



Regional
NSW

Planning Proposal

Tooleybuc Sustainable Growth Master Plan

October 2019

Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: Planning Proposal

Subtitle: Tooleybuc Sustainable Growth Master Plan

First published: September 2019

Department reference number: A3089187

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Contents

Introduction.....	1
Background.....	1
Subject land	2
Part 1 – Objectives and Intended Outcomes.....	4
Part 2 – Explanation of Provisions	5
Part 3 – Justification.....	10
Section A - Need for the planning proposal	10
1. Is the planning proposal a result of any strategic study or report?.....	10
2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	10
3. Is there a net community benefit?	13
Section B - Relationship to strategic planning framework	14
1. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?	14
2. Is the planning proposal consistent with a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?	15
3. Is the planning proposal consistent with applicable State Environmental Planning Policies?	15
4. Is the planning proposal consistent with applicable Ministerial Directions (s 9.1 Directions)?.....	18
Section C - Environmental, Social and Economic Impact	24
1. 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?	24
2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	24
3. Has the planning proposal adequately addressed any social and economic effects?.....	24
Section D - State and Commonwealth Interests	25
1. Is there adequate public infrastructure for the planning proposal?	25
Road and transport infrastructure.....	25
Social infrastructure	25
Utilities	26
2. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?.....	27
Part 4 – Mapping	28
Part 5 – Community Consultation.....	29
Master Planning	29
Planning Proposal	29
Part 6 – Project Timeline	30

Introduction

This planning proposal has been prepared on behalf of Murray River Council in support of an amendment to Wakool Local Environmental Plan 2013 (LEP 2013) to facilitate the development of residential accommodation for seasonal and itinerant workers working in the growing horticultural industry in Tooleybuc.

In accordance with the requirements of section 3.33(2) of the *Environmental Planning and Assessment Act 1979* (NSW), this planning proposal comprises the following sections:

- Part 1– A statement of the objectives and intended outcomes of the proposed instrument;
- Part 2 – An explanation of the provisions that are to be included in the proposed instrument;
- Part 3 – The justification for those objectives, outcomes and the process for their implementation;
- Part 4 – Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies;
- Part 5 – Details of the community consultation that is to be undertaken on the planning proposal; and
- Part 6 – Project timeline.

Background

Tooleybuc is a small town located on the NSW-Victoria border along the Murray River with an estimated population of about 180 people. Like most of the Riverina-Murray Region, Tooleybuc's hinterland is characterised by agricultural land uses, traditionally crop and livestock farming, but the area has experienced significant recent growth in irrigation-based horticulture, particularly citrus and nut tree plantations. As a popular stop-over destination for people travelling to South Australia, the town is also supported through the tourism industry with a variety of short-term accommodation options available.

It is expected that almond plantations will grow by at least 10,000 hectares over the next few years. This will generate demand for full-time and seasonal employment and a flow-on demand for housing, services and infrastructure in Tooleybuc. Currently, Tooleybuc does not have the required housing supply or diversity to support both full-time and seasonal workers in the short or longer term.

A draft master plan has been prepared for Tooleybuc by the NSW Government in response to the town's transition from a broad acre cropping agricultural economy to a more diversified horticultural economy. The draft master plan and supporting technical studies identify where growth should occur and what infrastructure investment and land use changes will be required, demonstrating the NSW Government's commitment to sustainable growth in small and remote communities.

Feedback from community consultation and discussions with stakeholders have informed the development of a final master plan. The final master plan will be a guide for decision-making on how land use, development and potential investment can be used to achieve economic and social benefits for the Tooleybuc community.

The master plan identifies potential residential growth areas that may be rezoned in future if there is a demonstrated need to do so in the long term. The master plan also highlights an indicative location for future development of a highway service centre, which will require a separate planning proposal once the Tooleybuc Bridge Replacement is complete and a preferred location is identified.

The current Wakool LEP 2013 prevents residential areas in the town from growing. Murray River Council is currently working on merging its two existing LEPs – Murray LEP 2011 and Wakool LEP 2013. This process has been ongoing and separate rezoning applications to assist the growth of Tooleybuc are anticipated to take a significant amount of time which may result in unwanted housing occurring in Tooleybuc. The Tooleybuc master plan and supporting technical reports will provide the basis for changes recommended as part of this planning proposal in the short term and will assist Murray River Council with their LEP review and consolidation process.

Subject land

Tooleybuc is located within the Riverina-Murray Region of NSW. It adjoins the Victorian border to the west and as such is closer to Melbourne (380 km) than it is to its state capital of Sydney (919 km). The subject land comprises parcels of land in Tooleybuc, located in the Murray River local government area (formerly Wakool).

Table 1 below outlines the land to which this planning proposal applies. Figure 1 highlights the affected properties on an aerial map and Figure 2 indicates the existing land use zoning under Wakool LEP 2013.

Table 1 Property descriptions of land subject to this planning proposal

Lot	Section	DP
Part 62		756584
7		835945
6		835945
5		835945
1		835945
2		835945
3		835945
4		835945
30		263617



Figure 1 Aerial image of Tooleybuc with the land to which this planning proposal applies outlined in yellow.

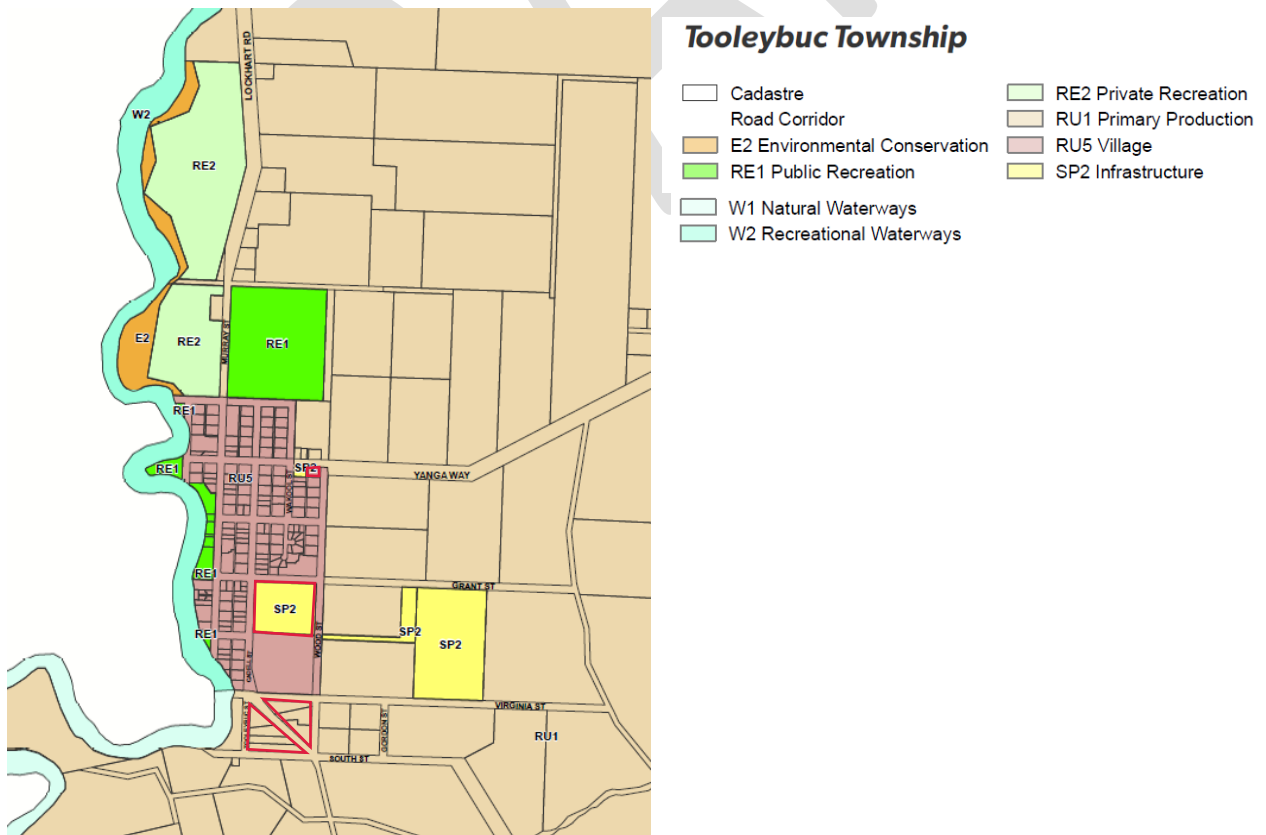


Figure 2 Existing land zoning under Wakool Local Environmental Plan 2013 with land to which this planning proposal applies outlined in red

Part 1 – Objectives and Intended Outcomes

The objectives of the planning proposal are to amend Wakool LEP 2013 to:

- Facilitate the development of residential accommodation for seasonal and itinerant workers working in the growing horticultural industry in Tooleybuc;
- Provide housing options to meet the needs of current and future residents of Tooleybuc; and
- Discharge Council's interests in operational land surplus to their requirements to facilitate future residential development.

The above objectives are consistent with the aims of Wakool LEP 2013 and the intended outcomes of the proposed amendment will result in better development outcomes for the Tooleybuc township by permitting residential development in suitable locations to accommodate demand for seasonal workers' accommodation, as well as the housing needs of the permanent population.

A concept plan has been prepared as part of the Tooleybuc Sustainable Growth Master Plan, providing an indicative growth layout for Council-owned land fronting Cadell Street. 53 residential allotments with varying frontages are proposed to accommodate a mix of dwelling types and sizes to meet the housing needs of Tooleybuc. The concept plan is consistent with the existing lot layout and settlement pattern of Tooleybuc, while the proposed RU5 Village zoning provides flexibility in future housing types that will be permitted in the area.

Part 2 – Explanation of Provisions

It is proposed to amend Wakool LEP 2013 as follows:

- Amend the Land Zoning Map applying to Part Lot 62 DP 756584 from SP2 Infrastructure to RU5 Village;
- Amend the Land Zoning Map applying to Lots 1 to 7 DP 835945 from RU1 Primary Production to RU5 Village;
- Amend the Lot Size Map to remove the 500ha minimum lot size and indicate no minimum lot size for Lots 1 to 7 DP 835945;
- Retain the operational land classification of and discharge Council's interest in Part Lot 62 DP 756584 and Lot 30 DP 263617.

Existing and proposed zones and minimum lot sizes are outlined in the following figures.

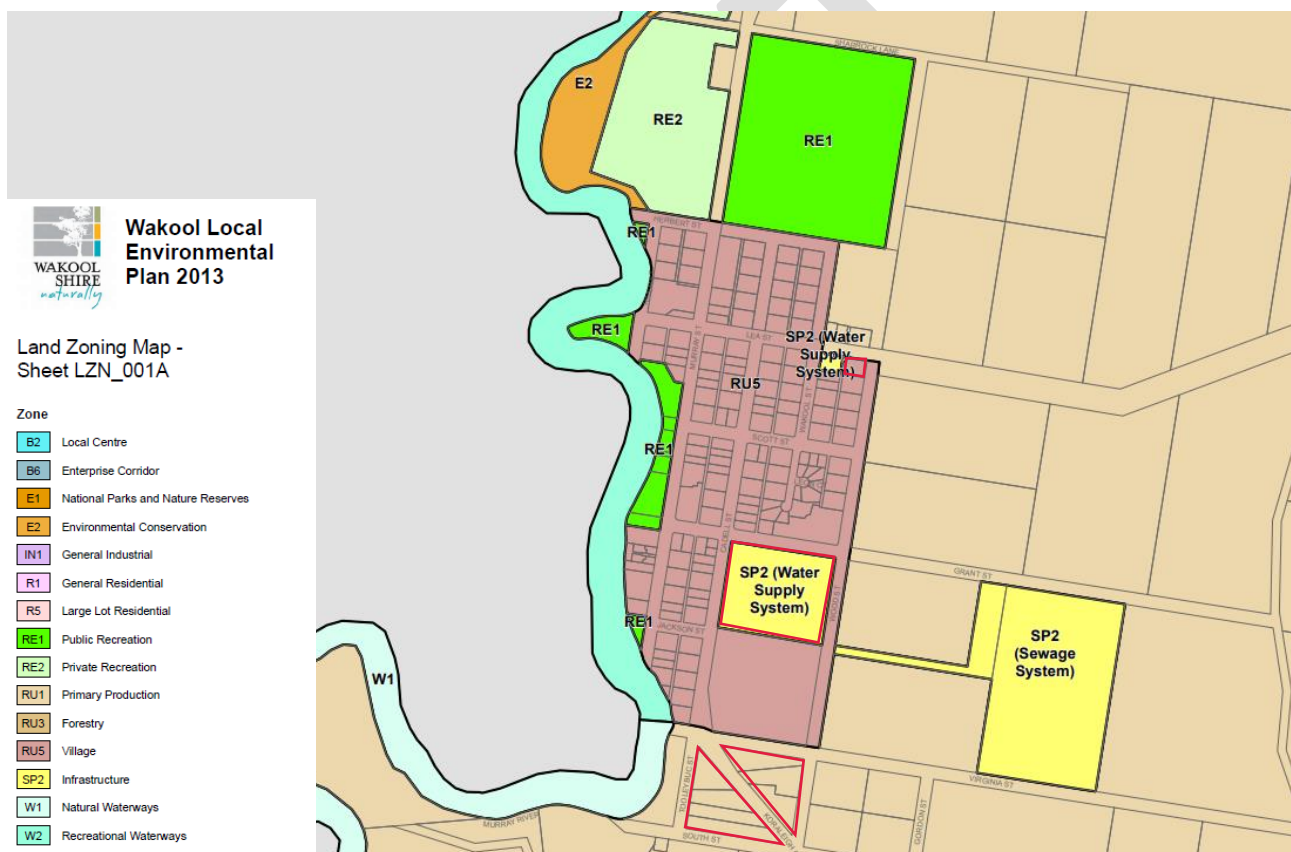


Figure 3 Existing land zoning under Wakool Local Environmental Plan 2013 with land to which this planning proposal applies outlined in red

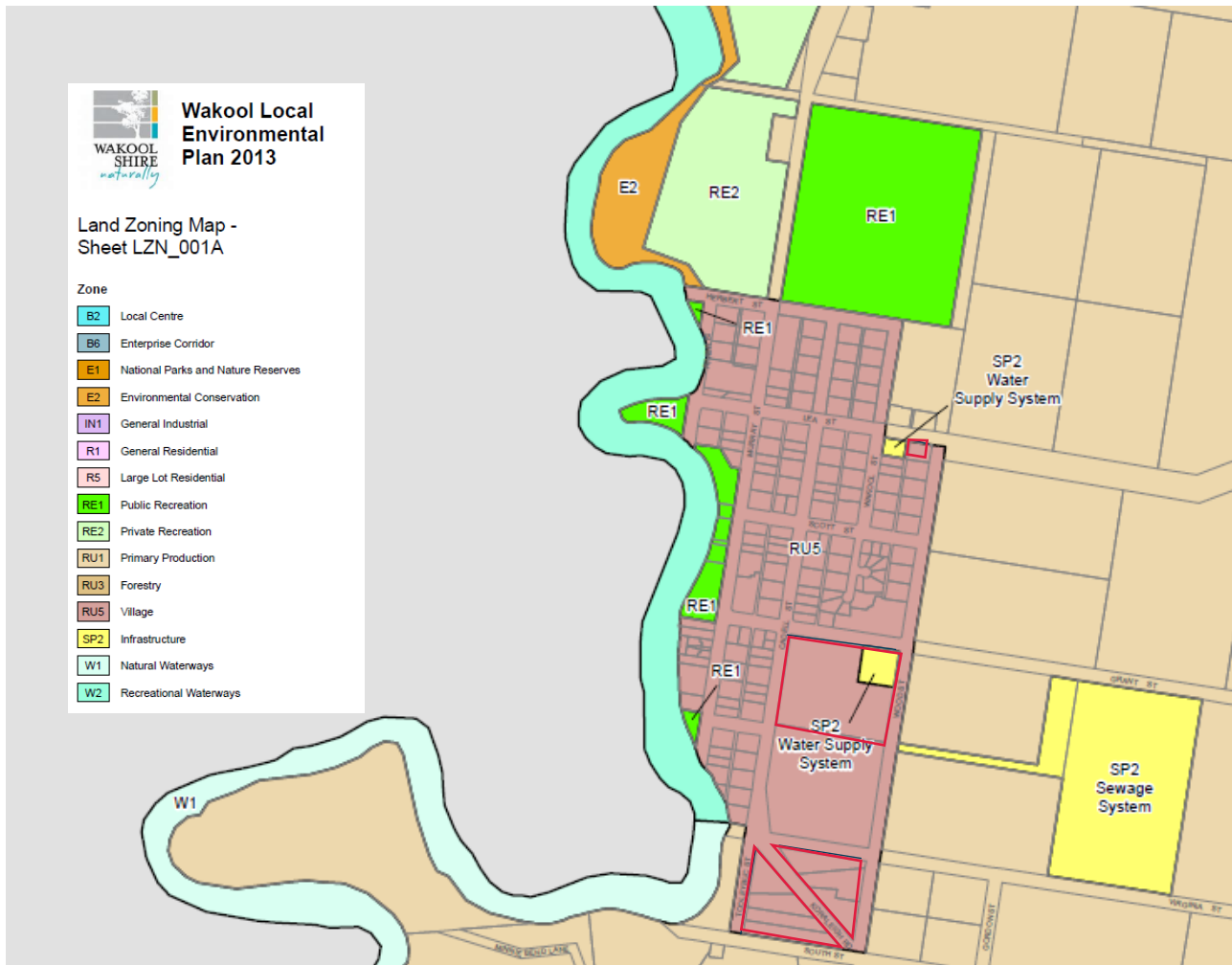


Figure 4 Proposed zoning under Wakool Local Environmental Plan 2013 with land to which this planning proposal applies outlined in red

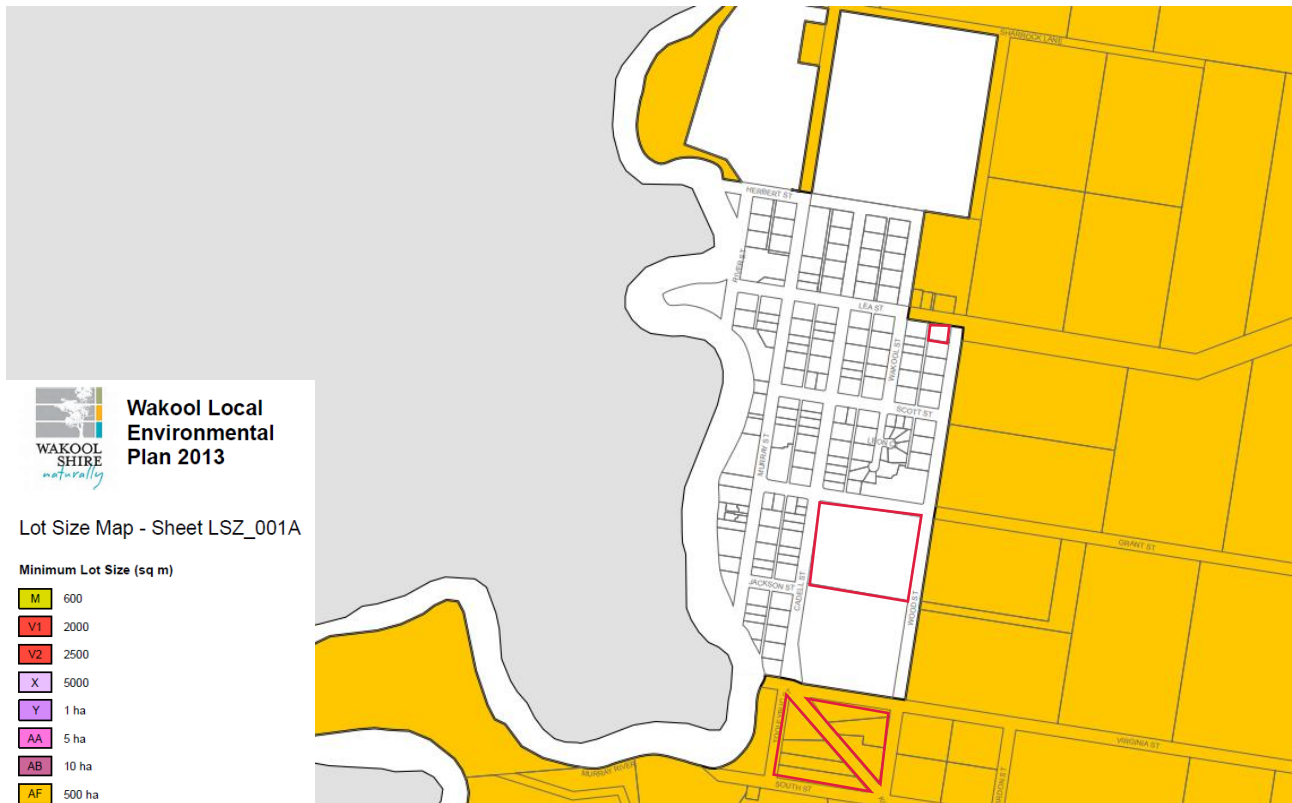


Figure 5 Existing minimum subdivision lot size under Wakool Local Environmental Plan 2013 with land to which this planning proposal applies outlined in red

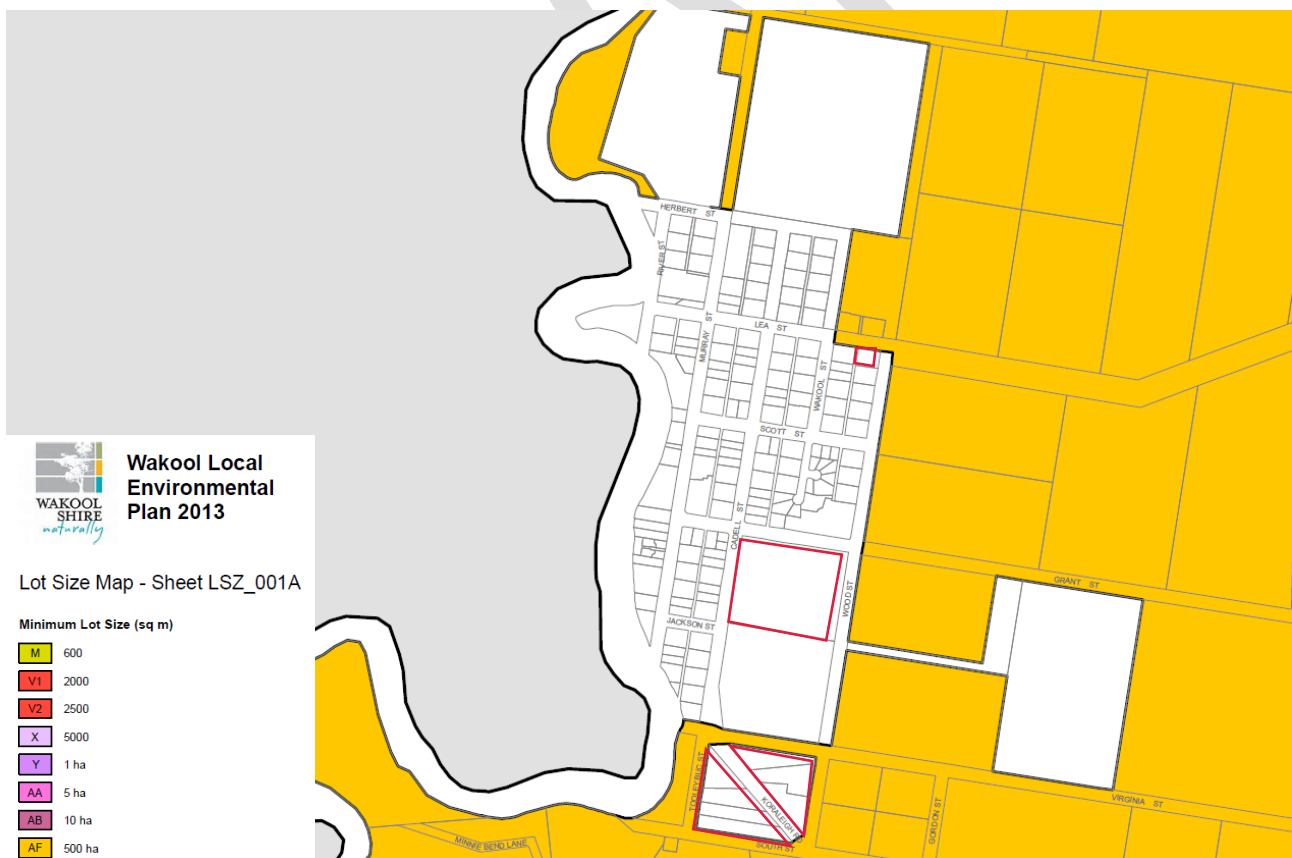


Figure 6 Proposed minimum subdivision lot size under Wakool Local Environmental Plan 2013 with land to which this planning proposal applies outlined in red

The planning proposal also involves discharging Council's interest in two parcels of operational land. This will allow for the land to be sold in future to give effect to the Tooleybuc Sustainable Growth Master Plan, which permits future residential development consistent with the existing lot layout and settlement pattern of Tooleybuc.

There is an anomaly in Wakool LEP 2013 Schedule 4 in that does not identify the following parcels of land as operational land. Table 2 and Figure 7 provides a summary of the proposed amendment.

Table 2 Land reclassification summary

Title particulars	Proposed land use	Current zoning	Proposed zoning	Current classification	Proposed classification	Interests changed
Part Lot 62 DP 756584	Water treatment plant	SP2 Infrastructure	No change	Operational	No change	No change
Part Lot 62 DP 756584	Future residential development	SP2 Infrastructure	RU5 Village	Operational	No change	Interests discharged
Lot 30 DP 263617	Future residential development	RU5 Village	No change	Operational	No change	Interests discharged

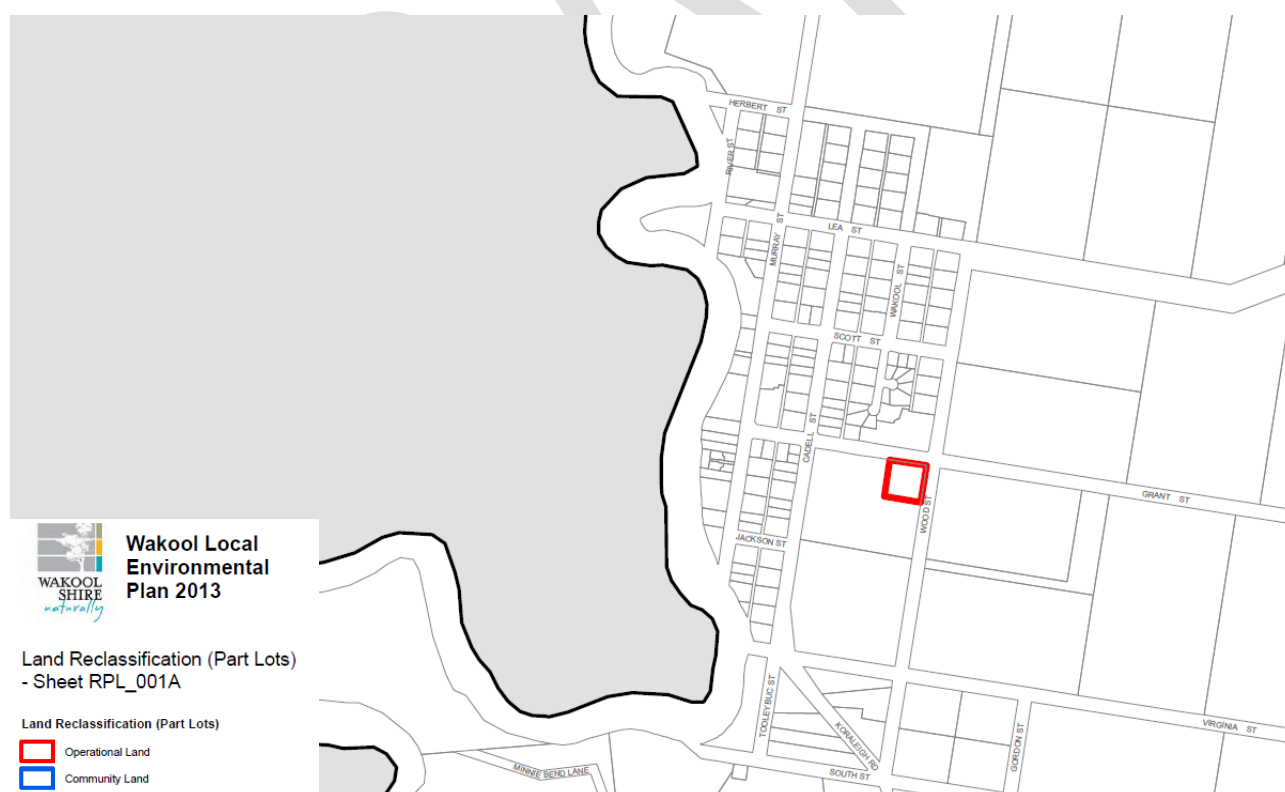


Figure 7 Proposed land reclassification under Wakool Local Environmental Plan 2013

The proposed amendment to Schedule 4 is as follows:

Schedule 4 Classification and reclassification of public land

Insert the following entry into Part 1:

Part 1 Land classified, or reclassified, as operational land – no interests changed

Column 1	Column 2
Locality	Description
Tooleybuc	Part Lot 62 DP 756584

Insert the following entry into Part 2:

Part 1 Land classified, or reclassified, as operational land – interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc. not discharged
Tooleybuc	Part Lot 62 DP 756584	Interests discharged
Tooleybuc	Lot 30 DP 263617	Interests discharged

Part 3 – Justification

This section sets out the justification for the intended outcomes and provisions and the process for their implementation. The questions to which responses have been provided are taken from the (then) Department of Planning and Environment's '*A guide to preparing planning proposals*' (the Guide).

Section A - Need for the planning proposal

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

The planning proposal is a result of lengthy discussions between the NSW and Murray River Council regarding the growth pressures currently faced by Tooleybuc because of major investment in the horticultural sector. Currently local farmers are in the process of planting thousands of citrus and nut trees, requiring additional workers to support the industry. The current population of Tooleybuc will be unable to support the changing needs of the horticultural industry now and in the future. Further, Wakool LEP 2013 prevents the town from growing through the current land use/zoning provisions.

A master plan is being 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. The planning proposal seeks to give effect to the master plan to facilitate orderly development in Tooleybuc to support sustainable township growth.

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

Yes, the planning proposal is the best means of achieving the objectives and intended outcomes. Rezoning the land to RU5 Village will allow for the future provision of a variety of housing types to support the anticipated increase in population associated with growth in the horticultural industry, as well as improving housing diversity to meet the needs of current and future residents of Tooleybuc.

The Standard Instrument Local Environmental Plan is silent on the matter of workforce accommodation, including seasonal and itinerant workforces anticipated with the growth of the horticulture industry in Tooleybuc. As a result, categorising and determining future development proposals is uncertain. Courts have recently provided more clarity in this regard, confirming that workforce accommodation (temporary or otherwise) is considered a form of the overarching definition of 'residential accommodation' (*Graincorp Operations Ltd v Liverpool Plains Shire Council* [2013] NSWCA 171). 'Residential accommodation' is permitted with consent in the RU5 Village zone under Wakool LEP 2013.

Given it is intended that the land will be rezoned to RU5 Village, it is proposed that a minimum lot size will not be applied to the land as there is no minimum lot size for land zoned RU5 Village under Wakool LEP 2013. This is instead managed under the provisions of Wakool Development Control Plan 2013, to provide greater flexibility where appropriate. Should the rezoning proceed, the subject land presents opportunities to improve housing diversity in the Tooleybuc township, which may not be realised if the current minimum size provisions remained applicable.

Discharging Council's interest in the identified land parcels by amending Schedule 4 of Wakool LEP 2013 is the only way to achieve the objectives of the planning proposal.

Table 3 below provides the required information to dispose of a land classification through a LEP in accordance with *Practice Note PN 16-001 Classification and reclassification of public land through a local environmental plan*.

Table 3 Practice Note PN 16-001 assessment

Issue	Response
The current and proposed classification of the land	Part Lot 62 DP 756584 and Lot 30 DP 263617 are currently operational land. The proposal intends to discharge Council's interests in the operational land.
Whether the land is a 'public reserve' (defined in the <i>Local Government Act</i>)	<p>The land is not considered a public reserve. Council's records indicate the following:</p> <ul style="list-style-type: none"> • Lots 1-7 DP 835945 are privately owned land • Lot 62 DP 756584 was acquired in approximately 1999 by former Wakool Shire Council via compulsory acquisition enabled under the <i>Land Acquisition Act</i> 1991 • Lot 30 DP 263617 was transferred to Council in 1983. Council's records do not indicate under what parameters the land was acquired, however this parcel is not utilised as a public
The strategic and site-specific merits of the reclassification and evidence to support this	The parcels are identified as areas for future housing growth in the Tooleybuc Sustainable Growth Master Plan. The use of operational land presents an opportunity to increase housing supply and choice in Tooleybuc to meet the needs of a seasonal workforce and the permanent population. The land proposed to be discharged of its existing operational classification is located on the periphery of the existing Tooleybuc township, minimising the potential for land fragmentation by consolidating growth within areas that are currently serviced by utility infrastructure.
Whether the planning proposal is the result of a strategic study or report	The planning proposal is supported by the Tooleybuc Sustainable Growth Master Plan (attached). The master plan identifies suitable locations for residential development to accommodate the anticipated increase in population and demand for both permanent and seasonal accommodation.
Whether the planning proposal is consistent with Council's community plan or other local strategic plan	The discharge of the current land classification is consistent with the Murray River Council Community Strategic Plan 2018-2028 by giving effect to a master plan that offers a range of housing types to meet the needs of permanent and seasonal workers.

Issue	Response
<p>A summary of Council's interests in the land, including:</p> <ul style="list-style-type: none"> How and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution); If Council does not own the land, the landowner's consent; The nature of any trusts, dedications, etc. 	<ul style="list-style-type: none"> Lots 1-7 DP 835945 are privately owned land and land owners' consent has been provided (I am assuming?) Lot 62 DP 756584 was acquired in approximately 1999 by former Wakool Shire Council via compulsory acquisition enabled under the <i>Land Acquisition Act 1991</i> Lot 30 DP 263617 was transferred to Council in 1983. Council's records do not indicate under what parameters the land was acquired.
<p>Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why</p>	<p>The interests in Part Lot 62 DP 756584 and Lot 30 DP 263617 are proposed to be discharged to give effect to the short-term growth management and strategic directions option proposed in the Tooleybuc Sustainable Growth Master Plan. The subject land is surplus to Council's operational requirements and is suitably located to accommodate the short-term growth needs of Tooleybuc.</p>
<p>The effect of the reclassification (including the loss of public open space, the land ceasing to be a public reserve or particular interests will be discharged)</p>	<p>The discharge of Council's interest in the subject lots is unlikely to affect the community's use or enjoyment of the subject land. Buffers will be maintained around the Water Treatment Plant to ensure its ongoing operation into the future.</p>
<p>Evidence of public reserve status or relevant interests, or lack thereof applying to the land</p>	<p>Council's records do not reflect that any of the subject land is utilised for or dedicated as public reserve.</p>
<p>Current use(s) of the land, and whether uses are authorised or unauthorised</p>	<p>Lot 62 DP756584 is currently occupied by a Water Treatment Plant. The use is authorised.</p> <p>Lot 30 DP 263617 is currently utilised as part of the Council's Water Treatment Plant.</p>
<p>Current or proposed lease agreements applying to the land, together with their duration, terms and controls</p>	<p>No lease agreements apply to either the privately owned or the Council owned land the subject land of this proposal.</p>
<p>Current or proposed dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when Council intends to realise its asset, either immediately or after rezoning/reclassification or at a later time)</p>	<p>There are no such dealings currently in place.</p> <p>Council's future intentions are to develop the area for residential purposes to meet the residential demands currently in Tooleybuc.</p>

Issue	Response
Any associated rezoning with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy)	<p>The planning proposal seeks to rezone Part Lot 62 DP756584 from SP2 Infrastructure to RU5 Village. The rezoning is consistent with the Murray River Council Community Strategic Plan 2018-2028 and the Riverina Murray Regional Plan 2036 by facilitating infill residential development that will have the benefit of increasing the variety and availability of housing types in Tooleybuc to support the growing population. The staging of future development will also represent optimal use of serviceable land.</p> <p>There is no rezoning proposed for Lot 30 DP 263617.</p>
How Council may or will benefit financially, and how these funds will be used	Council will receive a monetary benefit from the sale of the land when it is ultimately developed for residential use however it is unknown at this time how those funds will be used. Funds will need to be allocated to provision of infrastructure to support the new residential development.
How Council will ensure funds remain available to proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal	The subject sites are not currently utilised for or dedicated as public reserves.
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot	A Land Reclassification (part lots) Map has been prepared. Refer to Part 4 of this planning proposal.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to Council, if applicable	N/A

3. Is there a net community benefit?

There is an overall net community benefit to be gained from the Planning Proposal by providing for an additional choice of residential environments in Tooleybuc to support anticipated population increase associated with the growth of the horticulture sector. An increase in the town's population supports existing and creates opportunities for new local community and commercial services.

Section B - Relationship to strategic planning framework

1. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

The Riverina Murray Regional Plan 2036 (RMRP) provides a 20-year blueprint for the Riverina Murray. It also provides a framework and context to guide the preparation of new LEPs. This overarching document builds on an earlier draft Strategy (Murray Regional Strategy - October 2009).

Relevant to this planning proposal it is noted that the Riverina Murray Regional Plan promotes an outcome of whereby strong regional cities are supported by a network of interdependent centres, including local centres, towns and villages. This is evidence by the stated goals, directions and nominated actions of the RMRP which include:

GOAL 1 – A growing and diverse economy

DIRECTION 6: Promote the expansion of education and training opportunities

Action: 6.3 Facilitate joint venture opportunities for the development of shared community/school facilities on school sites, including sporting fields, amenities, parking, community halls, child care, arts and library facilities.

GOAL 4 – Strong, connected and healthy communities

DIRECTION 23: Build resilience in towns and villages

Helping towns and villages to become more robust and dynamic places will increase their appeal for residents and contribute to their growth and prosperity.

Action 23.2 Work with councils to better understand the drivers of population change and implications for local communities.

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

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 infill residential development that will have the benefit of increasing the variety and availability of housing types in Tooleybuc to support the growing population. The staging of future development will represent optimal use of serviceable land.

While the strategic focus of the 2036 Plan is aimed at the larger cities in the region, namely Albury, Wagga Wagga and Griffith, it also includes discussion relevant to smaller settlements including the following commentary:

Population growth across the region will not be evenly distributed, with Albury, Wagga Wagga and Griffith projected to experience the highest rates of growth,

followed by the Murray River Local Government Area. Investment in major services, facilities and industrial activity will drive growth in these places, distributing benefits across the region.

The population across other smaller towns and villages is likely to remain relatively stable or, in some cases, decline. However, these numbers don't reflect the dynamic nature of some communities, with high levels of transient workers and populations that fluctuate at different times of the year.

Investment in almond plantations within Tooleybuc will significantly change the employment base of this area, generating work for many full-time, part-time and seasonal workers to support this industry. Tooleybuc could experience pressure from seasonal employment (based on observations in Robinvale) with seasonal workers already occupying tourist accommodation (e.g. motels) and dwellings in the district. This change warrants a review of the existing housing stock and future supply of housing within Tooleybuc and the services required to support the sustainable growth of Tooleybuc's community.

This planning proposal is not only seen as an important strategy to cater for the existing community, but also provides an outcome where unwanted housing outcomes that have been experienced in nearby areas, such as Swan Hill, are prevented through the staging of development to meet community demand and infrastructure capacity.

2. Is the planning proposal consistent with a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

The Murray River Council Community Strategic Plan 2018-2028 outlines the community's aspirations and long-term vision of the Murray River local government area. The community vision is focused on creating diverse and cohesive communities supported by strong local business and primary industries.

The planning proposal is consistent with the principles of the Community Strategic Plan by giving effect to a master plan that offers a range of housing types to meet the needs of permanent and seasonal workers.

There is no endorsed land use strategy applicable to the subject land.

3. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Table 4 below provides an assessment of the planning proposal against all State Environmental Planning Policies (SEPPs). In summary, most of the SEPPs do not apply to Murray River Council and those that are applicable generally do not apply to the circumstances of the planning proposal.

Table 4 State Environmental Planning Policy assessment

State Environmental Planning Policy	Comment
Murray Regional Environmental Plan No 2 – Riverine Land	Noted. The subject site is mapped as Murray Regional Environmental Plan 2 – Riverine Land. However detailed consideration of the various provisions is not required in this instance as the proposed development is not deemed to be a defined development within the riverine environment of the Murray River.

State Environmental Planning Policy	Comment
SEPP No. 1 – Development Standards	Noted. The planning proposal does not seek to vary any development standards.
SEPP No. 21 – Caravan Parks	Noted. The planning proposal does not seek to deviate from any relevant SEPP aims, development consent requirements and subdivision provisions. No caravan parks or camping grounds are proposed as part of this application.
SEPP No. 30 – Intensive Agriculture	The planning proposal does not seek to deviate from any relevant SEPP aims, development consent requirements, assessment and location provisions. No cattle feedlots, piggeries or compost facilities are proposed in the master plan. Further, it is noted that 'intensive agriculture' is a prohibited use in residential zones under Wakool LEP 2013.
SEPP No. 33 – Hazardous and Offensive Development	The planning proposal does not seek to deviate from any relevant SEPP aims, strategies, development consent requirements, assessment and location provisions. The subject land has never been used for hazardous or offensive industry. Further, industrial development is prohibited in the RU5 Village zone.
SEPP No. 36 – Manufactured Home Estates	The planning proposal does not seek to deviate from any relevant SEPP aims, strategies, development consent requirements, assessment and location provisions.
SEPP No. 44 – Koala Habitat Protection	<p>The former Wakool local government area is listed within Schedule 1 of SEPP No. 44. The River Red Gum, a species that comprises more than 15 per cent of the canopy around the Tooleybuc area is listed as under Schedule 2 as a 'potential koala habitat'.</p> <p>A biodiversity assessment undertaken for the proposed Tooleybuc Bridge Replacement found that it is unlikely that the locality supports (or could support) a koala population and the River Red Gum has a low likelihood to occur in potential koala habitats in the area. Therefore, the planning proposal is seen as complying with SEPP No. 44.</p>
SEPP No. 50 – Canal Estate Development	Not applicable. No canal development proposed.

State Environmental Planning Policy	Comment
SEPP No. 55 – Remediation of Land	The subject land is in a predominantly rural setting, with most parcels comprising agricultural land or large lot residential lots. There are no known uses that are likely to have caused considerable or widespread groundwater contamination, apart from historical agricultural spraying. Consideration of potentially localised sources/areas of contamination will be considered during the staging of development in accordance with the master plan.
SEPP No. 62 – Sustainable Aquaculture	The planning proposal does not seek to deviate from any relevant SEPP aims, development consent requirements and assessment criteria for sustainable aquaculture.
SEPP No. 64 – Advertising and Signage	The planning proposal does not seek to deviate from any relevant SEPP aims, development consent requirements and assessment criteria for advertising and signage.
SEPP No. 65 – Design Quality of Residential Apartment Development	The planning proposal does not seek to deviate from any relevant SEPP aims, development consent requirements, information and notification requirements.
SEPP (Aboriginal Land) 2019	Not applicable. The SEPP does not apply to land in Tooleybuc.
SEPP (Affordable Rental Housing) 2009	The planning proposal does not seek to deviate from any relevant SEPP aims. Nothing in the proposal seeks to specifically prevent the provision of affordable housing, including affordable rental housing.
SEPP (Building Sustainability Index: BASIX) 2004	The planning proposal does not seek to deviate from any relevant SEPP aims and functions with respect to sustainability requirements for residential buildings. Any future residential development in Tooleybuc will need to demonstrate compliance with the SEPP at the development assessment stage.
SEPP (Exempt and Complying Development Codes) 2008	The planning proposal does not seek to deviate from any relevant SEPP aims and functions with respect to exempt and complying development.
SEPP (Housing for Seniors of People with a Disability) 2004	The planning proposal does not seek to deviate from any relevant SEPP aims, development standards and information requirements.
SEPP (Infrastructure) 2007	The planning proposal does not seek to deviate from any relevant SEPP aims and /or requirements relating to infrastructure.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Not applicable.

State Environmental Planning Policy	Comment
SEPP (Miscellaneous Consent Provisions) 2007	The planning proposal does not seek to deviate from any relevant SEPP aims and/or requirements relating to temporary structures.
SEPP (Primary Production and Rural Development) 2019	The planning proposal aims to rezone certain parcels of land in Tooleybuc to permit a range of residential accommodation types in response to the additional demand for permanent housing. In doing so, the planning proposal and associated master planning is consistent with relevant aims of SEPP (Primary Production and Rural Development) 2019 by reducing land use conflict and sterilisation of rural land.
SEPP (Vegetation in Non-Rural Areas) 2017	Noted. The planning proposal aims to rezone certain parcels of land in Tooleybuc to RU5 Village. No vegetation clearing is proposed as part of this planning proposal, but future developments on rezoned land will need to comply with relevant SEPP aims and vegetation clearing requirements.

4. Is the planning proposal consistent with applicable Ministerial Directions (s 9.1 Directions)?

The Minister for Planning and Public Space, under s 9.1(2) of the EP&A Act (formerly s 117(2)) may issue directions that councils must follow when preparing planning proposals for new LEPs, covering the following broad categories:

- Employment and resources;
- Environment and heritage;
- Housing, infrastructure and urban development;
- Hazard and risk;
- Regional planning; and
- Local plan making.

Table 5 below provides an assessment of the planning proposal against the s 9.1 directions.

Table 5 Section 9.1 Directions assessment

Direction	Requirements	Compliance
1. Employment and Resources		
1.1 Business and Industrial Zones	4(b) Retain the areas and locations of existing business and industrial zones.	Not applicable.

Direction	Requirements	Compliance
1.2 Rural Zones	<p>(4) A draft LEP shall:</p> <p>(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</p>	<p>The proposal seeks to rezone some existing RU1 Primary Production land to RU5 Village. Direction 1.2 allows a draft LEP to be inconsistent where inconsistency is of minor significance.</p> <p>There is an identified need to increase housing supply and choice in Tooleybuc to meet the needs of a seasonal workforce and the permanent population. The use of land subject to this planning proposal as part of Tooleybuc's continued growth is more in the community's interest than to maintain its 'non-use'.</p> <p>In any case, the land proposed to be rezoned as part of this planning proposal is on located the periphery of the existing Tooleybuc township and is not currently used for agriculture. In this regard, rezoning these parcels also aims to minimise any potential land fragmentation by consolidating any future growth within areas that are currently serviced by existing utility infrastructure or will be upgraded in the immediate future.</p>
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable.	Not applicable.
1.4 Oyster Aquaculture	Not applicable.	Not applicable.
1.5 Rural Lands	Aims to protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes.	The subject land has not been identified as regionally significant farmland and is considered to have limited agricultural value. The inconsistency of the proposal with this Direction is of minor significance.
2. Environment and Heritage		
2.1 Environment Protection Zones	<p>Must include provisions that facilitate the protection of conservation of environmentally sensitive areas.</p> <p>Must not reduce protection standard for environmental zones.</p>	<p>A small portion along the western boundaries of Lots 3 and 4 DP 835945 are mapped environmentally sensitive areas under Wakool LEP 2013.</p> <p>The planning proposal may be viewed as reducing the environmental protection standards applying to the subject land by removing the minimum lot size provision and providing for increased residential development. This minor inconsistency with this direction may be supported because:</p>

Direction	Requirements	Compliance
		<ul style="list-style-type: none"> The land in question represents a small part of the river floodplain environment in this location; Environmental features may be able to be retained through provisions included in an amendment to Wakool DCP 2013; The land is not environmentally pristine. <p>Further environmental assessment to inform the suitability of this land for residential development may occur concurrently with the proposed rezoning process.</p>
2.2 Coastal Protection	Not applicable.	Not applicable.
2.3 Heritage Conservation	Planning proposal must incorporate provisions that facilitate the conservation of European and Aboriginal heritage items or places.	No change is proposed to heritage provisions under Wakool LEP 2013.
2.4 Recreation Vehicle Areas	Not applicable.	Not applicable. The planning proposal does not advocate the designation of the subject land as a recreation vehicle pursuant to an order under s 11(1) of <i>Recreation Vehicles Act 1983</i> (NSW).
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable.	Not applicable.
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	<p>The planning proposal must:</p> <ul style="list-style-type: none"> Broaden the choice of housing types and locations Make efficient use of existing infrastructure and services Reduce consumption of land Housing of good design Residential development is not permitted until land is adequately serviced Not contain provisions that will reduce residential density 	The planning proposal will allow for the development of residential accommodation in Tooleybuc to support seasonal and permanent workers in the growing horticultural industry. Appropriate growth areas in the master plan have been selected based on proximity to the town centre and access to existing utility services.

Direction	Requirements	Compliance
3.2 Caravan Parks and Manufactured Home Estates	The planning proposal must: <ul style="list-style-type: none"> Retain provisions that permit development of caravan parks Provide appropriate zoning for existing caravan parks 	Not applicable. The planning proposal does not contemplate suitable zones, locations or provisions for caravan parks, camping grounds or manufactured homes estates.
3.3 Home Occupations	The planning proposal must permit home occupations in dwelling houses without development consent.	Home occupations are permitted without consent in the RU5 Village zone.
3.4 Integrating Land Use and Transport	A planning proposal must locate zones for urban purposes that give effect to: <ul style="list-style-type: none"> Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and The Right Place for Business and Services Planning Policy (DUAP 2001) 	The planning proposal will facilitate residential development on the periphery of the existing Tooleybuc township. The subject land is identified as being most appropriate in managing the short-term growth needs of Tooleybuc given its proximity to existing community services and facilities.
3.5 Development Near Licenced Aerodromes	Not applicable.	Not applicable. No aerodromes are located within proximity of the subject land.
3.6 Shooting Ranges	Not applicable.	Not applicable. No shooting ranges are adjoining or within proximity of the subject land.

4. Hazard and Risk

4.1 Acid Sulfate Soils	A council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning map unless the council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.	Not applicable. The planning proposal does not involve land identified on the Acid Sulfate Soils Planning Map.
4.2 Mine Subsidence and Unstable Land	The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Not applicable. The planning proposal does not involve mine subsidence areas or areas identified as unstable.

Direction	Requirements	Compliance
4.3 Flood Prone Land	A planning proposal must not rezone the land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.	Tooleybuc is located on a sand hill and is elevated above the areas affected by flooding in non-extreme events (i.e. up to and including the 200-year ARI flood). The flood extent is confined to river side of Murray Street with some flooding of grounds of properties with river frontage between Lake Coomaroo link channel and the Golf Course. Above floor flooding of future buildings is unlikely, but subject to confirmation of floor levels will be required at the development application stage.
4.4 Planning for Bushfire Protection	A planning proposal in bushfire prone land: <ul style="list-style-type: none"> • Is to be referred to the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination prior to community consultation • Have regard to Planning for Bushfire Protection 2006 • Restrict inappropriate development from hazardous areas • Ensure bushfire hazard reduction is not prohibited within the APZ. 	Not applicable. The land is not identified as subject to Bush Fire Risk on Council's Bush Fire Prone Land Map.

5. Regional Planning

5.1 Implementation of Regional Strategies	The planning proposal must be consistent with the Riverina Murray Regional Plan 2036.	The planning proposal is consistent with the Riverina Murray Regional Plan. Refer to discussion in Section B.1 about the relationship to the strategic planning framework.
5.2 Sydney Drinking Water Catchments	Not applicable.	Not applicable.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.	Not applicable.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.	Not applicable.

Direction	Requirements	Compliance
5.8 Second Sydney Airport: Badgerys Creek	Not applicable.	Not applicable.
5.9 North West Rail Link Corridor Strategy	Not applicable.	Not applicable.
6. Local Plan Making		
6.1 Approval and Referral Requirements	<p>A planning proposal should not:</p> <ul style="list-style-type: none"> Contain provisions requiring concurrence, consultation or referral of a Minister or public authority without approval from the relevant Minister or public authority; and the Secretary of the Department of Planning, Industry and Environment Identify development as designated development unless justified 	<p>Consistent. The planning proposal does not introduce concurrence, consultation or referral requirements.</p> <p>The planning proposal does not relate to designated development.</p>
6.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without approval of the relevant public authority and the Secretary of the Department of Planning, Industry and Environment.	<p>Under <i>Local Government Act</i> s 30, the Governor's approval is required to remove the operational land classification and discharge any interests affecting Part Lot 62 DP 756584 and Lot 30 DP 263617. The information required to justify discharge of a land classification through a LEP in accordance with <i>Practice Note PN 16-001 Classification and reclassification of public land through a local environmental plan</i> is addressed in Table 3.</p> <p>The planning proposal is subject to the approval of the Department of Planning, Industry and Environment.</p>
6.3 Site Specific Provisions	A planning proposal to allow a particular land use (residential development) must rezone the site to an existing zone already applying to the LEP that allows the land use, without additional development standards to those already in use in that zone.	Complies. The planning proposal will not result in any unnecessarily restrictive site-specific planning controls.
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Strategy	Not applicable.	Not applicable.

Section C - Environmental, Social and Economic Impact

1. 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?

The planning proposal is unlikely to impact upon any threatened species, populations or ecological communities, or their habitats. The land that forms the subject of the planning proposal is located within the urban boundary of the Tooleybuc township and is land that has been highly modified and contains no areas of critical habitat.

Small portions of land along the western boundaries of Lots 3 and 4 DP 835945 are mapped environmentally sensitive areas under Wakool LEP 2013. Further environmental investigation is likely to be required to inform the land's suitability for residential development.

2. 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 likely negative environmental effects associated with the planning proposal. The subject land is not mapped as bushfire prone land according to Council records. The land is not identified as being prone to landslip.

Tooleybuc sits on the Murray River and is located 50 km downstream of Swan Hill. The catchment area upstream of Tooleybuc is large and encompasses many river systems. However, Tooleybuc does not receive all floodwaters from the upstream areas due to the interactions of the Murray River floodplain with the Edwards, Wakool and Niemur Rivers to the north of this area. During flood events a large portion of the floodwaters from the Murray River flow through these systems and re-enter the Murray River downstream of Tooleybuc.

Tooleybuc is located on the NSW side of the Murray River and is elevated to generally above the 100-year ARI flood levels. There are three levees on the NSW side of the Murray and these levees were surveyed as part of the recent Tooleybuc Flood Study. The township does not rely on these levees for flood protection but rather the levees are used for flood prevention for the more frequent flood events.

Should the rezoning proceed, further consideration of the development concept would occur at development application stage and could include design measures to lessen the flood impact if desired.

Further consultation with the Environment Protection Authority is necessary to consider suitable buffer requirements from Council's Water Treatment Plant. An acoustic assessment is likely to be required to confirm a suitable buffer distance for nearby residential development to inform a proposed amendment to Wakool DCP 2013 outlining setback requirements from the Water Treatment Plant.

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

The potential for a larger population in Tooleybuc brings with it the potential for amenity to arise, making Tooleybuc a more vibrant and sustainable community. Tooleybuc has a high level of hospitality services, recreational facilities and schools for its size; however, its retail offering is limited. With expected population growth and demand for housing, a subsequent increase in the

offering of retail services and community amenities will improve the quality of life for residents and increase the attraction of living in Tooleybuc.

The lift in population will also change the age profile of Tooleybuc towards a younger demographic. An increased school-age population will increase the range of education able to be offered by Tooleybuc Central School but will also boost the number and frequency of community and sporting activities in the township.

The proposed discharge of Council's interest in the operational land will not compromise public and/or recreational opportunities in Tooleybuc. None of the land forming part of this planning proposal is dedicated as or utilised for recreation. The Council owned land was acquired to support the use of the site to house the Water Treatment Plant and the privately-owned blocks have been utilised to date for rural living.

New almond and citrus plantings over past few years has generated a substantial amount of work which has started benefitting the Tooleybuc economy. It is also generating demand for new permanent and seasonal housing. With supply necessarily constrained in Tooleybuc itself due to the availability of appropriately zoned land and allotment sizes to accommodate the housing types required to support a growing workforce, many workers are commuting into the Tooleybuc area. This planning proposal aims to give effect to a master plan that aims to alleviate housing demand pressures by providing a short-term growth management scenario within the existing lot layout and settlement pattern of Tooleybuc.

Section D - State and Commonwealth Interests

1. Is there adequate public infrastructure for the planning proposal?

Road and transport infrastructure

Consistent with most regional communities, there is limited provision for public transport and residents are dependent on their car for travel. The major road corridor used for Tooleybuc residents is the Mallee Highway which traverses along Murray Street, Lea Street and Yanga Way on NSW side of the border. Other notable streets that are well used due to the location of businesses or community services and facilities include Cadell Street and Lockhart Road. Lockhart Road and Cadell Street also connect Tooleybuc to Goodnight in the north and Nyah in the south.

The existing road network is generally self-sufficient in terms of goods, services and facilities. There is some travel between the two communities such as Piangil residents travelling to Tooleybuc for some health services provided by Tooleybuc Community Health Clinic and Tooleybuc residents travelling to Piangil for fuel since the Tooleybuc petrol station shut down. Residents also travel to Swan Hill for more specialist requirements or to do a 'big grocery shop' on a weekly or monthly basis or travel to Melbourne for specialist medical treatment.

Roads and Maritime Services, in partnership with VicRoads, has funding to plan for a future Murray River bridge on the Mallee Highway at Tooleybuc. A high-level bridge downstream of the existing bridge, has been identified as the preferred option. The project is part of the NSW Government's Bridges for the Bush initiative, which aims to improve freight productivity in regional areas.

Social infrastructure

The proposed future development of land for residential purposes would have a minor incremental impact on public essential services such as health, education and emergency services.

Education

The main education facility near Tooleybuc is Tooleybuc Central School (catering pre-K to Year 12). Piangil Primary School near Swan Hill closed down in 2015 due to low enrolment rates. The

school age population in the Tooleybuc area is projected to increase from about 200 to 350-400 by 2030. This will lift the range of education able to be offered by Tooleybuc Central School.

Health Services

Health facilities in the Tooleybuc township include Home and Community Care, which offers respite care, home assistance, community transport services and social support services. A Community Health Centre is in the town centre, providing a range of health services on a rotating basis including women's health, mental health, dietician, podiatry, speech pathology, immunisation and an early childhood clinic. Additional services would be required to accommodate any future population growth.

Emergency Services

Tooleybuc is well-served by fire, ambulance and State Emergency Service from both NSW and Victoria.

Community Facilities

Several community facilities are located in Tooleybuc and surrounding towns, including Tooleybuc Sporting Club, Tooleybuc and Piangil District Fishing Club Inc, Tooleybuc Recreation Reserve and Hall, Our Lady Help of Christians Catholic Church, Piangil RSL and Hall, Piangil Memorial Park and Recreation Reserve, a BMX track in Piangil and the Tooleybuc Mobile Library.

Community consultation undertaken to date reveals that many residents travel to Swan Hill for larger shopping trips or for facilities such as banking and specialised health services.

Utilities

Should this planning proposal proceed, the staging of the master plan delivery will permit land to be developed as infill residential development to ensure cost-effective access to public utilities is available.

Stormwater

Stormwater for properties east of Murray Street is collected via gravity fed kerb and gutter network and is outlet into the adjacent River Murray via a small pit and pipe network which runs east of Murray Street.

Gross Pollutant Traps (GPTs) are located near the pipe outlets to prevent large pollutants entering the river.

The existing stormwater network will need to be extended with future growth and flows may be limited by the GPTs, depending on future flows and whether additional outlets to the Murray River are required.

Electricity

Existing electrical feed capacity into Tooleybuc is 4 MVA serviced from Koraleigh in the south. This also supplies Kyalite and surrounding areas. Peak demand for the electrical feed servicing these areas and townships is 3 MVA.

Growth of an additional 121 dwellings or greater in Tooleybuc is likely to require at least another 1 MVA, which includes powering of the planned Water Treatment Plant upgrade in 2022. Potential future transmission infrastructure upgrades may also be triggered by additional industries supporting the growth in horticulture, such as a processing plant. Where appropriate, infrastructure funding may be sought from grants and other funding programs under the Regional Growth Fund.

Water Supply

Tooleybuc is serviced by dual water supplies (potable for drinking and untreated for irrigation) sourced from the Murray River. Water supply facilities within the town include the Water Treatment Plant and water storage reservoirs (water towers).

Water is drawn from the river via two pump stations into the Water Treatment Plant. Treated water is then pumped to the water tower for distribution throughout the town.

The current water supply system is at capacity servicing 276 people, providing for an additional 60 people in the township. Upgrades to the network and Water Treatment Plant are planned for 2022. Upgrades and additional capacity will likely require more power and may also trigger a need for power upgrades.

Mains Sewer

The existing sewer system comprises of septic tanks on individual properties serviced by gravity pipes feeding to three pump stations around the town. The gravity collection system services most of the township other than east of Wakool Street. These properties will be reliant on septic tanks with irrigation areas on site.

Rising mains transfer waste to the Waste Treatment Plant consisting of connected oxidation and evaporation ponds with a capacity of 500 equivalent people. Based on the low growth scenario in the master plan, there is capacity in the existing network. Future upgrades will be required for medium and high growth scenarios.

Site observations indicate upgrades are required to the central wastewater pump station. The capacity of existing pump stations is unknown and may require additional pump stations to service growth areas.

2. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The NSW Government is working closely with Murray River Council to address land use planning constraints in Tooleybuc as part of the master planning process.

Formal consultation with relevant State and Commonwealth public authorities will be conducted post-Gateway Determination as necessary.

Part 4 – Mapping

Refer to mapping attached to this planning proposal.

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Part 5 – Community Consultation

Master Planning

Community consultation for the master planning in Tooleybuc is ongoing and Murray River Council has been active in encouraging the local community to participate and contribute feedback. The NSW Government has been working to ensure that this plan reflects community priorities and concerns, including feedback from community and stakeholder engagement.

A summary of engagement undertaken to date is as follows:

- Three community consultation sessions were held in Tooleybuc on 14 December 2018, 25 January 2019 and 27 February 2019. Attendees included representatives from Murray River Council, local businesses and residents from Tooleybuc and surrounding towns.
- Notices published in the Council newsletter in March 2019.
- Public exhibition of the draft master plan from March to April 2019. The community was able to send submissions online, via email or post.
- The 1300 REGION phone number was established by the NSW Government to enable community members to call and find out more about the master planning in Tooleybuc.

Key themes from the community consultation feedback included the need to take a conservative approach to forecasting future growth and to support the sustainable growth of the township. Feedback on the draft master plan has closed and submissions were reviewed and taken into consideration when preparing the final master plan.

Planning Proposal

The proposal is unlikely to be considered ‘low impact’ as described in the Guide as some public land is required to be reclassified to facilitate the proposed development. As a result, an exhibition period of 28 days would be required.

In accordance with s 29 of the *Local Government Act*, Council must arrange a public hearing following the public exhibition of the planning proposal. The purpose of the public hearing is to allow members of the community to make submissions on the proposed discharge of the operational land classification to an independent party, who then reports to Council on these recommendations before Council making a determination on the planning proposal.

Consultation will be carried out in accordance with the requirements set out in the EP&A Act and Regulation. The proposed consultation strategy for this proposal will include:

- Written notification to landowners adjoining the subject land;
- Public notices to be provided in local media, including the local newspaper and Council’s website;
- Copies of the planning proposal and supporting material in Council public buildings; and
- Electronic copies of all documentation to be made available on Council’s website.

The Gateway determination will confirm public consultation requirements.

Part 6 – Project Timeline

A project timeline will be developed post-Gateway Determination.

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