



Planning,
Industry &
Environment

IRF20/5972

Gateway determination report – PP_2019_LEETO_002_00

Reclassify and rezone Lot 49, DP 1114977, 26 Lake Paddock Drive, Leeton (1 home and construction related jobs)

February 21



Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Leeton Shire Council Meeting Agenda and Minutes – 26 September 2018
Additional information supplied by Leeton Shire Council – 10 December 2020
Additional information supplied by Leeton Shire Council – 10 February 2021
Leeton Shire Floodplain Risk Management Study and Plan – June 2019
Leeton Shire Flood Study – September 2015

1 Planning Proposal

1.1 Overview and objectives of planning proposal

Table 2 Planning proposal details

LGA	Leeton Shire Council
PPA	Leeton Shire Council
NAME	Reclassify and rezone Lot 49, DP 1114977, 26 Lake Paddock Drive, Leeton (1 home and construction related jobs)
NUMBER	PP_2019_LEETO_002_00
LEP TO BE AMENDED	Leeton Local Environmental Plan 2014
ADDRESS	26 Lake Paddock Drive, Leeton
DESCRIPTION	Lot 49, DP 1114977
RECEIVED	16/10/2019
FILE NO.	IRF20/5972
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

The planning proposal contains objectives and intended outcomes on Page 22, that adequately explain the intent of the proposal.

The objective of the planning proposal is to facilitate sale and development of the subject land for low density residential development. The planning proposal states that Council intends to use the proceeds from the sale of the land to further enhance the public open space on Lot 48 DP 1114977, which immediately adjoins the subject land to the east.

The objectives of this planning proposal are clear and adequate.

1.2 Explanation of provisions

The planning proposal seeks to amend the Leeton LEP 2014 per the changes in Table 3 below:

Table 3 Current and Proposed controls

Control	Current	Proposed
Zone	RE1 Public Recreation	R2 Low Density Residential
Maximum height of the building	N/A	8.5 m

Floor space ratio	N/A	0.5:1
Minimum lot size	N/A	4000m ²
Number of dwellings	0	1
Number of jobs	N/A	Construction related jobs
Reclassify land from	Community land	Operational land

The planning proposal contains an explanation of provisions on pages 22-23 that adequately explains how the objectives of the proposal will be achieved, as outlined below:

- a) Amend LEP Map LZN 014F to show Lot 49, DP 1114977 as zoned R2 Low Density Residential;
- b) Amend LEP Map LSZ 014F to apply a minimum lot size of 4000 m² to Lot 49, DP 1114977;
- c) Amend LEP Map HOB 014F to apply a maximum building height of 8.5 m to Lot 49, DP 1114977;
- d) Amend LEP Map FSR 014F to apply a maximum floor space ratio of 0.5:1 to Lot 49, DP 1114977;
- e) Insert Lot 49, DP 1114977 into Part 2, Schedule 4 of the Leeton LEP to reclassify the land from community land to operational land; and
- f) Extinguish public reserve status, flood easement and use of land restrictions on title of Lot 49, DP 1114977 (discharging interests).

The explanation of provisions is clear and does not require amendment prior to public exhibition.

1.3 Site description and surrounding area

The subject land is legally described as Lot 49 in DP 1114977 and located at 26 Lake Paddock Drive, Leeton. The land is irregular in shape and has an area of 1742 m². The land is owned by Leeton Shire Council and is classified as Community Land under the Local Government Act 1993. The land was dedicated as public reserve to Council by the developer of the residential subdivision but has never been developed for public open space purposes. The land is currently vacant and cleared of vegetation (see Figure 1).

The subject land is situated within a low-density residential estate located to the south of Leeton Township. It forms part of an undeveloped open space network that extends from Lake Paddock Drive along Golf Club Drive to Racecourse Road. The land is bounded by low density residential development to the east, west and south. The Leeton Racecourse and Showground are located to the north of the subject land (see Figure 2).



Figure 1 Subject site (source: Nearmap, December 2020)

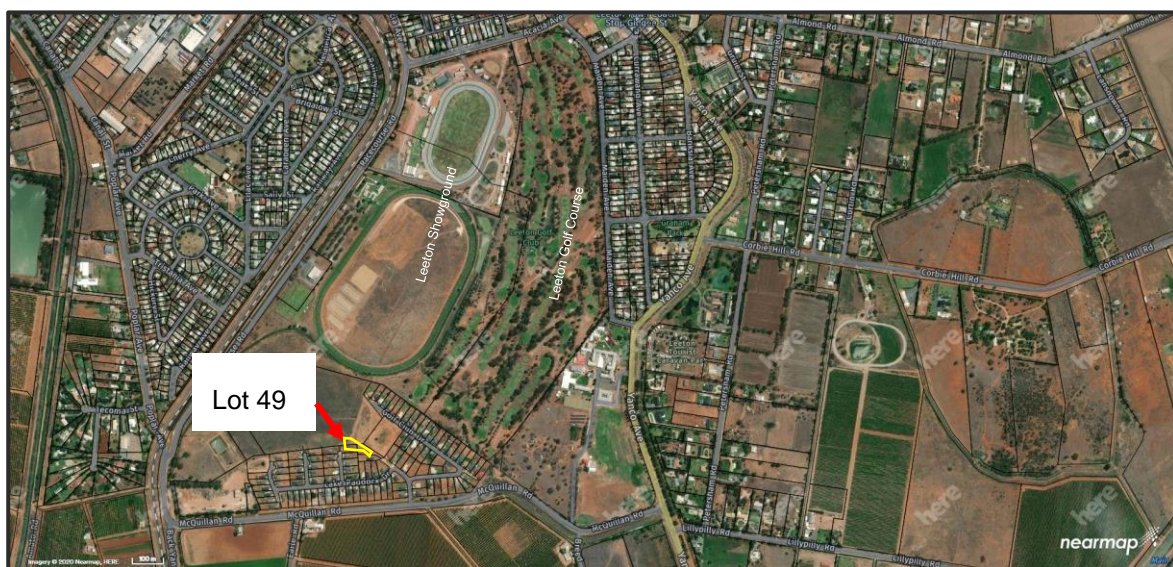


Figure 2 Site context (source: Nearmap, December 2020)

1.4 Mapping

The planning proposal contains extracts of the Leeton LEP 2014 maps that show the subject land, on pages 13-20. With exception of the land zoning map, the planning controls in the LEP maps included in the planning proposal do not currently apply to the subject land.

The planning proposal requires amendment to Leeton LEP map sheets LZN 014F, LSZ 014F, HOB 014F and FSR 014F. However, the planning proposal does not include mapping showing the proposed changes to these map sheets.

A condition has been recommended to require the planning proposal to be updated to include mapping showing the proposed changes to the LEP maps prior to community consultation.

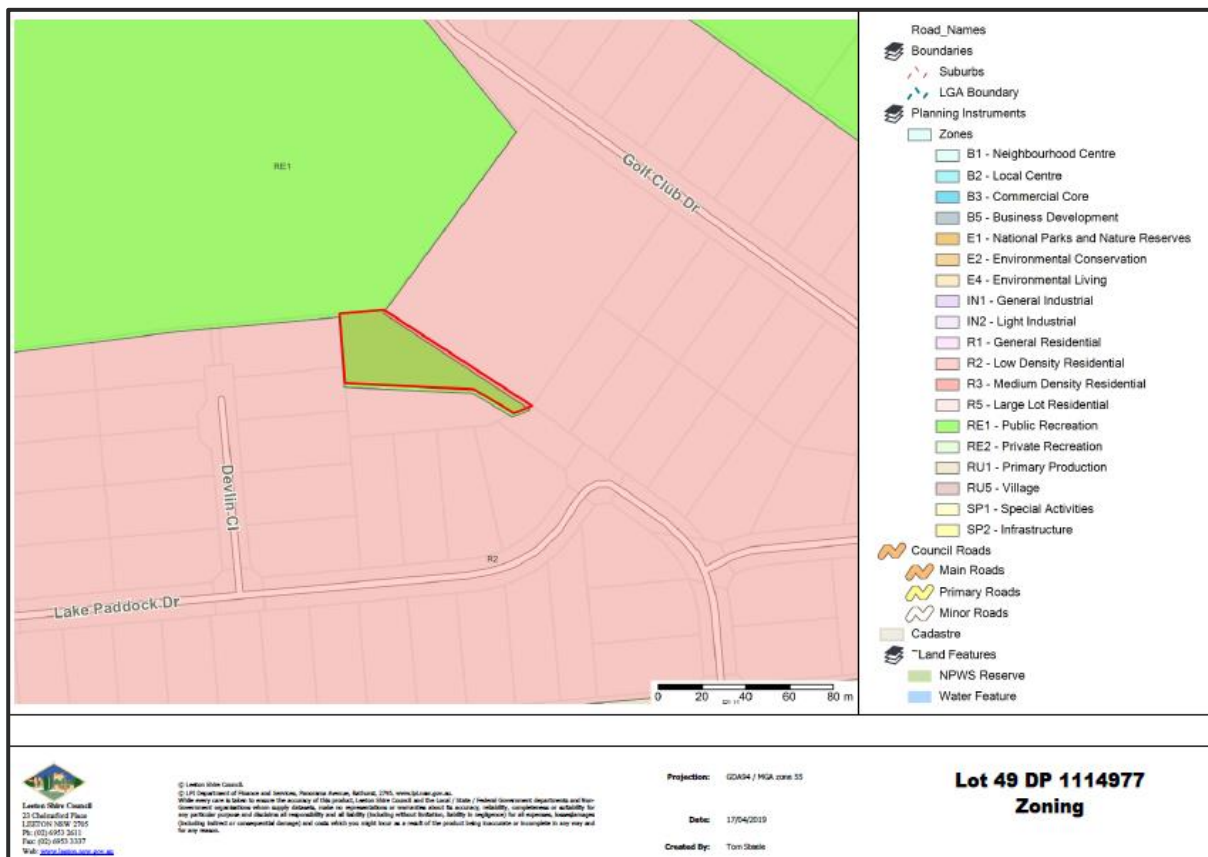


Figure 3 Current zoning map (source: Planning Proposal Report, 2019)

2 Need for the planning proposal

Justification for the proposed amendment has been provided in Part 3, Section A (pages 23-26) of the planning proposal report, as well as in additional information provided by Council.

The planning proposal is not a direct result of a strategic study, rather a response to the outcome of Council's initial design assessment for the development of the Lots 48 and 49 land as playground in accordance with Council's Playground Strategy.

The planning proposal states that Lot 48 was originally intended to be a residential lot but was later dedicated to Council as public reserve by the developer, to reduce the recreation and open space contribution of the development. The dedication of Lot 49 in addition to Lot 48 which was originally set aside as open space resulted in a total of 10,570 m² recreation land in the residential estate. Consequently, Council's planning and assessment for the development and provision of the recreation needs of the residential estate determined that the combined area of Lots 48 and 49 far exceeds the playground requirements, and that Lot 48 can adequately provide the recreational needs of the residential estate.

In addition, the planning proposal has undertaken assessment of the subject land against the key performance criteria for open space for recreation contained in the Draft Greener Places Design Guide prepared by the NSW Government Architect (2018). The assessment found that the land is unsuitable for local open space due to its small size, limited access and poor shape. The assessment further identified that there is a network of local, district and regional open spaces within 400m – 2km of the subject land with direct access to the existing residential estate. These include a newly developed playground on Lot 48, Leeton Golf Course and Leeton Showgrounds (identified in Figure 2 above).

The planning proposal states that the financial resources from the sale of the land will be used to acquire equipment for the open space area on the adjoining Lot 48. It is considered the loss of the undeveloped open space land is justified, given that proceeds from the sale of the land will be used to fund further enhancement to a more accessible, appropriately-sized and better-quality open space. It is agreed that there is the need for the planning proposal, and it is the best means for achieving the intended outcomes.

3 Strategic assessment

3.1 Regional Plan

The planning proposal contains an assessment against the Riverina Murray Regional Plan on pages 26–28. Table 4 provides an assessment of the planning proposal against relevant directions the regional plan's Goal 4 - Strong, connected and healthy communities, which directly relates to the planning proposal.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Direction 25 – building housing capacity to meet demand	The planning proposal is consistent with this Direction as it will release undeveloped recreational land for housing development.
Direction 26 – provide greater Housing Choice	The planning proposal is consistent with this Direction as it will facilitate housing development within existing residential area.
Direction 28: Deliver healthy built environments and improved urban design	The planning proposal is potentially inconsistent with this Direction as it proposes for land dedicated for open space to be rezoned and developed for residential purposes. This inconsistency is of minor significance as the planning proposal and Council's additional information indicate that the land is not suitable for open space development as well as superfluous to community's open space needs. In addition, the planning proposal states that the proceeds of the sale will be used to enhance nearby playground on Lot 48.

3.2 Local

The planning proposal states that it is consistent with the relevant local plan (page 28). The planning proposal does not provide an assessment of the proposal's consistency with the Leeton Local Strategic Planning Statement. A condition is recommended to require the planning proposal to be updated to provide a detailed assessment of the planning proposal against the Leeton LSPS.

Table 5 provides assessment of the proposal against the relevant local strategic plans.

Table 5 Local strategic planning assessment

Local Strategies	Justification
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Local Strategic Planning Statement	<p>The planning proposal has not undertaken assessment against the Leeton LSPS as it was submitted for Gateway Determination prior to its preparation. However, the planning proposal remains consistent with the Leeton LSPS as it facilitates residential housing development and access to enhanced open space. Specifically, the planning proposal supports the following planning priorities of the LSPS:</p> <ul style="list-style-type: none"> • Planning Priority 3 – Ensure the community has access to diverse housing options • Planning Priority 6 – Ensure the community has access to liveable neighbourhoods and quality open space.
Strategic Community Plan entitled Leeton on the Go, Our Community Strategic Plan – Toward 2030	<p>The planning proposal is consistent with this plan as it will support housing development and access to enhanced open space in Leeton.</p>

3.3 Section 9.1 Ministerial Directions

The planning proposal provides a detailed assessment against section 9.1 Directions in Attachment 4 (pages 63-82). The assessment concludes that the planning proposal is consistent with relevant section 9.1 Directions.

The planning proposal's consistency with relevant section 9.1 Directions is discussed in Table 6 below.

Table 6 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.1 Residential Zones. The aim is to encourage housing diversity, maximise infrastructure and minimise impact of residential development.	Yes	This Direction applies as the proposal seeks to rezone the subject land to a residential zone. The planning proposal is consistent with this Direction as it facilitates housing development within existing urban settlement with established infrastructure.
3.3 Home Occupations. The aim is to encourage the carrying out of low-impact small businesses in dwelling houses.	Yes	This Direction applies to all planning proposals. The planning proposal is consistent with this Direction as home occupations will be permitted without consent in the proposed zone.

3.4 Integrating Land Use and Transport. The aim is to ensure urban development achieves specified planning objectives.	Yes	The Direction applies as the planning proposal will alter or remove a zone or provision relating to urban land. The planning proposal is consistent with this Direction it facilitates residential development within existing urban settlement with established local transport networks.
5.10 Implementation of Regional Plans. The aim is to give legal effect to the Regional Plans.	Yes	The Direction applies to all planning proposals. The proposal is largely consistent with the Direction (see discussion in Section 3.1 of this report).
6.1 Approval and Referral Requirements. The aim is to ensure LEP provisions encourage efficient and appropriate assessment of development	Yes	The Direction applies to all planning proposals. The proposal is consistent with the Direction as it does not intend to introduce any new referral or consultation requirements.
6.2 Reserving Land for Public Purposes. The aim is to reserve land for public purposes and facilitate the removal of reservations where land is no longer required for acquisition.	No	<p>The Direction applies to all planning proposals. The planning proposal is inconsistent with the Direction as it proposes to rezone and reclassify land reserved for public purposes. The loss of this public open space land has been justified as it provides opportunity for Council to further enhanced the adjoining newly developed and more accessible open space on Lot 48.</p> <p>On the basis of the above, it is considered that the proposal's inconsistency with the Direction is of minor significance in accordance with the terms of the Direction.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal has undertaken its own assessment against the SEPPs in Attachment 3 (pages 48-63) and identified the following SEPPs as relevant:

- SEPP Koala Habitat Protection 2020
- SEPP No 55 – Remediation of Land 1998
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Building Sustainability Index: BASIX) 2004

The planning proposal is not inconsistent with any of the objectives within the identified SEPPs above. The specific controls and provisions in each of the SEPPs are not relevant to determining the strategic merit of the planning proposal and may be considered as part of any future development applications on the land.

4 Site-specific assessment

The planning proposal provides site-specific assessment of the proposal in Section C, page 29. The assessment is considered appropriate as discussed below.

4.1 Environmental

Table 7 provides an assessment of the potential environmental impacts associated with the proposal.

Table 7 Environmental impact assessment

Environmental Impact	Assessment
Natural environment	The proposal is unlikely to affect any significant biodiversity or ecological communities as the subject land is cleared of all vegetation.
Surrounding uses	The intended residential use is consistent with the surrounding uses and as such unlikely to result in any adverse amenity impacts.

4.2 Social and economic

Table 8 provides an assessment of the potential social and economic impacts associated with the proposal.

Table 8 Social and economic impact assessment

Social and Economic Impact	Assessment
Community	The planning proposal will facilitate the development and enhancement of open space within an existing residential area with direct social benefits to the local community
Housing	The proposal will provide housing opportunity by making the undeveloped land available for residential development.

4.3 Infrastructure

Table 9 provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal.

Table 9 Infrastructure assessment

Infrastructure	Assessment
Roads, sewer, water and stormwater	The subject land is located within existing urban settlement and has access to necessary infrastructure and services

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and forms a condition of the Gateway determination.

A public hearing is also required in accordance with section 29 of the Local Government Act, 1993.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted. It is agreed that Council does not need to specifically consult with government agencies as part of the gateway determination. Any necessary agency consultation can be undertaken at the development application stage.

6 Timeframe

Council's proposed time frame to complete the LEP is not definitive as it does not provide time for certain stages in the plan making process (see Page 28). The planning proposal allocates a period of 17 weeks to complete the plan making tasks up to submission to the Department for finalisation. However, no timelines have been provided for drafting, making and notification of the LEP.

The Department recommends a time frame of 9 months to provide Council adequate time to complete the LEP while accomplishing its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the subject land is owned by Council and the planning proposal involves reclassification of public land from community land to operational land and discharge of public interest in the subject land, the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

8 Assessment Summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposal facilitates best use of the subject land, as well as provision of enhanced open space in the area
- There are social and economic benefits to the local community
- The proposal is unlikely to cause any adverse environmental or infrastructure impacts
- There are no inconsistencies with relevant local plans and SEPPs
- Inconsistency with the regional plan and section 9.1 Direction 6.2 is minor

9 Recommendation

It is recommended the delegate of the Secretary:

- Agrees that any inconsistency with section 9.1 Direction 6.2 Reserving Land for Public Purposes is minor.

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

1. Prior to the community consultation, the planning proposal is to be updated to:
 - include mapping showing the proposed changes to the LEP maps LZN 014F, LSZ 014F, HOB 014F and FSR 014F.
2. Prior to community consultation, the planning proposal is to be revised to address condition 1 and forwarded to the Department for administrative purposes.
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. A public hearing is required to be held into the matter.
5. The planning proposal must be exhibited 2 months from the date of the Gateway determination.
6. The planning proposal must be reported to council for a final recommendation 5 months from the date of the Gateway determination.
7. The planning proposal must be submitted to the Department for finalisation 6 months from the date in the Gateway Determination.
8. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
9. Given the nature of the proposal, Council should not be authorised to be the local plan-making authority.



(Signature)

17/02/2021 (Date)

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