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Plan finalisation report – PP-2020-3910

Wagga Wagga LEP 2010 (Map Amendment No 7) – 9
Lockhart Road and 39 & 84 Bristol Street, Collingullie

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Introduction

1.1 Overview

1.1.1 Name of draft LEP

Wagga Wagga Local Environmental Plan 2010 (Map Amendment No. 7).

Proposal to amend the *Wagga Wagga Local Environmental Plan 2010* by rezoning land at Lockhart Road and Bristol Street, Collingullie from RU1 Primary Production to RU5 Village and removing minimum lot size requirements.

1.1.2 Site description

Table 1 Site description

Site Description	9 Lockhart Road, Collingullie (part of Lot 1 DP 120715 and part of Lot 39 DP 754561) 84 Bristol Street, Collingullie (part of Lot 5 DP 833514) 39 Bristol Street, Collingullie (part of Lot 20 DP 843207)
Type	Area
Council / LGA	City of Wagga Wagga
LGA	Wagga Wagga



Figure 1 Subject site (source: Planning Proposal (March 2022))

The subject site is 37 hectares in size and surrounds the existing township along its south, west and east of the borders (**Figure 1**). It is predominantly flat, consisting of land historically used for grazing. It is bounded on the east by Bristol Street and on the west by The Rock-Collingullie Road. The land is largely cleared except for a patch of vegetation on the south east corner adjoining the existing village zone.

The village of Collingullie is 23 kilometres west of the Wagga Wagga CBD. It has a population of almost 400 people. The village has access to infrastructure, including reticulated water and sewer and community facilities. On the southern boundary of the village is a public recreation area (Collingullie Oval).

There is a sewerage treatment plant approximately 530 metres south of the existing village southern boundary (approximately 400 metres south of the subject site).

1.1.3 Purpose of plan

The objectives of the planning proposal are to:

- Facilitate additional housing opportunities in Collingullie village
- Increase the resident population of Collingullie to assist the sustainability of existing and future services and community facilities
- Facilitate more affordable housing opportunities in the local government area
- Meet community demand for larger residential lots, in a location that would not compromise future urban development, as supported by Council in the draft Activation Strategy.

Table 2 below outlines the current and proposed controls for the LEP. **Figures 2 and 3** show the current and proposed controls as maps.

Table 2 Current and proposed controls

Control	Current	Proposed
Zone	RU1 Primary Production	RU5 Village
Minimum lot size	200ha	No minimum lot size
Number of dwellings	0	150
Number of jobs	N/A	0 Note: job creation expected during construction

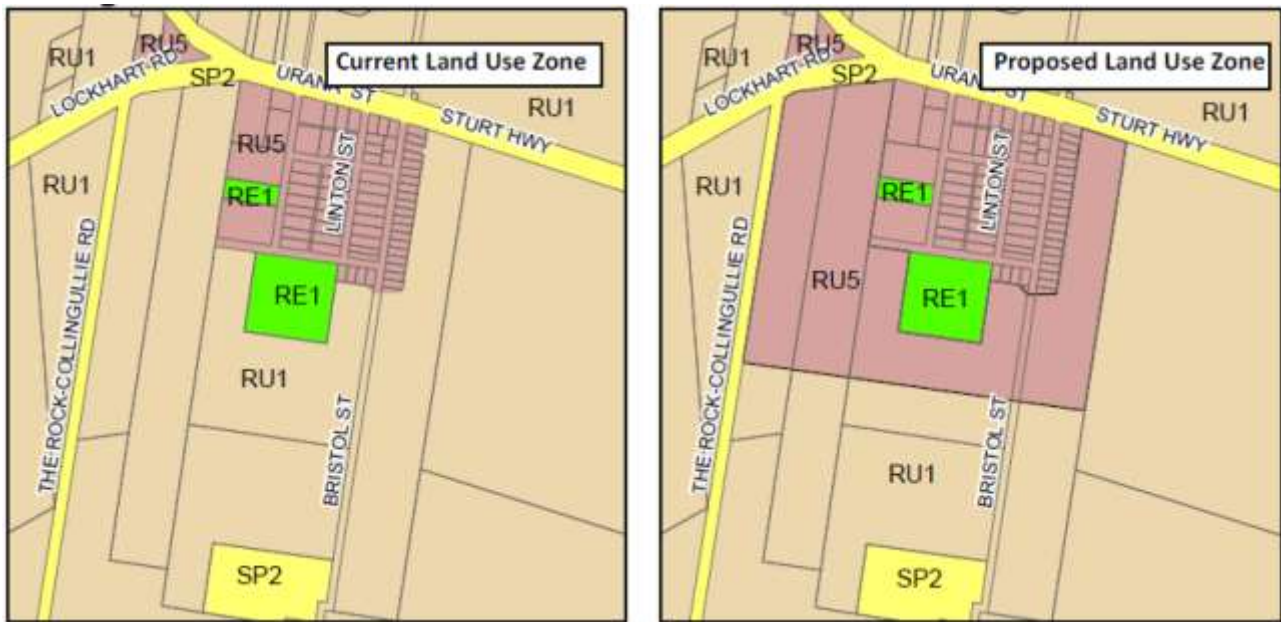


Figure 2 Current and proposed land use zone map (source: Planning Proposal, March 2022)

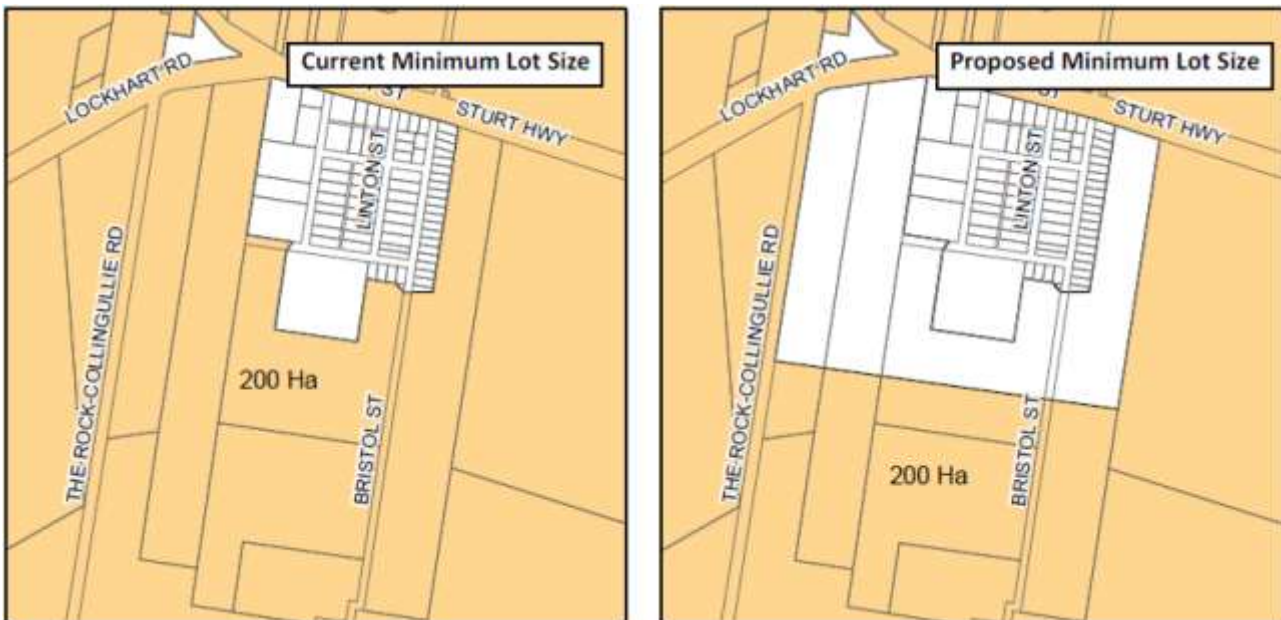


Figure 3 Current and proposed minimum lot size map (source: Planning Proposal, March 2022)

1.1.4 State electorate and local member

The site falls within the Wagga Wagga state electorate. Dr Joe McGirr MP is the State Member.

The site falls within the Riverina federal electorate. Hon Michael McCormack MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Gateway determination and alterations

The Gateway determination issued on 20/01/2021 (**Attachment B**) determined that the proposal should proceed subject to conditions. Council has met all the Gateway determination conditions.

The Gateway determination was altered on 27/10/2021 (**Attachment B1**) to amend the timeframe for completing the LEP. The Gateway determination was altered again on 24/06/2022 (**Attachment B2**) to amend the timeframe for completing the LEP and to nominate the Department as the local plan making authority.

In accordance with the Gateway determination (as altered) the proposal is due to be finalised on 29/07/2022.

3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 12/03/2022 to 16/05/2022.

Council received 13 community submissions and 4 agency submissions. These are discussed below.

3.1 Community Submissions

A total of 13 community submissions were received, 12 from individuals and 1 from the Collingullie Glenfield Park Football Netball Club Inc.

Submissions comprised 11 objections, 1 comment and 1 submission supporting the proposal (**Attachment E**).

The issues raised in submissions are addressed in **Table 3** below.

Table 3 Summary of Key Issues

Issue raised	Council response and Department assessment of adequacy of response
Concerns about potential land use conflict with adjoining rural land and need for a buffer between residential and rural uses.	<p><u>Council Response:</u></p> <p>Council notes that the Department of Primary Industries raises no objection and that the DPI Interim Guideline 'Buffer Zones to Reduce Land Use Conflict with Agriculture' contains suggested evaluation distances between agriculture and sensitive receptors.</p> <p>The large lots facilitated by the proposal would and the Collingullie Village Structure Plan will result in new dwellings being set back at least 50m from the proposed zone boundary. It is noted that 1,000m² residential lots in Bristol Street already directly adjoin land zoned Primary Production with no buffer.</p> <p>Council also made post exhibition amendments to the draft DCP to require that any subdivision application which adjoins land zoned RU1 Primary Production be accompanied by a Land Use Conflict Risk Assessment. The draft DCP has also been amended post exhibition to contain additional wording in relation to the minimum requirements for a green buffer.</p> <p>The proposal is consistent with the Wagga Wagga Spatial Plan 2013-2043 and the Wagga Wagga Local Strategic Planning Statement 2040 which</p>

Issue raised	Council response and Department assessment of adequacy of response
	<p>identify growth potential for Collingullie Village, despite the surrounding rural uses.</p> <p><u>Department Response:</u></p> <p>The Department is satisfied that Council's response is adequate.</p>
<p>Objections to having no MLS control in the proposed RU5 Village zone.</p>	<p><u>Council Response:</u></p> <p>Minimum lot size within the RU5 Village zone will continue to be managed via the DCP, consistent with all other RU5 land in the Wagga Wagga LGA.</p> <p><u>Department Response:</u></p> <p>The Department is satisfied that Council's response is adequate.</p>
<p>Request for consideration to be given to smaller lots.</p>	<p><u>Council Response:</u></p> <p>The DCP will include provisions which allow for the consideration of smaller lot sizes where the overall objectives (including the protection of ecological values) can be met.</p> <p>"Smaller lots are not considered appropriate in the eastern part of the village expansion area due to the need to provide an appropriate interface to adjoining agricultural uses."</p> <p><u>Department Response:</u></p> <p>The Department is satisfied that Council's response is adequate.</p>
<p>Request for land to be set aside for recreation purposes, including a second AFL oval.</p>	<p><u>Council Response:</u></p> <p>Council's Recreation, Open Space and Community Strategy contains a benchmark provision of 4ha of open space per 1,000 people. The existing open space provision in Collingullie is equivalent to 20ha of open space per 1,000 people. Hence, even with the village expansion, there is unlikely to be justification for the provision of additional land for public recreation.</p> <p>Notes that outdoor recreation facilities are permissible with consent in both the RU5 Village Zone and the RU1 Primary Production Zone so additional open space can be provided privately if required.</p> <p><u>Department Response:</u></p> <p>The Department is satisfied that Council's response is adequate.</p>
<p>Objections to the structure plan layout, including objection to the inclusion of Crown Land adjoining MacDonnell Street, some of which is zoned RE1 Public Recreation</p>	<p><u>Council Response:</u></p> <p>The street layout within the Village Structure Plan is indicative only and will be subject to further assessment and design. The DCP has been amended post exhibition to require that any proposal for new roads, or extension to existing roads, is to be confirmed by a traffic study prepared by an appropriately qualified consultant.</p> <p>No zoning changes are proposed for the Crown Land fronting MacDonnell Street.</p> <p><u>Department Response:</u></p>

Issue raised	Council response and Department assessment of adequacy of response
	The Department is satisfied that Council's response is adequate.
Failure to deliver certain improvements mentioned in the LSPS	<p><u>Council Response:</u></p> <p>Improvements described in the LSPS, such as community gardens, open space improvements, truck parking and youth recreation facilities are beyond the scope of these amendments. This proposal does not preclude these improvements being delivered later.</p> <p><u>Department Response:</u></p> <p>The Department is satisfied that Council's response is adequate.</p>
Objections to the scale and impacts of the proposal on character and amenity	<p><u>Council Response:</u></p> <p>The village expansion will be limited by the capacity of the Collingullie sewage treatment plant (which has capacity for an additional 175 dwellings). The proposal is within this capacity (approximately 150 dwellings).</p> <p>Amenity concerns will be addressed through the draft DCP.</p> <p><u>Department Response:</u></p> <p>The Department notes that the DCP controls have been amended post exhibition to address amenity concerns.</p> <p>The Department is satisfied that Council's response is adequate.</p>
Objection to proposed DCP controls, including comments on building heights, lot sizes and buffer zones.	<p><u>Council Response:</u></p> <p>The proposed height controls in the DCP are consistent with the <i>SEPP (Exempt and Complying Development Codes) 2008</i>, which overrides any conflicting DCP controls.</p> <p>The lot size distribution map from the Urban Design Report will be included in the DCP.</p> <p>Council's post-exhibition changes to the DCP amendment to require that any development application to subdivide land which adjoins land zoned RU1 Primary Production be accompanied by a Land Use Conflict Risk Assessment in accordance with the DPI Land Use Conflict Risk Assessment Guide.</p> <p><u>Department Response:</u></p> <p>The Department notes that the controls in the DCP won't interfere with the operation of <i>SEPP (Exempt and Complying Development Codes) 2008</i>.</p> <p>The Department is satisfied that Council's response is adequate.</p>
Concerns about stormwater management and that the proposal would exacerbate existing stormwater drainage issues in the village.	<p><u>Council Response:</u></p> <p>Existing provisions for stormwater management will apply to future developments. Any development application to subdivide land would be required to satisfy these requirements in relation to stormwater management.</p>

Issue raised	Council response and Department assessment of adequacy of response
	<p><u>Department Response:</u></p> <p>The Department is satisfied that Council's response is adequate.</p>
<p>Concerns that proposal will not guarantee additional potential school enrolments or the re-opening of Collingullie Public School</p>	<p><u>Council Response:</u></p> <p>While the reopening of the school is ultimately outside of Council's control, additional housing opportunities in the village would be likely to attract more families which would strengthen the justification for the local school to be reopened.</p> <p><u>Department Response:</u></p> <p>The Department is satisfied that Council's response is adequate.</p> <p>It is noted that Schools Infrastructure NSW made a submission stating that the number of students projected to be generated by the proposal can be accommodated by the surrounding schools (see section 3.2 of this report).</p>
<p>Safety concerns relating to the road network.</p>	<p><u>Council Response:</u></p> <p>Transport for NSW (TfNSW) is the relevant authority for any changes associated with access to the Sturt Highway, Lockhart Road and The Rock-Collingullie Road. TfNSW generally seek to limit points of access to the State and Regional Road networks to maximise movement efficiency on their roads. Further details of appropriate intersections with the Sturt Highway will be assessed as part of future traffic and transport reports submitted with development applications.</p> <p><u>Department Response:</u></p> <p>The Department is satisfied that Council's response is adequate.</p>

3.2 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with agencies listed below in **Table 4** who have provided the following feedback.

Table 4 Advice from public authorities

Agency	Advice raised	Council response and Department assessment of adequacy of response
<p>Schools Infrastructure NSW (SINSW)</p>	<p>The number of students projected to be generated by the proposal can be accommodated by the surrounding schools.</p> <p>Recommend that the proposal be supported by a transport impact assessment and consideration of the NSW Government's Movement and Place Framework.</p> <p>Road network design for Collingullie village should consider public transport</p>	<p><u>Council response:</u></p> <p>Noted. Council staff will continue to liaise with Schools Infrastructure NSW to ensure the future growth of the village is supported with adequate community infrastructure.</p> <p>Future subdivision applications will need to be supported by a traffic impact assessment which considers appropriate public transport access and facilities.</p> <p><u>Department response:</u></p>

Agency	Advice raised	Council response and Department assessment of adequacy of response
	service delivery including the need for bus-capable roads that facilitate access to local schools.	The Department is satisfied that Council's response is adequate.
NSW Department of Primary Industries (DPI)	<p>No objection to proposed expansion of village.</p> <p>Clarity required regarding management of land between expanded village and sewage treatment plant and whether the buffer provided is adequate to ensure odour amenity.</p> <p>Consider extending green buffer proposed along eastern boundary of expanded village to the southern boundary of the village.</p> <p>A land use conflict risk assessment (LUCRA) could be undertaken to assess adequacy of proposed buffers to agricultural production activities.</p>	<p><u>Council response:</u></p> <p>This issue can be further considered in conjunction with future subdivision. The existing 400m buffer is consistent with the NSW Department of Urban Affairs and Planning – Sewerage Systems EIS Guideline which recommends a buffer area of at least 400m.</p> <p>The buffer on the eastern boundary acknowledges that future subdivision layout will result in lots closer to the adjoining rural land than that of the southern boundary. The proposed lot sizes of 2,500-4,000m² will provide enough land to separate future dwellings from the existing rural land. The DCP controls will be amended to confirm that siting of future dwellings is to ensure adequate distance between the dwelling location and adjoining farmland.</p> <p>Propose that a LUCRA be required to be prepared to support any future application to subdivide land adjoining land zoned RU1.</p> <p><u>Department response:</u></p> <p>The Department is satisfied that Council's response is adequate.</p>
Water NSW	<p>Water NSW does not own any land or assets that are likely to be affected by the Proposal.</p> <p>Nearest asset is the Beavers Creek Weir and lands immediately surrounding the Weir, which are well removed from the subject site.</p> <p>No comments or requirements in relation to the proposal.</p>	<p><u>Council response:</u></p> <p>Comments noted.</p> <p><u>Department response:</u></p> <p>The Department is satisfied that Council's response is adequate.</p>
Transport for NSW (TfNSW)	Council should require contributions toward the funding of upgrades to the intersection of Sturt Highway and MacDonnell, Linton, and Bristol Streets at the rezoning and development stages.	<p><u>Council response:</u></p> <p>Comments noted.</p> <p>Future subdivision applications will need to be supported by a traffic impact assessment which considers appropriate intersection treatments.</p>

Agency	Advice raised	Council response and Department assessment of adequacy of response
	<p>TfNSW supports vehicular and pedestrian access to the Sturt Highway and Lockhart Road being denied.</p> <p>Any future intersection on The Rock-Collingullie Road should be in accordance with the Austroads Guide to Road Design for the current speed zone and should be designed for the swept path of the largest vehicle.</p>	<p><u>Department response:</u></p> <p>The Department is satisfied that Council's response is adequate.</p> <p>The Department notes that TfNSW's submission describes "the need for contribution towards funding of the upgrade of these intersections should be required by Council as part of the rezoning and future development applications".</p> <p>The LEP is not considered the most appropriate mechanism for contributions capture for this type of proposal. Council's development contributions plans will apply at the development application stage.</p> <p>The Department notes that Council should consult with TfNSW when updating the relevant development contributions plans, but this does not prevent the LEP from being finalised.</p>

3.3 Post-exhibition changes

3.3.1 Council resolved changes

At Council's Ordinary Meeting on 14/06/2022, Council resolved to proceed with the planning proposal with no post-exhibition changes to the draft LEP.

The Department notes that Council resolved to implement post-exhibition changes to the accompanying DCP. These changes include new minimum frontage controls for subdivision, requirements about the design of new roads, requirements relating to the eastern green buffer, and a requirement to produce a Land Use Conflict Risk Assessment when subdividing land adjoining the RU1 Primary Production zone.

Updates to the *Wagga Wagga DCP 2010* are not subject to Departmental approval and do not impact the finalisation of the planning proposal.

3.3.2 The Department's recommended changes

The Department recommends no post-exhibition changes.

3.3.3 Justification for post-exhibition changes

No post-exhibition changes to the draft LEP are proposed. The planning proposal does not require re-exhibition.

4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment B**) and subsequent planning proposal processes. It has also been subject to public exhibition.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination report (**Attachment G**), the planning proposal submitted to the Department for finalisation:

- Remains consistent with the regional and district plans relating to the site.
- Remains consistent with the Council's Local Strategic Planning Statement.

Tables 5 and 6 identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1

Table 5 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1

Table 6 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
Infrastructure	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1

4.1 Detailed assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

4.1.1 Local Strategic Planning Statement

The Department notes that the gateway assessment was considered with regard to the Draft Wagga Wagga Local Strategic Planning Statement (October 2020). It was adopted by Council on 8 February 2021.

The Department is satisfied that the proposal remains consistent with the adopted Wagga Wagga Local Strategic Planning Statement (8 February 2021).

4.1.2 Section 9.1 Ministerial Directions

Direction 4.4 Remediation of Contaminated Land (formerly Direction 2.6)

Ministerial Direction 4.4 applies to the proposal and the Gateway assessment found that the proposal was inconsistent with the Direction. The Direction requires that a planning proposal authority (PPA) must not permit a change of land use on contaminated land unless the PPA is satisfied that suitable remediation is possible and will be carried out before the change of use occurs. The Gateway determination (**Attachment B**) included a condition that a detailed site investigation (consistent with the relevant guidelines) be undertaken.

The proposal submitted for finalisation is supported by a detailed site investigation report prepared by JBS&G Australia (dated 29 June 2021) (**Attachment F**). The report concluded that the site is suitable for the intended residential land use. However, it identified that Part Lot 20 DP843207 required remediation and/or management measures to make it suitable for the proposed residential use.

The Department notes that any future development application (including any application to subdivide the land) would be subject to further assessment with regard to contamination requirements. The Department is satisfied that the proposal has demonstrated that the site can be made suitable for the intended land uses and that the proposal can be finalised.

The Department is satisfied that the proposal is now consistent with Direction 4.4 Remediation of Contaminated Land.

4.1.3 State Environmental Planning Policies (SEPPs)

SEPP (Biodiversity and Conservation) 2021

Chapter 4 Koala habitat protection 2021 applies to the subject site but was not considered in the Gateway assessment because it came into force after the Gateway determination was issued. The aim of the chapter is “to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline”.

The Department notes that the chapter will be a relevant consideration for future development applications on the subject site and is satisfied that the proposal does not interfere with the operation of the SEPP.

SEPP (Resilience and Hazards) 2021

SEPP 55 NAME was identified as relevant during the gateway assessment. SEPP 55 has since been replaced with Chapter 4 of SEPP (Resilience and Hazards) 2021.

The Gateway assessment report (**Attachment G**) identified that investigation of the land was required because it had been used for agricultural uses. The Gateway determination (**Attachment B**) included a condition that a more detailed site investigation (consistent with the relevant guidelines) be completed.

The proposal submitted for finalisation has been updated and is supported by a detailed site investigation report (**Attachment F**). The Department is satisfied that the proposal is now consistent.

For more information, see section ‘4.1.4 Environmental Impacts’ below.

4.1.4 Environmental Impacts - Contamination

The Gateway assessment report (**Attachment G**) identified that further contamination investigation is required, in accordance with Ministerial Direction 4.4 Remediation of Contaminated Land. The Gateway determination (**Attachment B**) included a condition that a detailed site investigation (consistent with the relevant guidelines) be undertaken.

The proposal submitted for finalisation is supported by a detailed site investigation prepared by JBS&G Australia (dated 29 June 2021) (**Attachment F**). The report concluded that the site is suitable for the intended residential land use. However, it identified that Part Lot 20 DP843207 required remediation and/or management measures to make it suitable for the proposed residential use.

This fulfils the requirements of the Gateway Determination and as discussed above in section 4.1.2 of this report the proposal is considered to be consistent with Direction 4.4 Remediation of Contaminated Land. The Department notes that any future development application (including any application to subdivide the land) would be subject to further assessment with regard to contamination requirements.

The Department is satisfied that the proposal has demonstrated that the site can be made suitable for the intended land uses and that the proposal can be finalised.

4.1.5 Infrastructure – Water

The Gateway assessment report (**Attachment G**) identified that the proposal identified that water services were available to the site but did not discuss the capacity of the land to service additional lot yield with mains water supplies. A condition was included on the Gateway determination that Riverina County Council must be consulted prior to finalisation.

Council's post-exhibition report states that Riverina Water County Council was notified of the exhibition but made no submission.

The Department notes that a submission was received from WaterNSW stating that it does not own any land or assets that are likely to be affected by the proposal.

The Department notes that the proposal is consistent with the Wagga Spatial Plan and that Riverina Water County Council has raised no objections to the current planning proposal. The planning proposal states that further consultation with the relevant authorities with regard to servicing and infrastructure will be undertaken as part of the preparation of a development scheme.

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 7 Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	2 maps have been prepared by the Department's ePlanning team (Attachment Maps) and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	<p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> (Attachment C)</p> <p>Council confirmed on 6/07/2022 that it approved the draft and that the plan should be made (Attachment D)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit being consistent with the relevant regional, district and local strategic plans.
- The draft LEP is consistent with the Gateway Determination.
- Issues raised during consultation have been addressed, and there are no outstanding agency objections to the proposal.



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Attachments

Attachment	Document
A	Planning proposal and addendums (March 2022)
B	Gateway determination (20 January 2021)

Attachment	Document
B1	Gateway alteration (27 October 2021)
B2	Gateway alteration (22 June 2022)
C	Section 3.36(1) consultation with Council (29 June 2022)
D	Council comments on draft LEP (6 July 2022)
E	Redacted Submissions
F	Detailed Site Investigation (Contamination) (29 June 2021)
G	Gateway determination report (January 2021)
Maps	Draft LEP maps
LEP	Draft LEP
Council	Letter to Council advising of the decision