

Planning and Assessment

IRF20/2808

Gateway determination report

LGA	Cowra
PPA	Cowra Shire Council
NAME	Rezoning from E2 Environmental Conservation to SP3 Tourist to facilitate relocation of the Wyangala Waters Holiday Park (0 homes, 0 jobs)
NUMBER	PP_2020_COWRA_003_00
LEP TO BE AMENDED	Cowra Local Environmental Plan 2012
ADDRESS	Reg Hailstone Way, Wyangala
DESCRIPTION	Lot 75 DP 46453
RECEIVED	16 June 2020
FILE NO.	IRF20/2808
POLITICAL DONATIONS	There are no known donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no known meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

Water NSW has prepared a planning proposal to amend the Cowra Local Environmental Plan (LEP) 2012 to facilitate development associated with the Wyangala Dam Wall Raising project. The intent of the planning proposal is to enable the Wyangala Waters Holiday Park to be wholly relocated to Lot 75 DP 46453, which would otherwise be inundated by water from raising the Wyangala Dam wall in its current location. To facilitate this development, part of Lot 75 DP 46453 will require to be rezoned from E2 Environmental Conservation to SP3 Tourist.

1.2 Site description

Lot 75 DP 46453 spans approximately 162ha around Lake Wyangala and forms part of the Wyangala State Recreation Area, which is Crown Land (**Figure 1**). The subject site is located approximately 1.5km north-east of Wyangala village and approximately 28km south-east of Cowra. The subject site is surrounded by large rural land holdings of developed agricultural and resource lands situated to the west, and adjacent to the Wyangala Dam to the east.

The terrain varies from steep gullies to flat rises with a resultant mixture of native vegetation types and quality (**Figure 2**). The lot contains known bushfire prone, biodiversity and aboriginal heritage values. Part of the Wyangala Waters Holiday Park is located on the southern portion of the lot, which spans approximately 30ha (**Figure 2**). Given the recreational values of the land, there are infrastructure sites and access tracks across the lot.

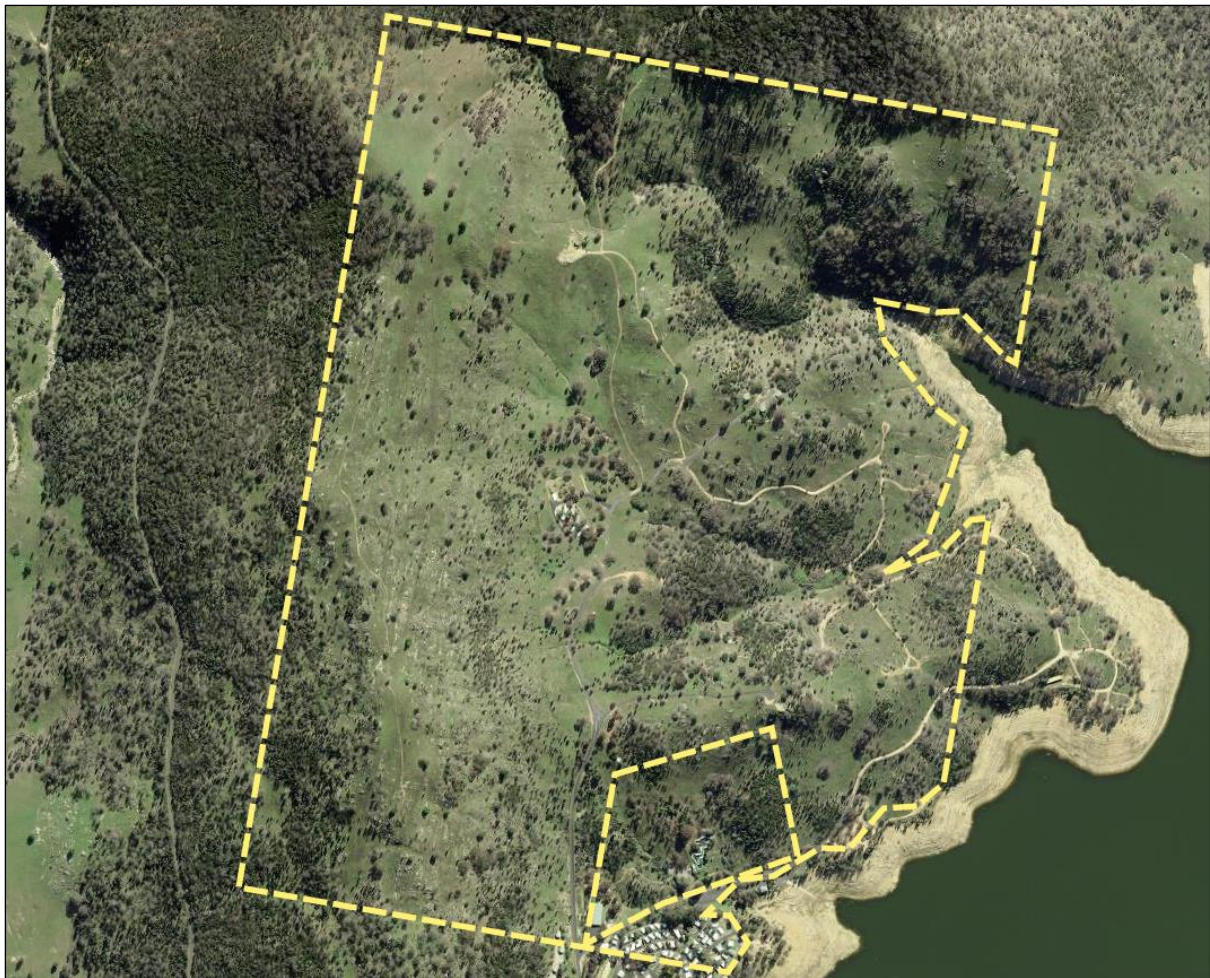


Figure 1: Lot 75 DP 46453 (yellow boundary) and surrounding land.

Figure 2: Aerial imagery of the subject site, showing Wyangala Waters Holiday Park to the south.

1.3 Existing planning controls

Lot 75 DP 46453 is subject to the following LEP controls:

- Split Minimum Lot Size (MLS), with the majority of the lot having no MLS and tiny corners of the eastern boundary of the lot with a 100ha MLS provision, likely due to mapping errors, as per Map Sheet LSZ_004.
- Split zone E2 Environmental Conservation, RU1 Primary Production and SP3 Tourist as per Map Sheet LZN_004B (see **Figure 3**).
- Mapped as having terrestrial biodiversity values on Map Sheet BIO_004.
- Groundwater vulnerable as per Map Sheet CL1_004.

Site specific surveys have also found the entire lot contains vegetation category 1 and 2 bushfire prone land. All the lot, except for a narrow strip along the southern boundary of Wyangala Waters Holiday Park is mapped as the highest bushfire risk category 1. The lot also contains known Aboriginal heritage sites and Potential Archaeological Deposits. Most of the lot has been classified as moderate biodiversity value with smaller areas of low and high biodiversity values. These site specific constraints will inform the exact location of the relocated Wyangala Waters Holiday Park and the final boundary alignment between the E2 Environmental Conservation and SP3 Tourist, which is expected to retain up to half of the E2 zoning. Nevertheless, the intent of this assessment is to determine if it is appropriate for all of Lot 75 DP 46453 to be rezoned to SP3 Tourist as per **Figure 3**.

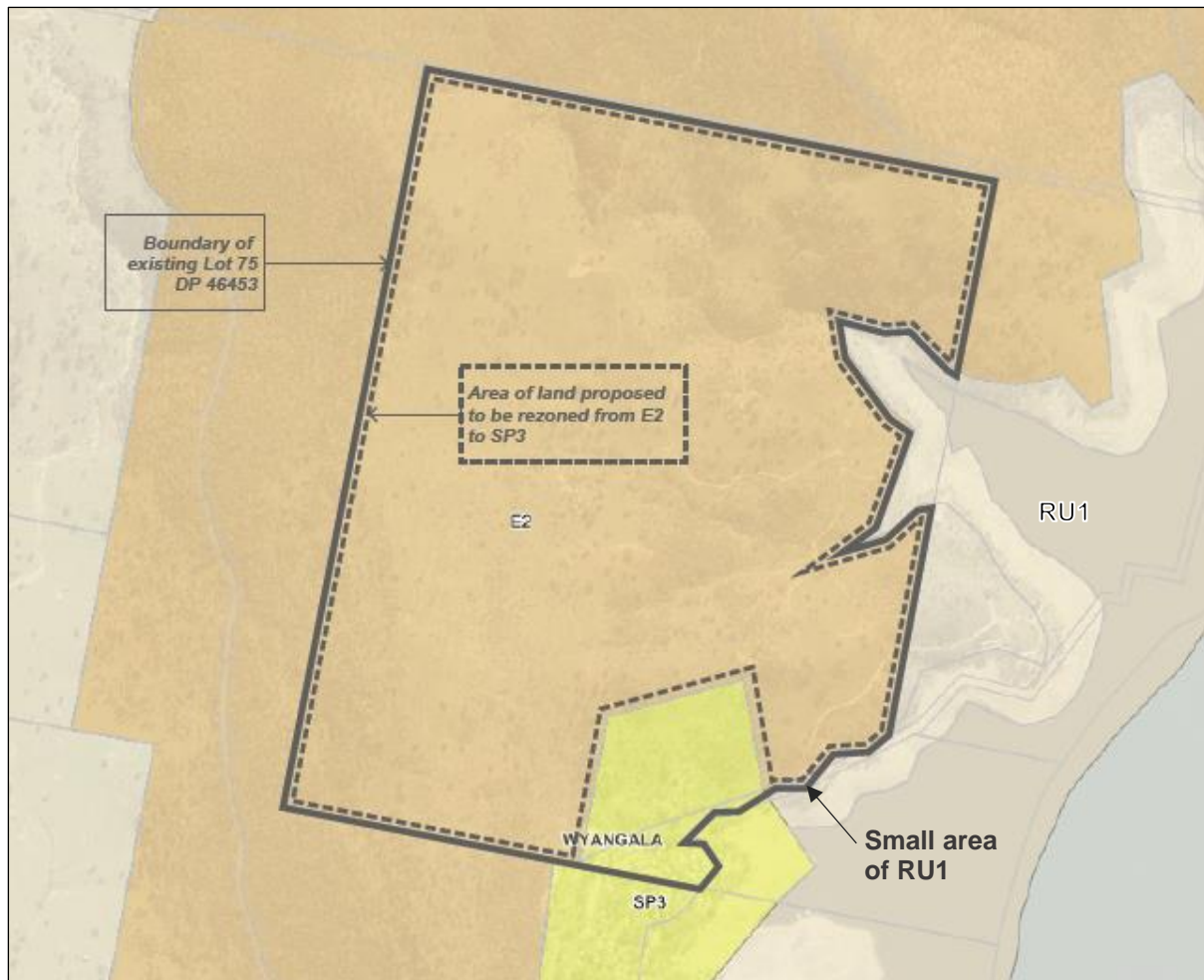


Figure 3: Current and proposed zone boundary of the subject site.

1.4 Summary of recommendation

Proceed with condition – The planning proposal is supported to proceed with conditions to consult with Biodiversity and Conservation Division, Rural Fire Service and Crown Lands to resolve outstanding inconsistencies with section 9.1 Ministerial Directions. While loss of up to 162ha of E2 Environmental Conservation zoned land is inconsistent with some Directions in the Central West and Orana Regional Plan; the benefits to the Lachlan Valley region in terms of drought resilience, water security and flood mitigation justify this local impact. Given the land is still a part of the Wyangala State Recreation Area, which is Crown Land, the environmental and heritage values of the land are still offered some increased protection.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objective of the proposal is to allow 'caravan park' as permitted with consent on Lot 75 DP 46453. To achieve this, Council have proposed the lot be rezoned from E2 Environmental Conservation to SP3 Tourist.

2.2 Explanation of provisions

The intended outcome of the planning proposal will be achieved by rezoning the affected part of Lot 75 DP 46453, from E2 Environmental Conservation to SP3 Tourist. Approximately 80ha of Lot 75 DP 46453 will be required to be rezoned to SP3 Tourist, however, the exact boundary of this area is unknown. Until subdivision

of the lot, based on existing environmental impact studies, is complete, the final layout of the split zone lot is unknown. This will occur before finalisation of the plan is requested. Therefore, the intent of this assessment is to determine if it is appropriate for all of the E2 zone of Lot 75 DP 46453 to be rezoned to SP3. The small portions of RU1 zone along the eastern boundary of the lot will be retained.

2.3 Mapping

The intent of the proposal will be achieved by amending the land zoning map (map sheet LZN_004B) to show the affected part lot is zoned SP3 Tourist.

3. NEED FOR THE PLANNING PROPOSAL

The intended outcome of the planning proposal will be achieved by rezoning the affected part of Lot 75 DP 46453, from E2 Environmental Conservation to SP3 Tourist. Without a rezoning of the land, council would be unable to grant consent to a development application for the relocation (and continued use) of the Wyangala Waters Holiday Park. Relocation of the Holiday Park is required before construction of the Wyangala Dam Wall Raising project starts, otherwise the Holiday Park will become inundated by water.

The proponent and Council have assessed other methods of achieving the outcome of the planning proposal without amending the LEP. These are primarily around the definition of the activity, however, 'caravan park' is the most accurate description of the activity, which is currently prohibited in the E2 zone. Permitting 'caravan park' across all E2 zones in the LGA was not considered appropriate.

The intent of the planning proposal could also be achieved through amending Schedule 1 Additional Permitted Use of the Cowra LEP 2012. However, this method isn't preferred as it is inconsistent with section 9.1 Ministerial Direction 6.3 Site Specific Provisions and provides less clarity to the public as the zone will not accurately reflect the land use.

The proposed mechanism to rezone the new caravan park site to zone SP3 Tourist is supported.

4. STRATEGIC ASSESSMENT

4.1 State

There are no known state strategic planning frameworks applicable to this proposal.

4.2 Regional / District

The Central West Orana (CWO) Regional Plan is the relevant regional planning framework for the proposal. The proposal is consistent with the following Directions:

- Direction 4: Promote and diversify regional tourism markets. The Wyangala Waters Holiday Park is an important contributor to the local tourism industry and attracts visitors across Australia to participate in the eco-tourist activities available from Lake Wyangala. The proposal enables this main tourist attraction to remain operating and is consistent with Direction 4.
- Direction 14: Manage and conserve water resources for the environment. The proposal will relocate the Wyangala Waters Holiday Park to enable upgrade of the Wyangala Dam to occur. Wyangala Dam Wall Raising project will increase water storage by 53% to deliver improved water security and flood mitigation benefits for the Lachlan Valley. Relocating the Holiday Park outside of the

new inundation area will ensure the proposal doesn't interfere with water quality, movement or critical infrastructure need to deliver water outcomes for the community, economy and environment.

- Direction 16: Respect and protect Aboriginal heritage assets. Site specific investigations of Lot 75 DP 46453 have found additional heritage assets than previously known. These assets will be protected as per the relevant legislation which is consistent with this Direction.
- Direction 21: Coordinate utility infrastructure investment. The proposal is consistent with this Direction as it will enable the Wyangala Dam Wall Raising project to occur to secure future town water supplies for the Lachlan Valley.

Direction 13: Protect and manage environmental assets

The proposal will rezone between 80-162ha of E2 Environment Conservation land to SP3 Tourist which will increase development potential and reduce the environmental protection of the land. Most of the lot has been classified as moderate biodiversity value with smaller areas of low and high biodiversity values. The subject site is known to contain State and Federal listed threatened species and communities. This local reduction in environmental protection is necessary to improve water security and flood mitigation, which could generate ecological benefits for the Lachlan Valley. Impacts from relocating the Holiday Park can be controlled through the development application process by site selection and implementation of avoidance, minimisation and remediation actions to reduce impact to environmental features. The remaining land is still a part of the Wyangala State Recreation Area, which is Crown Land. Therefore, the environmental and heritage values of the land are still offered some increased protection from unwanted development through the relevant Plan of Management. Any inconsistencies with this Direction are therefore justified.

Direction 15: Increase resilience to natural hazards and climate change

The proposal will relocate the Wyangala Waters Holiday Park to land with known bushfire, groundwater vulnerable and biodiversity values, which is inconsistent with this Direction. On the other hand, relocating the Holiday Park will remove it from flood prone land which will become completely inundated by the Wyangala Dam Wall Raising project. By removing barriers to this project, improved water security and flood mitigation benefits can occur for the whole Lachlan Valley, which is vital to ensure future resilience to the impacts of climate change and increased droughts. The local site constraints of relocating the Wyangala Waters Holiday Park can be mitigated and are justifiable in comparison to improving water security and drought preparedness for the Lachlan Valley. Any inconsistencies with this Direction are therefore justified.

4.3 Local

The Draft Cowra Local Strategic Planning Statement (LSPS) is the relevant local planning framework for the proposal. Council have indicated they are supportive of the Wyangala Dam Wall Raising project and acknowledged the Wyangala Waters Holiday Park as a locally important tourist attraction for the region. Council want to capitalise on their existing tourism market by developing a Destination Management Plan and protect high environmental values by updating their Development Control Plan. The proposal has no inconsistencies with the Draft Cowra LSPS as it will not impede any relevant actions from occurring.

4.4 Section 9.1 Ministerial Directions

The planning proposal is consistent with the following section 9.1 Ministerial Directions:

- 1.3 Mining, Petroleum Production and Extractive Industries as rezoning from E2 to SP3 will not affect any land where extractive activities are permitted.
- 3.4 Integrating Land Use and Transport as the proposal will relocate an existing tourism facility to adjacent land which is easily accessible to the public and does not put further strain on transport systems.
- 5.10 Implementation of Regional Plans is consistent with the CWO Regional Plan as outlined in the previous section.
- 6.1 Approval and Referral Requirements as it will not require any additional approval or assessment requirements.
- 6.3 Site Specific Provisions as rezoning will allow the activity to be permissible on the land without any site specific provisions.

Direction 1.5 Rural Lands

This Direction applies as the proposal will amend an environment protection zone boundary and the proposal must meet the objectives and provisions of section 4 of this Direction. As previously outlined, the proposal is consistent with State, regional and local strategic planning documents which apply to the proposal. As no agricultural land uses are permitted in the E2 zone, the proposal will not cause any fragmentation or otherwise limit the use of land for agricultural purposes.

Amending the zone boundary will reduce the environmental protection measures of the current E2 land. Detailed site investigation has adequately considered potential environmental impacts, to ensure future land uses minimise impacts to biodiversity, cultural heritage and water resources. These studies will inform the new E2 Environmental Conservation and SP3 Tourist zone boundary to ensure the smallest amount of land is rezoned to SP3 Tourist to facilitate the proposal. Therefore, the proposal is consistent with Direction 1.5 Rural Lands.

Direction 2.1 Environment Protection Zones

The proposal applies to and is inconsistent with this Direction as the proposal reduce the area of an E2 Environment Conservation zone. Detailed site investigation has adequately considered potential environmental impacts, to ensure future land uses minimise impacts to biodiversity, cultural heritage and water resources. It is recommended the proposal is referred to the Biodiversity and Conservation Division (BCD) for consideration and justification against this Direction. This inconsistency will need to be resolved prior to the plan being made.

Direction 2.3 Heritage Conservation

This Direction applies as the proposal will affect land with known Aboriginal heritage values. These heritage values are not protected under the Cowra LEP 2012. Adequate heritage studies have been completed to consider the impacts and protection of Aboriginal heritage values. It is recommended the proposal is referred to BCD for consideration and justification against this Direction. Any inconsistency will need to be resolved prior to the plan being made.

Direction 2.6 Remediation of Contaminated Land

A review of Council records indicates the subject site has not been previously been used for a purpose identified in Table 1 of the Managing Land Contamination Planning Guidelines. A preliminary site investigation of the area also did not find any potentially contaminated areas. Therefore, the requirements of Direction 2.6 have been met and the proposal is consistent with this Direction.

Direction 3.2 Caravan Parks and Manufactured Home Estates

The planning proposal states there is no inconsistency with this Direction. Given the land is Crown Land, it is considered this Direction does not apply to the proposal.

Direction 4.4 Planning for Bushfire Protection

This Direction applies as the planning proposal will affect bushfire prone land. Consultation with the NSW Rural Fire Service (RFS) is recommended to ensure consistency with this Direction. Any inconsistency will need to be resolved prior to the plan being made.

4.5 State environmental planning policies (SEPPs)

The need to consider contaminated land was recently removed from *State Environmental Planning Policy No 55—Remediation of Land* and applies to the newly created section 9.1 Ministerial Direction 2.6. This is adequately covered in the previous section.

State Environmental Planning Policy No 21—Caravan Parks and *State Environmental Planning Policy (State and Regional Development) 2011* will apply to the development approval process of this project. There are no concerns relevant to the planning proposal stage.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The Wyangala Waters Holiday Park provides a point of access to Lake Wyangala in terms of recreational water and eco-tourist activities, as well as a place to stay overnight. Enabling the ongoing operation of this facility through rezoning and relocating it to Lot 75 DP 46453 is an important benefit to the local community.

5.2 Environmental

Most of the lot has been classified as moderate biodiversity value with smaller areas of low and high biodiversity values. The subject site is known to contain State and Federal listed threatened species and communities. In terms of the proposed rezoning, the development potential of Lot 75 DP 46453 will increase, therefore, decreasing the environmental protection controls of the land.

As part of the Wyangala Dam Wall Raising project approval, specific to impact these threatened entities is being assessed by the relevant State and Federal bodies as part of the development approval process. Council will likewise assess site specific impacts of relocating Wyangala Waters Holiday Park at the development assessment stage. Through this process adequate avoidance, minimisation and remediation actions will be specified to ensure impact to environmental features is adequately assessed and controlled. The remainder of the lot is still offered some protection from unwanted development as it is Crown Land. Through further development of the proposal it is likely the amount of land required to be rezoned to SP3 Tourist will reduce to maintain some protection from the E2 zoning.

5.3 Economic

The Wyangala Waters Holiday Park is an important contributor to the local tourism industry as identified in the Cowra LSPS. Ensuring the ongoing operation of this facility through relocating it to Lot 75 DP 46453 is an important benefit to the local economy.

5.4 Infrastructure

The need to relocate the Wyangala Waters Holiday Park is a part of the NSW Government's critical state infrastructure project related to the Wyangala Dam Wall Raising project. The planning proposal is therefore consistent with and important to the NSW Government (Water NSW) objective to ensure secure water supply.

6. CONSULTATION

6.1 Community

Council has proposed a 28 day consultation period with the public. This is considered suitable given the existing levels of public interest around the Wyangala Dam Wall Raising project, as well as site constraints and values which could be impacted by the rezoning.

6.2 Agencies

No agency consultation has been proposed by Council. Given the inconsistencies with section 9.1 Ministerial Directions around environment, heritage and bushfire prone land, consultation with BCD and NSW RFS is recommended to resolve any inconsistencies prior to the plan being made. Consultation with Crown Lands is also recommended as the land is owned by Crown Lands.

7. TIME FRAME

The proposed time frame for completing the LEP is four months. This timeframe will coincide with the existing Wyangala Dam Wall Raising project timeframe to start construction of relocation of the Wyangala Waters Holiday Park. A six month time period is recommended to facilitate additional time which may be needed for public and agency consultation due to COVID-19 restrictions.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority. Given Council has no interests in the land, it is recommended Council be the local plan-making authority.

9. CONCLUSION

Preparation of the planning proposal is supported to proceed with conditions as:

- The proposal is needed to facilitate critical water supply to the Lachlan Valley associated with the Wyangala Dam Wall Raising project.
- There are no outstanding inconsistencies with local or regional strategic planning framework.
- Consultation with relevant agencies is expected to resolve the outstanding section 9.1 Ministerial Directions.

- While the environmental protection levels of Lot 75 DP 46453 are reduced by the rezoning, the land is still protected through its Crown Land status, specific controls applied to the Wyangala Waters Holiday Park development approval and potential for final zoning of the land to retain up to half of the E2 Environmental Conservation zone.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions [1.5 Rural Lands] are minor or justified; and
2. note that the consistency with section 9.1 Directions [2.1 Environment Protection Zones, 2.3 Heritage Conservation and 4.4 Planning for Bushfire Protection] is unresolved and will require justification.

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

1. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
2. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - NSW Rural Fire Service.
 - Department of Planning, Industry and Environment – Biodiversity and Conservation Division.
 - Department of Planning, Industry and Environment – Crown Lands.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
4. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:

- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
5. Prior to submission of the planning proposal under section 3.36 of the Act, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2017.
6. The time frame for completing the LEP is to be **6 months** following the date of the Gateway determination.

Jessica Holland
Manager, Western Region



19.6.20

Damien Pfeiffer
Director, Western Region
Local and Regional Planning

Assessment officer: Nikki Pridgeon
Planning Officer, Western
Phone: 5852 6800