**Planning and Assessment** IRF20/5253

Gateway determination report

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| --- | --- |
| **LGA** | Hilltops Council |
| **PPA**  | Hilltops Council  |
| **NAME** | Draft Hilltops Local Environmental Plan (LEP) 2020  |
| **NUMBER** | PP\_HILLT\_2020\_001\_00  |
| **LEP TO BE AMENDED**  | Harden LEP 2011, Young LEP 2010 and Boorowa LEP 2012  |
| **ADDRESS** | The Planning Proposal addresses the entire LGA  |
| **DESCRIPTION** | The Planning Proposal addresses the entire LGA  |
| **RECEIVED** | 06/11/2020 |
| **FILE NO.** | IRF20/4405 |
| **POLITICAL DONATIONS** | There are no donations or gifts to disclose and a political donation disclosure is not required  |
| **LOBBYIST CODE OF CONDUCT** | There have been no meetings or communications with registered lobbyists with respect to this proposal  |

**1. INTRODUCTION**

**1.1 Description of planning proposal**

The planning proposal seeks to create a comprehensive Local Environmental Plan (LEP) for Hilltops local government area (LGA) to harmonise planning controls.

**1.2 Site description**

The planning proposal covers the entire Hilltops LGA which is made up of the former Boorowa, Harden and Young LGAs.

**1.3 Existing planning controls**

There are three existing LEPs which apply to the Hilltops LGA, including:

* Harden LEP 2011;
* Young LEP 2010; and
* Boorowa LEP 2012.

**1.4 Surrounding area**

The Hilltops LGA is bordered by:

* Yass Valley Council to the south east;
* Cootamundra-Gundagai Regional Council to the south west;
* Upper Lachlan Shire to the east;
* Cowra Council to the north east; and
* Weddin Shire Council to the north west.

**1.5 Summary of recommendation**

It is recommended that the planning proposal can proceed as submitted as it would:

* create a comprehensive LEP for the Hilltops LGA, harmonising the planning controls of the three former LEPs;
* progress the strategic objectives of the Hilltops 2040 Local Strategic Planning Statement (LSPS); and
* be consistent with State government planning legislation, policy and guidance including the Standard Instrument LEP.



**Figure 1:** Map of Hilltops LGA (Source: Planning Proposal)

**2. PROPOSAL**

**2.1 Objectives or intended outcomes**

The objectives of the planning proposal are to:

* create a comprehensive LEP for the Hilltops LGA, harmonising the planning controls of the three former LEPs;
* progress the strategic objectives of the Hilltops 2040 Local Strategic Planning Statement (LSPS); and
* be consistent with State government planning legislation, policy and guidance including the Standard Instrument LEP.

The objectives provided in the planning proposal are clear and adequate for exhibition purposes.

 **2.2 Explanation of provisions**

The planning proposal seeks to achieve the intended outcomes by merging the provisions of the Harden LEP 2011, Young LEP 2010 and Boorowa LEP 2012.

The planning proposal identifies duplicated objectives within each of the existing LEPs which are proposed to be harmonised and carried forward into the new comprehensive Hilltops LEP.

The planning proposal is supported by attachments which provide greater detail and a thorough explanation of key amendments proposed to successfully merge the LEPs.

The attachments include:

* Attachment A - LEP Clause Explainer (all LEP Parts/Clauses);
* Attachment B - Aims of the Plan (Part 1 of the LEP);
* Attachment C - Land Use Zones (Part 2 of the LEP);
* Attachment D - Minimum Lot Size (Part 4 of the LEP);
* Attachment E - Urban Release Areas (Part 6 of the LEP);
* Attachment F - Local Clauses and Environmental Layers (Part 7 of the LEP); and
* Attachment G - Hilltops Heritage Review Study (Schedule 5 of the LEP).

A summary of the proposed changes in each attachment, Council’s rational/justification and the Department’s assessment is provided below:

Attachment A - LEP Clause Explainer (all LEP Parts/Clauses)

This attachment provides a summary of all the proposed clauses in the LEP. Where necessary, these clauses are explained in further detail in each of the subsequent Attachments B to G.

The Department generally supports the proposed clauses noting most would be consistent with the Standard Instrument (SI), model clauses and/or the result of the harmonisation of like clauses in all three previous LEPs.

Where new changes are proposed, these generally seek to ensure clauses align with objectives of Council’s LSPS, the wording used in other LEPs across NSW and/or are removed (where found to be redundant).

It is noted that since submitting the planning proposal, Council indicated that they are seeking to include *Clause 4.2A Erection of dwelling houses on land in certain rural and residential zones* within the draft Hilltops LEP prior to consultation. This was not previously proposed, and it is recommended the planning proposal be amended accordingly.

Attachment B - Aims of the Plan (Part 1 of the LEP)

This attachment outlines the proposed contents of Part 1- Preliminary of the Hilltops LEP. It compares the aims of all three existing LEPs and outlines the proposed aims for the consolidated Hilltops LEP.

Council has sought to harmonise the aims of the existing LEPs into a new consolidated set which have been updated to ensure they reflect the intent of the South East and Tablelands Regional Plan, Councils LSPS and Community Strategic Plan.

The Department raises no objection to the proposed aims of the plan.

Attachment C - Land Use Zones (Part 2 of the LEP)

This attachment outlines the proposed contents of Part 2 – Permitted or Prohibited Development of the Hilltops LEP. It compares the objectives and land uses of each land use zone across all three existing LEPs and outlines the proposed objectives and land uses for the consolidated Hilltops LEP.

Council has sought to harmonise the objectives and land uses in each land use zone across the three existing LEPs to suit the needs of the LGA. Council has also sought to ensure these clauses are consistent with the SI and updated (where relevant) to align with the strategic directions of Council’s LSPS.

The Department has reviewed Attachment C and raises no objection to the proposed objectives and land uses of the plan.

Attachment C also outlines details of approximately 46 sites (Boorowa, Harden, Young, parks and nature reserves, infrastructure and other) proposed for rezoning as part of this plan. These are the only sites proposed for rezoning as part of this proposal.

Most of these rezonings (~35) comprise administrative amendments to correct minor mapping anomalies and ensure zoning is appropriate to match existing and adjacent uses (e.g. infrastructure, parks etc) in line with technical guidance/LEP practice notes.

The remaining 5 sites have been identified in Council’s LSPS. These sites are described in detail in Attachment C (Land Use Zones) of the planning proposal and include:

* Boorowa Town Centre rezoning from B2 Local Centre to B4 Mixed Use;
* Boorowa South rezoning from R1 General Residential to R2 Low Density Residential;
* Harden (Aurville) rezoning from RU4 Primary Production Small Lots to R5 Large Lot Residential;
* Young Northern Gateway rezoning from B6 Enterprise Corridor and B7 Business Park to IN2 Light Industrial; and
* Young Southern Gateway rezoning from B6 Enterprise Corridor to IN2 Light Industrial.

The Department raises no objection to the proposed rezonings given they are largely aimed at consistently applying zones across Hilltops LGA, relate to land already zoned for urban purposes and/or have been identified in Council’s LSPS.

Attachment D - Minimum Lot Size (Part 4 of the LEP)

This attachment outlines the proposed contents of Part 4 – Principal Development Standards of the Hilltops LEP. It sets out the proposed minimum lot sizes for minimum subdivision lot size, rural subdivision, and exceptions to development standards.

Council has recommended several amendments to the minimum lot sizes for most land use zones. The rationale for the proposed amendments is based on:

* the availability of reticulated water and/or sewer services;
* the need for the orderly release of land for residential purposes in the towns and villages;
* the provision of lifestyle lots and large lot residential opportunities in areas where the uses are compatible with other land uses;
* creating a diversity of employment and live/work options in rural and semi-rural settings close to services; and
* minimising conflict between land uses.

Council has also included an ‘Essential Services’ provision to clearly identify the requirement for the provision of essential services as a critical requirement for the minimum lot size standard in RU4 Primary Production Small Lots and the R5 Large Lot Residential zones

Importantly, the planning proposal does not recommend any changes to the minimum lots size for RU1 Primary Industries zoned land. Minimum lot sizes for RU1 zoned land currently varies from 40 ha to 170 ha across the LGA and Council intends to rationalise lot sizes in the zone, but not as part of this proposal.

The Department of Primary Industries Important Agricultural Land Mapping data has not yet been made available to Council. Until such time as this science-based data is provided to guide Councils’ decision making in this area, Council has resolved to make no changes to the minimum lot size for the RU1 Zone.

Given the basis for Council’s recommendations, the Department raises no objection to the minimum lot sizes proposed by Council in the Draft Hilltops LEP and will continue to work closely with Council and the Department of Primary Industries throughout finalisation to address any outstanding agricultural land issues.

Attachment E - Urban Release Areas (Part 6 of the LEP)

This attachment outlines Council’s intention to insert the Urban Release Areas (URA) clause from the SI (standard wording) into the Hilltops LEP and identifies 4 URAs earmarked for urban growth. Council wants to be able to manage its urban release areas in a more controlled way to achieve better outcomes.

The proposal identifies a future residential URA in Boorowa, as well as three URAs identified for future employment growth/gateways into the major towns of Young, Harden and Boorowa.

A summary of the proposed URAs and proposed uses in summarised in Table 1 below.

**Table 1:** Proposed URAs

|  |  |
| --- | --- |
| **URA** | **Proposed Uses** |
| Boorowa East | Urban Residential, Semi - Residential and Open Space  |
| Boorowa South | Semi – Residential, Open Space and Industrial (Gateway Precinct)  |
| Harden East | Residential, Open Space, Recreation (Racecourse) and Industrial (Gateway Precinct)  |
| Young North-North East | Urban Residential, Semi – Residential, Open Space and Industrial (Gateway Precinct)  |

The proposed URAs are described in detail and mapped in Attachment E of the planning proposal.

Council’s LSPS identifies these locations for future residential and economic development. The areas within the URAs are currently zoned for urban purposes except for Harden East. Council is not proposing to rezone the land at Harden East for urban purposes through this LEP.

The Department does not support the proposed application of the URA clause and associated mapping to land that will not be zoned for urban purposes. The wording and intent of the URA clause is meant only to apply to land that is zoned for urban purposes and would impose unreasonable requirements (e.g. requirements for satisfactory arrangements and DCPs) on landowners should they wish to lodge development applications.

It is considered that the identification of land for future residential and economic development in Council’s LSPS is enough to provide clear strategic direction until such time as the outstanding lands are rezoned for urban purposes.

It is therefore recommended that the planning proposal be amended prior to public exhibition so that the proposed URA clause and associated mapping only applies to land that will be zoned for urban purposes.

Council acknowledges its LSPS is a 20-year strategy and not all the URA lands identified will be required over the life of the Hilltops LEP.

Council is therefore seeking to use the URA clause and mapping to recognise the future of intent of identified lands, provide clear strategic direction and protect them from inappropriate and/or under-development (e.g. used for rural residential purposes when earmarked for urban residential or employment use).

Quality and orderly development would be further guided by site-specific controls and masterplans provided for each precinct within the proposed Hilltops Development Control Plan (DCP). The DCP will address matters such as infrastructure provisions and sequencing, road access, stormwater and landscaping.

The Department supports Council’s proposed use of the URA clause and associated mapping for land that is zoned for urban purposes (or will be rezoned for urban purposes through this LEP), particularly given the land has been identified through Council’s LSPS process.

Attachment F - Local Clauses and Environmental Layers (Part 7 of the LEP)

This attachment outlines the proposed contents of Part 7 Additional Local Provisions of the Hilltops LEP. It sets out the proposed environmental clauses (earthworks, salinity, flood planning, riparian land and watercourses etc) and additional local clauses.

Council has advised the proposal is primarily an administrative merger of the existing Harden LEP 2011, Young LEP 2010 and Boorowa LEP 2012

Given the above, the Department raises no objection to the proposed local provisions.

It is noted that Council has been liaising with the Department’s Environment, Energy and Science (EES) Division about the proposed environmental provisions and associated mapping. It is intended for these clauses and mapping to be refined throughout the process.

Attachment G - Hilltops Heritage Review Study (Schedule 5 of the LEP)

The attachment outlines the proposed contents of Schedule 5 Environmental Heritage of the Hilltops LEP.

It outlines the findings of the Hilltops Council Review of Cultural Heritage 2019 which recommends 298 individual local heritage items for inclusion in Schedule 5 Environmental Heritage of the new Hilltops LEP. The proposed Schedule 5 Environmental Heritage includes previously identified heritage items from the Young LEP 2010, and Harden LEP 2011 and heritage studies undertaken by the former Councils. The schedule also includes items previously identified in Boorowa which were not included in the Boorowa LEP 2012.

The Department is in principle supportive of protection of local heritage in line with local and regional strategic planning objectives.

It is recommended that Council consult with the relevant Local Aboriginal Lands Council/s of the Wiradjuri and Ngunnawal nations to ensure that significant Aboriginal Heritage sites are identified, acknowledged and protected in the Hilltops LEP. This will also provide the LALC’s the opportunity to comment on all aspects of the proposal.

Overall, the Department concludes the proposed LEP provisions are acceptable to proceed to consultation given Council has generally sought to ensure the Hilltops comprehensive LEP is consistent with:

* local plans and strategies, include the objectives of the Hilltops LSPS and the Hilltops Community Strategic Plan 2030;
* the South East and Tablelands Regional Plan; and
* State Government planning legislation, policy and guidance such as the Standard Instrument and associated practice notes, relevant Section 9.1 Directions and State Environment Planning Policies (SEPPs).

**2.3 Mapping**

The respective maps under each of the existing LEPs will be combined and updated into a single set of maps for the Hilltops LEP.

Draft LEP Maps have not been submitted in the planning proposal. However, sites proposed for rezoning and inclusion as part of any Urban Release Area have been identified on figures in Attachment C (Land Use Zones) and Attachment E (Urban Release Areas). These figures are considered suitable for public exhibition purposes.

Council is currently liaising with the Department’s GIS team to prepare final LEP maps consistent with the relevant mapping guidelines.

**3. NEED FOR THE PLANNING PROPOSAL**

Hilltops Council was formed by the NSW Government in May 2016. In accordance with the Departments *Guidance for merged councils on planning functions*, preparing a planning proposal to harmonise existing LEPs is a key action for merged Councils.

The planning proposal is the only means to provide a comprehensive LEP for the Hilltops Local Government Area.

The planning proposal is also needed to assist Council in delivering on commitments, objectives and actions contained within the Hilltops Community Strategic Plan 2030, Council’s LSPS and supporting background studies such as:

* the Hilltops Rural and Residential Lands Study 2019;
* the Hilltops Economic Growth and Land Use Strategy 2019; and
* the Hilltops Freight and Transport Study 2019.

It is recommended that the proposal to merge the provisions of the Harden LEP 2011, Young LEP 2010 and Boorowa LEP into a comprehensive LEP proceed.

**4. STRATEGIC ASSESSMENT**

**4.2 Regional**

The South East and Tablelands Regional Plan applies to the Hilltops LGA and has the following goals:

* Goal 1: A connected and prosperous economy;
* Goal 2: A diverse environment interconnected by biodiversity corridors;
* Goal 3: Healthy and connected communities; and
* Goal 4: Environmentally sustainable housing choices.

Key priorities identified in the Regional Plan for the Hilltops LGA include:

* capitalise on the economic, housing and servicing opportunities of the Hilltops LGA arising from the proximity to Canberra;
* enhance community access to jobs, goods and services; and
* address land management issues relevant to the Hilltops topography including erosion, salinity, weed management, on farm practises and the management of the water table.

The planning proposal consolidates and harmonises the three existing LEPs applying to the Hilltops LGA and is consistent with the goals and specific priorities identified in the Regional Plan.

**4.3 Local**

Hilltops CSP

The planning proposal seeks to help Council deliver its commitment to consistent and unified planning controls across Hilltops LGA as identified in the Hilltops Community Strategic Plan 2030.

Hilltops LSPS

The *Hilltops 2040* Local Strategic Planning Statement (LSPS) was endorsed by Council in June 2020 and provides a background to rationalise the existing LEPs and prepare a new comprehensive LEP for the Hilltops LGA.

One of the key objectives of this planning proposal is to progress the strategic objectives of the LSPS. The planning proposal would deliver on narratives and actions provided in the LSPS to complete a consolidated and aligned Hilltops LEP.

The attachments provided in support of the application also outline in detail how the Hilltops LEP (clauses, land use zones, URAs, key rezoning sites etc) is underpinned by the aims and objectives of Council’s LSPS.

In particular, the planning proposal would deliver on the rezoning of 5 key sites in Young, Boorowa and Harden identified for rezoning in Council’s LSPS (as identified earlier in this report).

It is concluded the planning proposal is consistent with Council’s LSPS.

**4.4 Section 9.1 Ministerial Directions**

The planning proposal provides an assessment of consistency with applicable Section 9.1 Directions. The planning proposal concludes it is consistent with relevant Directions.

Key Directions are discussed below.

Direction 1.1 Business and Industrial Zones

The planning proposal would affect land within existing and proposed business and industrial zones and Direction 1.1. applies. Key objectives of this Direction are to encourage employment growth in suitable locations and support the viability of centres.

The Hilltops LEP would contain provisions (aims, objectives etc), land uses and zones which seek to encourage employment. Further, key rezonings proposed as part of this application (Boorowa Town Centre, Young Northern Gateway and Young Southern Gateway) seek to facilitate employment growth in suitable locations identified in Council’s LSPS.

The Secretary’s delegate may be satisfied the proposal is consistent with this Direction.

Direction 1.2 Rural Zones and Direction 1.5 Rural Lands

The objective of Direction 1.2 is to protect the agricultural production value of rural land. The planning proposal seeks to rezone rural land and is inconsistent with this Direction in that regard.

The Secretary’s delegate may be satisfied any potential inconsistency with Direction 1.2 is of minor significance as the amount of rural land proposed to be rezoned is a very small portion of the total rural lands in the Hilltops LGA.

Key objectives of Direction 1.5 are to protect the agricultural production value of rural land, facilitate the orderly and economic use and development of rural lands for rural and related purposes, encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land.

The Hilltops LEP would contain provisions (aims, objectives etc), land uses and zones and appropriate minimum lot sizes to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural purposes. The proposal is consistent with Direction 1.5.

Direction 2.3 Heritage Conservation

This Direction seeks to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. The Direction states (inter alia) planning proposals must contain provisions to facilitate the conservation of heritage items and/or precincts.

The planning proposal seeks to insert 298 individual local heritage items into Schedule 5 Environmental Heritage of the new Hilltops LEP.

The proposal is therefore considered to be consistent with this Direction as it facilitates the conservation of heritage items.

Direction 2.6 Remediation of Land

The planning proposal states it is consistent with the objective of this Direction of reducing risk to human health and the environment by contamination.

However, a site-specific assessment of those sites proposed for rezoning against the requirements of Direction 2.6 has not been undertaken. The proposal is therefore currently inconsistent with this Direction.

Whilst the planning proposal is considered adequate for the purposes of exhibition, to ensure consistency with this Direction, a Gateway condition is recommended requiring Council to undertake an assessment of each site proposed for rezoning in accordance with the requirements of Direction 2.6, prior to finalisation. Preliminary site investigations shall be provided in support of the assessment (where required).

This assessment must be submitted to the Department, prior to finalisation. Consistency with this Direction will remain unresolved until this occurs.

Direction 3.1 Residential Zones

This Direction applies to planning proposals affecting residential zones and other zones on which significant residential development is permitted or proposed.

The Direction aims to encourage housing to meet local demand, ensure new housing makes efficient use of existing infrastructure and services and minimise the impact of residential development on the environment.

The planning proposal contains provisions (aims, objectives etc), land use zones and appropriate minimum lot sizes to facilitate a range of housing types, would rezone some sites, and identify URAs, to encourage housing to meet local demand.

The proposal is therefore considered to be consistent with this Direction.

Direction 4.4 Planning for Bushfire Protection

The planning proposal applies to land mapped as bushfire prone.

Consultation has not yet occurred with the NSW Rural Fire Service (NSW RFS) and consistency with Direction 4.4 remains unresolved at this stage. A Gateway condition has therefore been recommended requiring consultation the NSW RFS.

**4.5 State environmental planning policies (SEPPs)**

The planning proposal provides and assessment of consistency with applicable SEPPs. The planning proposal concludes it is consistent with relevant SEPPs.

SEPP 55 – Remediation of Land

SEPP 55 relates to the remediation of land where rezoning occurs.

Under the planning guidelines for SEPP 55 (Managing Land Contamination, DUAP, 1998) rezonings that cover a large area, for instance more than one property, are identified as generalised rezonings. This description applies to the planning proposal.

The planning guidelines acknowledge that for generalised rezonings, ‘it is difficult for a planning authority to be satisfied that every part of the land is suitable for the proposed use(s) in terms of contamination at the rezoning stage’ (page 22). The planning guidelines state that in these cases, the rezoning may proceed if measures are in place to ensure the potential for contamination and the suitability of the land for the proposed uses are assessed once detailed proposals are made. These measures are currently in place under Clause 7 – contamination and remediation to be considered in determining development applications of SEPP No. 55.

The planning proposal is consistent with this SEPP as it is considered that suitable measures are in place to ensure that contamination and the suitability of land could be considered when detailed proposals are made as development applications.

To comply with Section 9.1 Direction 2.6 and provide additional rigour, a Gateway condition has also been recommended requiring further assessment of contamination prior to finalisation (refer to Section 4.4 of this report).

It is noted that the planning guideline instructs that if the rezoning includes the identification of locations for sensitive uses, such as childcare centres, then it may be appropriate to determine the suitability of the land in those locations at the rezoning stage. It is understood the proposal does not seek to rezone any land to introduce any new sensitive uses that this would apply to at the rezoning stage.

SEPP (Primary Production and Rural Development)

This SEPP aims (inter alia) to facilitate orderly and economic development of land for primary production, reduce land use conflict and sterilisation of rural land and to identify State significant agricultural land.

Currently, no State significant agricultural land has been identified in the SEPP, but the aims of the SEPP are considered relevant to the planning proposal.

As noted in Section 4.4. of this report, the Hilltops LEP would contain provisions (aims, objectives etc), land use zones and appropriate minimum lot sizes to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural purposes.

**5. SITE-SPECIFIC ASSESSMENT**

**5.1 Social**

Due to the nature of the planning proposal, being a consolidation of the controls across the existing LEPs, it is unlikely it would result in any adverse social impacts.

The planning proposal will provide the community with a single LEP with a unified set of provisions. This will improve clarity and consistency and will also assist in providing certainty to landowners and the community.

The planning proposal is likely to result in positive social impacts by helping Council deliver on commitments in its CSP, progressing the strategic objectives of Council’s LSPS and creating a consolidated and modernised framework (based on significant background analysis) to guide future land use planning decisions in the LGA at significant benefit to the community.

**5.2 Environmental**

Due to the nature of the planning proposal, it is unlikely it would result in adverse environmental impacts.

The planning proposal seeks to implement relevant environmental clauses, objectives and zones required to protect, manage and conserve areas of environmental importance and sensitivity.

The planning proposal is largely an administrative LEP that merges and harmonises the three former LEPs of Harden, Young and Boorowa. It does not rezone significant amounts of new urban land.

The planning proposal does not make radical changes to the environmental mapping of the former LEPs and Council has liaised closely with the Department’s EES Division during the drafting process.

Further consultation is proposed with EES and proposed environmental clauses and mapping would be refined throughout finalisation based on the outcomes of these discussions.

**5.3 Economic**

It is considered that the planning proposal would have a positive economic impact because:

* proposed provisions seek to maximise the critical role that agricultural lands, and the agricultural and rural industries sector plays in the local and regional economy;
* it recognises the inter connectiveness between local commercial, housing and value add-on industries to the viability of the Hilltops economy;
* it harmonises and clarifies the purpose of employment lands and the need for integrated planning and servicing to activate zoned land by:
	+ identification of URAs (industrial ‘gateways’ into major towns)
	+ simplified Industrial zones;
	+ consistent zoning of towns commercial core as B4 Mixed Use;
	+ clarifying the objectives of employment and commercial zones within the land use tables; and
	+ providing consistency of permissible employment and commercial land uses.

**5.4 Infrastructure**

The planning proposal acknowledges the need for an integrated approach to public infrastructure delivery, both at a local and State level. Key aspects of the draft LEP seek to ensure this occurs by:

* objectives of the draft LEP which highlight the need for integrated planning and adequate infrastructure to manage future growth;
* inclusion of the Part 6: Urban Release Area provisions clearly identifying the intended future use of mapped areas, as well as requirements for local and State infrastructure provision;
* inclusion of appropriate residential minimum lots sizes development based on availability of water and sewer services; and
* inclusion of an Essential Services Clause noting requirements for connection to reticulated servicing including sewer connections in the R5 Large Lot Residential and RU4 Primary Production Small Lots zones.

**6. CONSULTATION**

**6.1 Community**

Council proposes to exhibit the planning proposal for a period of 28 days which is considered appropriate.

Council is currently developing a consultation and engagement strategy to inform the exhibition and consultation process.

**6.2 Agencies**

Council has consulted with several agencies during the preparation of the draft Hilltops LEP.

Council proposes to formally consult the following agencies during exhibition of the planning proposal:

* DPIE Environment, Energy and Science Division (biodiversity, conservation and climate change);
* DPIE (Crown Lands);
* the NSW Environment Protection Authority;
* Department of Primary Industries (Agriculture);
* Transport for NSW;
* NSW Rural Fire Service;
* Department of Premier and Cabinet (including Heritage NSW); and
* adjoining LGAs.

Proposed agencies for consultation are considered appropriate. It is also recommended that Council consult with Local Aboriginal Land Councils.

**7. TIME FRAME**

Council anticipates a 10-month time frame to complete the LEP. Key milestones include:

* January 2021 – Finalise LEP Consultation Plan and Communication strategy;
* February 2021 – Gateway determination;
* March to April 2021 – Public Exhibition; and
* July 2021 – Post-Exhibition Report and LEP notification request.

The Department recommends a 12-month time frame to complete the LEP in case of any unforeseen issues.

**8. LOCAL PLAN-MAKING AUTHORITY**

Council has not requested delegation to finalise the planning proposal.

Given this is a complex planning proposal to form a comprehensive LEP, it is recommended that the Department should be the plan making authority.

**9. CONCLUSION**

Hilltops Council have provided significant background analysis to underpin and explain the proposed amendments to the current LEPs of the former Local Government Areas of Harden, Young and Boorowa. The planning proposal is supported to proceed, particularly as it would:

* create a comprehensive LEP for the Hilltops LGA, harmonising the planning controls of the three former LEPs;
* progress the strategic objectives of the Hilltops 2040 Local Strategic Planning Statement (LSPS); and
* be consistent with State government planning legislation, policy and guidance including the Standard Instrument LEP.

**10. RECOMMENDATION**

It is recommended that the delegate of the Secretary:

1. agree that any inconsistency with section 9.1 Direction 1.2 Rural Zones is minor or justified; and
2. note that the consistency with section 9.1 Directions 2.6 Remediation of Land and 4.4 Planning for Bushfire Protection are unresolved and will require justification.

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
* DPIE Environment, Energy and Science Division (biodiversity, conservation and climate change);
* DPIE (Crown Lands);
* the NSW Environment Protection Authority;
* Department of Primary Industries (Agriculture);
* Transport for NSW;
* NSW Rural Fire Service;
* Relevant Local Aboriginal Land Council/s;
* Department of Premier and Cabinet (including Heritage NSW); and
* adjoining LGAs.
1. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
2. Given the comprehensive nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.
3. Prior to exhibition, the planning proposal shall be amended to include *Clause 4.2A Erection of dwelling houses on land in certain rural and residential zones* within the draft Hilltops LEP.
4. Prior to exhibition, the planning proposal shall be amended to ensure the proposed Urban Release Area clause and associated mapping only applies to land that is or will be zoned for urban purposes under this proposal.
5. Prior to finalisation, Council must undertake an assessment of each site proposed for rezoning in accordance with the requirements of Section 9.1 Direction 2.6 – Remediation of Contaminated Land. Preliminary site investigations shall be provided (where required) in support of the assessment to the Department’s satisfaction in accordance with the terms of the Direction.

The assessment must be submitted to the Department, prior to finalisation.

15/12/2020 ****16/12/2020

**Graham Towers Sarah Lees**

**Team Leader, Southern Region Director Southern**

 **Local and Regional Planning**

**Monica Gibson**

**Executive Director**

**Local and Regional Planning**

Assessment officer: Ann Martin

Planning Officer, Southern

Phone: 42471826