

Planning Proposal

Amendment to the Parkes Local Environmental Plan 2012 Housekeeping LEP



July 2014

Planning Proposal - General Amendments

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Introduction

In accordance with Section 55 of the Environmental Planning and Assessment Act 1979, this planning proposal has been prepared to amend the provisions of the Parkes Local Environmental Plan 2012 (PLEP2012) to resolve several housekeeping matters that have been identified in the time since its gazettal on 7 December 2012. The planning proposal has been prepared in accordance with the NSW Department of Planning and Infrastructure's Guideline 'A guide to preparing planning proposals'.

The planning proposal relates to an amendment to the PLEP2012 for the following:

1. Permissibility of a hospital on specific land in SP2 Infrastructure zone
2. Permissibility of caravan parks and markets in RE1 Public Recreation zone
3. Permissibility of 'water storage facility' in RU1 Primary Production zone
4. Amend an omission to Lot size map and land zone map (rezone from R5 Large Lot Residential to R1 General Residential)
5. Amend wording of Clause 4.2A Erection of dwelling houses, dual occupancies (attached) and secondary dwellings
6. Amend minor typing error in Clause 4.2A

Part 1: Objectives or Intended Outcomes

The objectives of the planning proposal are to:

Amendment		Objective/Outcome
1.	Additional permitted land use in SP2 Infrastructure zone	The word 'hospital' will be included on Land Zoning Map.
2.	Permissibility of caravan parks and markets in RE1 Public Recreation zone	'caravan park' and 'market' is included as a permissible land use in the RE1 Public Recreation zone.
3.	Permissibility of 'water storage facility' in RU1 Primary Production zone	'water storage facility' is included as a permissible use in RU1 Primary Production zone
4.	Amend an omission to Lot size map and land zone map (rezone from R5 Large Lot Residential to R1 General Residential)	Lot size map and land zoning map is amended.
5.	Amend wording of Clause 4.2A Erection of dwelling houses, dual occupancies (attached) and secondary dwellings	Wording is amended to reduce confusion.
6.	Amend minor typing error in Clause 4.2A	Wording is amended to reduce confusion.

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Part 2: Explanation of Provisions

The PLEP2012 is proposed to be amended in order to reflect the changes listed below:

No.	Amendment Applies to:	Explanation of the provision:
1	Land Zoning Map - Sheet LZN_005E Parkes	Addition of the word 'hospital' to the new Parkes Hospital site in the SP2 Land Use Zone. The SP2 Infrastructure zone states that 'the purpose shown on the land zoning map, including any development that is ordinarily incidental or ancillary to development for that purpose' is development permitted with consent in the zone. This amendment will enable development that is ancillary and incidental to the hospital to be permissible with development consent from Council.
2	PLEP2012 - Land Use Table - Zone RE1 Public Recreation	This amendment proposes to include 'caravan parks' and 'market' as permissible land use zones in the RE1 Public Recreation zone. Currently, only 'camping grounds' are permitted in the RE1 Public Recreation zone.
3	PLEP2012 - Land Use Table - Zone RU1 Primary Production	This amendment proposes to include 'water storage facilities' as a permissible land use in the RU1 Primary Production zone.
4	Land Zoning Map - Sheet LZN_005E Parkes	Amend mapping error in Land Zoning Map. Land to be changed from R5 large Lot Residential zone to R1 General Residential zone.
5	Clause 4.2A Erection of dwelling houses, dual occupancies (attached) and secondary dwellings on land in Zone RU1 of the PLEP2012	Part (2) of the Clause states ' <i>Development consent must not be granted for the erection of a dwelling house, dual occupancy (attached) or secondary dwelling on land in zone RU1 Primary Production, and on which no dwelling house, dual occupancy (attached) or secondary dwelling has been erected, unless the land:</i> ' This amendment proposes to omit ' <i>and on which no dwelling house, dual occupancy (attached) or secondary dwelling has been erected</i> '.
6	Clause 4.2A Erection of dwelling houses, dual occupancies (attached) and secondary dwellings on land in Zone RU1 of the PLEP2012	Amend administrative error in Clause 4.2A(4)(b). This section states ' <i>(b) is a holding at the time the application for development consent referred to in subclause (3) is lodged</i> '. The clause needs to reference subclause (2).

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Part 3: Justification of Proposed LEP Amendments

In accordance with the Department of Planning's 'Guide to Preparing Planning Proposals', this section provides a response to the following issues:

- Section A: Need for the planning proposal
- Section B: Relationship to strategic planning framework
- Section C: Environmental, social and economic impact
- Section D: state and commonwealth interests

Section A - Need for the planning proposal

1. *Is the planning proposal a result of any strategic study or report?*

This planning proposal is a result of the review of the PLEP2012, following 18 months of the PLEP2012 being operational. The PLEP2012 was gazetted on the 7 December 2012. As part of ensuring the accuracy and clarity of comprehensive planning instruments, Council has historically undertaken periodic reviews of its LEPs. Given that a number of anomalies have been identified in the PLEP2012, it was deemed appropriate that following 18 months of the PLEP2012 being operational, a Housekeeping LEP would be prepared.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes or is there a better way?*

Amendment to the PLEP2012 is the only method to achieve the objectives of the planning proposal.

Section B - Relationship to Strategic Planning Framework

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?*

There is no regional or sub-regional strategy for the Parkes Local Government Area.

4. *Is the planning proposal consistent with a council's local strategy or other local strategic plan?*

The planning proposal is consistent with the Parkes Shire Land Use Strategy 2011, which was the basis of the PLEP 2012.

Amendment No. 1 and No. 4 are identified in the Parkes Shire Land Use Strategy 2011 as follows:

Amendment 1 - Permissibility of a 'hospital' in the SP2 Infrastructure zone

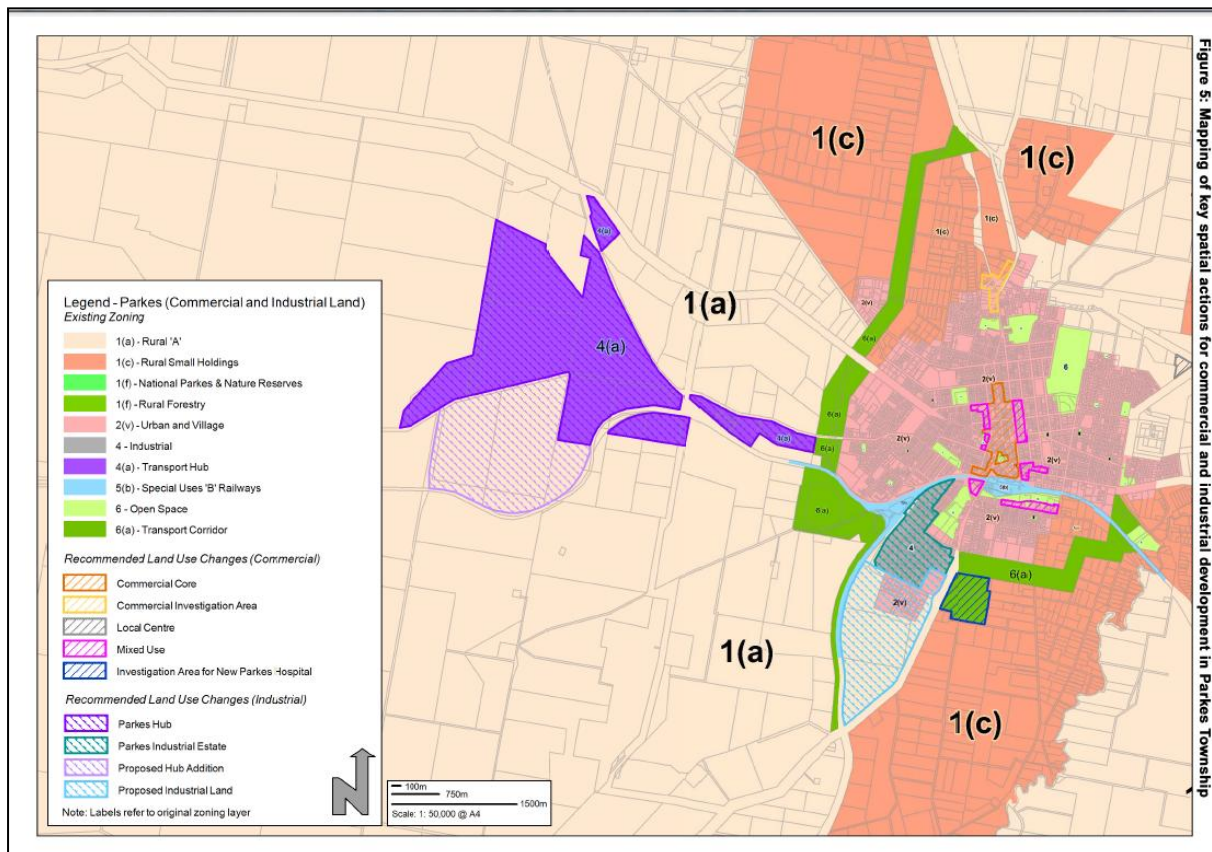
At the time of writing the Parkes Shire Land Use Strategy 2011, the location of the new Parkes Hospital had not been determined. Map No. 5 in the Strategy identifies the key spatial actions for commercial and industrial development in Parkes Township and notes the subject land as 'Investigation Area for New Parkes Hospital'.

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The application for the new Parkes Hospital has been submitted and it is proposed to be located on the site identified by the Strategy. The application is currently under assessment by NSW Department of Planning and Environment.

While the new hospital was permissible with development consent pursuant to the provisions of the State Environmental Planning Policy (Infrastructure) 2007, the word 'hospital' will be included on the land zoning map to permit any future development that is ordinarily incidental or ancillary to a hospital.

Figure 1: Parkes Land Use Strategy 2011 - Map 5: Mapping of key spatial actions for commercial and industrial development in Parkes Township



Amendment 4 - Amend an omission to Lot size map and land zone map (rezone from R5 Large Lot Residential to R1 General Residential)

A mapping error occurred during the preparation of the PLEP2012 which resulted in the subject land being zoned R5 Large Lot Residential, rather than R1 General Residential.

It is noted that the subject land was zoned 2(v) Urban or Village pursuant to the Parkes Local Environmental Plan 1990 and the Land Use Strategy recommended that the subject land remain R1 General Residential.

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Figure 2: Parkes Local Environmental Plan 1990

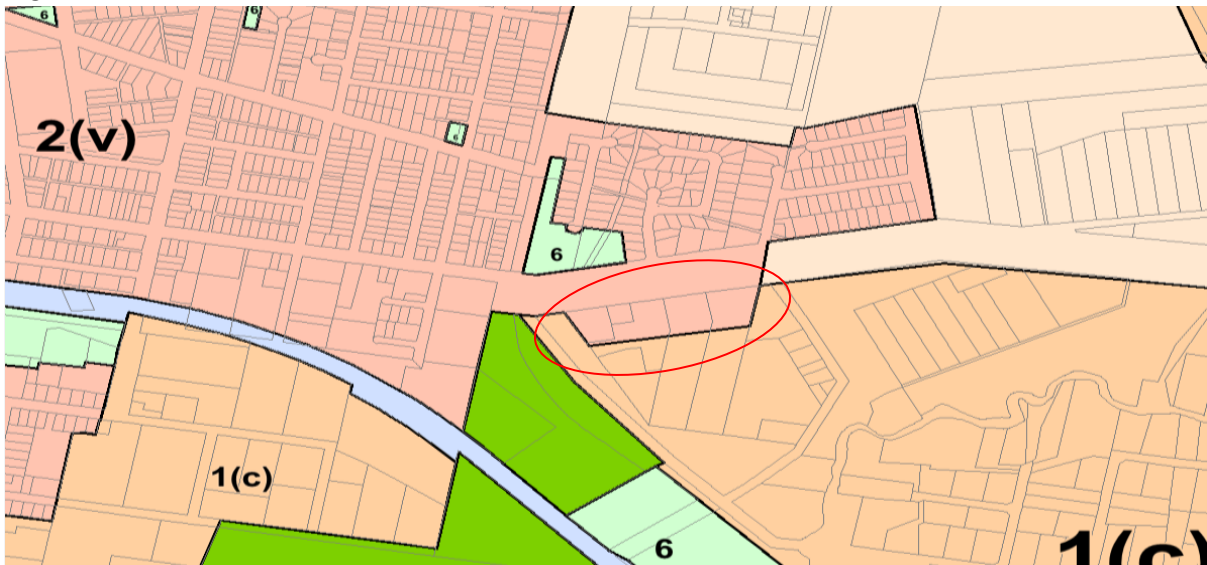
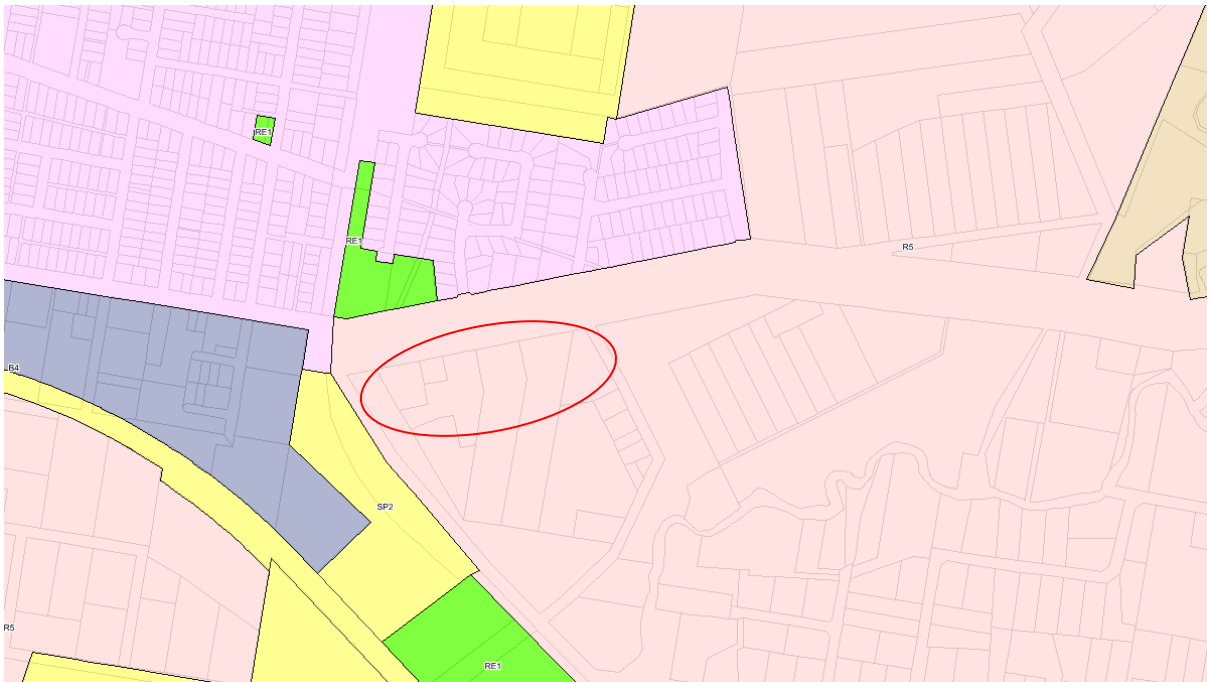
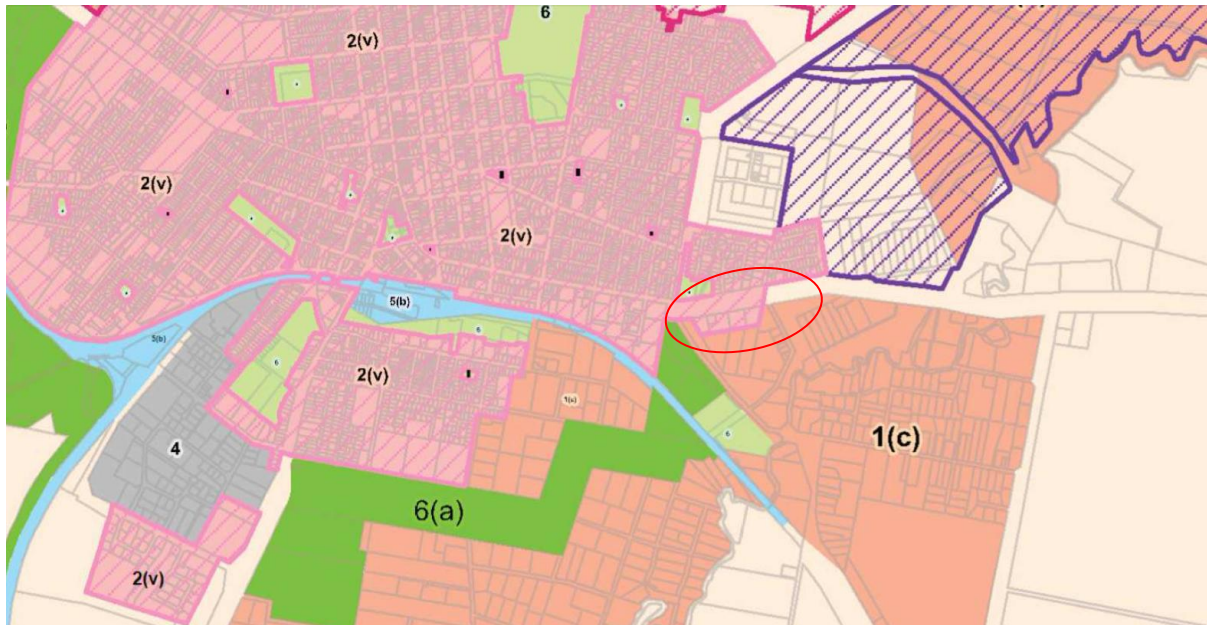


Figure 3: Parkes Local Environmental Plan 2012



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Figure 4: Parkes Land Use Strategy - Map 4: Mapping of key spatial actions for residential development in Parkes Township



The following provides further justification for Proposed Amendments 2, 3, 5 and 6.

2. Amendment to include 'caravan parks' and 'market' as permissible land use zones in the RE1 Public Recreation zone.

The Land Use Table for the RE1 Public Recreation zone currently permits 'camping grounds', but prohibits 'caravan parks'. The definition of a 'camping ground' permits campervans or tents, but excludes caravans. This has caused problems when approved 'temporary camping grounds' for events such as the annual Parkes Elvis Festival.

Council parks are regularly used for markets, however, this use is currently prohibited in the zone.

The 'Temporary Use of Land' Clause has been regularly relied on to approve these activities.

3. Amendment to include 'water storage facilities' as a permissible land use in the RU1 Primary Production zone

A water storage facility is currently prohibited in the RU1 Primary Production zone. This is a minor amendment to permit a land use that is common in rural areas.

The definition of a water storage facility is:

water storage facility means a dam, weir or reservoir for the collection and storage of water, and includes associated monitoring or gauging equipment.

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3. Clause 4.2A Erection of dwelling houses, dual occupancies (attached) and secondary dwellings on land in Zone RU1 of the PLEP2012

Clause 4.2A of the PLEP2012 states:

- (2) *Development consent must not be granted for the erection of a dwelling house, dual occupancy (attached) or secondary dwelling on land in Zone RU1 Primary Production, and on which no dwelling house, dual occupancy (attached) or secondary dwelling has been erected, unless the land:*
- (a) *is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or*
 - (b) *is a lot created under an environmental planning instrument before this Plan commenced and on which the erection of a dwelling house, dual occupancy (attached) or secondary dwelling was permissible immediately before that commencement, or*
 - (c) *is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house, dual occupancy (attached) or secondary dwelling would have been permissible if the plan of subdivision had been registered before that commencement, or*
 - (d) *is an existing holding, or*
 - (e) *would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) had it not been affected by:*
 - (i) *a minor realignment of its boundaries that did not create an additional lot, or*
 - (ii) *a subdivision creating or widening a public road or public reserve or for another public purpose.*

Note. *A dwelling cannot be erected on a lot created under clause 9 of State Environmental Planning Policy (Rural Lands) 2008 or clause 4.2.*

Council has had enquiries made regarding the question of the ability of Council to consider the development of a dwelling house on land within the RU1 Primary Production zone, if the existence of remnants of a dwelling previously erected on the subject land.

The current inclusion of the wording "and on which no dwelling, dual occupancy or secondary dwelling has been erected" provides exclusion of application of 4.2A(2).

It is viewed that with the deletion of the wording, as proposed, the interpretation and use of the clause will be consistent with the objectives of the clause and much easier to determine questions of dwelling approvals on rural land.

It is acknowledged that recently made instruments such as Forbes LEP 2013, Broken Hill LEP 2013 and Murrumbidgee LEP 2013 and Weddin LEP 2011, have wording that reflects Council's proposed amendment.

5. Amend administrative error in Clause 4.2A(4)(b)

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Clause 4.2A(4)(b) refers to subclause (3). Subclause (3) is in relation to lawfully erected dwelling-houses which are replaced.

The clause needs to reference subclause (2), which is in relation to granting development consent for a dwelling house, dual occupancy (attached) or secondary dwelling.

(4) *In this clause:*

existing holding means land that:

(a) was a holding on 14 December 1990, and

(b) is a holding at the time the application for development consent referred to in **subclause (3)** is lodged,

whether or not there has been a change in the ownership of the holding since 14 December 1990, and includes any other land adjoining that land acquired by the owner since 14 December 1990.

5. ***Is the planning proposal consistent with applicable State Environmental Planning Policies.***

Yes. An analysis of the applicable State Environmental Planning Policies (SEPP) is included in the following table. It is noted that the proposal is either consistent with or not offensive to any applicable SEPP's.

State Environmental Planning Policy	Consistency/Response
1 - Development Standards	Not relevant
21 - Caravan Parks.	Not relevant
30 - Intensive Agriculture	Not relevant
32 - Urban Consolidation (Redevelopment of Urban Land)	Not relevant
33 - Hazardous and Offensive Development	Not relevant
36 - Manufactured Home Estates	Not relevant
44 - Koala Habitat Protection	Not relevant
55 – Remediation of Land	Not relevant
62 - Sustainable Aquaculture	Not relevant
64 - Advertising and Signage	Not relevant
65 - Design Quality of Residential Flat Development	Not relevant
(Affordable Rental Housing) 2009	Not relevant
(Building Sustainability Index: BASIX) 2004	Not relevant
(Exempt and Complying Development Codes) 2008	Not relevant
(Housing for Seniors or People with a Disability) 2004	Not relevant
(Infrastructure) 2007	Not relevant
(Major Development) 2005	Not relevant
(Mining, Petroleum Production and Extractive Industries) 2007	Not relevant
(Rural Lands) 2008	Not relevant
(State and Regional Development) 2011	Not relevant

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6. *Is the planning proposal consistent with applicable ministerial directions (s. 117 directions)*

The relevant section 117 Directions are addressed in Appendix 1. The proposal is consistent with those 117 Directions that are relevant to the site.

Section C - Environmental, Social and Economic Impact

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

There will be no impact on any of these matters as a result of this planning proposal.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed.*

There are no environmental effects likely as a result of this planning proposal.

9. *Has the planning proposal adequately addressed any social and economic effects?*

This planning proposal seeks to remove minor anomalies contained within the PLEP 2012. The social and economic effects were addressed during the preparation of the PLEP 2012.

There are no additional social or economic effects as a result of this planning proposal.

Section D - State and Commonwealth Interests

10. *Is there adequate public infrastructure for the planning proposal?*

Not applicable.

11. *What are the view of state and commonwealth public authorities consulted in accordance with the gateway determination.*

No public authorities will be required to be consulted as part of this planning proposal.

Part 4: Mapping

Please refer to Appendix 2.

Part 5: Community Consultation

In accordance with Section 57(2) of the Environmental Planning and Assessment Act 1979, this planning proposal must be approved prior to community consultation is undertaken by the local authority.

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The planning proposal would be notified on Council's website and in the Parkes Champion Post as per the requirements detailed in the EP&A Act, EP&A Regulation and Gateway Determination. It is likely that public exhibition of the Planning Proposal would be for 14 days.

The written notice would provide:

- a description of the objectives or intended outcomes of the planning proposal;
- the land affected by the planning proposal;
- advise and when the planning proposal can be inspected;
- give the name and address of the Council for the receipt of submissions; and
- indicate the last date for submissions.

During the exhibition period, the following material will be made available for inspection:

- the planning proposal, in the form approved for community consultation by the Director General of Planning;
- the gateway determination; and
- any studies or reports relied upon by the planning proposal (such as the Report to Council).

Part 6: Project Timeline

The following provides an anticipated project timeline for completion:

Table 1 - Project Timeline Task	Anticipated timeframe
Gateway Determination	Late July 2014/Early August 2014
Additional technical information	Nil
Government agency consultation (pre exhibition as required by Gateway Determination)	No additional consultation is anticipated.
Commencement and completion dates for public exhibition.	End August 2014 for 14 days
Consideration of submissions	Mid September 2014
Anticipated date Council to make the plan	October

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Appendix A: Section 117 Ministerial Directions Analysis

Section 117 Direction		Applicable to PP	Consistent	Remarks
1. Employment and Resources				
1.1	Business and Industrial Zones	No	N/A	N/A
1.2	Rural zones	No	N/A	N/A
1.3	Mining, Petroleum Production and Extractive Industries	No	N/A	N/A
1.4	Oyster Aquaculture	No	N/A	N/A
1.5	Rural Lands	No	N/A	N/A
2. Environment and Heritage				
2.1	Environment Protection Zones	No	N/A	N/A
2.2	Coastal Protection	No	N/A	N/A
2.3	Heritage Conservation	No	N/A	N/A
2.4	Recreation Vehicle Areas	No	N/A	N/A
3. Housing, Infrastructure and Urban Development				
3.1	Residential Zones	Yes	Yes	This planning proposal will affect land within an existing residential zone (proposed amendment 4). It is noted that the subject land is suitably serviced for the proposed zoning. The amendment is rectifying a mapping error and therefore is considered to be of minor significance.
3.2	Caravan Parks	Yes	Yes	This planning proposal will permit caravan parks on RE1 Public Recreation zoned land. The planning proposal is consistent with this direction and is considered to be of a minor nature.
3.3	Home Occupations	No	N/A	N/A

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3.4	Integrating Land Use and Transport	No	N/A	N/A
3.5	Development Near Licensed Aerodromes	No	N/A	N/A
3.6	Shooting Ranges	No	N/A	N/A
4. Hazard and Risk				
4.1	Acid Sulfate Soils	No	N/A	N/A
4.2	Mine Subsidence and Unstable Land	No	N/A	N/A
4.3	Flood Prone Land	No	N/A	N/A
4.4	Planning for Bushfire Protection	No	N/A	N/A
5. Regional Planning				
5.1	Implementation of Regional Strategies	No	N/A	N/A
5.2	Sydney Drinking Water Catchment	No	N/A	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	No	N/A	N/A
5.4	Commercial and Retail Development along the Pacific Highway North Coast	No	N/A	N/A
5.8	Second Sydney Airport: Badgerys Creek	No	N/A	N/A
5.9	North West Rail Link Corridor Strategy	No	N/A	N/A
6. Local Plan Making				
6.1	Approval and Referral Requirements	Yes	Yes	Will be consistent with Ministerial Direction
6.2	Reserving Land for Public Purposes	No	N/A	N/A
6.3	Site Specific Provisions	Yes	No	
7. Metropolitan Planning				
7.1	Implementation of the Metropolitan Plan for Sydney 2036	No	N/A	N/A

Appendix 2 - Mapping

