubbo LEP 2011 (DLEP2011) so that planning provisions are generally consistent across the Dubbo Regional Council local government area. The Planning Proposal includes the following items with site descriptions:

- **Item 1:** Amend Landuse Table for zone RU1 Primary Production to make “secondary dwellings” permissible with consent. This will affect all land zoned RU1 Primary Production under the WLEP2012.
- **Item 2:** Amend Landuse Table for zone R5 Large Lot Residential to prohibit “dual occupancy (detached)” development. This will affect all land zoned R5 Large Lot Residential under the WLEP 2012.
- **Item 3:** Amend Clause 4.1AA (2) *Minimum Subdivision Lot Size for Community Title Schemes* so that its provisions are extended to zones R1 General Residential, R2 Low Density Residential, R5 Large Lot Residential, and RU5 Village. This will affect

all land zoned R1 General Residential, R2 Low Density Residential, R5 Large Lot Residential, and RU5 Village under the WLEP2012.

- **Item 4:** Insert a new *Clause 4.1A Minimum Subdivision Lot Size for Zone RU5 and Zone R2* so that its provisions apply to land zoned RU5 Village, R1 General Residential and R2 Low Density Residential. This will affect all land zoned RU5 Village, R1 General Residential and R2 Low Density Residential under the WLEP2012.
- **Item 5:** Proposed new model clause *4.2A Lot Size Exceptions for Certain Rural Zones* to enable rural land to be subdivided for a purpose other for a residential development or tourist and visitor accommodation. This will affect all land to which existing Clause 4.2 Rural Subdivision applies, that is all land zoned RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, and zone RU6 Transition under the WLEP2012.
- **Item 6:** Amend *Clause 5.4(5) Controls Relating to Miscellaneous Permissible Uses – Farm Stay Accommodation* to increase the maximum number of bedrooms for *farm stay accommodation* from 12 to 15 bedrooms. This will affect all land where *farm stay accommodation* is permitted with consent, namely all land zoned RU1 Primary Production, RU4 Primary Production Small Lots and RU5 Village under the WLEP2012.
- **Item 7:** Amend *Clause 5.4(7) Controls Relating to Miscellaneous Permissible Uses – Neighbourhood Shops* to increase the maximum retail floor area provisions for *neighbourhood shops* from 100 square metres to 150 square metres. This will affect all land where *neighbourhood shops* are permitted with consent, namely all land zoned RU5 Village, R1 General Residential, R2 Low Density Residential, B2 Local Centre, IN1 General Industrial, IN2 Light Industrial and SP3 Tourist, under the WLEP2012.
- **Item 8:** Amend *Clause 6.1 Additional Local Provisions – Flood Planning* to revise the provisions and definitions for flood prone land. This will affect all land that is mapped on the Flood Planning Map, and any other land at or below the flood planning level, under the WLEP2012.
- **Item 9:** Amend Schedule 5 Environmental Heritage under the WLEP2012 to add a new heritage item of state significance, known as “Nubrygyn Inn & Cemetery”. This will affect the property 2531 Euchareena Road, Euchareena, Lot 1 DP 770849.
- **Item 10:** Amend Schedule 5 Environmental Heritage under the WLEP2012 to update property details for existing heritage item I110 known as the “Reinhard Building” at 68 Maughan Street Wellington (Lot 92, DP 1226962).
- **Item 11:** Amend Schedule 5 Environmental Heritage under the WLEP2012 to remove existing local heritage item I114, known as the “Wellington Clock” at 1A Namina Crescent, Wellington (Lot 5, Section 76, DP759073).
- **Item 12:** Amend Clause 2.8 (2) Temporary use of land under the WLEP2012 to extend the provision of days for the temporary use of land from 28 days to 182 days. This will affect all land under the WLEP2012.

- **Item 13:** Proposal to rezone existing urban land in Wellington from zone E3 Environmental Management to zone R1 General Residential and R2 Low Density Residential under the WLEP 2012. This will affect numerous lots adjacent to the Bell and Macquarie Rivers in Wellington currently zoned E3 Environmental Management. See indicative map under “Explanation of Provisions – Item 13” in this report.
- **Item 14:** Proposal to rezone land from B6 Enterprise Corridor to R2 Low Density Residential with a Minimum Lot Size of 600m2 in Montefiores. The subject site is known as 12 Jasmine Place, Montefiores and includes Lot 11 DP 844379, Lot 1 DP130724 and Lot 22 DP 658633.

Surrounding Area

The Planning Proposal is applicable to land under the WLEP2012.

Summary of Recommendation

Proceed with Conditions – The Planning Proposal seeks to make routine housekeeping and other minor amendments to the WLEP2012 which are adequately justified.

PROPOSAL

Objectives or Intended Outcomes

The objective of the Planning Proposal is to facilitate 14 itemised amendments to the Wellington LEP 2012. Some of these items will harmonise the provisions of the Wellington LEP 2012 (WLEP2012) and Dubbo LEP 2011 (DLEP2011) (pending housekeeping Planning Proposal with Gateway determination dated 3 October 2017).

Explanation of Provisions

Item 1: Amend Landuse Table for zone RU1 Primary Production to make “secondary dwellings” permissible with consent.

The proposal seeks to amend the WLEP2012 to make “secondary dwellings” permissible with consent on land zoned RU1 Primary Production. This landuse is currently prohibited under the landuse table for zone RU1 Primary Production.

It is noted that this amendment aligns the provisions of the WLEP2012 with the DLEP2011, since “secondary dwellings” are already permitted with consent on land zoned RU1 Primary Production under the DLEP2011. The proposal is supported as “secondary dwellings” on rural land would provide further opportunities for accommodation without impacting on agricultural activities.

Item 2: Amend Landuse Table for zone R5 Large Lot Residential to prohibit “dual occupancy (detached)” development.

The proposal seeks to prohibit “dual occupancy (detached)” development on land zoned R5 Large Lot Residential under the WLEP2012. The WLEP 2012 currently permits with consent both attached and detached dual occupancy development on land zoned R5 Large Lot Residential. The proposal to prohibit detached dual occupancy development in this zone will ensure future residential development occurs at an appropriate density that is consistent with the objectives of the zone.

It is noted that this amendment broadly aligns the provisions of the WLEP2012 with the DLEP2011. The DLEP2011 prohibits dual occupancy development altogether including both attached and detached, under the zone R5 Large Lot Residential.

The proposal is supported, as it broadly aligns the provisions under the WLEP2012 with the DLEP2011, albeit with some variation ("attached dual occupancy development" will still be permitted with consent in the R5 zone under the WLEP2012). It is further noted that any existing "dual occupancy (detached)" development in the R5 zone will continue to have existing use rights under the EP&A Act 1979, once this landuse becomes prohibited in the R5 zone. This is a local planning matter for Council to decide.

Item 3: Amend Clause 4.1AA (2) Minimum Subdivision Lot Size for Community Title Schemes so that its provisions are extended to zones R1 General Residential, R2 Low Density Residential, R5 Large Lot Residential, and RU5 Village.

Under the WLEP2012, clause 4.1AA regulates the minimum subdivision lot size requirements to enable community title subdivisions. The objective of this clause is to ensure that land is not fragmented by subdivision prior to the development of land.

Currently, this clause applies to a subdivision (being a subdivision that requires development consent) under the Community Land Development Act 1989 of land in zones: RU1 Primary Production, RU4 Primary Production Small Lots, and E3 Environmental Management.

The proposal seeks to extend the provisions of this clause to apply to land in zones: R1 General Residential, R2 Low Density Residential, R5 Large Lot Residential, and RU5 Village. It is also proposed to amend clause 4.1AA to require dual occupancy or multi-dwelling housing development to be constructed on the land, prior to undertaking a Community Title Subdivision.

The application of this clause in residential and village zones will ensure residential development in these zones are not subject to a Community Title Subdivision prior to consideration of the development and granting of development consent. The proposed amendment is supported, as the intent of the proposed provisions will ensure orderly development of urban land, while continuing to prevent fragmentation of land prior to development.

It is noted that this proposed amendment will align the WLEP 2012 provisions with a housekeeping amendment for the DLEP2011 (Reference: PP_2017_DREGI_003_00 with Gateway determination dated 3 October 2017) making Clause 4.1AA consistent between the two LEPs.

Item 4: Proposal to introduce a new Clause 4.1A Minimum Subdivision Lot Size so that its provisions apply to land zoned RU5 Village, R2 Low Density Residential and R1 General Residential.

The WLEP2012 currently does not make provision for subdivision of an approved residential development below the minimum lot size (MLS), such as dual occupancies and multi-dwelling housing on land zoned RU5 Village, R2 Low Density Residential and R1 General Residential.

The intention of the proposed new clause is to allow (with development consent) subdivision of an undersized (below the MLS) lot in zones RU5 Village, R1 General Residential and R2 Low Density Residential if the lot is connected to a sewerage reticulation system and if development consent has been granted for the purposes of a dual occupancy or multi-dwelling housing.

The new clause will provide flexibility with the application of MLS and facilitate subdivision of approved dual occupancy and multi-dwelling housing development, thereby increasing housing diversity and choice in the Wellington residential market.

The new clause will also require that the subject development (dual occupancy or multi-dwelling housing) be constructed prior to undertaking a Torrens-Title subdivision.

The Planning Proposal includes the draft wording of the proposed new clause 4.1A. The specific wording of the new clause will be subject to review by the Department's legal services branch and Parliamentary Counsel's Opinion.

It is noted that the introduction of the new clause 4.1A will align the WLEP2012 with the DLEP2011 (subject to a housekeeping amendment), to ensure planning provisions are harmonised across the Dubbo Regional Council local government area.

Item 5: Proposed new Clause 4.2A Lot Size Exceptions for Certain Rural Zones to enable rural land to be subdivided for a purpose other than for a residential development or tourist and visitor accommodation.

The Planning Proposal seeks to introduce a new model clause 4.2A to enable subdivision of certain rural land for the purpose other than to allow for residential development and tourist and visitor accommodation. The new clause will facilitate subdivision of certain rural land for existing and approved activities.

There is no such provision for this type of subdivision under the existing provisions of the WLEP2012. It is noted that existing Clause 4.2(3) makes provision for subdivision of an undersized rural lot for the purposes of primary production, subject to clause 4.2(4) and 4.2(5).

The proposal will affect all to which existing *Clause 4.2 Rural Subdivision* applies, that is all land zoned RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, and zone RU6 Transition under the WLEP2012.

It is noted that the introduction of this new clause will align the WLEP2012 with the DLEP 2011, ensuring the provisions are harmonised across the Dubbo Regional Council LGA.

Item 6: Amend Clause 5.4(5) Controls Relating to Miscellaneous Permissible Uses – Farm Stay Accommodation to increase the maximum number of bedrooms for farm stay accommodation from 12 to 15 bedrooms.

The WLEP 2012 currently permits a maximum of 12 bedrooms in farm stay accommodation. The proposal seeks to increase this to 15 bedrooms to increase the capacity for accommodating additional guests.

This will affect all land where *farm stay accommodation* is already permitted with consent, namely all land zoned RU1 Primary Production, RU4 Primary Production Small Lots and RU5 Village under the WLEP2012.

The proposal is supported as the increase in the maximum allowable bedrooms is a local matter and this amendment ensures the provisions under the WLEP2012 is consistent with the DLEP2011.

Item 7: Amend Clause 5.4(7) Controls Relating to Miscellaneous Permissible Uses – Neighbourhood Shops to increase the maximum retail floor area provisions for neighbourhood shops from 100 square metres to 150 square metres.

The WLEP2012 currently allows development of neighbourhood shops with a maximum retail floor area of 100 square metres. The proposal seeks to increase this to 150 square metres to provide greater flexibility with opportunities for expansion and improved economic viabilities of existing and future neighbourhood shops.

This amendment will affect all land where *neighbourhood shops* are permitted with consent, namely all land zoned RU5 Village, R1 General Residential, R2 Low Density Residential, B2 Local Centre, IN1 General Industrial, IN2 Light Industrial and SP3 Tourist, under the WLEP2012.

The proposal is supported as the increase in maximum retail floor area is of local and minor significance and further this amendment ensures the provisions under the WLEP2012 is consistent with the DLEP2011.

Item 8: Amend Clause 6.1 Additional Local Provisions – Flood Planning to revise the flood planning provisions and definitions for flood prone land under the Wellington LEP 2012.

The Planning Proposal seeks to revise the flood planning provisions, including the definitions (“flood planning level” and “Flood Planning Map”) under existing clause 6.1. The proposal states that the existing flood planning provisions do not provide adequate flood planning controls and clarifications for flood prone land that is currently not mapped.

The Planning Proposal includes the wording of the proposed revised clause 6.1. The specific wording of the new model clause will be subject to review by the Department’s legal services branch and Parliamentary Counsel’s Opinion.

This amendment will affect all land that is mapped on the Flood Planning Map, and any other land at or below the flood planning level, under the WLEP2012.

The proposed amendment is supported as the revised clause aligns the flood planning provisions under the WLEP2012 with those in the DLEP2011, ensuring consistency across the Dubbo Regional Council LGA.

Item 9: Amend Schedule 5 Environmental Heritage under the Wellington LEP 2012 to include a new heritage item of State significance, known as “Nubrygyn Inn & Cemetery”.

The Planning Proposal seeks to add a new heritage item of State significance under Schedule 5 Environmental heritage of the WLEP2012. The proposed heritage item will be identified as follows:

Suburb	Item Name	Address	Property Description	Significance	Item No
Euchareena	Nubrygyn Inn & Cemetery	2531 Euchareena Road, Euchareena	Lot 1, DP 770849	State	I159

The proposal states that the proposed item was listed on the NSW State Heritage Register as an item of State Significance on 20 May 2016.

The proposal is supported as the proposed heritage listing under the WLEP 2012 ensures consistency with the State Heritage Register, and should be subject to consultation with the NSW Office of Environment and Heritage (OEH).

Item 10: Amend Schedule 5 Environmental Heritage under the Wellington LEP 2012 to update property details for existing heritage item I110 known as the “Reinhard Building” at 68 Maughan Street Wellington (Lot 92, DP 1226962).

The Planning Proposal seeks to update the property details of an existing heritage item of local significance under Schedule 5 of the WLEP2012. The property has recently undergone a boundary realignment, resulting in a new lot and DP number. The proposal seeks to revise the property details for heritage item I110 as follows:

Suburb	Item Name	Address	Property Description	Significance	Item No
Wellington	Reinhard Building	68 Maughan Street	Lot 92, DP 1226962	Local	I110

The proposal is supported as this is a routine housekeeping amendment that will ensure heritage item property details are accurate.

Item 11: Amend Schedule 5 Environmental Heritage under the Wellington LEP 2012 to remove existing local heritage item I114, known as the “Wellington Clock” at 1A Namina Crescent, Wellington (Lot 5, Section 76, DP759073).

The Planning Proposal seeks to remove a heritage item that is currently listed under Schedule 5 Environmental heritage in the WLEP2012. The heritage item I114, known as the “Wellington Clock” is a moveable item with known historical significance. However, since the heritage item is moveable, the proposal seeks to remove it from LEP on the grounds that moveable items are not ordinarily listed.

The proposal includes a “Heritage Inventory” which describes the heritage significance of the clock. Council advises the heritage item is currently housed at Council’s Wellington office at 1A Namina Street, Wellington.

While many LEPs do contain moveable heritage items, such as locomotives, historical guns and statues, the moveable nature of the subject heritage clock makes a property-based heritage listing under an LEP potentially unworkable. While the heritage significance of the Wellington Clock is acknowledged and adequately recorded in the Heritage Inventory, the

proposed removal of the heritage listing under Schedule 5 of the WLEP2012 can be supported, subject to consultation with the NSW Office of Environment and Heritage (OEH).

It is noted that the heritage clock is recorded in the Wellington Community Based Heritage Study 2002 and the State Heritage Inventory (SHI Number 2640456).

Item 12: Amend Clause 2.8 (2) Temporary use of land under the Wellington LEP 2012 to extend the provision of days for the temporary use of land from 28 days to 182 days. This will affect all land under the WLEP 2012.

The WLEP2012 currently permits the temporary use of land for a total of 28 days in any 12-month period. The proposal seeks to amend clause 2.8(2) to extend this provision to 182 days, whether or not consecutive days, in any 12-month period. The proposal will facilitate more flexible consent provisions for temporary events such as farmer's markets, festivals and community events.

The proposal is supported and it is noted that this proposed minor amendment will align the provisions under the WLEP2012 with the DLEP2011. The Planning Proposal includes the proposed suggested wording under clause 2.8(2) and this will be subject to review by the Department and Parliamentary Counsel's Opinion.

Item 13: Proposal to rezone existing urban land in Wellington from zone E3 Environmental Management to zone R1 General Residential and R2 Low Density Residential under the WLEP 2012.

The Planning Proposal seeks to rezone existing urban land in Wellington from zone E3 Environmental Management to residential zones (R1 General Residential and R2 Low Density Residential). The subject sites are located either adjacent or near the Macquarie and Bell Rivers, with most lots identified as flood prone land in LEP Flood Planning Area mapping.

The proposed rezoning from E3 Environmental Management to residential zones will reflect to existing residential use of the subject lands. The proposal states that the rationale for rezoning several sites across Wellington to residential zones is that the current E3 Environmental Management zone extends beyond the flood prone areas and even extends to established residential areas. The proposal also states that the subject lands proposed to be rezoned to residential zones have been selected based on the extent of the 1 in 200-year flood event, while providing a curtilage around existing dwellings.

While the E3 Environmental Management zone's objectives and the landuse table currently provides an appropriate level of development opportunities while mitigating flood impacts, the proposed residential zones (R1 General Residential and R2 Low Density Residential) can facilitate a broader range of development with consent. The residential zones permit with consent a broader range of housing and other development typologies than the E3 Environmental Management zone.

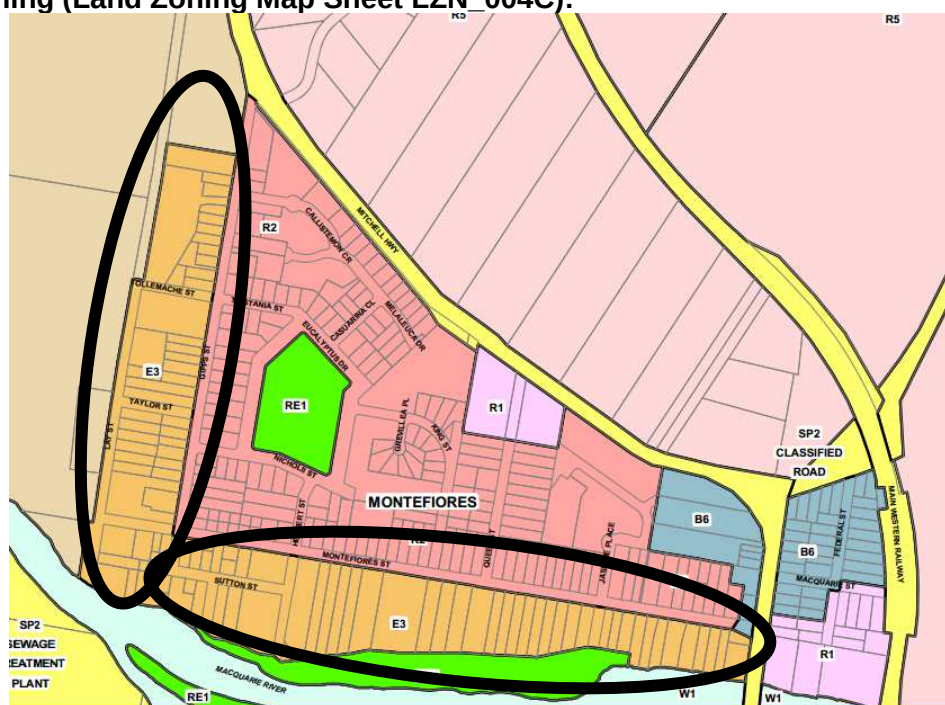
However, given the flood prone nature of the subject lands are known and mapped under the WLEP2012 Flood Planning Area mapping, any potential flood impacts are likely to be considered through the development application and assessment process.

As a consequence of the proposed rezoning, the proposal also seeks to reduce the minimum lot size (MLS) across the new residential zones from 2000m² to 600m².

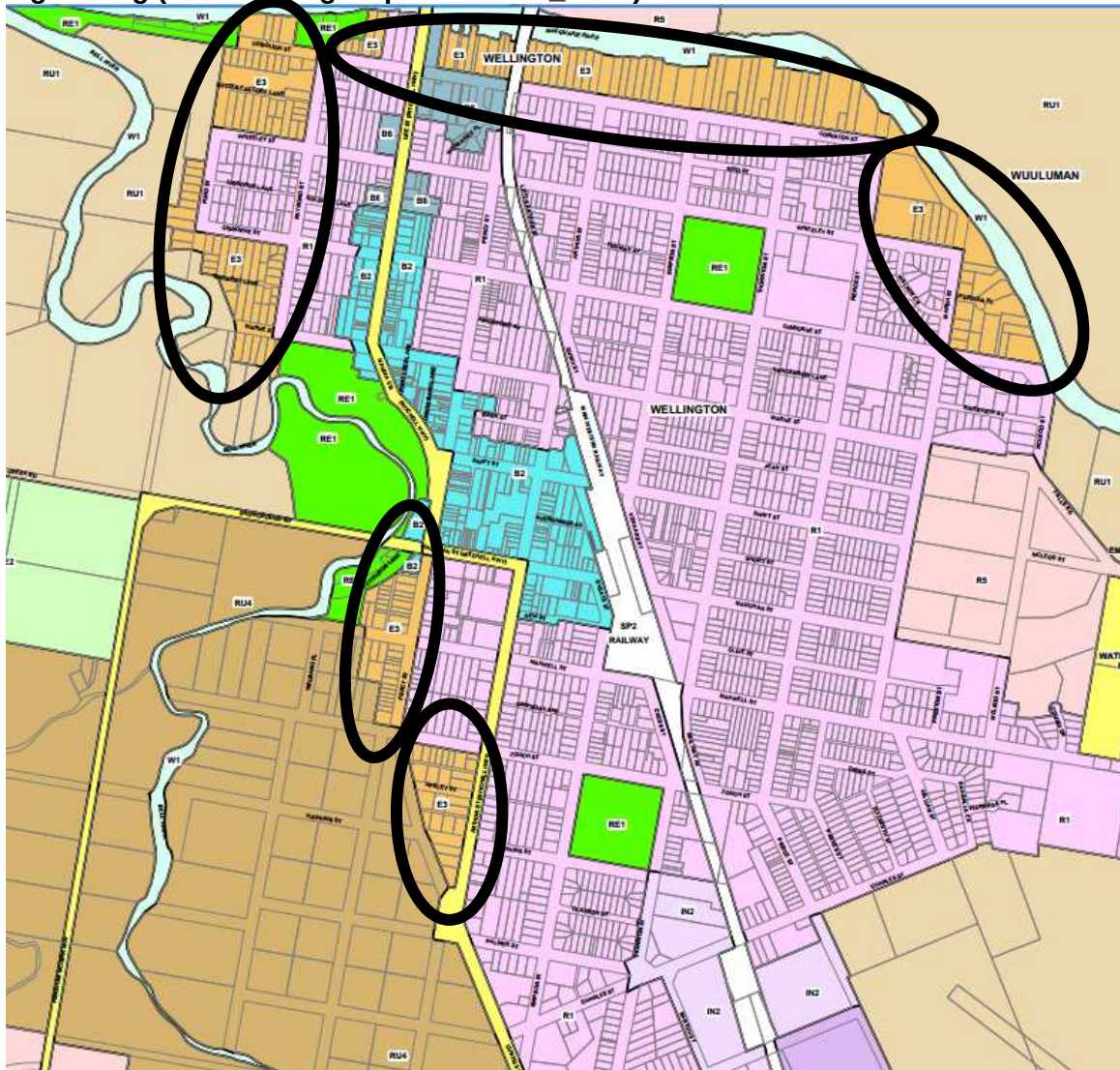
Further, the proposed rezoning will create “split zones” across lots, whereby some lots will be zoned partly E3 Environmental Management and partly R1 General Residential or partly R2 Low Density Residential. The proposed reduction in MLS from 2000m² to 600m² will also create “split MLS” to apply to some lots, whereby some lots will have a MLS of partly 2000m² and partly 600m². While this is generally undesirable, it is recommended that Council adequately address whether a “split zones” clause and/or “split MLS” clause is required under the WLEP2012, as part of the Section 59 reporting. It is also recommended that Council review the Flood Planning Map to accurately reflect the extent of flooding of the subject lands under the existing LEP mapping at the Section 59 reporting.

The proposed rezoning and reduced MLS will reflect the existing development typologies, while retaining the E3 Environmental Management zone for the most flood prone areas nearer to the rivers. The proposed residential zones (R1 and R2) will facilitate broader residential land uses, while retaining the low-density nature of future development. Existing LEP Flood Planning maps provide adequate statutory measures and any potential flood impacts of future developments can be mitigated through the development assessment process. At this time the proposal is inconsistent with Section 117 Directions 2.1 Environment Protection Zones and 4.3 Flood prone land and consultation with OEH is required in this regard.

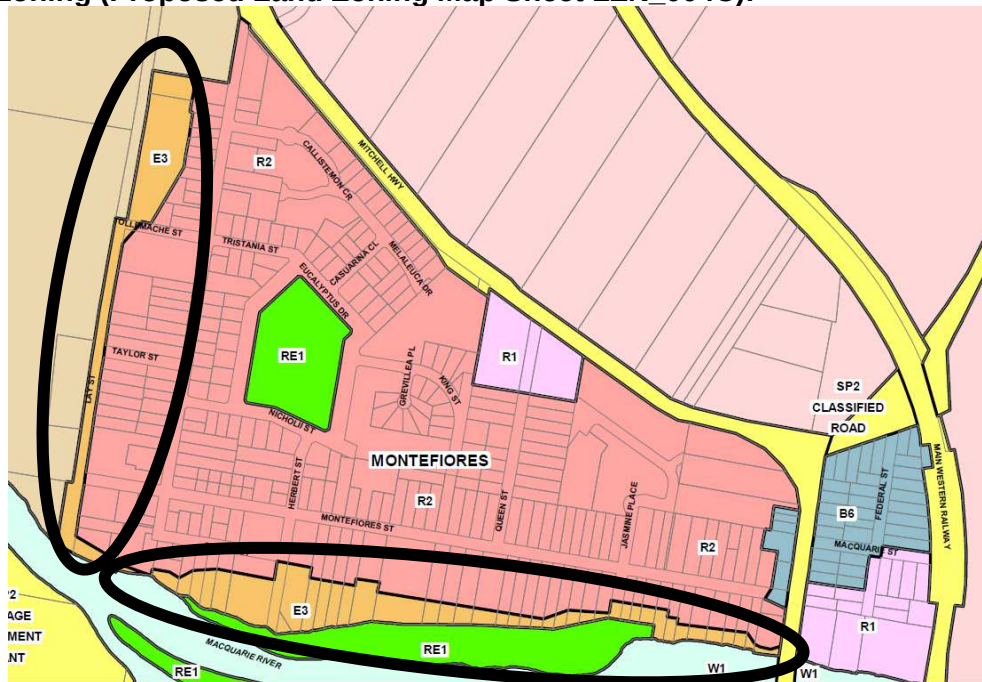
Existing Zoning (Land Zoning Map Sheet LZN_004C):



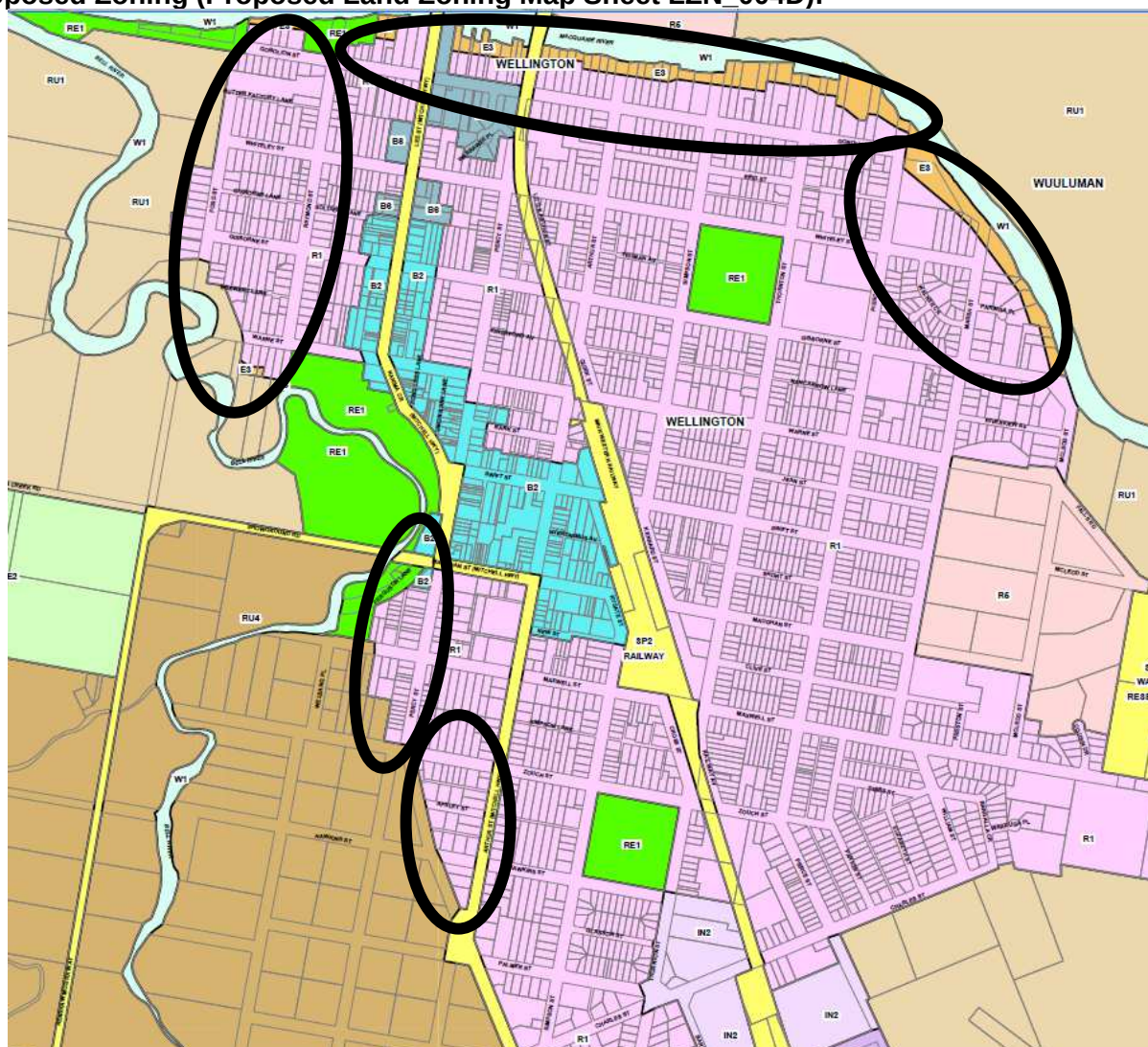
Existing Zoning (Land Zoning Map Sheet LZN_004D):



Proposed Zoning (Proposed Land Zoning Map Sheet LZN_004C):



Proposed Zoning (Proposed Land Zoning Map Sheet LZN_004D):



Item 14: Proposal to rezone land from B6 Enterprise Corridor to R2 Low Density Residential with a Minimum Lot Size of 600m2 in Montefiores.

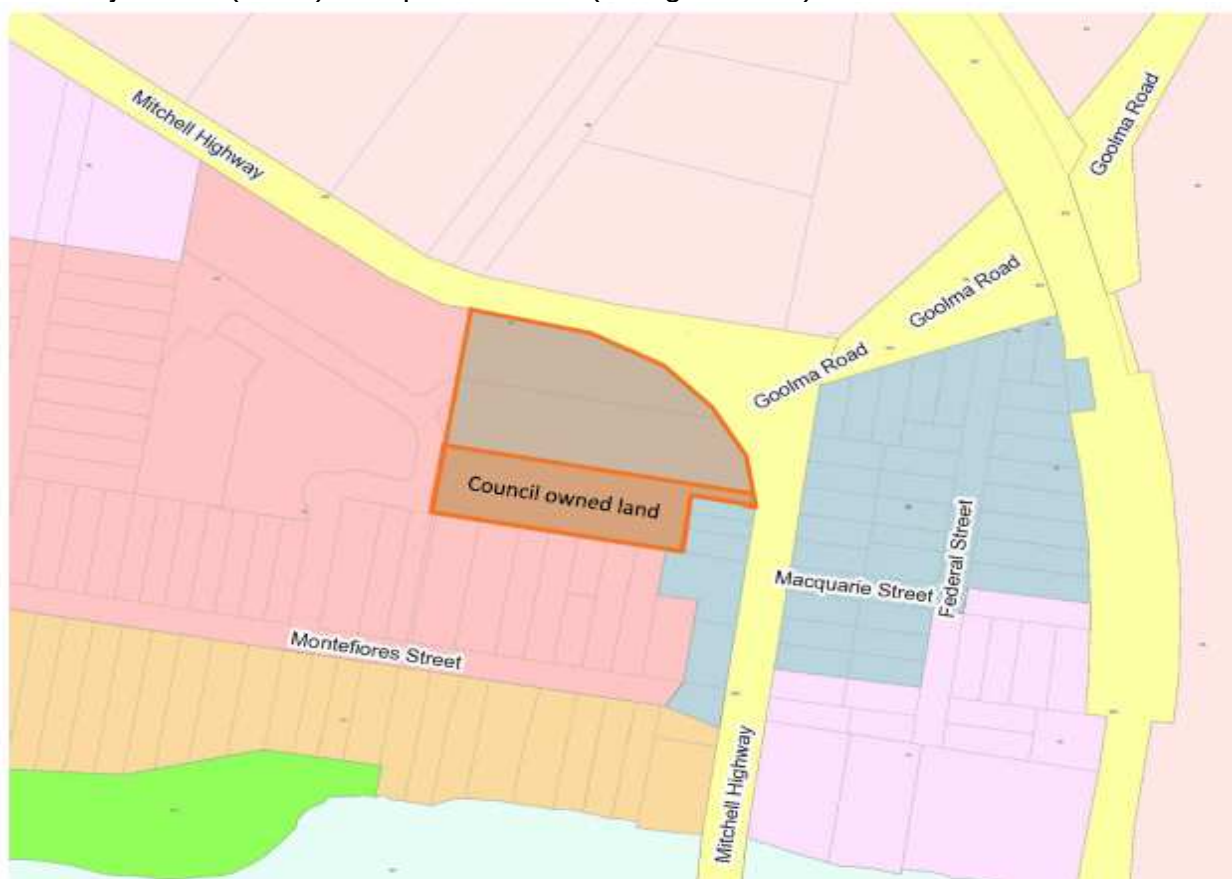
The proposal seeks to rezone 3 lots along the Mitchell Highway from zone B6 Enterprise Corridor to R2 Low Density Residential and apply a MLS of 600m2. The proposal states that the lots are unlikely to be developed under the provisions of the current B6 Enterprise Corridor zone, given the long-standing issues with vehicle access from the Mitchell Highway. The subject site's primary frontage faces a cumbersome curve in the road (Mitchell Hwy), with an angular intersection with Goolma Road.

The subject lots are more likely to be developed for residential purposes, with light vehicle access opportunities off Jasmine Place and Montefiores Street. The proposed R2 Low Density zone is supported as it is in keeping with adjacent zoning and will facilitate the development of an otherwise constrained site.

The subject site is known as 12 Jasmine Place, Montefiores and includes Lot 11 DP 844379, Lot 1 DP130724 and Lot 22 DP 658633. Council has advised that the landowner has requested this change.

It is noted that one the subject lots (Lot 22 DP 658633) is Council-owned land. Council should consider whether this land needs to be reclassified. Council is also recommended to contact the owner of the privately-owned subject lots (Lot 11 DP 844379, Lot 1 DP130724) to seek the owner's view on the proposal.

The subject site (3 lots) is depicted below (orange outline):



Mapping

The Planning Proposal includes proposed LEP mapping that are adequate for public consultation purposes. The proposal seeks to amend the following LEP maps to achieve the intended outcomes:

- Heritage Map Sheet HER_004D
- Heritage Map Sheet HER_005
- Land Zoning Map Sheet LZN_004D
- Land Zoning Map Sheet LZN_004C
- Lot Size Map Sheet LSZ_004D
- Lot Size Map Sheet LSZ_004C

Council Report

Council resolved to support the Planning Proposal on 8 May 2017, following initial consideration of the Council Report at Council's Planning and Development Committee on 18 April 2017.

NEED FOR THE PLANNING PROPOSAL

The Planning Proposal is required as this is the mechanism to make routine housekeeping and other minor amendments to the WLPE2012.

STRATEGIC ASSESSMENT

State

Not applicable.

Regional / District

The Planning Proposal is consistent with the goals, directions and actions of the Central West and Orana Regional Plan 2036. Council has adequately addressed the relevant directions and actions from the Regional Plan.

Local

There is no endorsed local landuse strategy for the Wellington urban areas. The former Wellington Shire Council commenced the preparation but did not complete a Landuse Strategy and Primary Production Strategy under Round 4 of the Planning Reform Fund. The urban and rural strategy work will be incorporated into the future Dubbo Regional Comprehensive Land Use Strategy.

The Planning Proposal considers the Wellington 2025 Community Strategy Plan only and demonstrates consistency with the community strategic plan.

Section 117(2) Ministerial Directions

- Direction 1.1 Business and Industrial Zones: The proposal is inconsistent with this direction as the proposal seeks to rezone existing business zoned lands for residential purposes (Item 14). This has been requested by the land owner. The subject site has major vehicle access issues and development for the purposes of business uses is unlikely to occur. The Director Regions, Western can be satisfied that the inconsistency with this direction is of minor significance, in the absence of an

endorsed local landuse strategy. No further work is required in relation to this direction.

- Direction 1.2 Rural Zones: The direction applies to the Planning Proposal as it seeks to include “secondary dwellings” as development permitted with consent on land zoned RU1 Primary Production. The Director Regions, Western can be satisfied that the inconsistency with this direction is of minor significance, as the proposed landuse would have no significant impact on rural land as “dual occupancies” are already permissible. It is further noted that “secondary dwellings” are already permitted with consent under the RU1 Primary Production zone in the DLEP2011. The proposed amendment will align the planning provisions for this landuse under the WLEP2012 and DLEP2011, which is a desirable outcome for the Dubbo Regional Council LGA. No further work is required in relation to this direction.
- Direction 1.5 Rural Lands: The Direction applies as proposed Item 13 proposes to rezone land near the Macquarie and Bell Rivers from E3 Environmental Management to residential zones. The proposal is considered consistent with the Rural Planning Principles contained within the SEPP (Rural Lands) and hence this Direction as the majority of the land is used for residential purposes. No further work is required in relation to this Direction.
- Direction 2.1 Environment Protection Zones: This Direction applies as the proposed Item 13 seeks to rezone land from E3 Environmental Management to residential zones. While the subject lands are already developed for residential purposes and the existing residential building typologies are more accurately reflected by the R1 and R2 residential zones the issue of the extent of flooding needs to be confirmed. It is noted that parts of the subject lands are not mapped to be flood prone land, despite the E3 Environmental Management zoning. Those areas mapped to be flood prone are largely retained as E3 Environmental Management zones. The proposal is required to demonstrate consistency with this Direction through consultation with the NSW Office of Environment and Heritage and forward the outcome of this consultation in the Section 59 Report.
- Direction 2.3 Heritage Conservation: This Direction applies the proposal as there are several amendments to Schedule 5 Environmental heritage under the WLEP2012. While the proposed minor amendments to revise the property details of existing heritage items is consistent with this Direction (Items 9 & 10). However, Item 11 seeks to remove an existing local heritage item known as the “Wellington Clock” from Schedule 5. The Director Regions, Western can be satisfied that the inconsistency with this Direction cannot be resolved at this time and will be subject to consultation with OEH and addressed at Section 59 reporting.
- Direction 3.1 Residential Zones: This Direction applies to the proposal as it will affect provisions for residential zones across the WLEP2012. The proposal is consistent with this Direction as many of the proposed provisions seek to facilitate more diverse housing typologies, residential densities and ensure subdivision provisions allow flexibility to encourage more diverse housing developments. No further work is required in relation to this direction.
- Direction 4.3 Flood Prone Land: This Direction applies to the proposal as Item 13 seeks to rezone flood prone land from E3 Environmental Management to residential zones (R1 General Residential and R2 Low-Density Residential). The proposal is inconsistent with this Direction at this time. The proposal is required to demonstrate

consistency with this Direction through consultation with the OEH and forward the outcome of this consultation in the Section 59 Report.

- Direction 4.4 Planning for Bushfire Protection: The Direction applies to the proposal as Item 5 seeks to introduce new lot size exceptions for certain rural zones and further Item 1 seeks to make “secondary dwellings” permissible with consent in RU1 Primary Production zoned land. The proposal is required to demonstrate consistency with this Direction through consultation with the NSW Rural Fire Service (RFS) and forward the outcome of this consultation in the Section 59 Report.
- The Planning Proposal also addresses consistency with Directions 6.1 Approval and Referral Requirements, 6.3 Site Specific Provisions and demonstrates consistency with Direction 5.10 Implementation of Regional Plans by considering the relevant directions and actions. No further action is required in relation to these Directions.

State Environmental Planning Policies

The two (2) State Environmental Planning Policies that apply to the subject Planning Proposal are SEPP (Rural Lands) 2008 and SEPP (Affordable Housing) 2009.

- SEPP (Rural Lands) 2008: The Planning Proposal is consistent with the rural planning principles contained within this SEPP, as the proposed amendments (Item 1 and Item 13) will facilitate an appropriate scale of development on rural and environmental land. The Planning Proposal is consistent with SEPP (Rural Lands) 2008 as it demonstrates consistency with the rural planning principles.
- SEPP (Affordable Housing) 2009: The proposal demonstrates consistency with the aims and objectives of this SEPP as the proposal seeks to permit “secondary dwellings on land zoned RU1 Primary Production, creating opportunities for affordable housing for extended families in farming communities.

Further the proposal to rezone land for residential purposes in Montefiores (Item 13) create further opportunities for serviced urban land to be developed for residential purposes. The subdivision and MLS provisions expand the opportunities for more diverse housing typologies and increased densities that will contribute to housing affordability outcomes across the Dubbo Regional Council LGA.

SITE SPECIFIC ASSESSMENT

Social

The Planning Proposal is a routine housekeeping amendment with minor implications. There are unlikely to be any adverse social impacts and any impacts can be mitigated through the development approvals process. The proposal provides flexibility and greater opportunities for housing mix and densities, which are likely to foster greater social mix within residential areas. The social impact of Item 13 will be resolved with consultation with OEH.

Environmental

The Planning Proposal is a routine housekeeping amendment with minor implications. There are unlikely to be any adverse social impacts and any impacts can be mitigated through the development approvals process. The environmental impact of Item 13 will be resolved with consultation with OEH.

Economic

The Planning Proposal is a routine housekeeping amendment with minor implications. There are likely to be positive economic outcomes, resulting from greater flexibility in applying MLS provisions; opportunities for housing mix; affordable housing development provisions in rural zones; rezoning land to facilitate development and updating property details for heritage listed items. The economic impact of Item 13 will be resolved with consultation with OEH.

Infrastructure

Not applicable.

CONSULTATION

Community

The Planning Proposal states that the proposal will be placed on public exhibition for 28 days and undertake consultation with the community and any agencies required by the Gateway and this is deemed adequate.

Agencies

The proposed housekeeping amendments are of minor significance. Agency consultations are recommended with the Office of Environment and Heritage (OEH) and the NSW Rural Fire Service (RFS) to demonstrate consistency with relevant s117 Directions.

TIMEFRAME

The timeframe for completing the LEP is 12 months from the day the Gateway Determination is issued.

DELEGATION

Council has resolved to not use its delegations in this case. Parts of the Planning Proposal relates to Council owned land. It is recommended that Council not be authorised to use delegations in this case.

CONCLUSION

The Planning Proposal is supported to proceed with conditions, as it is a routine housekeeping amendment with items of minor significance. The fourteen (14) items include proposed amendments, new provisions and rezoning land which are generally adequately justified to proceed to Gateway determination at this time.

RECOMMENDATION

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The Planning Proposal should be publicly exhibited for 28 days.
2. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.

3. Given the nature of the Planning Proposal, Council should not be authorised to exercise delegation to make this plan.
4. The Secretary's delegate can be satisfied that the proposal is consistent with relevant Section 117 Directions or that any inconsistencies are minor have been justified or will require justification as identified.



17.10.17

Wayne Garnsey
Team Leader, Western



20.10.17

Katrine O'Flaherty
Director Regions, Western
Planning Services

Contact Officer: Deniz Kilic
Planning Officer, Western Region
Phone: 02 6841 2180