

Planning and Assessment

IRF19/7851

Gateway determination report

LGA	Murray River Council
PPA	Murray River Council
NAME	Proposed rezoning and amendment to lot sizes in lands located within Tooleybuc
NUMBER	PP_2020_MRIVE_001_00
LEP TO BE AMENDED	Wakool LEP 2013
ADDRESS	Various lots along Cadell St and Wood St
DESCRIPTION	Lot 62 DP 756584, Lots 1 to 7 DP 835945
RECEIVED	Planning proposal received on 17 December 2019, amended report received on 26 February 2020 and 3 April 2020
FILE NO.	IRF19/7851
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST 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 intends to implement recommendations made in the Tooleybuc masterplan, prepared in conjunction with Council and DPIE. As such the planning proposal seeks to amend the Wakool Local Environmental Plan 2013 to-

- rezone part of Lot 62 DP 756584 from SP2 Infrastructure to RU5 Village;
- rezone Lot 1-7 DP 835945 from RU1 Primary Production to RU5 Village and
- amend minimum lot size from 500ha to no minimum lot size for Lot 1-7 DP 835945;

1.2 Site description

The subject lands are spread across separate areas located within Tooleybuc. The following lots form the subject sites (as shown in Figure 1 below);

- Area 1 - Lot 1-7 DP 835945

Area 1 is made up of seven lots. Lots 1-5 are all residential in nature containing single dwellings on lots ranging from 4000-5000m². Lots 6 and 7 are vacant land, which are used for agricultural purposes. There is scattered vegetation across the area being a mixture of native vegetation and private landscaping.

- Area 2 - Lot 62 DP 756584

Lot 62 DP 756584 currently zoned SP2 Infrastructure, contains Councils water supply infrastructure. The site is largely cleared of vegetation and constraints.



Figure 1: Aerial image of subject sites.

1.3 Existing planning controls

The sites are currently zoned as SP2 Infrastructure and RU1 Primary Production (as shown in figure 2 below) under Wakool LEP 2013 Zoning Map LZN_001A.

With Lot 62 DP 756584 currently zoned SP2 Infrastructure and Lots 1-7 DP 835945 zoned RU1 Primary Production.

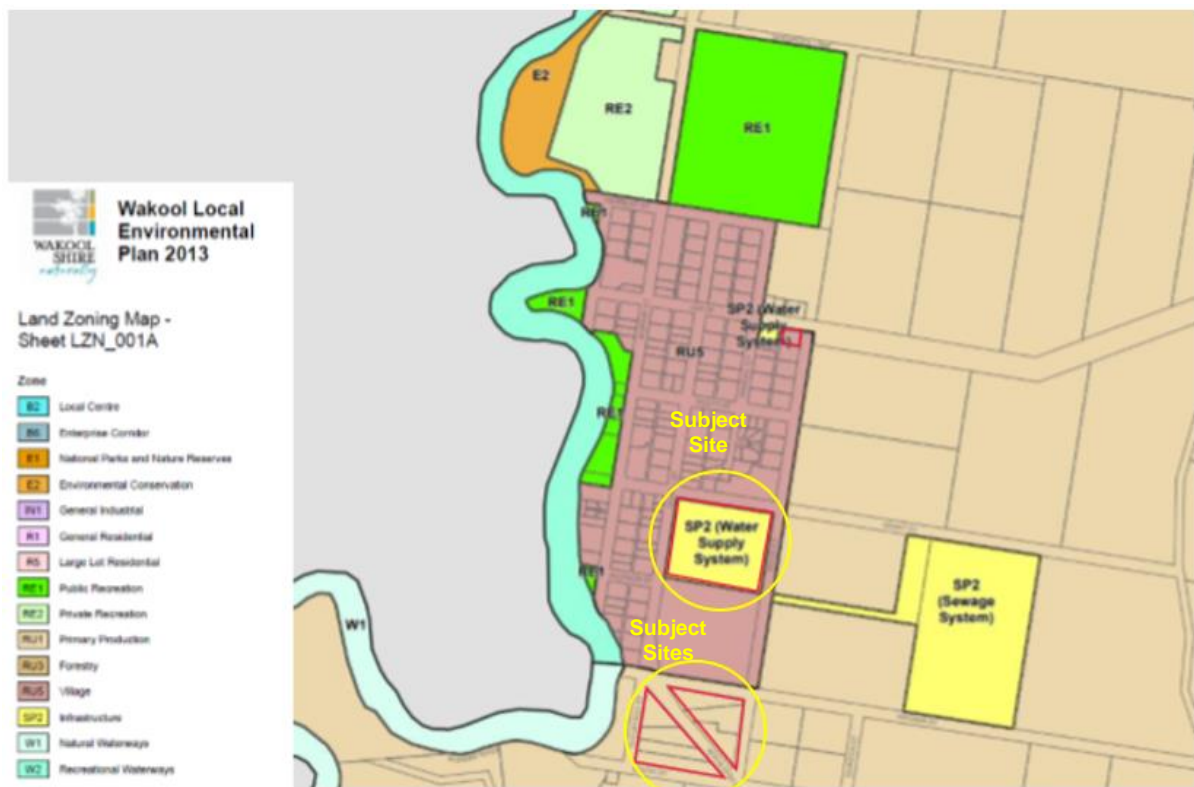


Figure 2: Existing zoning map

Lots 1-7 DP 835945, also have a minimum lot size of 500ha as demonstrated in Figure 3 below.

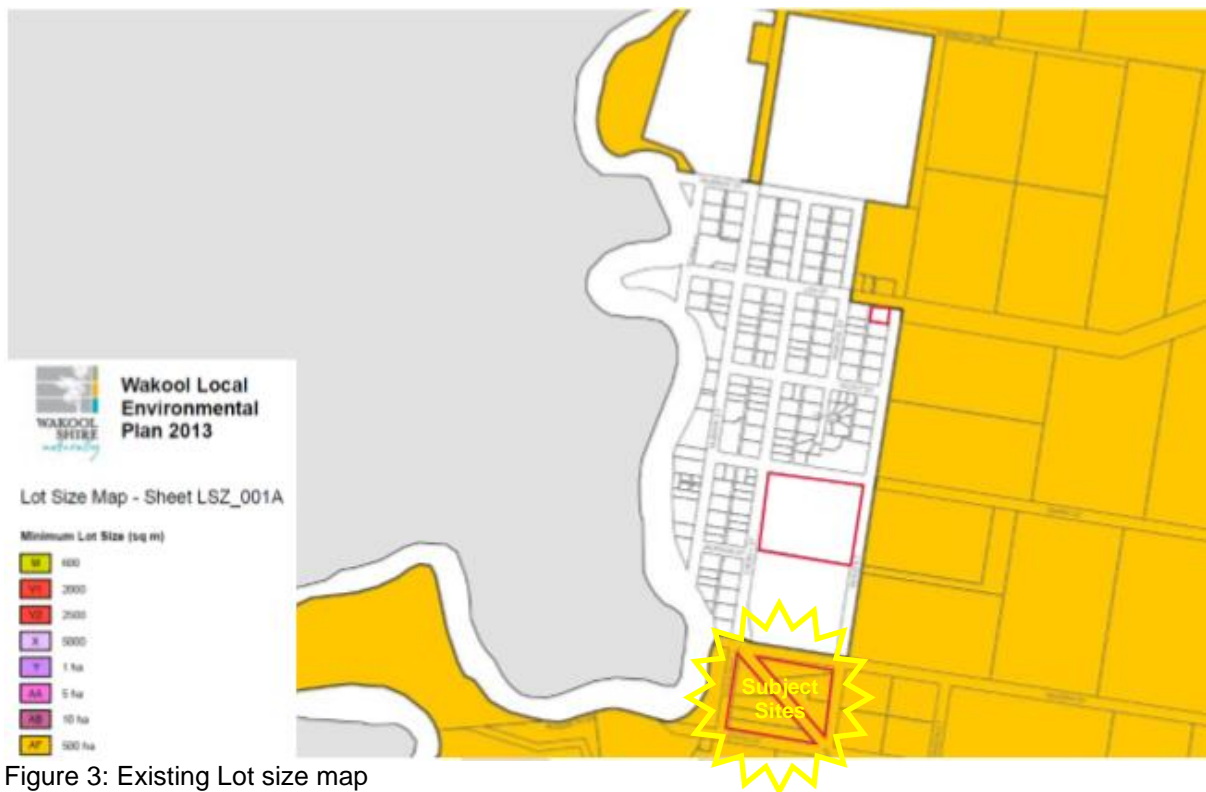


Figure 3: Existing Lot size map

1.4 Surrounding area

The site is on southern edge of Tooleybuc, immediately adjoining the sites are various uses, such as residential, commercial and agricultural uses. However, the predominant use to the east and south of the sites is agriculture. To the west is the Murray River and environmentally sensitive lands.



Figure 4: Surrounding area aerial photograph

1.5 Summary of recommendation

The planning proposal is recommended to be given a conditional gateway determination as the proposed amendments will allow for additional available lands for residential accommodation and other permitted uses for the zone.

2. PROPOSAL

2.1 Objectives

The planning proposal provides the following objectives;

- Facilitate the development of residential accommodation for seasonal and itinerant workers working in the growing horticultural industry in Tooleybuc; and
- Provide Housing options to meet the needs of current and future resident of Tooleybuc.

The objectives in the planning proposal have been clearly articulated.

2.2 Explanation of provisions

The proposal intends to achieve the objective of the planning proposal by-

- Amending Land Zoning Map - LZN_001A under the Wakool LEP 2013; and
- Amending Lot Size Map - LSZ_001A under the Wakool LEP 2013.

2.3 Mapping

As outlined above the planning proposal will amend;

- Land Zoning Map LZN_001A under Wakool LEP 2013, as shown in Figure 5 below; and

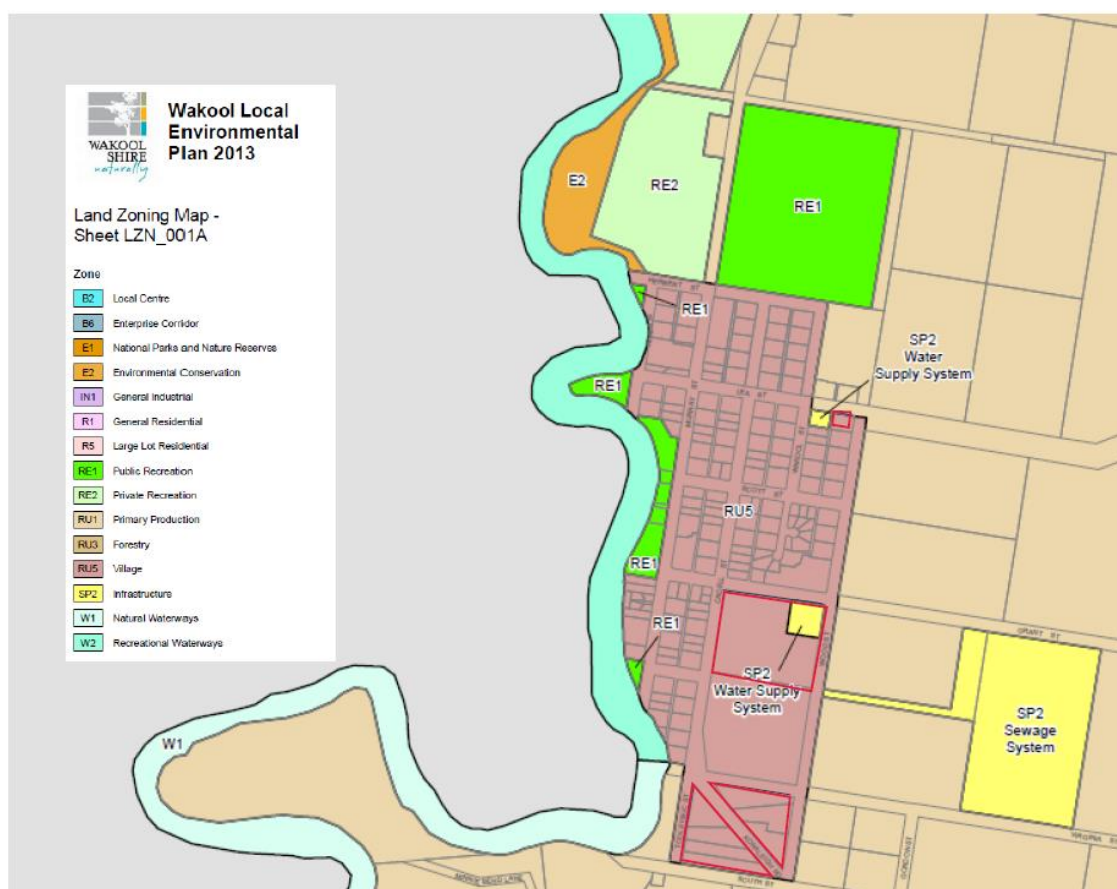


Figure 5: Proposed Land Zoning Map

- Lot Size Map - LSZ_001A under the Wakool LEP 2013, as shown in Figure 6 below.

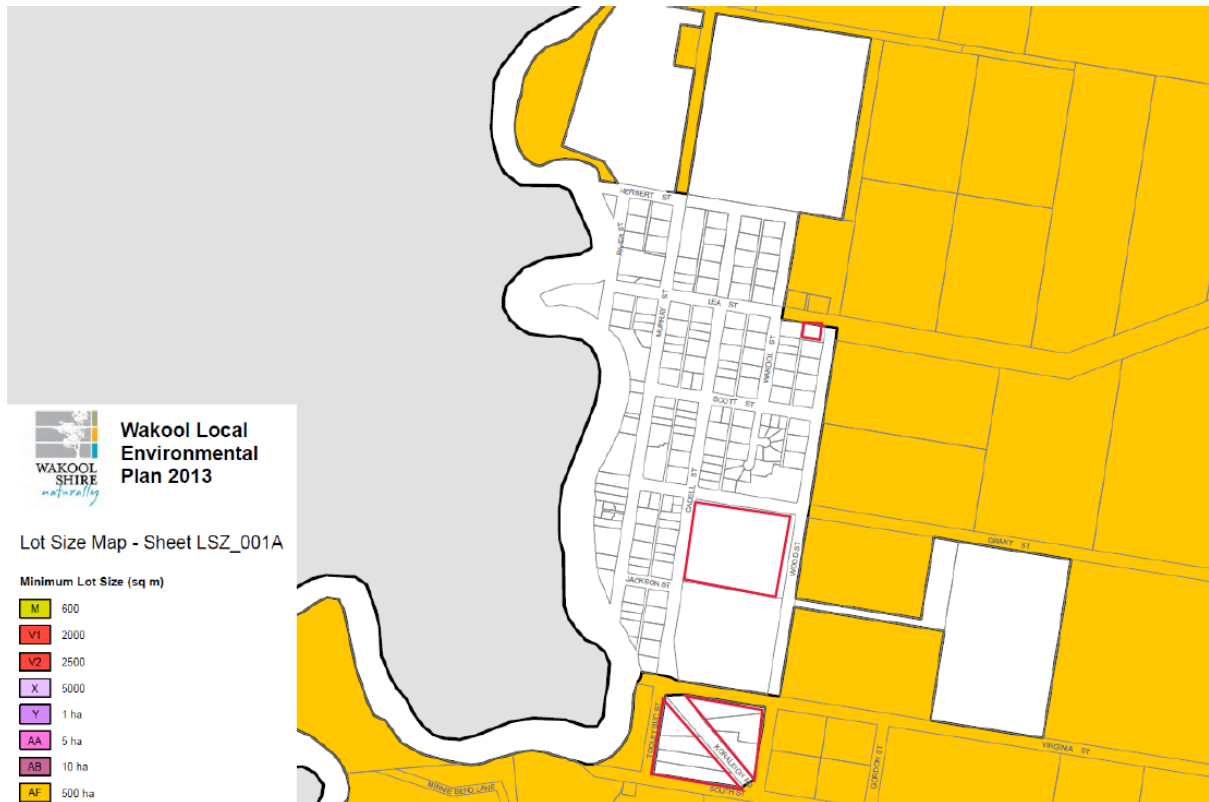


Figure 6: Proposed minimum lot size map.

The maps prepared as part of the planning proposal are considered to be suitable for public exhibition.

3. NEED FOR THE PLANNING PROPOSAL

Currently, Tooleybuc is facing population increase due to increased horticultural activity within the area. The increased horticultural activity, i.e. planting of citrus and nut trees are already underway. It is assumed that additional workers will be required as the industry grows. The additional workers are most likely to be from outside of the locality as the current population of Tooleybuc will not be able accommodate required workforce for the industry at present. This planning proposal will facilitate provision of further residential lands which provides well utilisation of the land and extends the current town boundary to the south.

4. STRATEGIC ASSESSMENT

4.1 State

There are no State strategies applicable to the proposal.

4.2 Riverina and Murray Regional Plan 2036

Council considers the proposal to be broadly consistent with the objective of the Riverina Murray Regional Plan 2036 (RMRP) by assisting in a growing and diverse economy and local centres and by building housing capacity to meet demand in Tooleybuc. The following directions are considered to be achieved by the Planning proposal-

- DIRECTION 2: Promote and grow the agribusiness sector

The planning proposal recognises the need for additional workers from outside the Tooleybuc area for the emerging horticultural industry operation. As such the Planning proposal seeks to provide available land for residential development which will support the horticultural industry.

- DIRECTION 6: Promote the expansion of education and training opportunities

New development in the area will ultimately result in improved and increased number of community facilities for training and education purposes. Furthermore, the increased demand for workers in the horticultural industry will facilitate local training opportunities so the workers can be sourced from the local area in the future.

- DIRECTION 23: Build resilience in towns and villages

The planning proposal will facilitate a population increase, which will help Tooleybuc become more robust and dynamic with increased appeal for residents. Supporting the local horticultural industry will also contribute to the growth and prosperity of the residents by building capacity and resilience in the community.

- DIRECTION 28: Deliver healthy built environments and improved urban design.

New residential development with good urban design can add to the community's cultural, economic and physical wellbeing by creating safe, healthy and socially inclusive places that meet the needs of children, young people, families, singles, people with disabilities and seniors.

- DIRECTION 25: Build housing capacity to meet demand & DIRECTION 28: Provide greater housing choice

The Planning proposal will facilitate additional land available for residential development which can be developed to provide a variety of housing for the local and transient population of the area.

4.3 Local

Council has considered the following local strategies as part of the planning proposal;

Murray River Council Community Strategic Plan 2018-2028

The planning proposal give effect to the ***Murray River Council Community Strategic Plan 2018-2028*** by supporting local business by facilitating further residential accommodation for all transient and permanent workers. In addition, the new permanent and temporary residents will contribute to the local economy and improve local community facilities.

Tooleybuc Masterplan

A master plan was prepared by the NSW Government in partnership with the Tooleybuc community to assist in the transition of Tooleybuc from an agriculture employment base to a horticulture base. The master plan identifies suitable locations for residential development to accommodate the anticipated increase in population and demand for both permanent and seasonal accommodation. This planning proposal seeks to give effect to the master plan to facilitate orderly development in Tooleybuc to support sustainable township growth.

4.4 Section 9.1 Ministerial Directions

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

Direction 1.2 Rural Zones

This Direction does apply to the planning proposal as it will affect the land within an existing rural zone. The proposal is considered to be inconsistent with this direction as it proposes to rezone land from a rural zone to a residential zone. The subject RU1 Primary Production lands are not suitable for rural uses due to the size and the existing uses on the lands and the planning proposal will allow suitable uses to be carried out on the land. Furthermore, the proposed rezoning will increase the extent of the adjoining residential land zoning, increasing the usability of the lands.

In addition to the above, the planning proposal implements recommendations in the Tooleybuc masterplan which provides the strategic justification for new residential land and has adequately analysed the most appropriate location to provide this land.

Recommendation: The Director, Western Region can be satisfied that the planning proposal inconsistency with this direction is minor. In addition, the proposed amendment is supported by a masterplan and associated studies and will allow appropriate utilisation of the land, provide additional housing and extend the current town centre.

Direction 1.5 Rural Lands

This Direction does apply to the planning proposal as it will affect the land within an existing rural zone and proposes to amend minimum lot size on land within rural zone. As discussed above, the subject rural lands will be able to be utilised with the proposed changes. Any future subdivision and development on the land will require consideration to subdivision and development principals under relevant local environmental plan.

Recommendation: The Director, Western Region can be satisfied that the planning proposal inconsistency with this direction is minor. In addition, the proposed amendment is supported by a masterplan and associated studies and will allow appropriate utilisation of the land, provide additional housing and extend the current town centre.

Direction 2.1 Environment Protection Zones

This Direction does apply to the planning proposal as part of the western side of the lands located on the west of Koraleigh St is identified to be environmentally sensitive as riparian lands and watercourse.

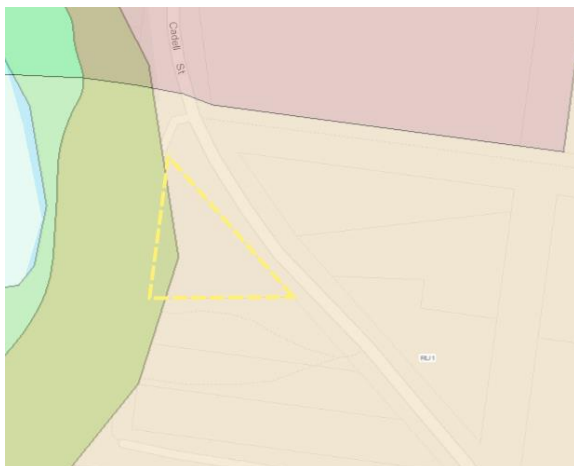


Figure 7: Environmentally sensitive lands map.

Currently, the lands identified to be sensitive are being used for residential purposes and the proposed changes will allow similar uses on the land. Any future development will need to consider the protection zones and provide mitigation measurements to protect the zone.

Recommendation: The Director, Western Region can be satisfied that the inconsistency with this direction is of minor significance as the proposed amendment will allow similar uses on the land as what currently exists.

Direction 3.1 Residential Zones

This Direction does apply to the planning proposal as it will affect land within proposed residential zone and encourage a variety and choice of housing types to provide for existing and future housing needs.

Recommendation: The Director, Western Region can be satisfied that the proposal is consistent with this direction.

Direction 4.3 Flood prone land

This Direction does apply to the planning proposal as it will create, remove or alter a zone or a provision that affects flood prone land. The flood assessment undertaken as part the

Murray River Council Tooleybuc Floodplain Risk Management Study and Plan (January 2017) indicates a small corner portion of Lot 4 DP 835945 and a minute boundary area of Lot 3 DP 835945 are mapped as effected by the 100 year ARI flood event and are classified as flood fringe and low hazard. The other affected lots are not indicated to be affected by 1% ARI event, however may be effected by extreme flood events.

Overall, the subject sites are not considered to be significantly affected by flooding. Any future development application will need to adhere by flood controls and floor level prescribed by the flood study.

Recommendation: The Director, Western Region can be satisfied that the inconsistency with this direction is of minor significance as the proposed amendment does not provide opportunity for new development to be located in the floodplain area.

Direction 6.2 Reserving Land for Public Purposes

This planning proposal does not seek to amend any controls for the subject land that has been reserved for public purposes.

4.5 State environmental planning policies (SEPPs)

The planning proposal has identified and demonstrated consistency with following relevant SEPPs-

- Murray Regional Environmental Plan (REP) No 2 – Riverine Land: The subject lands are affected by this REP. The sought amendments are for rezoning of lands, some of which are already being used for residential purposes. Any development being carried out on the subject lands will consider the provisions under the REP.
- SEPP No. 44 – Koala Habitat Protection: The subject lands are affected by this SEPP. The sought amendments are for rezoning of lands, some of which are already being used for residential purposes. The subject lands do not contain any significant vegetation which is likely to support a koala population.
- SEPP 55 - The planning proposal identifies State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) as applicable given the subject area is known to have been used for agricultural purposes in the past. It is understood that past agricultural activities undertaken on the site. Council has considered whether the land is contaminated and is satisfied that the contamination risk is low. It is considered that additional consideration of this matter can be undertaken during the assessment of any future development application in accordance with SEPP 55.
- SEPP (Primary Production and Rural Development) 2019: The subject lands located on the south of Tooleybuc are zoned as RU1 Primary production and will be amended to allow flexible residential development. The western block already contains residential accommodation and the eastern block is too small to be used for agriculture and the prescribed minimum lot size will not allow any other type of development.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The proposed amendment will provide additional residential development in Tooleybuc for the transient and permanent workers required by the local business operation.

5.2 Environmental

Other than the riparian protection zone (as discussed above) and flood management issues, there are no environmental issues caused by the planning proposal. Any future development will need to consider any environmental matters and provide mitigation measurement as part of the development.

5.3 Economic

The proposed amendment will result in some additional job during the construction of the buildings. However, the long term intent of the planning proposal is to support local industries by providing residential accommodation for the workforce.

5.4 Infrastructure

The proposal will facilitate provision of appropriate drainage infrastructure, thus improving the site and utilising the site appropriately.

6. CONSULTATION

6.1 Community

This planning proposal is considered to be a minor proposal as it is seeking rezoning agricultural land to other residential land and the potential impacts are minimal. The proposed 28 day exhibition period is deemed to be satisfactory.

6.2 Agencies

No agencies are required to be consulted as part of the pre-exhibition or during exhibition period.

7. TIME FRAME

It is proposed to provide Council 12 months to complete the amended LEP, based on the complexity of the planning proposal, 12 months is considered to be appropriate.

8. LOCAL PLAN-MAKING AUTHORITY

Given the Nature of the proposal and the planning proposal being a local matter that is site specific, it is recommended that the delegations are authorised to Council.

9. CONCLUSION

It is recommended the planning proposal proceed subject to conditions. The planning proposal is consistent with the Tooleybuc masterplan which responds to opportunity in the area and identifies the need for additional housing choice. The planning proposal is considered to be consistent with the relevant Section 9.1 Direction, SEPPs and Riverina and Murray Regional Plan.

10. RECOMMENDATION

It is recommended that the delegate of the secretary-

- a. **Agree** that inconsistency with Direction 1.2 Rural Zones, Direction 1.5 Rural Lands, Direction 2.1 Environment Protection Zones and Direction 4.3 Flood prone land is deemed acceptable;
- b. **Require** a revised planning proposal prior to consultation to ensure that there is a single endorsed planning proposal with clear mapping;

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

1. Prior to consultation with public consultation, the planning proposal is to be revised, which addresses the following:
 - a. Remove references to Lot 30 DP263617 which no longer forms part of the planning proposal, this includes amending any mapping that identifies the site as being applicable;

2. 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).
3. 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).
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. An Additional Permitted Uses map in respect of the subject land is to be prepared.
5. The time frame for completing the LEP is to be 12 months following the date of the Gateway determination.

Dated 17th day of April 2020.



17.4.20

Haydon Murdoch
Team Leader, Western Region
Local Regional Planning



17.4.20

Damien Pfeiffer
Director Western Region
Local and Regional Planning

Contact officer: Oyshee Iqbal
Planning Officer, Western Region
Phone: 02 5852 6824