

Planning and Assessment

IRF20/2146

Gateway determination report

LGA	Temora
PPA	Temora Shire Council
NAME	Rezone land at Aria Park to RU5 Village, R5 Large Lot Residential and RU1 Primary Production and amend minimum lot sizes (93 homes)
NUMBER	PP_2020_TEMOR_001_00
LEP TO BE AMENDED	Temora LEP 2010
ADDRESS	Various, Aria Park 2665
DESCRIPTION	Lots 134, 135, 136, 137, 138, 139, 141, 142, 143, 144, 145, 181, 183, 184 and 185 DP 750852 Lots 117, 175, 176, 177, 178 and 120 DP 750852 Lots 7, 47, 89 and 132 DP 750852 Lots 1 and 2 DP 709245
RECEIVED	8 April 2020
FILE NO.	IRF20/2146
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

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to rezone land at Aria Park to RU5 Village, R5 Large Lot Residential and RU1 Primary Production and amend minimum lot sizes applying to the land.

1.2 Site description

The planning proposal applies to land immediately north and west of the town of Aria Park.

As shown in Figure 1, the area north of Aria park comprises multiple lots. The planning proposal states the area consists of land uses including residential, commercial, industrial and agricultural uses. The area is mostly cleared with only scattered vegetation cover.

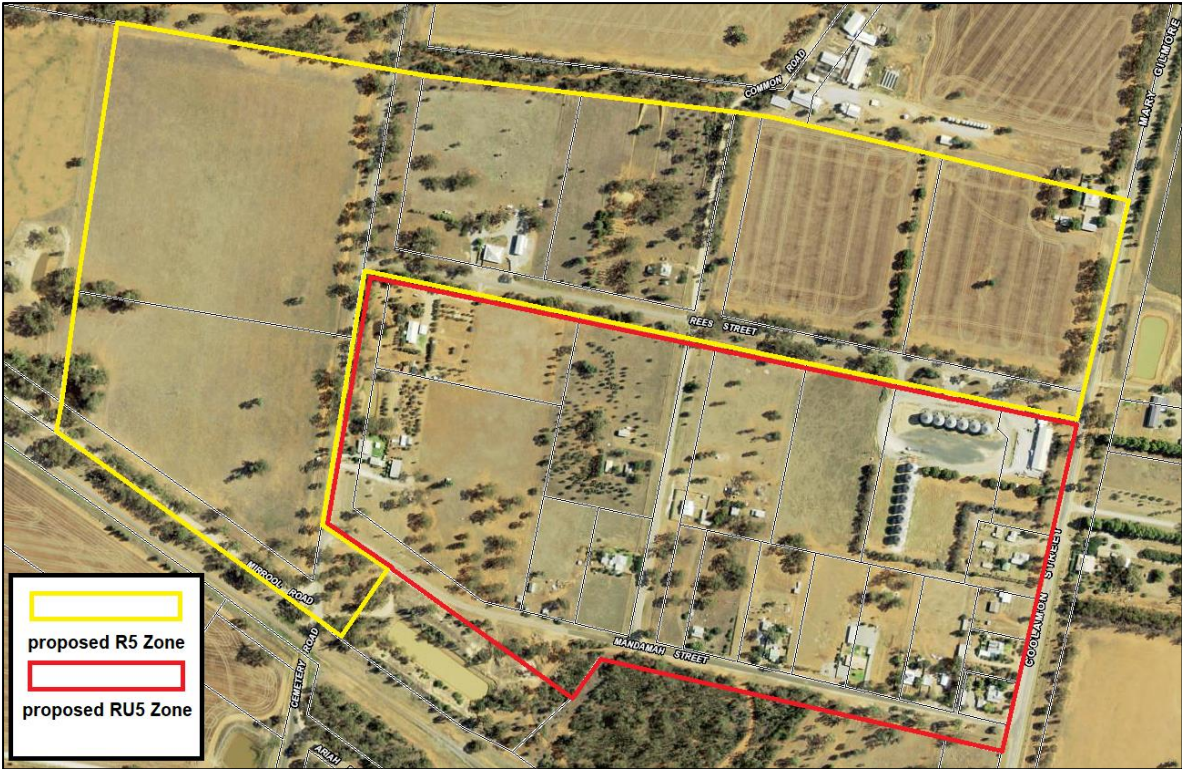


Figure 1: Aerial photograph of proposed RU5 and R5 Zones

Source: maps.six.nsw.gov.au

As shown in Figure 2, the area west of Ariah Park is predominantly cleared agricultural land with minimal vegetation cover. Existing dwellings are situated on two separate lots to the south of the area.



Figure 2: Aerial photograph of proposed RU1 Zone

Source: maps.six.nsw.gov.au

1.3 Existing planning controls

The planning proposal applies to land currently zoned RU1 with a minimum lot size of 40 hectares and R5 with a minimum lot size of 2 hectares. Figure 3 shows the current zoning of the land.

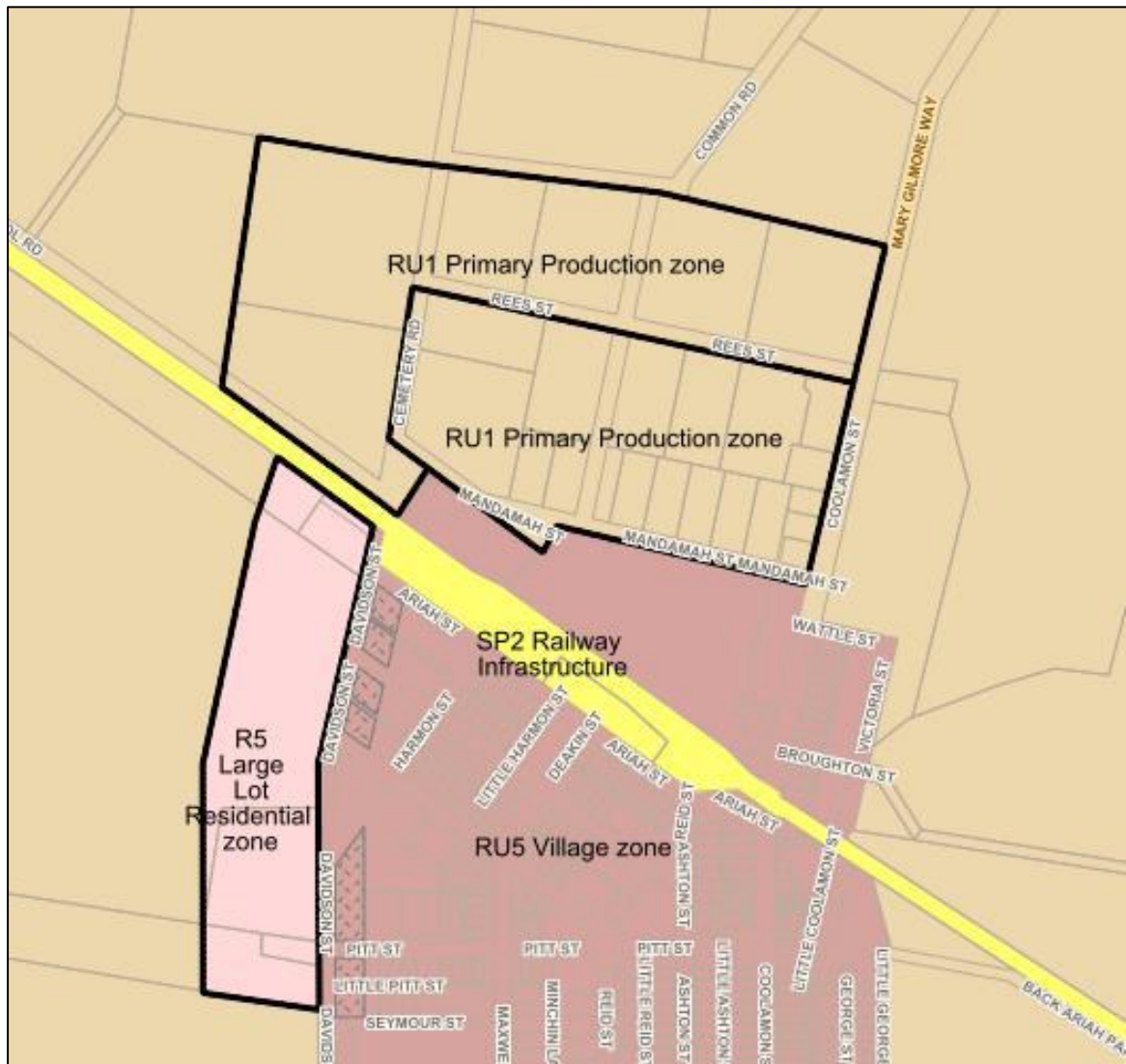


Figure 3: Land Zoning Map

Source: Temora Shire Council

1.4 Surrounding area

As shown in Figure 4, the planning proposal applies to land immediately north and west of the town of Ariah Park. The land proposed to be rezoned RU5 and R5 is separated from the existing village area by the Temora-Roto line railway line.

The area beyond the existing RU5 zone is zoned RU1 and used primarily for agricultural purposes.



Figure 4: Aerial photograph of sites and surrounding area

Source: Temora Shire Council

1.5 Summary of recommendation

It is recommended that the planning proposal proceed subject to the following conditions:

- Consultation is required with the following public authorities:
 - DPIE Biodiversity and Conservation
 - Department of Primary Industries – Agriculture
 - Office of Water
 - Environment Protection Authority
 - Goldenfields Water
- Community consultation is required for a minimum of 28 days; and
- The timeframe for completing the LEP is to be 12 months.

2. PROPOSAL

2.1 Objectives or intended outcomes

The intended outcome of the planning proposal is to rezone land in accordance with its primary use and facilitate additional village and large lot residential development adjacent to Arianh Park.

2.2 Explanation of provisions

The planning proposal seeks to achieve the intended outcome by amending Temora LEP 2010 Land Zoning Map LZN_001A and Lot Size Map LSZ_001A as follows:

- Rezone Lots 134, 135, 136, 137, 138, 139, 141, 142, 143, 144, 145, 181, 182, 183, 184, 185 DP 750852, Lot 1 DP 870224 and Lots 1 and 2 DP 1206023 from RU1 Primary Production to RU5 Village and reduce the minimum lot size from 40 hectares to 2000 square metres.
- Rezone Lots 117, 175, 176, 177, 178, 120 DP 750852 from RU1 Primary Production to R5 Large Lot Residential and reduce the minimum lot size from 40 hectares to 1 hectare; and
- Rezone Part Lot 7, Lots 47, 89, Part Lot 132 DP 750852, Part Lot 1, Lot 2 DP 709245 from R5 Large Lot Residential zone to RU1 Primary Production and increase the minimum lot size from 2 hectares to 40 hectares.

Figures 5 and 6 illustrate the proposed amendments to the Land Zoning and Lot Size Maps.

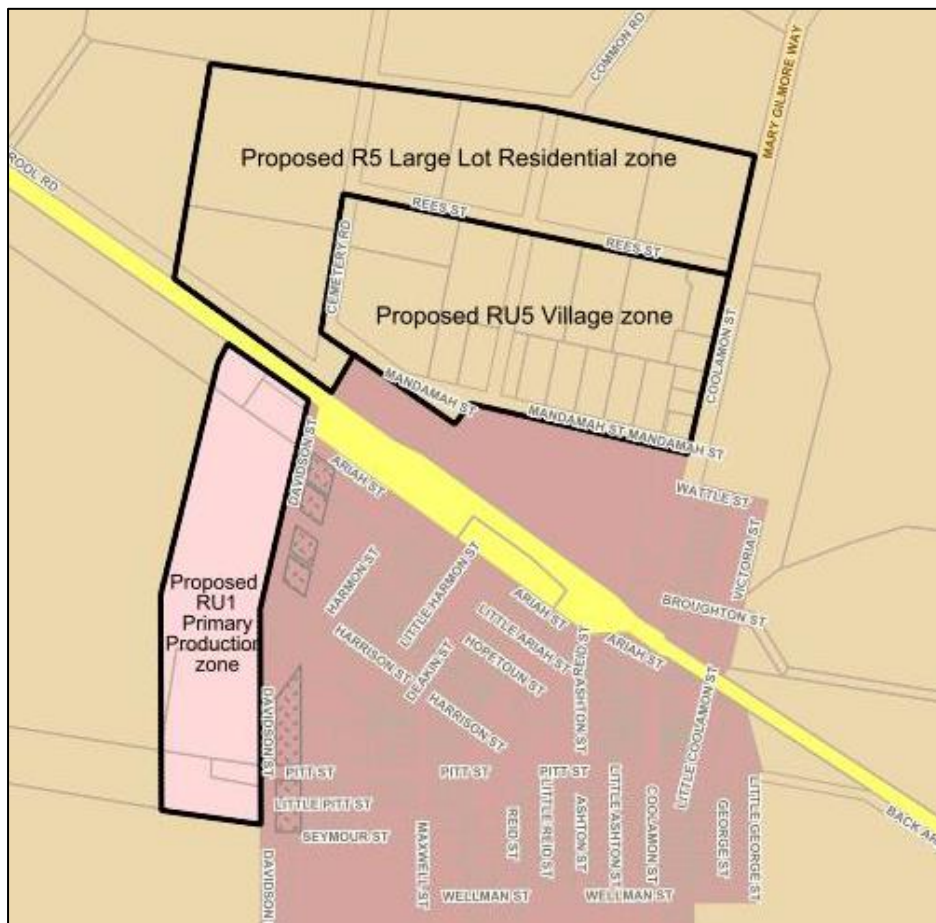


Figure 5: Proposed Land Use Zones

Source: Temora Shire Council

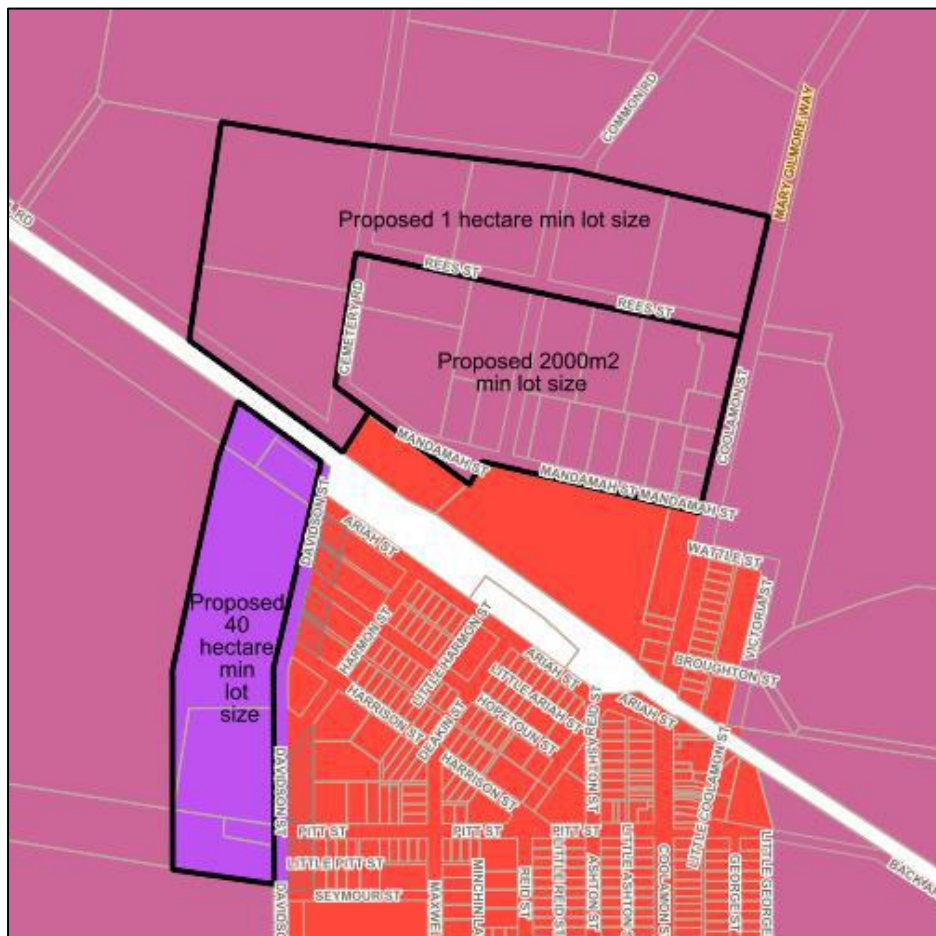


Figure 6: Proposed Lot Sizes

Source: Temora Shire Council

2.3 Mapping

The planning proposal includes maps which illustrate the proposed amendments to the Land Zoning and Lot Size Maps. The maps are considered suitable for community consultation.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal states the current zoning of the areas immediately north and west of Arah Park is inconsistent with the primary use of the land. As noted above, the area proposed to be rezoned RU5 and R5 comprises land used for residential, commercial, industrial and agricultural purposes while the area proposed to be rezoned RU1 is primarily used for agricultural purposes.

In addition to zoning the land to better reflect its primary use, the planning proposal also seeks to facilitate additional residential and village development opportunities. The planning proposal states the proposed amendments to the Land Zoning and Lot Size Maps will facilitate the creation of up to 93 additional lots in the area north of Arah Park.

Given the area proposed to be rezoned RU5 and R5 comprises land used primarily for residential and village type uses with access to essential infrastructure and services, the land is suitably located to facilitate additional subdivision opportunities.

The proposed RU5 Zone and associated 2000 square metre minimum lot size are consistent with the development standards applicable to the existing town, therefore it is unlikely the development outcome will be inconsistent with the existing character and land use pattern of Aria Park. In addition, the proposed R5 Zone and associated 1 hectare minimum lot size is likely to provide a suitable buffer between smaller village lots and the surrounding agricultural land.

The planning proposal highlights the importance of ensuring there is an adequate supply of zoned residential land to support future growth across the LGA. While NSW Government population projections for the Temora LGA indicate the population is expected to remain stable to 2041, the Temora Shire Council Residential Land Use Strategy 2019 estimates the Temora LGA will require an additional 275 – 1027 dwellings by 2035. The proposed LEP amendment would increase the total number of potential residential and village lots at Aria Park to a maximum of 160.

In addition to applying land use zones which better reflect the current use of the land, the planning proposal will facilitate additional residential and village development opportunities on land with access to existing services and infrastructure. In doing so, the proposed LEP amendment will assist the Temora LGA in responding to population growth and change.

The planning proposal is the best means of achieving the intended outcome of zoning the land in accordance with its primary use and enabling additional subdivision opportunities.

4. STRATEGIC ASSESSMENT

4.1 State

There is no applicable state strategic planning framework.

4.2 Regional / District

Land in the Temora LGA is subject to the Riverina Murray Regional Plan 2036. The planning proposal identifies the following Directions as applicable:

- Direction 23: Build resilience in towns and villages
- Direction 25: Build housing capacity to meet demand
- Direction 26: Provide greater housing choice
- Direction 28: Deliver healthy built environments and improved urban design

In addition to the above, Direction 1: Protect the region's diverse and productive agricultural land and Direction 27: Manage rural residential development are also applicable to the planning proposal.

The planning proposal is broadly consistent with the Regional Plan as it seeks to provide additional housing through infill development within an area consisting of established residential uses with access to existing infrastructure and services. The planning proposal also facilitates the ongoing use of land for agricultural purposes through appropriate zoning.

Although the land proposed to be rezoned RU5 and R5 is identified in a local housing strategy as a future investigation area, the strategy is not endorsed by the Department. Given the land consists of established residential uses with access to existing infrastructure and services and is not identified as subject to high environmental, cultural and heritage significance or risks associated with natural hazards, the land is suitably located to facilitate additional subdivision opportunities.

4.3 Local

The planning proposal states that it is consistent with the Temora Shire Local Strategic Planning Statement and the Temora Shire Council Residential Land Use Strategy 2019.

In accordance with the recommendations of the Residential Land Use Strategy, the areas proposed to be rezoned RU5 and R5 are identified as suitable for rezoning subject to further investigation as part of the planning proposal process. The Residential Land Use Strategy also recommends rezoning the area west of Ariaiah Park from R5 to RU1 in conjunction with the rezoning of land to the north.

Planning Priority 6 of Council's LSPS seeks to ensure sufficient land is available to enable a range of housing, business and community needs. Accordingly, action 6.1 of Council's LSPS states "progress the delivery of additional zoned residential land to meet future growth needs, in accordance with the adopted Temora Residential Land Use Strategy 2019 by the end of 2021".

The planning proposal is consistent with the Residential Land Use Strategy and Council's LSPS as it seeks to ensure there is an adequate supply of zoned land to support population growth and change by facilitating additional residential and village development opportunities on land identified as suitable.

4.4 Section 9.1 Ministerial Directions

1.1 Business and Industrial Zones

The planning proposal identifies Direction 1.1 Business and Industrial Zones as applicable. However, the direction is not applicable as the planning proposal does not affect land within an existing or proposed business or industrial zone.

1.2 Rural Zones

The planning proposal identifies Direction 1.2 Rural Zones as applicable. The direction is applicable as the planning proposal affects land within existing and proposed rural zones.

The planning proposal is partially inconsistent with the terms of the direction as it seeks to rezone land from a rural zone to residential and village zones and increase the permissible density of the land.

The planning proposal states the inconsistencies with the terms of the direction are justified by a study prepared in support of the planning proposal which considers the objectives of the direction.

The planning proposal and supporting study demonstrate the area proposed to be rezoned to R5 and RU5 consists of fragmented land comprising a range of established residential and other uses which are compatible with the proposed zoning. A range of agricultural uses will also continue to be permissible on the land in accordance with existing LEP provisions.

The proposed rezoning of land west of Ariah Park which is primarily used for agricultural purposes from R5 to RU1 is consistent with the objective of the direction to protect the agricultural production value of rural land. Rezoning this area to RU1 also offsets the rezoning of any remaining productive agricultural land to the north of Ariah Park.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal's inconsistencies with the terms of the direction are justified by a study prepared in support of the planning proposal.

1.5 Rural Lands

The planning proposal identifies Direction 1.5 Rural Lands as applicable. The direction is applicable as the planning proposal affects land within existing and proposed rural zones.

The planning proposal is consistent with the terms of the direction as it seeks to facilitate a development outcome which reduces potential land use conflict with existing uses and promotes the ongoing use of land primarily used for agricultural purposes through appropriate zoning.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with the terms of the direction.

2.1 Environment Protection Zones

The planning proposal identifies Direction 2.1 Environment Protection Zones as applicable.

The planning proposal is consistent with the terms of the direction as it does not reduce the environmental protection standards applying to the land.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with the terms of the direction.

2.3 Heritage Conservation

The planning proposal identifies Direction 2.3 Heritage Conservation as applicable.

The planning proposal is consistent with the terms of the direction as it does not alter existing provisions that facilitate the conservation of items, areas, objects or places of environmental or indigenous heritage significance.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with the terms of the direction.

2.6 Remediation of Contaminated Land

The planning proposal does not identify Direction 2.6 Remediation of Contaminated Land as applicable as it was prepared prior to the direction being issued. The direction is applicable as the planning proposal applies to land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is known to have been carried out.

The planning proposal is consistent with the terms of the direction as Council has prepared a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines and is satisfied the risk of land contamination on the land is low.

The report prepared in support of the planning proposal states that the land is known to have been used for low intensity agricultural and rural lifestyle purposes, but no land contamination issues are expected or have been identified on the land as a result of previous uses.

3.1 Residential Zones

The planning proposal identifies Direction 3.1 Residential Zones as applicable. The direction is applicable as the planning proposal affects land within existing and proposed residential zones.

The planning proposal is partially consistent with the terms of the direction as it seeks to provide additional housing through infill development within an area comprising established residential uses with access to existing infrastructure and services. In doing so, the planning proposal also reduces the consumption of land for housing on the urban fringe.

The proposed rezoning of land from R5 to RU1 and associated increase in minimum lot size from 2 hectares to 40 hectares is inconsistent with the terms of the direction as it seeks to reduce the permissible residential density of the land.

This inconsistency is of minor significance as the primary use of the land is for agricultural purposes and proposal seeks to rezone other land better suited to residential use.

Recommendation 1: The Secretary's delegate can be satisfied that the proposed rezoning of land from RU1 to R5 and RU5 is consistent with the terms of the direction.

Recommendation 2: The Secretary's delegate can be satisfied that the proposed rezoning of land from R5 to RU1 is inconsistent but of minor significance.

3.3 Home Occupations

The planning proposal identifies Direction 3.3 Home Occupations as applicable.

The planning proposal is consistent with the terms of the direction as it does not alter existing provisions which permit home occupations without consent on land zoned R5, RU5 and RU1.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with the terms of the direction.

3.4 Integrating Land Use and Transport

The planning proposal identifies Direction 3.4 Integrating Land Use and Transport as applicable. The direction is applicable as the planning proposal affects land within existing and proposed residential and village zones.

The planning proposal is consistent with the terms of the direction as it seeks facilitate additional residential development within an area comprising established residential uses with access to existing infrastructure and services, consistent with aims, objectives and principles of *Improving Transport Choice – Guidelines for planning and development (DUAP 2001)*, and *The Right Place for Business and Services – Planning Policy (DUAP 2001)*.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with the terms of the direction.

5.10 Implementation of Regional Plans

The planning proposal identifies Direction 5.10 Implementation of Regional Plans as applicable. The direction is applicable as the planning proposal affects land subject to the Riverina Murray Regional Plan 2036.

The planning proposal is consistent with the terms of this direction as it is generally consistent with the overall intent of the Riverina Murray Regional Plan 2036. A full assessment of the planning proposal's consistency with the Regional Plan is provided in section 4.2 of this report.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with this Direction.

4.5 State environmental planning policies (SEPPs)

The planning proposal identifies the following SEPPs as applicable:

- SEPP No 36 – Manufactured Home Estates
- SEPP No 55 – Remediation of Land
- SEPP (Affordable Rental Housing) 2009
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Housing for Seniors and People with a Disability) 2004
- SEPP (Infrastructure) 2007
- SEPP (Primary Production and Rural Development) 2019
- SEPP (State and Regional Development) 2011
- SEPP (Vegetation in Non-Rural Areas) 2017

The abovementioned SEPPs are not relevant to determining the strategic merit of the planning proposal and will be considered as part of any future development applications on the land.

The section of SEPP No 55 applicable to planning proposals has been repealed and is now required to be considered by planning authorities under Section 9.1 Ministerial Direction 2.6 Remediation of Contaminated Land. An assessment of the planning proposal's consistency with the direction is provided in section 4.4 of this report.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal states that opportunities for additional and varied residential and village development facilitated by the proposed LEP amendment will have positive social impacts.

Given the planning proposal seeks to rezone land adjoining, and in some cases comprising, agricultural uses there is potential for land use conflict with future residential development. However, as the land proposed to be rezoned to RU5 and R5 comprises established residential uses the impact of additional development on existing agricultural uses is likely to be minor.

5.2 Environmental

The planning proposal does not identify the land as subject to significant environmental values or prone to risks associated with natural hazards.

The planning proposal notes that Ariaiah Park is not serviced by reticulated sewer infrastructure and therefore, new development facilitated by the proposed LEP amendment will be required to manage effluent disposal onsite. While this approach to managing effluent disposal is consistent with the existing village area of Ariaiah Park, it is recommended that the Gateway determination require consultation with NSW Office of Water to enable further consideration of the cumulative impacts of additional onsite effluent disposal in the area.

5.3 Economic

The planning proposal states that opportunities for additional and varied residential and village development facilitated by the proposed LEP amendment will have positive economic impacts.

The planning proposal also states the land proposed to be rezoned R5 and RU5 has access to existing infrastructure and services including reticulated water. It is recommended that the Gateway determination require consultation with Goldenfields Water to enable further consideration of the cumulative impacts of additional development in Ariaiah Park on the existing water supply network.

6. CONSULTATION

6.1 Community

Council has stated that the planning proposal will be made publicly available for a minimum of 28 days. Accordingly, it is recommended that the Gateway determination require that the planning proposal be made available for community consultation for a minimum of 28 days.

6.2 Agencies

Council has proposed the planning proposal be made available to the following state agencies for comment:

- DPIE Biodiversity and Conservation;
- Department of Primary Industries – Agriculture;
- Environment Protection Authority; and
- Office of Water.

Although the land proposed to be rezoned is not identified as subject to significant environmental values, consultation with DPIE Biodiversity and Conservation is supported as a means of ensuring any potential ecological, cultural or heritage impacts are appropriately considered.

In addition to consultation with the Department of Primary Industries - Agriculture, consultation with the Environment Protection Authority is also supported as a means of ensuring the impact of the planning proposal on adjoining agricultural uses is appropriately considered.

As noted above, it is also recommended that the Gateway determination require consultation with Goldenfields Water to enable further consideration of the

cumulative impacts of additional development in Aria Park on the existing water supply network.

7. TIME FRAME

Council has indicated the LEP can be completed within 6 months of the date a Gateway determination is issued. It is recommended that the timeframe for completing the LEP be 12 months to account for any unforeseen delays in the plan making process.

8. LOCAL PLAN-MAKING AUTHORITY

Due to the localised nature of planning proposal and as the proposal is consistent with Council's local strategy, it is recommended that Council be authorised as the local plan making authority to exercise the functions under section 3.36 of the Environmental Planning and Assessment Act 1979.

9. CONCLUSION

It is recommended that the planning proposal proceed subject to conditions. The planning proposal has merit as it seeks to zone land in accordance with its primary use, and to ensure there is an adequate supply of zoned land to support population growth and change by facilitating additional residential and village development opportunities on land with access to existing services and infrastructure.

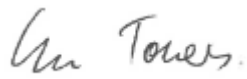
10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.2 Rural Zones and 3.1 Residential Zones are minor or justified.

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - DPIE Biodiversity and Conservation;
 - Department of Primary Industries – Agriculture;
 - Environment Protection Authority;
 - Office of Water; and
 - Goldenfields Water.
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.



15/05/2020

Graham Towers
Team Leader, Southern Region



15/05/2020

Sarah Lees
Director, Southern Region
Local and Regional Planning

Assessment officer: Will Mayes
Planning Officer, Southern Region
Phone: 8275 1050