

Planning Services

Gateway Determination Report

LGA	Temora
PPA	Temora Shire Council
NAME	Amend Schedule 1 of the Temora Local Environmental Plan 2010 by adding recreation facility (outdoor) as an additional permitted use on part of Lot 941 DP 130014.
NUMBER	PP_2018_TEMOR_001_00
LEP TO BE AMENDED	Temora Local Environmental Plan 2010
ADDRESS	Schlunkes Road, Trungley Hall
DESCRIPTION	Lot 941 DP 130014
RECEIVED	11 January 2018 (Additional information received 20 April 2018)
FILE NO.	EF18/585
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.

INTRODUCTION

Description of planning proposal

The planning proposal seeks to amend the Temora Local Environmental Plan 2010 (TLEP 2010) by adding an additional permitted use to Schedule 1 for a recreation facility (outdoor) on part of Lot 941 DP 130014. The planning proposal will facilitate the lodgement of a development application to establish a shooting range and ancillary facilities on the site.

Site description

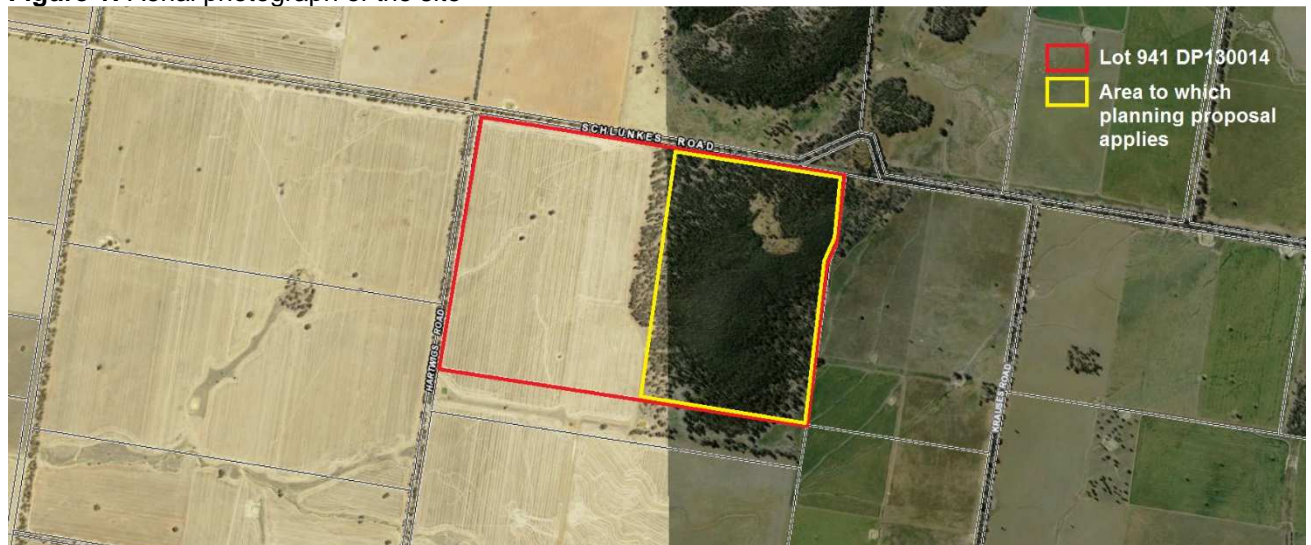
Lot 941 DP 130014 has an area of 174 hectares.

The eastern portion of the site is the area to which the planning proposal applies and is proposed to be subdivided to form a separate lot as part of a development application to establish a sporting shooters facility on the site. The area of this portion of the site is 79.4 hectares and is identified in **Figure 1**.

The western portion of the site is used for cropping purposes while the eastern portion of the site is undulating and heavily vegetated land. The site has direct frontage to Schlunkes Road along the full extent of its northern boundary.

As the landscape features suggest, the eastern portion of site is identified as bushfire prone and identified on TLEP 2010 Natural Resource Sensitivity Biodiversity and Land Maps.

Figure 1: Aerial photograph of the site



Source: maps.six.nsw.gov.au

Existing planning controls

The site is zoned RU1 Primary Production under the provisions of the TLEP 2010. Recreation facility (outdoor) is currently prohibited on land in this zone.

Surrounding area

The site is situated 25km north of Temora and is surrounded by broadacre agricultural land with varying vegetation cover. The surrounding area is zoned RU1 Primary Production under the provisions of the TLEP 2010. A noise assessment

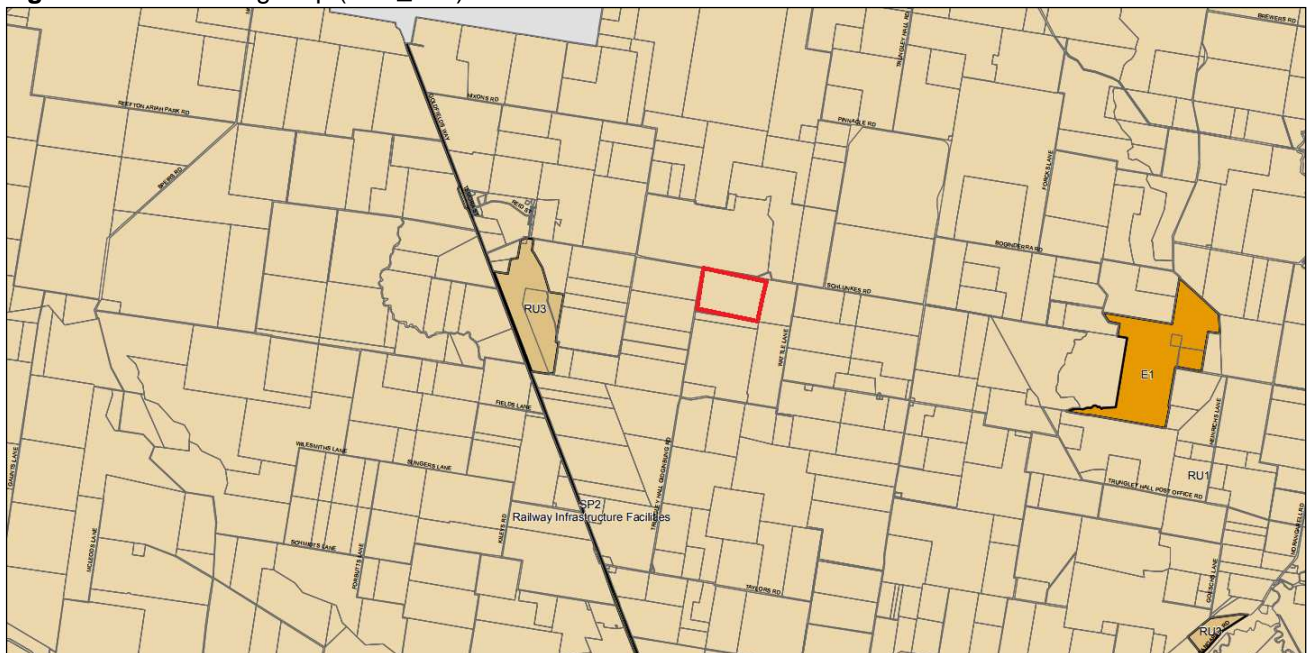
submitted in support of the planning proposal states the nearest dwelling is approximately 2.4km from where shooting areas are proposed to be situated. The area surrounding the site to which the planning proposal applies is shown in the aerial photograph (**Figure 2**) and zoning map (**Figure 3**) below.

Figure 2: Aerial photograph of the surrounding area



Source: maps.six.nsw.gov.au

Figure 3: Land Zoning Map (LZN_003)



Source: legislation.nsw.gov.au

Summary of recommendation

It is recommended that the Planning Proposal proceed subject to the following conditions:

- The planning proposal shall be amended prior to community and agency consultation to include legible maps of the site.
- The planning proposal shall be amended prior to community consultation to include existing additional permitted uses listed in the Temora LEP 2010 to the proposed Additional Permitted Uses map set.
- Consultation with the following public authorities:
 - NSW Rural Fire Service;
 - Office of Environment and Heritage;
 - NSW Environment Protection Authority;
 - NSW Roads and Maritime Services; and
 - NSW Primary Industries (Agriculture).
- Community consultation is required for a minimum of 28 days;
- The timeframe for completing the LEP is to be 12 months.

PROPOSAL

Objectives or intended outcomes

The objective of the planning proposal is to amend the TLEP 2010 by adding an additional permitted use to Schedule 1 for a recreation facility (outdoor) on part of Lot 941 DP 130014. It is intended that the planning proposal will facilitate the lodgement of a development application to establish a shooting range and ancillary facilities on the site.

The intended outcome of the planning proposal is clearly stated and does not need to be revised prior to community consultation.

Explanation of provisions

The planning proposal seeks to amend the TLEP 2010 as follows:

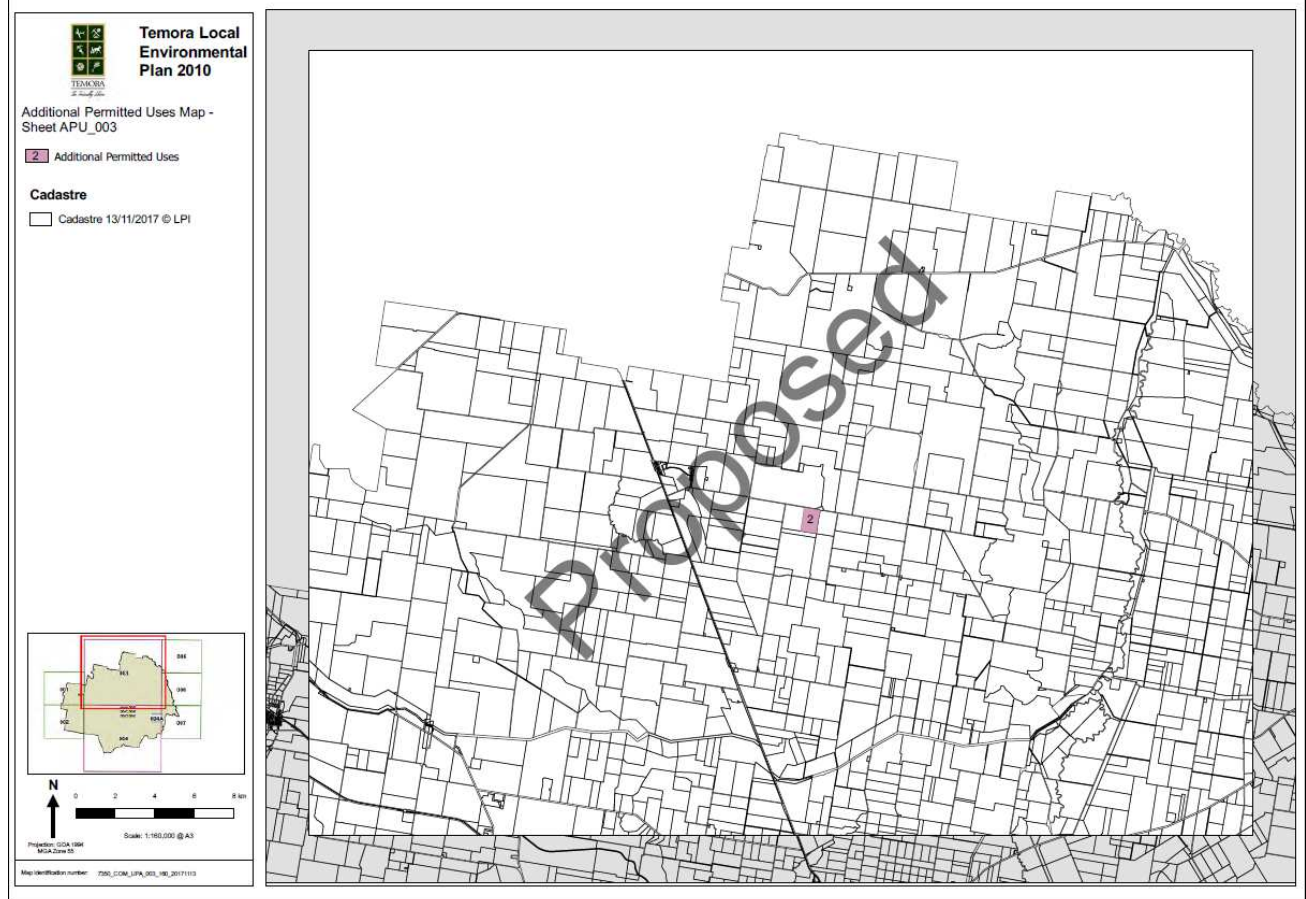
- Amend Schedule 1 to permit a recreation facility (outdoor) on part of Lot 941 DP 130014; and
- Introduce an Additional Permitted Uses Map to identify part of Lot 941 DP 130014.

While the proposed introduction of an Additional Permitted Uses Map into the TLEP 2010 is supported as part of this planning proposal, it should be noted that the introduction of this map will trigger a separate amendment to the TLEP 2010. This issue is discussed below in the 'need for the planning proposal' section.

Mapping

The planning proposal states an Additional Permitted Uses map will be introduced into the TLEP 2010. A draft Additional Permitted Uses map has been included in the planning proposal and is provided below (**Figure 4**).

Figure 4: Draft Additional Permitted Uses map



Source: Geolyse, planning proposal, November 2017

The introduction of this map is in accordance with the Department's standard technical requirements for LEP mapping and is supported.

NEED FOR THE PLANNING PROPOSAL

The planning proposal states:

"A planning proposal is required as an amendment to Schedule 1 of the LEP is proposed including the inclusion of an Additional Permitted Uses Local Environmental Plan map.

This is an administrative change proposed to enable the development of a sporting shooters facility at proposed Lot 2 located at the subject site. The site is located within the RU1 zone and recreation facilities(outdoor) are currently prohibited. A sporting shooters facility is considered to satisfy the definition of a recreation facility (outdoor)."

Amendment to Schedule 1

The planning proposal to amend Schedule 1 of the TLEP 2010 is required as recreation facility (outdoor) is a prohibited land use in the RU1 Primary Production Zone under the TLEP 2010.

Council proposes to prepare a planning proposal to amend various components of the TLEP 2010 following a comprehensive LEP review to be undertaken over the next 12 months. Council has stated that it intends to remove recreation facility (outdoor) from the list of prohibited use in the RU1 Primary Production Zone as part of a future planning proposal to amend the TLEP 2010.

The proponent (NSW Sporting Shooters Association) wishes to proceed with a planning proposal to facilitate the consideration of a development application for a shooting range on site in advance of Council's comprehensive LEP review. Council has resolved to support this position and submit the planning proposal to the Department with a request for a Gateway Determination.

Given the planning proposal aligns with Council's proposed strategic planning program, it is considered the best means of achieving the intended outcome of including recreation facility (outdoor) as a permissible use on the site. Alternative means of achieving the intended outcome of the planning proposal such as rezoning the site would lead to a zoning which would be incompatible with surrounding land uses.

Introduction of Additional Permitted Uses Map

Complimentary to the proposed amendment to Schedule 1 of the TLEP 2010 is the proposed introduction of an Additional Permitted Uses Map.

The planning proposal relates to part of Lot 941 DP 130014 which is proposed to be subdivided to form a separate lot as part of a development application to establish a sporting shooters facility on the site. The Additional Permitted Uses Map is required to identify the part of Lot 941 DP 130014 to which the proposed additional permitted use will apply. This will avoid confusion which may arise should Lot 941 DP 130014 be subdivided to create two lots with separate titles as intended.

Given Schedule 1 of the TLEP 2010 presently contains one additional permitted use which is not identified on an Additional Permitted Uses Map, an additional LEP amendment would be required to add the sites to which the existing additional permitted use applies to the new map set.

It is recommended that a condition be included in the Gateway Determination requiring the planning proposal to be amended prior to community consultation to include the existing additional permitted uses listed in Schedule 1 of the Temora LEP 2010 to the proposed Additional Permitted Uses map.

STRATEGIC ASSESSMENT

State

There is no applicable state strategic planning framework to which the planning proposal applies.

Regional / District

The planning proposal identifies the following directions of the Riverina-Murray Regional Plan 2036 as applicable:

- Direction 1: Protect the region's diverse and productive agricultural land
- Direction 2: Promote and grow the agribusiness sector
- Direction 7: Promote tourism opportunities
- Direction 15: Protect and manage the region's many environmental assets
- Direction 16: Increase resilience to natural hazards and climate change
- Direction 22: Promote the growth of regional cities and local centres
- Direction 23: Build resilience in towns and villages
- Direction 29: Protect the region's Aboriginal and historic heritage

It is considered that the planning proposal is consistent with Direction 7 and the overall intent of the Riverina Murray Regional Plan 2036. The remaining Directions listed above are not considered to be applicable in determining the planning proposals strategic merit.

In seeking to facilitate the establishment of sporting shooters facility the planning proposal is seeking to create a tourism opportunity for the town of Temora.

Local

The planning proposal is not the result of a local strategy.

Section 9.1 Ministerial Directions

1.2 Rural Zones

Direction 1.2 Rural Zones applies as the planning proposal relates to land zoned RU1 Primary Production. The planning proposal states it is compliant with the direction.

The planning proposal does not contravene the requirements of this direction as no rezoning or amendments to lot sizes are proposed.

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

1.5 Rural Lands

Direction 1.5 Rural Lands applies as the planning proposal relates to land zoned rural in the Temora LGA. The planning proposal states it is compliant with the direction.

The planning proposal does not contravene the requirements of this direction as it is generally consistent with the Rural Planning Principles listed in *State Environmental Planning Policy (Rural Lands) 2008* and no change to minimum lot sizes applying to

the affected lands is proposed. The planning proposal seeks to amend the TLEP 2010 to permit the use of heavily vegetated land as a shooting range which preserves the remaining broadacre agricultural land on the site to be used for primary production.

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

3.2 Caravan Parks and Manufactured Home Estates

The planning proposal addresses compliance with the requirements of the Direction 3.2 Caravan Parks and Manufactured Home Estates.

This Direction does not apply as the planning proposal does not facilitate the development of a caravan park or manufactured home estate on the site.

3.6 Shooting Ranges

The planning proposal addresses compliance with the requirements of the Direction 3.6 Shooting Ranges.

This Direction does not apply as the planning proposal does not affect land adjacent to and/or adjoining an existing shooting range.

4.4 Planning for Bushfire Protection

Direction 4.4 Planning for Bushfire Protection applies as the planning proposal relates to land identified as bushfire prone. The planning proposal states it is compliant with the direction.

Having regard to the requirements of the NSW RFS document *Planning for Bushfire Protection 2006*, the planning proposal identifies a series of design measures proposed to be incorporated in a Development Application for a shooting range on the site. The planning proposal is generally consistent with the requirements of this Direction as it addresses how the bushfire hazard mitigation measures required under the Direction will be incorporated in the design of a proposed shooting range.

Recommendation: The Secretary can be satisfied that the requirements of the Direction have been met. A condition should be included in the Gateway determination that consultation should be undertaken with NSW RFS in accordance with the Direction.

5.10 Implementation of Regional Plans

Direction 5.10 Implementation of Regional Plans applies as land within the Temora LGA is subject to the Riverina Murray Regional Plan 2036. The planning proposal states it is compliant with the direction.

The planning proposal does not contravene the requirements of this direction as it is generally consistent with the Riverina Murray Regional Plan 2036. A full assessment of the planning proposal's consistency with the Regional Plan is in the above *Strategic Assessment* section.

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

6.3 Site Specific Provisions

The planning proposal does not identify Direction 6.3 Site Specific Provisions as applicable. However, this Direction does apply to the planning proposal as it will facilitate a particular development to be carried out.

The proposal is considered to be consistent with this Direction as despite seeking to amend Schedule 1 of the TLEP 2010 to add a site specific additional permitted use, it does not impose any development standards or requirements in addition to those already contained in the TLEP 2010.

The planning proposal does not contain or refer to drawings that show details of the development proposal, however, it refers to supporting documentation which does include this information.

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

State environmental planning policies

The planning proposal identifies the following State Environmental Planning Policies (SEPPs) as applicable:

- SEPP No 21 – Caravan Parks
- SEPP No 44 – Koala Habitat Protection
- SEPP No 55 – Remediation of Land
- SEPP (Rural Lands) 2008
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007

It is considered that SEPP (Rural Lands) 2008 is applicable to the site to which the planning proposal applies. The remaining SEPPs listed above are not considered to be applicable in determining the planning proposals strategic merit as they do not strictly apply to the site.

The planning proposal is generally consistent with the Rural Planning Principles listed under Part 2 of SEPP (Rural Lands) 2008. The planning proposal seeks to amend the TLEP 2010 to permit the use of heavily vegetated land as a shooting range which preserves the remaining broadacre agricultural land on the site to be used for primary production

SITE-SPECIFIC ASSESSMENT

Social and Economic

The planning proposal states that it will have positive social and economic impacts by "...providing a viable land use that is both an enhancer for local users and an attractor of tourists to the region."

The proposed use of the site is unlikely to result in land use conflict given the surrounding area is comprised predominantly of broadacre agricultural land and the nearest residential dwelling is approximately 2.4km from the proposed shooting areas. Nonetheless, Council's proposal to consult the NSW Environment Protection Authority is supported and will be included as a condition of the Gateway Determination to address issues such as potential noise impacts.

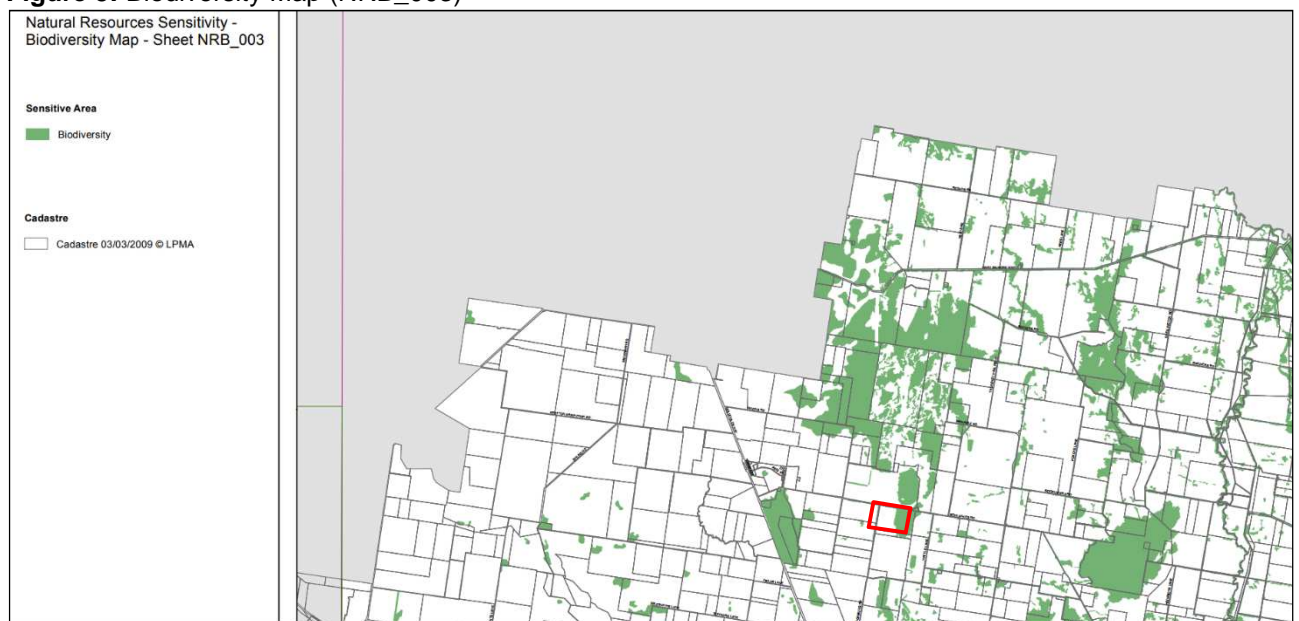
The tourism opportunity the proposed use of the site presents for the town of Temora is considered a positive economic outcome of the planning proposal.

Environmental

The planning proposal has been submitted with documentation proposed to be submitted in support of a development application for the proposed shooting range. The planning proposal draws on the information contained in these studies to address impacts associated with the proposed shooting range.

The planning proposal states that the site contains an area of Inland Grey Box Woodland – an Endangered Ecological Community under the Biodiversity Conservation Act 2016 – in the north western corner of the site. The entire eastern portion of the site is identified on the TLEP 2010 Natural Resource Sensitivity Biodiversity Map (**Figure 5**). However, the site is not identified on the NSW Biodiversity Value Map which identifies land with high biodiversity value, as defined by the *Biodiversity Conservation Regulation 2017*.

Figure 5: Biodiversity Map (NRB_003)



Source: legislation.nsw.gov.au

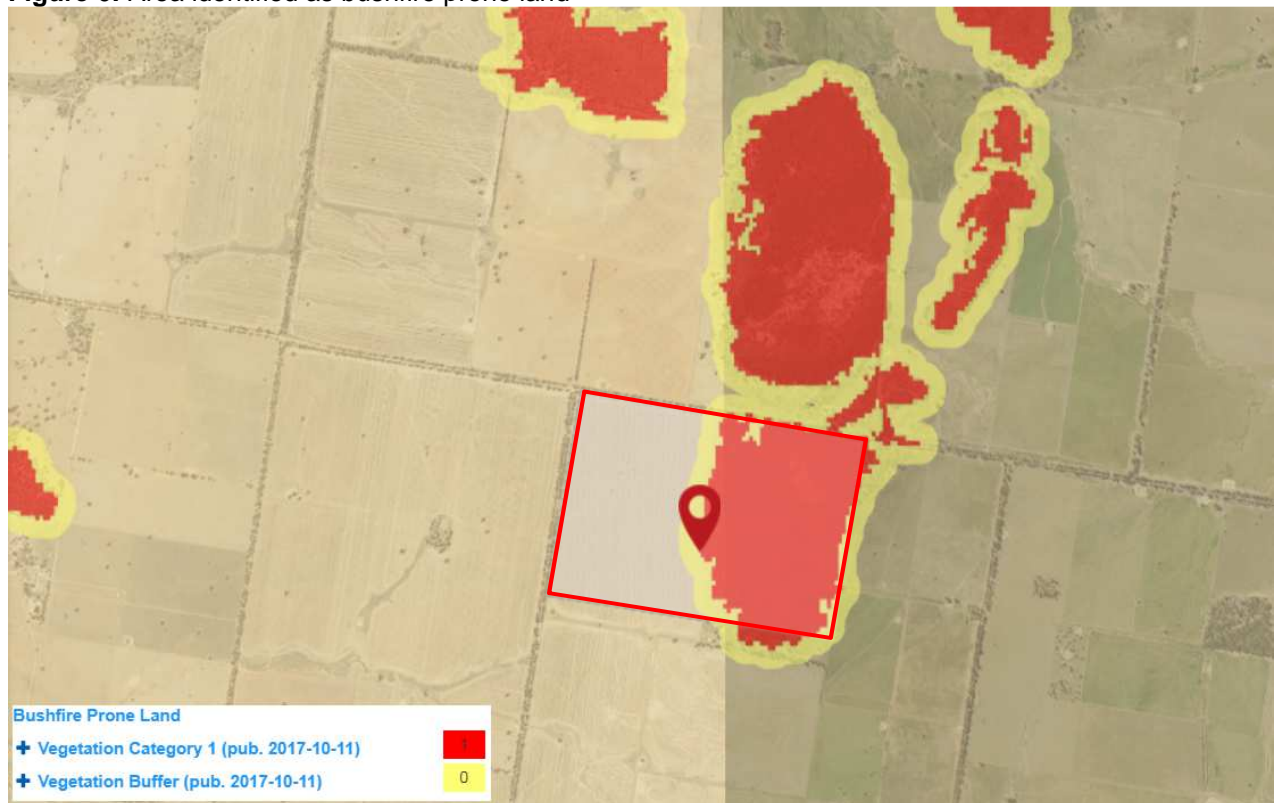
In addition, the site has been identified as potential habitat for 16 threatened fauna species.

It should be noted that the ecological assessment submitted with the planning proposal includes details of the development footprint of the proposed shooting range and states that 12.34 hectares of vegetation will be impacted. The area of

Inland Grey Box Woodland identified in the assessment has been excluded from the proposed development footprint. The planning proposal and supporting ecological assessment state the proposed shooting range would be designed to minimise potential ecological impacts.

The eastern portion of the site is also identified as bushfire prone (**Figure 6**). Having regard to the requirements of the NSW RFS document *Planning for Bushfire Protection 2006*, the planning proposal identifies a series of design measures proposed to be incorporated in a development application for a shooting range on the site.

Figure 6: Area identified as bushfire prone land



Source: planningportal.nsw.gov.au

The abovementioned constraints should not prevent the planning proposal from proceeding as the proposed amendment to permit recreation facilities (outdoor) on the site is not incompatible with the location and surrounding land uses.

It is however recommended that consultation with relevant public authorities be undertaken to determine the full extent of any potential environmental impacts associated with the use of the site for recreation facilities (outdoor).

It is considered that any environmental impacts associated with the design of the proposed shooting range are matters which should be addressed through the development assessment process and should not be a factor in determining whether to issue a Gateway Determination.

CONSULTATION

Community

The planning proposal suggests public exhibition should be undertaken over a period of 14 days. However, at its 21 December meeting Council resolved to support a consultation period of no less than 28 days, during which all land owners within 5 kilometres of the site will be notified in writing.

Given the nature of the planning proposal a public consultation period of 28 days is considered appropriate. The Gateway Determination will specify that consultation is to be carried out in accordance with the Department's *A guide to preparing local environmental plans*.

Agencies

Council has proposed consultation with the following public authorities:

- NSW Rural Fire Service;
- NSW Office of Environment and Heritage;
- NSW Environment Protection Authority
- NSW Roads and Maritime Services; and
- NSW Primary Industries (Agriculture).

Consultation with the above public authorities is considered appropriate given the attributes of the site to which the planning proposal applies and proposed use of the site. Any comments received by the above public authorities should be made available during the community consultation period.

TIME FRAME

Council has proposed a 9 month project timeline to complete the proposed amendment to the TLEP 2010.

Although the planning proposal could be completed within this timeframe, a period of 12 months is considered appropriate to account for any unexpected delays.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan making authority under section 3.36 of the Environmental Planning and Assessment Act 1979.

Due to the localised nature of planning proposal, Council's request is considered appropriate.

CONCLUSION

The planning proposal is supported to proceed subject to conditions requiring consultation and minor amendments to satisfy the requirements of the Departments *A guide to preparing planning proposals*.

RECOMMENDATION

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

1. The planning proposal shall be amended prior to community and agency consultation to include legible maps of the site.
2. The planning proposal shall be amended prior to community consultation to include existing additional permitted uses listed in the Temora LEP 2010 to the proposed Additional Permitted Uses map.
3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning 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 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
4. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant Section 117 Directions:
 - NSW Rural Fire Service;
 - NSW Office of Environment and Heritage;
 - NSW Environment Protection Authority;
 - NSW Roads and Maritime Services; and
 - NSW Department of Primary Industries (Agriculture).

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.

5. A public hearing is not required to be held into the matter by any person or body under section 56(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).

6. The timeframe for completing the LEP is to be **12 months** following the date of the Gateway determination.



15/05/2018

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17 May 2018

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