

## Planning and Assessment

IRF20/1980

### Gateway determination report

<b>LGA</b>	Bathurst Regional LGA
<b>PPA</b>	Bathurst Regional Council
<b>NAME</b>	Rezone, amend lot size and height of building controls for 68 parcels at various locations at Abercrombie-Llanarth, Bathurst City, Eglinton, Kelso north & Laffing Waters, Raglan, West Bathurst, Gormans Hill to RE1- Public Recreation in accordance with Bathurst 2040 Open Space Strategy.
<b>NUMBER</b>	PP_2020_BATHU_002_00
<b>LEP TO BE AMENDED</b>	Bathurst LEP (BRLEP) 2014
<b>ADDRESS</b>	68 lots at Abercrombie-Llanarth, Bathurst City, Eglinton, Kelso north & Laffing Waters, Raglan, West Bathurst, Gormans Hill. See section 1.2 for details of the subject land.
<b>RECEIVED</b>	Planning proposal received on 5 May 2020
<b>FILE NO.</b>	IRF20/1921
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required OR a political donation disclosure statement has been provided
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal OR include details of meetings or communications with registered lobbyists.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

Bathurst 2040 Open Space Strategy adopted by Council on 15 April 2020 sets out the rationale for planning and provisions of open space to meet the needs of the Bathurst Regional community over the next 20 years. To dedicate the lands for the open space provisions required under the strategy, Council has requested amending BRLEP 2014 as follows-

- Rezone 68 land parcels identified under section 1.2 of this report to RE1- Public Recreation from R1 General Residential, R5 Large Lot Residential, RU1 Primary Production, RU4 Primary Production Small Lots, RE2 Private Recreation and IN1 Industrial;
- Rezone part of one land parcel from RE1 Public Recreation from to R1- General Residential; and
- Amending Lot Size (LSZ), Height of building (HOB), Minimum Lot Size- Dual Occupancy Map (LSD) and Minimum Lot Size- Multi dwelling Housing and residential Flat Building Map (LSM) with respect to the zoning being amended to for the 67 identified lots as required.
- The land is Council owned and no reclassification under the LG Act, 1993 is required.

## 1.2 Site description

The subject land are spread throughout Bathurst LGA. There are 68 land parcel in total which are set into 7 precincts. The subject lands are as follows-

### Abercrombie- Llanarth



Figure 1: subject land parcels in Abercrombie- Llanarth. Source- Council Mapping, 2020

Parcel ID	Lot/DP	LZN	LSZ	HOB	LSD	LSM
1	Lot 111 DP 865948(Logan Street, EGLINTON)	11A	11A	-	-	-

## **Bathurst City- Peel Street**

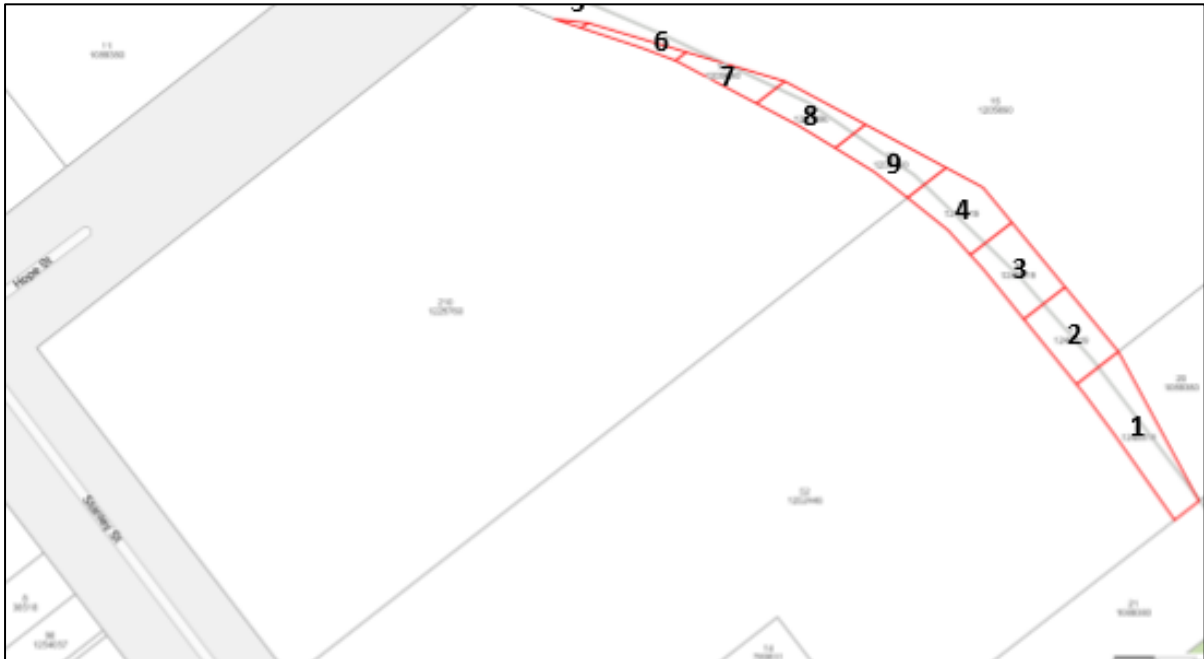


Figure 2: subject land parcels in Bathurst City- Peel Street. Source- Council Mapping, 2020

Parcel ID	Lot/DP	LZN	LSZ	HOB	LSD	LSM
1	Lot 6 DP 1248819 (Peel Street, BATHURST)	11B	11B	11B	11B	11B
2	Lot 7 DP 1248819 (Peel Street, BATHURST)	11B	11B	11B	11B	11B
3	Lot 8 DP 1248819 (Peel Street, BATHURST)	11B	11B	11B	11B	11B
4	Lot 9 DP 1248819 (Peel Street, BATHURST)	11B	11B	11B	11B	11B
5	Lot 11 DP 1205690 (Peel Street, BATHURST)	11B	11B	11B	11B	11B
6	Lot 12 DP 1205690 (Peel Street, BATHURST)	11B	11B	11B	11B	11B
7	Lot 13 DP 1205690 (Peel Street, BATHURST)	11B	11B	11B	11B	11B
8	Lot 14 DP 1205690 (Peel Street, BATHURST)	11B	11B	11B	11B	11B
9	Lot 15 DP 1205690 (Peel Street, BATHURST)	11B	11B	11B	11B	11B

## **Bathurst City- East Morrisset Street**



Figure 3: subject land parcels in Bathurst City- East Morrisset Street . Source- Council Mapping, 2020

Parcel ID	Lot/DP	LZN	LSZ	HOB	LSD	LSM
1	Lot 4 DP 1042075 (205 Morrisset Street, WEST BATHURST)	11B	11B	-	-	-
2	N/A (Hope Street, BATHURST)	11B	11B	-	-	-

## Eglington



Figure 4: subject land parcels in Eglington. Source- Council Mapping, 2020

Parcel ID	Lot/DP	LZN	LSZ	HOB	LSD	LSM
1	Lot 233 DP 1244342 (Duramana Road, EGLINTON)	11A	-	-	-	-
2	N/A (Hobson Close, Council Road not Constructed)	11A	11A	-	-	-
3	Lot 92 DP 865590 (Logan Street, EGLINTON)	11A	11A	11A	-	-
4	Lot 94 DP 879007 (Hamilton Street, EGLINTON)	11A	11A	11A	-	-

5	Lot 103 DP 1006130 (Rankens Bridge, Road EGLINTON)	11A	11A	11A	-	-
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**Kelso North & Laffing Waters – South of Hereford Street**





Figure 5: subject land parcels in Kelso North & Laffing Waters – South of Hereford Street.  
Source- Council Mapping, 2020

Parcel ID	Lot/DP	LZN	LSZ	HOB	LSD	LSM
1	Lot Unknown DP Unknown (Hereford Street, KELSO)	11B	11B	-	-	-
2	Lot 141 DP 726976 (3 Hereford Street, KELSO)	11B	11B	-	-	-
3	Lot 140 DP 726976 (5 Hereford Street, KELSO)	11B	11B	-	-	-
4	Lot 1 DP 1223252 (Logan Street, KELSO)	11B & 11F	11B & 11F	-	-	-
5	Lot 2 DP 1132992 (200 Gilmour Street, KELSO)	11F	11F	-	-	-
6	Lot 2 DP 154468 (14-16 Stephens Lane, KELSO)	11B	11B	-	-	-
7	Lot 221 DP 1147157 (94 Stephens Lane, KELSO)	11F	11F	-	-	-
8	Lot 6 DP 1074887 (27 River Road, KELSO)	11B	11B	-	-	-
9	Lot 1 DP 716930 (51 Stephens Lane, KELSO)	11B	11B	-	-	-
10	Lot 6 DP 1142438 (Gilmour Street, KELSO)	11F	11F	-	-	-
11	Lot 4 DP 1130147 (Gilmour Street, KELSO)	11F	11F	-	-	-
12	Lot 2 DP 1131946 (106 Gilmour Street, KELSO)	11F	11F	-	-	-
13	Lot 1 DP 815692 (38 Church Lane, KELSO)	11B	11B	-	-	-
14	Lot 2 DP 38484 (40 Church Lane, KELSO)	11B & 11F	11B & 11F	-	-	-
15	Lot A DP 157645 (5 Church Lane, KELSO)	11B	11B	-	-	-
16	Lot 7 DP 1073489 (25 Church Street, KELSO)	11B	11B	-	-	-
17	Lot 17 DP 1120478 (29 Church Lane, KELSO)	11B	11B	-	-	-
18	Lot 1 DP 986778 (41-43 Church, KELSO)	11F	11F	-	-	-
19	Lot 2 DP 996212 (59 Church Lane, KELSO)	11F	11F	-	-	-
20	Lot 1 DP 193944 (61 Church Lane, KELSO)	11F	11F	-	-	-
21	Lot 3 DP 1115543 (57A Church Lane, KELSO)	11F	11F	-	-	-
22	Lot C DP 157645 (River Road, KELSO)	11B	11B	-	-	-
23	Lot 5 DP 744611 (11 River Road, KELSO)	11B	11B	-	-	-
24	Lot 2 DP 1115543 (57A Church Lane, KELSO)	11F	11F	-	-	-
25	Lot 1 DP 743755 (1 River Road, KELSO)	11B	11B	-	-	-
26	Lot 60 DP 801725 (Gilmour Street, KELSO)	11F	11F	-	-	-



# **Kelso North & Laffing Waters – Durham Street & Ballie Street**



Figure 6: subject land parcels in Kelso North & Laffing Waters- Durham Street & Ballie Street. Source- Council Mapping, 2020

Parcel ID	Lot/DP	LZN	LSZ	HOB	LSD	LSM
1	Lot 42 DP 1035358 (Ballie Street, KELSO)	11B	11B	11B	11B	11B
2	Lot N/A DP N/A (Council Road not Constructed – between Lower Durham Street & Bryant Street, KELSO)	11B	11B	11B	11B	11B
3	Lot N/A DP N/A (Council Road not Constructed – between Lower Durham Street & Bryant Street, KELSO)	11B	11B	11B	11B	11B

## **Kelso North & Laffing Waters – North of Hereford Street & Sporting Complex**



Figure 7: subject land parcels in Kelso North & Laffing Waters – North of Hereford Street & Sporting Complex. Source- Council Mapping, 2020

Parcel ID	Lot/DP	LZN	LSZ	HOB	LSD	LSM
1	Lot 1 DP 1074115 (6 Hereford Street, KELSO)	11B	11B	-	-	-
2	Lot 79 DP 726976 (12 Hereford Street, KELSO)	11B	11B	-	-	-
3	Lot 2 DP 1076686 (30 Hereford Street, KELSO)	11B	11B	-	-	-
4	Lot G DP 374736 (Edgells Lane, KELSO)	11B	11B	-	-	-
5	Lot F DP 374736 (Edgells Lane, KELSO)	11B	11B	-	-	-
6	Lot 96 DP 726976 (48 Hereford Street, KELSO)	11B	11B	-	-	-
7	Lot 97 DP 726976 (50 Hereford Street, KELSO)	11B	11B	-	-	-
8	Lot 98 DP 726976 (52 Hereford Street, KELSO)	11B	11B	-	-	-
9	Lot 3 DP 1073258 (58 Hereford Street, KELSO)	11B	11B	-	-	-
10	Lot 5 DP 1073621 (15 Hereford Street, KELSO)	11B	11B	-	-	-
11	Lot 104 DP 1073272 (19 Hereford Street, KELSO)	11B	11B	-	-	-

12	Lot 1 DP 194761 (Hereford Street, KELSO)	11B & 11F	11B	-	-	-
13	Lot 4 DP 1074119 (67 Hereford Street, KELSO)	11B & 11F	11B	-	-	-

### **Kelso North & Laffing Waters – Hereford Street & Gilmour Street**



Figure 8: subject land parcels in Kelso North & Laffing Waters – Hereford Street & Gilmour Street. Source- Council Mapping, 2020

Parcel ID	Lot/DP	LZN	LSZ	HOB	LSD	LSM
1	Lot 1 DP 1125206 (Gilmour Street, EGLINTON)	11F	-	-	-	-
2	Lot 11 DP 1140971 (224 Gilmour Street, EGLINTON)	11F	11F	-	-	-
3	Lot 401 DP 1131422 (Hereford Street, EGLINTON)	11F	11F	-	-	-

## Raglan



Figure 9: subject land parcels in Raglan. Source- Council Mapping, 2020

Parcel ID	Lot/DP	LZN	LSZ	HOB	LSD	LSM
1	Lot 221 DP 830125 (Adrienne Street, RAGLAN)	11F	-	-	-	-

## West Bathurst



Figure 10: subject land parcels in West Bathurst. Source- Council Mapping, 2020

Parcel ID	Lot/DP	LZN	LSZ	HOB	LSD	LSM
1	Lot 68 DP 848393 (Bradwardine Road, WEST BATHURST)	11B	11B	11B	11B	11B
2	Lot 135 DP 714353 (Weeks Place, WEST BATHURST)	11B	11B	11B	11B	11B
3	Lot 2 DP 1127985 (Edgell Street, WEST BATHURST)	11B	11B	11B	11B	11B



## **Gormans Hill**



Figure 11: subject land parcels in Gormans Hill . Source- Council Mapping, 2020

Parcel ID	Lot/DP	LZN	LSZ	HOB	LSD	LSM
1	Lot 15 DP 744672 (21 Gormans Hill Road, GORMANS HILL)	11B	11B	11B	11B	11B
2	Lot 130 DP 1123581 (19 Gormans Hill Road, GORMANS HILL)	11B	-	-	-	-

Majority of the identified sites are vacant and are used as part of surrounding open space.

### **1.3 Existing planning controls**

The subject land parcels have various zonings under Zoning Maps LZN\_011A, LZN\_011B and LZN\_011F under BRLEP 2014. Likewise, some of the parcels have various Lot Size(LSZ\_011A, LSZ\_011B and LSZ\_011F), Height of building(HOB\_011B), Minimum Lot Size- Dual Occupancy Map(LSD\_011B) and Minimum Lot Size- Multi dwelling Housing and residential Flat Building Map(LSM\_011B) under BRLEP 2014.

### **1.4 Surrounding area**

The subject parcel lands are spread throughout Bathurst LGA and are surrounded by other open space area, residential uses, commercial uses and roads.



## **1.5 Summary of recommendation**

A conditional Gateway determination is recommended. Plan making delegation has been requested by Council. It is recommended that delegation be granted in this case as the proposal relates to land identified in the Bathurst 2040 Open Space Strategy (adopted by Council on 15 April 2020). The timeframe for finalising the plan should be set at 12 months.

## **2. PROPOSAL**

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### **2.1 Objectives**

The objective or intended outcomes of this planning proposal is to rezone 68 land parcels from R1 General Residential, R5 Large Lot Residential, RU1 Primary Production, RU4 Primary Production Small Lots, RE2 Private Recreation or IN1 Industrial to RE1 Public Recreation in order to reflect the current use of the land for recreation purposes and to support the recommendations of the Bathurst Open Space Strategy 2040, adopted 15 April 2020. The sought changes are acceptable.

### **2.2 Explanation of provisions**

The subject land parcels have various zonings under Zoning Maps LZN\_011A, LZN\_011B and LZN\_011F under BRLEP 2014. The planning proposal seeks to amend land zoning from R1 General Residential, R5 Large Lot Residential, RU1 Primary Production, RU4 Primary Production Small Lots, RE2 Private Recreation and IN1 Industrial to RE1 Public Recreation for 67 land parcel and 1 land parcel from RE1 to R1 General Residential.

As indicated above, the zoning change will also require changes to Lot Size(LSZ\_011A, LSZ\_011B and LSZ\_011F), Height of building(HOB\_011B), Minimum Lot Size- Dual Occupancy Map(LSD\_011B) and Minimum Lot Size- Multi dwelling Housing and residential Flat Building Map(LSM\_011B) Maps under BRLEP 2014.

There is no proposed reclassification under the Local Government Act, 1993.

### **2.3 Mapping**

The planning proposal seeks to amend various maps under BRLEP 2014 as indicated above. This final LEP maps will need to comply with Departments technical standard for LEP maps.

## **3. NEED FOR THE PLANNING PROPOSAL**

Council has undertaken a review of the current open space, its current usage level and facilities available at each location as part of the Bathurst 2040 Open Space Strategy, adopted on 15th April 2020 (refer to appendix 1 to the Planning proposal). A number of parcels were identified that do not reflect their current use of the land for recreation purposes. The Planning proposal aims to alter the zone of the land from their current zoning to RE1 Public Recreation along with rezoning part of one parcel of private residential land from RE1 Public Recreation to R1 General Residential to reflect its current use in private ownership. Council has resolved to prepare a planning proposal to rezone the aforementioned 68 land parcels. The Planning proposal is the only means of achieving rezoning the 68 parcels of land to RE1 Public Recreation and one parcel of land to R1 General Residential.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 State**

There are no State or regional strategies applicable to the proposal.

### **4.2 Regional / District**

Central West and Orana Regional Plan 2036

It is considered the proposal to be broadly consistent with the objective of the Central West and Orana Regional Plan 2036 by assisting by protecting the identified land parcels for recreation purposes. The following directions are considered to be achieved by the planning proposal-

- **Direction 29- Deliver healthy built environments and better urban design**

The planning proposal will protect the identified lots as open space and ensure that adequate amount of lands are available for recreation purpose by the residents and visitors. Which will assist in providing healthy environment throughout Bathurst LGA by ensuring that the public recreational lands are protected and can not be used for any other purposes.

#### **4.3 Local**

The subject site is impacted by the following local strategies-

##### **Bathurst 2040 Open Space Strategy adopted by Council on 15 April 2020**

The proposal is consistent with the Bathurst 2040 Open Space Strategy by giving effect to the intention of the objective of the strategy as follows-

- predict the optimum level of open space provision (on a per capita basis) for the population of Bathurst (local/regional and active/passive),
- prioritise the actions of Council in relation to purchase, embellishment and/or upgrading of open space,
- identify any open space that may be suitable for disposal or repurposing,
- establish and/or review the minimum standards (including embellishment) of open space in accordance with Council's adopted open space hierarchy or asset maintenance level classifications and
- identify the optimum location of future open space (local and regional and active and passive open space), particularly in the growing suburban locations.

#### **4.4 Section 9.1 Ministerial Directions**

The subject site is impacted by the following Section 9.1 Ministerial Directions -

##### **Direction 1.1 - Business And Industrial Zones**

This Direction does apply to the planning proposal as it will affect a parcel of land within an existing industrial zone. The proposal is considered to be inconsistent with this direction as it is amending zoning from industrial use to recreational use. However, the subject land is over a drainage line and is currently used for open space.

**Recommendation:** The Director, Western Region can be satisfied that the inconsistency is of minor significance justified by the Bathurst 2040 Open Space Strategy that gives consideration to the objective of the Direction. No further work is required.

##### **Direction 1.2 - Rural Zones**

This Direction does apply to the planning proposal as it will affect parcel of lands within an existing rural zone. The proposal is considered to be consistent as the sought amendment to the zoning will not result in introducing any use that may create conflict with rural use. Uses such as Residential, commercial, tourism uses will not be permitted under the new zone.

### **Direction 1.5 – Rural Lands**

This Direction does apply to the planning proposal as it will affect 46 parcels (1 RU1 Primary Production & 45 RU4 Primary Production Small Lots zoned land parcels) of land within existing rural zones. The proposal is considered to be inconsistent with this direction as it is amending zoning from rural land use to recreational use. It should be noted that a majority of the lands were already purchased by Council due to the flood impact on these lands. In addition, extensive and intensive agricultural, a prominent use of rural lands remain permissible under the proposed recreational zone.

**Recommendation:** The Director, Western Region can be satisfied that the inconsistency is of justified as minor significance as the amendment will not prohibit the use of the subject lands for rural use and the amendment will prohibit any other development that may be impacted by the flood constraints. The land will be available for public recreation use. No further work is required.

### **Direction 3.1 – Residential Zones**

This Direction does apply to the planning proposal as it will affect 15 lands within existing residential zones. The proposal is considered to be inconsistent with this direction as it is amending zoning from residential use to recreational use. It should be noted that the residential lots are adjoined by existing public recreation space.

**Recommendation:** The Director, Western Region can be satisfied that the inconsistency is justified and of minor significance by the subject lands being adjoined by similar use to the one being sought, are Council owned and are not subject to any future residential development. The land is being used or will be available for public recreation purposes. No further work is required.

### **Direction 4.3 – Flood Prone Land**

This Direction does apply to the planning proposal as it will affect a parcel of lands within an active flood plain. The proposal is considered to be consistent with this direction as it is sought rezoning will protect the land as open space and will prohibit any uses that may be impacted by flooding.

### **Direction 5.10 – Implementation of Regional Plans**

This Direction applies to the planning proposal and has been addressed above and the proposal is consistent with the Central West and Orana Regional Plan 2036 and Draft Bathurst Regional LSPS.

### **Direction 6.2 – Reserving Land for Public Purposes**

This Direction applies to the planning proposal as it will create, alter and reduce land for public purpose. The proposal is inconsistent with this Direction. The Delegate of the Secretary can approve of the changes and be satisfied that the inconsistency is minor as the proposal is consistent with the Central West and Orana Regional Plan 2036, Draft Bathurst Regional LSPS and Bathurst 2040 Open Space Strategy.

## **4.5 State environmental planning policies (SEPPs)**

The planning proposal is consistent with the following SEPPs-

- SEPP (Primary Production and Rural Development) 2019 – 46 lots are proposed to be rezoned from rural zoning to recreational. These 46 lots are currently not being used for agricultural use. Furthermore, some of these rural lands are flood prone and are owned by Council. As such, proposed recreational uses are more suitable as the zoning for the subject land.

## **5. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social**

The planning proposal will have positive social impacts. The planning proposal enhances the opportunities for open space and structured and non-structured recreation opportunities.

### **5.2 Flooding**

Some of the subject lands are flood prone or drainage lands. The proposed amendment will prohibit any potential contradictory uses of the land.

## **6. CONSULTATION**

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### **6.1 Community**

This planning proposal is considered not to be a minor proposal as it is seeking to permit additional uses to the subject site and the potential impacts are minimal. The proposed 28 day exhibition period is deemed to be satisfactory and the Gateway determination reflects this minimum exhibition timeframe.

### **6.2 Agencies**

No Consultation is required with any public agencies prior to proceeding with public exhibition.

## **7. TIME FRAME**

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It is recommended that Council be provided a 12 months period to complete the amended LEP.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Given the Nature of the proposal, it is recommended that the Council can be granted plan making delegations.

## **9. CONCLUSION**

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The planning proposal is recommended to proceed with conditions. The proposal will protect the lands for the use of recreational use and prohibit any uses that may contradict the use. The proposal drafted for and is consistent with Council strategy for Open Space.

## **10. RECOMMENDATION**

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It is recommended that the delegate of the secretary-

- Agree** that inconsistencies with Direction 1.1 - Business And Industrial Zones, Direction 1.5 – Rural Lands, Direction 3.1 – Residential Zones and 6.2 Reserving Land for Public Purposes are justified and of minor significance;

It is recommended that the delegate of secretary 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, Industry and Environment, 2018).
2. 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).
3. 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.
4. 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.
5. The time frame for completing the LEP is to be 12 months following the date of the Gateway determination.

Dated       day of    June    2020.



3.6.20

**Wayne Garnsey**  
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4.6.20

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