



IRF21/2974

Gateway determination report – PP-2021-4286

To amend zoning, floor space ratio, minimum lot size, dwelling density and restricted lot yield development controls for the Arcadia Estate, Tamworth.

July 21



Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: Gateway determination report – PP-2021-4286

Subtitle: To amend zoning, floor space ratio, minimum lot size, dwelling density and restricted lot yield development controls for the Arcadia Estate, Tamworth.

© State of New South Wales through Department of Planning, Industry and Environment 2021. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Industry and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (July 21) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Industry and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Contents

1	Planning proposal.....	1
1.1	Overview.....	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	1
1.4	Site description and surrounding area.....	3
1.5	Mapping.....	4
1.6	Background	6
2	Need for the planning proposal	6
3	Strategic assessment	8
3.1	Regional Plan	8
3.2	Local.....	12
3.3	Section 9.1 Ministerial Directions	14
3.4	State environmental planning policies (SEPPs)	18
4	Site-specific assessment	19
4.1	Environmental.....	19
4.2	Social and economic.....	20
4.3	Infrastructure	20
5	Consultation.....	20
5.1	Community	20
5.2	Agencies.....	20
6	Timeframe	21
7	Local plan-making authority	21
8	Assessment summary	21
9	Recommendation.....	21

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Arcadia Estate Planning Proposal 2 July 2021
Appendix 1 Subject Lands Map
Appendix 2 Arcadia LEP Maps
Appendix 3 Evaluation Criteria
Appendix 4 Attachment 5 Plan Making Reporting Template
Appendix 5 Flora and Fauna Addendum
Preliminary Site Contamination Investigation
Due Diligence Cultural Heritage Assessment
Arcadia Commercial Centre Demand Model

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Tamworth Regional Local Government Area
PPA	Tamworth Regional Council
NAME	Arcadia Estate (Increase of 680 lots to 2,350 lots)
NUMBER	PP-2021-4286
LEP TO BE AMENDED	Tamworth Regional Local Environmental Plan 2010
ADDRESS	'Arcadia Estate', Tamworth
DESCRIPTION	Lot 6 DP 1211122, Lot 1 DP 1213875, Lot 2 DP 1213875, Part of Lot 1 DP 1198645
RECEIVED	9/07/2021
FILE NO.	IRF21/ 2974
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

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to amend the zoning, minimum lot size, floor space ratio and lot size provisions applying to the Arcadia Estate.

Additionally, the planning proposal seeks to introduce dwelling density and restricted lot yield controls for the subject lands.

The aim of the planning proposal is to increase housing choice, standardise and align lot size, support the delivery of infrastructure, and implement dwelling density controls.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the existing controls for the Arcadia Estate, an urban release area to the south of Tamworth. Arcadia Estate was the subject of a recent LEP Amendment to the Tamworth Regional LEP 2010 (Amendment No. 12) which was notified on 27 October 2017 and is discussed in further detail under Section 1.6 of this report.

The proposed amendments will reconfigure the existing controls on the site, which were the subject of Amendment No. 12. The proposed amendments are as follows:

- Amend the size and extent of the existing R1 General Residential, R2 Low Density Residential and B1 Neighbourhood Centre zones;
- Amend the minimum lot size (MLS) from 600m² for the R1 General Residential zone to 450m²;
- Amend the MLS from part 2000m² and part 4000m² for the R2 Low Density Residential zone to 800m²;
- Introduce a new provision requiring minimum density of ten (10) dwellings per hectare for the entirety of the site, by way of a new map and clause; and
- Introduce a new provision restricting Arcadia Estate to a maximum of 2,350 standard dwellings/lots, by way of a new map and clause.

The existing MLS of 0m² for the B1 Neighbourhood Centre will be maintained, albeit applied to the relocated zone. Additionally, the existing Floor Space Ratio (FSR) of 0.5:1 (D) will also be maintained but will be amended to correspond with the relocated B1 Neighbourhood Centre zone.

The existing designation of the Arcadia Estate as an Urban Release Area is also proposed to be maintained.

The effect of the proposed amendments will increase the dwelling yield for the site from approximately 1,670 under current controls to 2,350, a difference of 680. The increase will be generated by expanding the R1 General Residential zone and applying a 450m² minimum lot size to generate higher densities. The two new provisions will set a minimum density requirement, encouraging a mix of typologies across 1ha, while also restricting the maximum number of standard dwellings/lots to ensure adequate servicing.

Table 3 demonstrates how the existing zones will be reconfigured across the site:

Table 3 Reconfiguration of existing zones

Zone	Current Area (ha)	Approx. Site Coverage (%)	Proposed Area (ha)	Approx. Site Coverage (Percentage)
R1 General Residential	174	60	261	91
B1 Neighbourhood Centre	2	1	5	2
R2 Low Density Residential	110	39	20	7
Total	286	100	286	100

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. Notwithstanding, Council staff have indicated that the planning proposal will be supported by a Development Control Plan for the subject lands, which will be concurrently exhibited with the planning proposal. While this process is supported it is recommended that the planning proposal is also updated to recognise the intention to exhibit the relevant DCP and planning proposal concurrently, to ensure the community is aware of the two processes and how they are associated.

1.4 Site description and surrounding area

The planning proposal applies to numerous lots bounded by Werris Creek Road, Burgmanns Lane, Warwick Road and Bylong Road, south of Tamworth. The site is comprised of the following lots:

- Lot 6 DP 1211122,
- Lot 1 DP 1213875,
- Lot 2 DP 1213875,
- Part of Lot 1 DP 1198645.

The subject lands have an area of approximately 286ha. The subject lands are shown in **Figure 1**. The subject lands adjoin the existing South Tamworth and Longyard residential areas. Burkes Gully, an ephemeral water course, traverses the site (**Figure 2**). As such, it is considered appropriate that the Natural Resource Access Regulator be consulted in relation to the proposal.

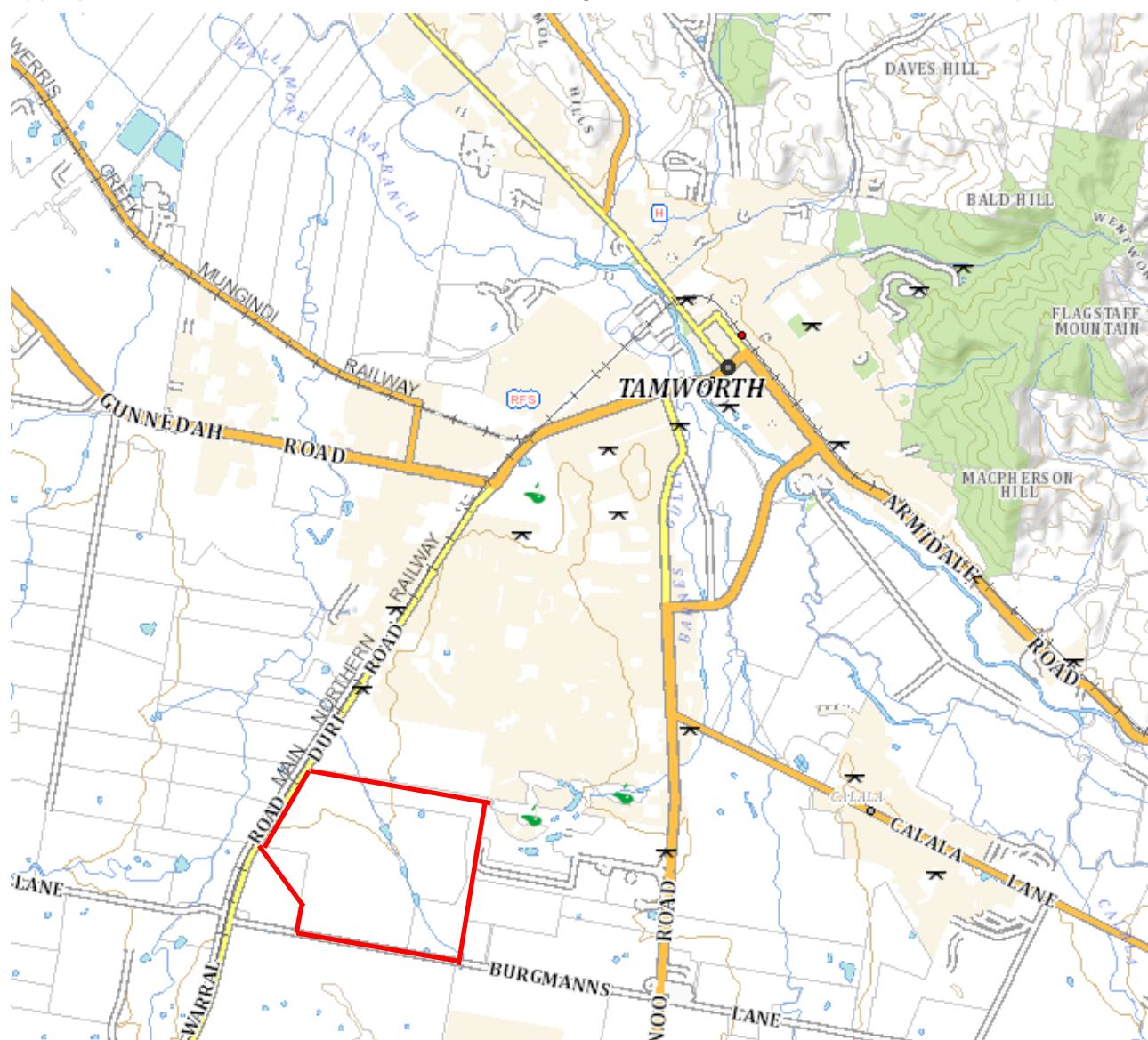


Figure 1 Subject site (outlined in red) (source: Six Maps)



Figure 2 Burkes Gully (source: NearMap)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the land zoning, lot size, floor space ratio, proposed dwelling density and restricted lot yield maps, which are suitable for community consultation.

Figures 3 – 8 demonstrate the existing and proposed controls applying to the site. **Figures 9 and 10** demonstrate the proposed dwelling density and restricted lot yield maps.

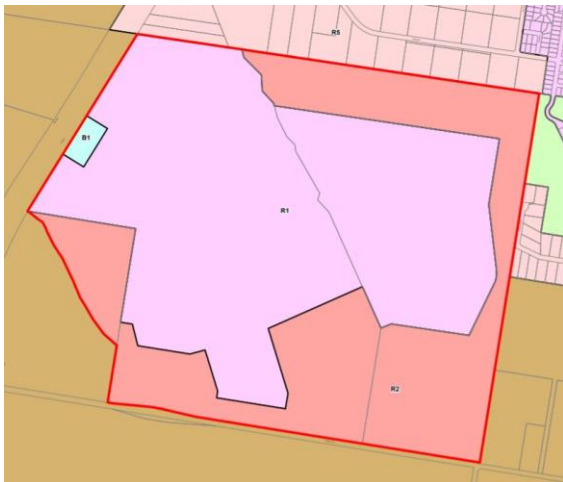


Figure 2 Current zoning map

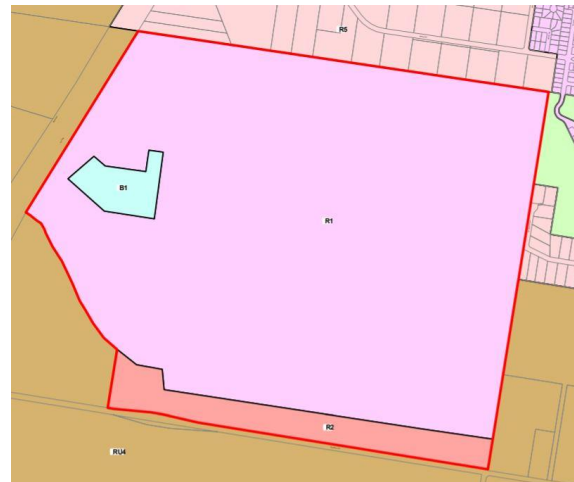


Figure 4 Proposed zoning map



Figure 5 Current floor space ratio map



Figure 6 Proposed floor space ratio map

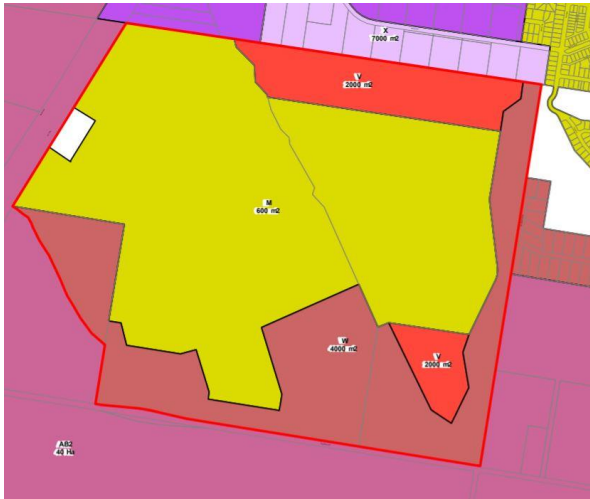


Figure 7 Current minimum lot size map

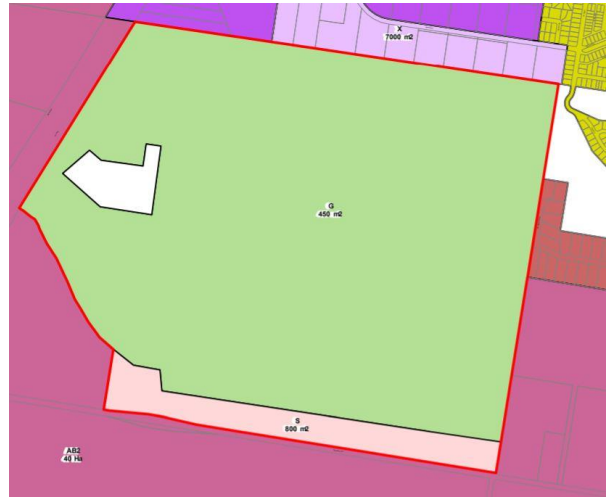


Figure 8 Proposed minimum lot size map

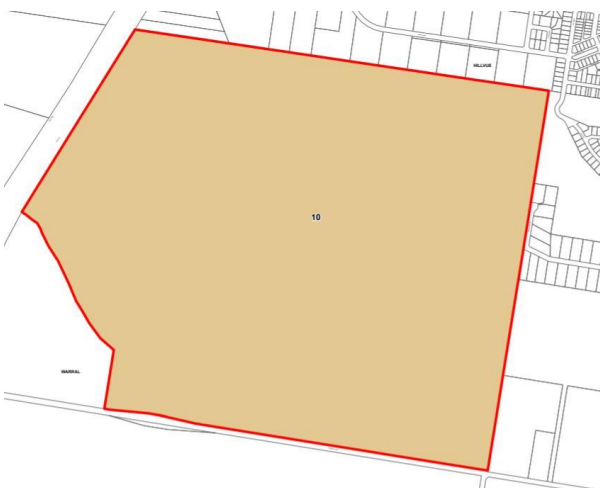


Figure 9 Proposed dwelling density map



Figure 10 Proposed restricted lot yield map

1.6 Background

On 16 September 2016, Tamworth Regional Council lodged a planning proposal to rezone the subject lands from RU4 Primary Production Small Lots to accommodate the following:

- 173ha R1 General Residential;
- 140ha R2 Low Density Residential; and
- 7ha B1 Neighbourhood Centre.

Additionally, the proposal aimed to amend lot size restrictions and introduce an FSR for the B1 Neighbourhood Centre zone. The amended lot size restrictions sought were as follows:

- 600m² R1 General Residential;
- 2000m² and 4000m² R2 Low Density Residential; and
- 0m² B1 Neighbourhood Centre.

A Gateway determination was issued on 5 October 2016. The Gateway determined that the B1 Neighbourhood Centre zone was to be reduced in size to “a level more appropriate for the local convenience needs of the residents of the release area”. The Gateway determination required that the proposal be amended and updated, including strategic justification for the commercial rezoning, and resubmitted to the Department of Planning and Environment (now Department of Planning, Industry and Environment) for approval prior to undertaking community or agency consultation. It was determined that the proposed size of the B1 Neighbourhood Centre zone was inconsistent with section 117 Direction (now section 9.1 Direction) 1.1 Business and Industrial zones.

Following issue of the Gateway determination, Council elected to reduce the size of the B1 Neighbourhood Centre zone to 2ha in order to demonstrate consistency with s9.1 Direction 1.1 and submitted an amended proposal to the Department. Department correspondence dated 18 October 2016, confirmed that, as a result of the reduction of the B1 Neighbourhood Centre zone outlined in the amended planning proposal, the inconsistency with section 9.1 Direction 1.1 Business and Industrial Zones was of minor significance and no further approval was required in relation to this Direction.

The planning proposal then proceeded to exhibition, review and legal drafting and Amendment No. 12 of the Tamworth Regional LEP 2010 was notified on 27 October 2017.

2 Need for the planning proposal

Council has prepared the Tamworth Regional Development Strategy (TRDS) 2008 and the South Tamworth Rural Lands Masterplan (STRLMP) 2012, which apply to the subject lands and were prepared to guide future growth across the Tamworth Regional LGA. Both studies have been endorsed by the Department.

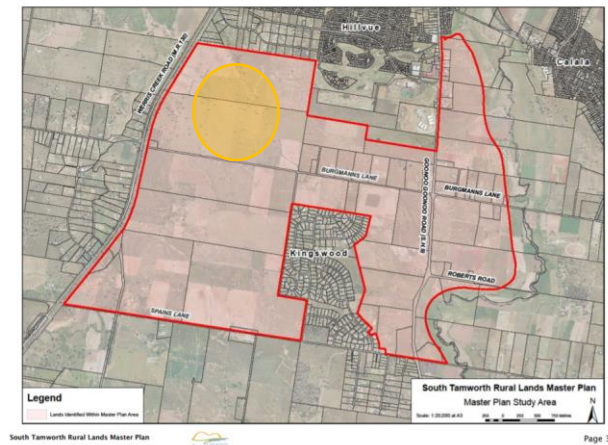


Figure 6 South Tamworth Rural Lands Master Plan 2012 – Master Plan Study Area (Approximate location of subject site shown by orange circle) (Source: South Tamworth Rural Lands Master Plan 2012)

The TRDS 2008 identified land south of Tamworth for equine related industries (**Figure 7**), however this study has been superseded by the STRLMP 2012, which supports the subject land being developed for residential purposes within 5-10 years (**Figure 8**). It should be noted that the STRLMP 2012 does not identify the proposed commercial rezoning.



Figure 6.1 Proposed Equine Industry Areas

Figure 7 Tamworth Regional Development Strategy 2008 – Proposed Equine Industry Areas (Approximate location of subject site shown by orange circle) (Source: Tamworth Regional Development Strategy 2008)

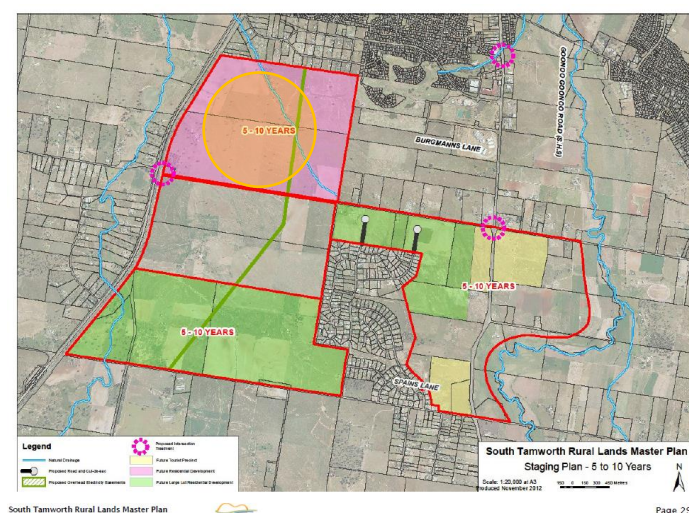


Figure 8 South Tamworth Rural Lands Master Plan 2012 – Staging Plan 5-10 Years (Approximate location of subject site shown by orange circle) (Source: South Tamworth Rural Lands Master Plan 2012)

Amendment No. 12 facilitated the rezoning of the subject lands to achieve the existing residential zones and neighbourhood centre zone, as well as associated controls, in 2017 (see discussion in Section 1.6).

The current planning proposal seeks to increase density on the subject lands and promote housing diversity and choice in new release areas as a result of the work undertaken by the Tamworth Local Strategic Planning Statement (LSPS) (Blueprint – Part 2) (discussed in further detail under Section 3.2 of this report).

Additionally, the planning proposal aims to increase the size of the B1 Neighbourhood Centre zone from 2ha to 5ha and reconfigure the zone within the subject lands. A Retail Demand Study has been submitted to justify the proposed size of the commercial zone, and this is discussed in further detail under Section 3 of this report.

The planning proposal is the only mechanism to amend the Tamworth Regional Local Environmental Plan 2010 to facilitate the proposed planning provisions on the subject lands.

3 Strategic assessment

3.1 Regional Plan

The planning proposal is considered consistent with the relevant aspects of the New England North West Regional Plan 2036, with the exception of the Actions outlined below:

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
1.3	Action 1.3 requires the protection of intensive agricultural clusters in local plans to avoid land use conflicts, particularly with residential and rural residential expansion. The subject lands are located on the southern outskirts of town and adjoin land zoned RU4 Primary Production Small Lots to the south, west and east.

	<p>The current land zoning maps (pursuant to Amendment No. 12) provide for a R2 Low Density Residential zone as a ring around the existing R1 General Residential, meaning higher density development is concentrated away from the RU4 zone.</p> <p>Additionally, the MLS applied to this zone provided for 4000m² along the southern and eastern boundaries, which provided a buffer to higher density development and allowed for future setbacks to rear boundaries to limit noise and potential spray drift from adjoining agricultural lands. Lots on the western boundary adjoin the existing Werris Creek road which provide an appropriate buffer to the west, allowing for higher density along this boundary.</p> <p>The current R2 Low Density Zone applied to the north of the subject lands (adjoining the existing R5 Large Lot Residential zone outside of the subject lands) applied a MLS of 2,000m², providing for an integration between the two zones and the R1 General Residential zone at the centre of the subject lands.</p> <p>The proposed amendment to the land zoning will see the R1 General Residential zone expanded across the site, covering 90 per cent of the subject lands. The R2 Low Density Residential zone will only be applied to the southern portion of the site, to restrict development of medium density in consideration of the proposed southern heavy vehicle bypass along Burgmanns Lane.</p> <p>A 450m² MLS will be applied across the R1 General Residential zone, which will extend along a majority of the northern, eastern and western boundaries of the subject lands. An 800m² MLS will apply to the R2 Low Density Residential land along the southern boundary. The enlargement of the R1 zone and the reduction in the MLS means there is opportunity for considerably smaller lots extending closer to boundaries adjoining RU4 Primary Production land than that currently approved, and therefore, a greater risk of land use conflict between the two zones.</p> <p>It is noted that the introduction of the local provisions regarding minimum density of ten (10) dwellings per hectare for the entirety of the site, and restricting Arcadia Estate to a maximum of 2,350 standard dwellings/lots will restrict the subdivision of the entirety of the R1 General Residential zone into 450m² parcels, however the effect of the amendment is that medium density dwellings are more likely to adjoin the northern, eastern and western boundaries, and the overall potential for dwellings situated on smaller lot parcels along the southern boundary accommodated in the R2 zone.</p> <p>Further, according to the STRLMP 2012, land immediately adjoining the subject lands to the east and south is not envisaged for residential development at this stage, meaning this arrangement is likely for the foreseeable future.</p> <p>The planning proposal does not address the risk of land use conflict as a result of the increased density. It is considered the proposal should be updated prior to public exhibition to address the inconsistency with Action 1.3 of the Regional Plan and outline any mitigation or justification for the inconsistency.</p>
7.2	<p>Action 7.2 requires the focus of retail and commercial activities in central business precincts. The proposal is considered inconsistent with this action as the proposal outlines amendments to the land zoning map to increase and reconfigure the existing B1 Neighbourhood Centre zone in an urban release area outside the central business precinct.</p> <p>As such, the proposal requires further analysis and justification, which is addressed under Action 7.3.</p>

7.3

Action 7.3 requires proposals for new commercial centres be developed only where they:

- demonstrate positive social and economic benefits for the wider community;
- maintain the strength of the regional economy;
- are consistent with the Interim Settlement Planning Principles at Appendix A;
- respond to retail supply and demand and innovations in the retail sector;
- maximise existing infrastructure (including public transport and community facilities) commensurate with the scale of the proposal; and
- enhance the value of the public realm.

The current controls permit a B1 Neighbourhood Centre zone of 2ha (per Amendment No. 12 to the Tamworth LEP 2012). The proposal outlines a request to increase this to 5ha and relocate the zone from the current location along Werris Creek Road, to the centre of the proposed R1 General Residential zone, which is described in the documentation as the “major transport and amenity spine that is the estate entry boulevard”.

The proposal is supported by an Economic Demand Study which indicates that the primary trade area for the proposed centre will be the future suburb of Arcadia, with the secondary trade area comprising the wider suburb of Hillvue to the north.

The Economic Demand Study indicates a gross leasable area (GLA) of around 7,500m² anchored by a 3,200m² supermarket can be supported by the primary and secondary trade areas, providing a similar centre is not constructed in Hillvue. Were this to occur, the GLA reduces to 5,500m² anchored by a 2,300m² supermarket. The planning proposal does not provide an indication of the likelihood of an additional centre at Hillvue, so it is unclear based on the information provided whether the larger centre can be supported in this area.

The planning proposal outlines that the 5ha B1 zone is sought on the basis that it will provide opportunities for a wide range of uses that cater for a wide audience, which will assist to reduce vulnerability in a changing retail environment. However, the Retail Demand Study does not explain why the 5ha is needed to accommodate 7,500m² of GLA, or the smaller 5,500m² of GLA if a centre in Hillvue is established.

Additionally, it would appear that neither the 7,500m² GLA, nor the 5,500m² GLA can be supported under the current controls. Clause 5.4 of the Tamworth LEP 2010 restricts neighbourhood supermarkets to 1,000m², with clause 7.4 also restricting a building or premises for the purpose of business premises, office premises, cellar door premises, food and drink premises, markets or shops on land in Zone B1 Neighbourhood Centre to a gross floor area of 2,500m². The proposal does not seek to amend clause 7.4 to facilitate the proposal.

Further, the submitted documentation indicates a desire to provide social infrastructure within the proposed local centre, to enhance and promote social cohesion and a village centre for the community. The size of the B1 zone is also proposed to provide for medium density housing. The R1 General Residential is capable of supporting these identified uses and it unclear why a B1 zone is required.

Therefore, it is considered that the Economic Demand Study does not outline or provide sufficient analysis on the impact of the proposal on the central business district (CBD), and whether the drawing of identified primary and secondary trade areas outside of the CBD would impact upon the operations of the CBD. Further the

	<p>proposal does not outline information in accordance with Action 7.3, specifically how the proposal will maintain the strength of the regional economy. The proposed size of the zone is not justified by the Retail Demand Study and further, the proposed GLA cannot be supported under the existing LEP controls.</p> <p>Additionally, the proposal does not address Appendix A – Interim Settlement Planning Principles.</p> <p>The proposal is therefore considered to remain inconsistent with this Action of the Regional Plan without further analysis and justification.</p> <p>As such, it is considered appropriate that, in order to demonstrate consistency with the requirements of the Regional Plan, the Economic Demand Study should be expanded to review the impacts of the proposal in relation to the wider implications on the CBD and how the zone contributes to the strength of the regional economy. The study should address specific requirements of Appendix A – Interim Settlement Planning Principles, as relevant to the proposal.</p> <p>Further, whilst the specific aspects of design of the precinct will be left to future development stages, it is appropriate for the amended study to provide justification for the size and location of the proposed zone, particularly in the context of proposed social infrastructure and a mix of uses that will contribute to a village precinct.</p>
16.1	<p>Action 16.1 requires detailed infrastructure service planning to be undertaken to establish that land can be feasibly and economically serviced prior to rezoning.</p> <p>A servicing strategy was prepared for the subject site to support the previous rezoning proposal associated with Amendment No. 12. The strategy outlined the extension of Council's water reticulation system and gravity sewer system to provide a service for the future residential development. Supply was to be provided from the main water service and pump stations were to be established at locations within and outside the Arcadia and Bylong Road Precinct to ensure consistent servicing.</p> <p>In addition, a proposed drainage reserve was identified along the extent of Burkes Gully.</p> <p>The current proposal does not indicate a proposed servicing plan, presumably relying upon the existing servicing strategy, albeit with an increased number of users.</p> <p>This is supported by a comment in the planning proposal documentation which outlines the intention to manage stormwater within Burkes Gully via a drainage corridor which will be identified within a Development Control Plan.</p> <p>Whilst existing arrangements may be in place to meet the current residential zoning, it is considered appropriate that the planning proposal be updated to address proposed servicing of the release area, particularly in light of the increased density on site.</p>
18.1	<p>Action 18.1 requires that future areas of identified urban expansion or intensification in local growth management strategies that are consistent with the Interim Settlement Planning Principles, (Appendix A) or comprehensive settlement planning guidelines once released.</p> <p>The proposal outlines an intensification of density in an existing urban release area. The planning proposal has not addressed the Interim Settlement Planning Principles (Appendix A). It is considered appropriate that this be addressed, and the</p>

planning proposal updated in accordance with these principles, prior to public exhibition.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
TRDS 2008	Identifies subject lands for equine purposes, which is inconsistent with the proposal. Has been superseded by STRLMP 2012.
STRLMP 2012	Identifies use of subject lands for residential purposes. Does not identify the proposed commercial rezoning.
Tamworth LSPS (Blueprint 100 Part 2)	<p>The Tamworth LSPS (Blueprint 100 Part 2) justifies reducing minimum lot size and increasing density within the Tamworth Regional LGA.</p> <p>The LSPS, under section titled “Facilitate Smart Residential Growth and Housing Choices” outlines the following:</p> <p>“Planning for the future should consider reducing the residential MLS and set a minimum dwelling per hectare standard to support diversity, control sprawl and provide for efficient use of infrastructure”. The LSPS goes on to discuss lifting density from, 8 dwellings/ha to 11 dwellings/ha significantly improves efficiency of servicing and can still provide a wide range of lot sizes and dwelling types. “An average of 11 dwellings per hectare provides for 680m² lots assuming 25% of the land is taken up with servicing. There are quite a number of examples of this average in Tamworth City already.”</p> <p>The LSPS outlines that, whilst the current MLS of 600m² provides for this kind of outcome, the effect of reducing the lot size to 450m² would provide more options for variety, allowing for large lots, standard lots and integrated housing.</p> <p>The proposal for the 450m² MLS applied to the R1 General Residential zone in the Arcadia Estate, along with the proposed local provisions requiring minimum density of ten (10) dwellings per hectare and a maximum of 2,350 standard dwellings/lots is an example of the discussion in the LSPS of increasing and controlling density on planned urban release sites (see Figure 9).</p> <p>Figure 10 demonstrates components of the proposed Growth Strategy. Of note is the proposed business area and the green open space, which traverses the site along Burkes Gully. This would appear to support the intention to manage stormwater within Burkes Gully via a drainage corridor identified within the associated Development Control Plan.</p>

Smart Growth and Housing Choices Action SG2 of the Tamworth LSPS (Blueprint 100 Part 2) applies to the subject lands and outlines the following:

“Apply planning provisions to implement master planned residential development in Arcadia up to Burgmanns Lane and in future to the southwest up to Country Road, so the residential area is contained within the future Southern Bypass”.

The proposal is considered consistent with this action as the planning provisions sought to be applied pursuant to this planning proposal relate to residential development in Arcadia, up to Burgmanns Lane. Consideration has been given to zoning and lot sizes along the southern boundary of the subject lands to accommodate the proposed southern heavy vehicle bypass along Burgmanns Lane.

The planning proposal outlines SG6 is also relevant to the proposal as the Action requires the review the *Tamworth Regional Development Control Plan 2010* to improve the feasibility of affordable housing development and review current affordable housing strategies and ensure alignment with the NSW State planning policies and deliver more opportunities for affordable housing by incorporating provisions in growth management strategies and local plans.

Council have verbally indicated that it is their intention to place both the planning proposal and DCP on public exhibition concurrently, to explain the resulting provisions and vision for the Arcadia Estate. This is supported and it is recommended that the planning proposal be amended to prior to public exhibition.

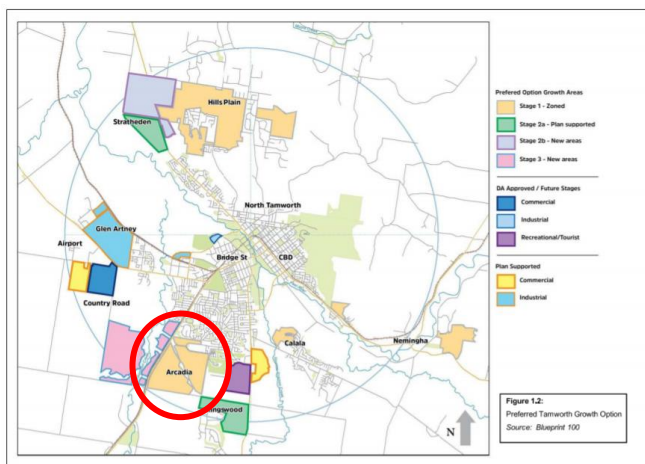


Figure 9 Preferred Tamworth Growth Option (Subject Lands shown in red) (Source: Tamworth LSPS (Blueprint 2))

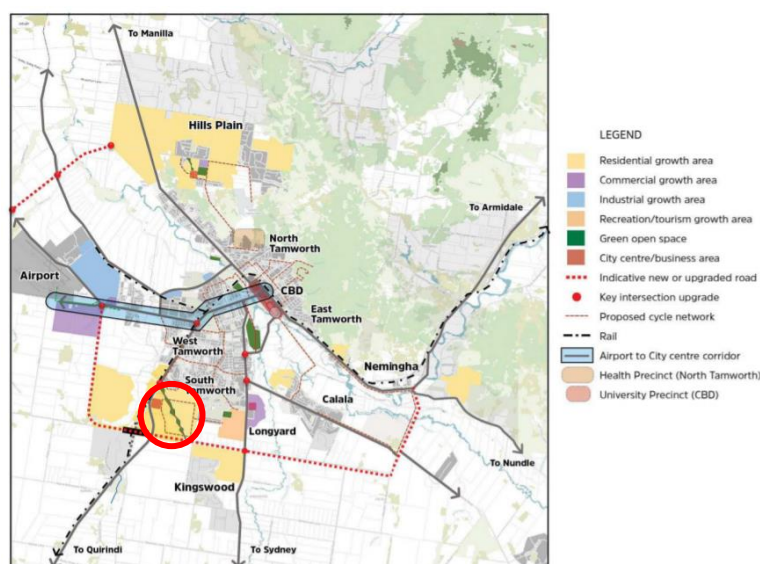


Figure 2.5: Growth Strategy Components Source: Blueprint 100

Figure 10 Growth Strategy Components (Subject Lands shown in red) (Source: Tamworth LSPS (Blueprint 2))

3.3 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant section 9.1 Directions, with the exception of the Directions outlined below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1	No	<p>The proposal is inconsistent with this Direction as it seeks to rezone 5ha of land to B1 Neighbourhood Centre that is not in accordance with a strategy approved by the Secretary.</p> <p>In the previous assessment undertaken to support Amendment No. 12, it was determined a neighbourhood shopping facility relative to the release area should be provided for the needs of local residents. However as per the previous assessment undertaken for Amendment No. 12, 2ha was determined to be more in keeping with similar neighbourhood precincts in the Calala and Hills Plain release areas of Tamworth.</p> <p>It is considered that a neighbourhood centre improves walkability for the residential suburb and will provide social infrastructure that assists in providing a village centre and social cohesion for residents. Notwithstanding, the size of the centre should be relative to population within the service areas and not detract or cause negative impacts upon the existing CBD of Tamworth.</p>

An Economic Demand Study has been submitted with the proposal which demonstrates that gross leasable area (GLA) of around 7,500m² anchored by a 3,200m² supermarket could be achievable based on trade area rates of 6,000 people in Arcadia (when fully developed), as well as 1,400 residents in Kingswood and Warral and a further 6,400 in Hillvue. This GLA is conditional, providing a similar centre is not constructed in Hillvue. If this was to occur, the GLA reduces to 5,500m² anchored by a 2,300m² supermarket.

The planning proposal indicates that the quantity of B1 zoned land has been requested to accommodate a range of uses, including medium density residential, shop top housing, community facilities and allied uses, which would ensure a critical mass of activity within the retail space. It is noted that medium density residential and community facilities and allied uses could be feasibly be achieved in the R1 zone, circumventing the need for an enlarged B1 zone.

Further, the supporting Economic Demand Study provides no justification for the 5ha sought by the planning proposal, only a review on the GLA for a future supermarket within the zone. Further, the proposed GLA cannot be supported under the existing LEP controls (as outlined in the discussion under section 3.1) and there is no intention to amend these controls as a result of this proposal.

Additionally, the Retail Demand Study does not provide any analysis of the impact of the proposal on the Tamworth CBD and the STRLMP 2012 does not envisage or address a commercial release of land in this area. The LSPS, whilst identifying the proposed location of the future business area, is silent on the size and demonstrates the existing location of the B1 zone along Werris Creek Road.

Therefore, the inconsistency with this Direction is considered to remain outstanding.

It is recommended that the Gateway require Council to review the Economic Demand Study, to analyse the impact of the proposal on the Tamworth CBD. The study should review the proposed mix of uses and justify the proposed size of the B1 zone, demonstrating that there are no adverse impacts to the existing Tamworth CBD. Additionally, the updated study should discuss the likelihood and timing of a business

		<p>centre in Hillvue and adjust the requirements for the subject lands accordingly.</p> <p>Following update of the study, the planning proposal shall be amended based on the outcomes of the updated study. The package shall be resubmitted to the Department, demonstrating greater strategic justification in relation to this matter, prior to proceeding to community consultation.</p>
2.3	No	<p>The proposal is inconsistent with this Direction as it seeks to rezone areas for residential purposes identified in the associated cultural heritage report as containing 15 Aboriginal sites, including 2 areas of moderate archaeological significance.</p> <p>It should be noted that the cultural heritage report provided to support this proposal is dated February 2014 and supported the previous planning proposal. As such, it identifies the subject site as incorporating the R5 Large Lot residential areas to the north of the subject lands. This area was removed from the previous planning proposal following the issuing of the Gateway determination. This is not considered to materially change the recommendations of the report.</p> <p>While the proposal concludes no significant impact from rezoning, it is recommended that this matter be referred to the Department of Premier and Cabinet (Heritage NSW) for consideration and comment. It is not appropriate to determine whether the inconsistency has been resolved until after the comments from Heritage NSW have been received. Consultation shall also be undertaken with the Tamworth Local Aboriginal Land Council.</p>
3.2	No	<p>The proposal is inconsistent with this Direction as it will not retain provisions that permit development for the purposes of a caravan park on the land being zoned B1 Neighbourhood Centre and R2 Low Density Residential.</p> <p>This inconsistency is considered of minor significance as the proposal will result in an amendment to the zones across the site and facilitate an enlargement of the R1 General Residential zone across the subject lands. This will increase the permissibility of caravan parks from approximately 60 per cent of the site to 90 per cent of the site.</p>
3.4	No	<p>The proposal is inconsistent with this Direction as it does not reduce travel demand including the</p>

		<p>number of trips generated by the development and the distances travelled, especially by car.</p> <p>There is an argument that walkability within the release area may be improved by centralising the business zone, making it more accessible within the development, however this would be considered minor given the primary mode of transport to access services across wider Tamworth City will be by private vehicle.</p> <p>Whilst the residential rezoning of the subject lands are supported by the STRLMP 2012, the increase in density will result in additional trips within the local road network. Further, it is considered that the size of the proposed business zone could generate additional trips from surrounding suburbs and this aspect of the proposal is not supported by a Department endorsed strategy. Council have indicated in planning proposal documents that an updated Traffic Impact Statement will be prepared to consider impacts on adjoining road networks.</p> <p>Based on the above, the inconsistency with this Direction is considered to remain outstanding.</p> <p>The Department therefore recommends that the Traffic Impact Statement be prepared to consider impacts on adjoining road networks, prior to community consultation. The proposal shall also be referred to Transport for NSW.</p> <p>It is not considered appropriate to determine whether this inconsistency has been resolved until the Transport for NSW has reviewed and provided comment on the proposal</p>
4.3	No	<p>The proposal is inconsistent with this Direction as it seeks to rezone an existing riparian area that is flood prone for residential purposes.</p> <p>The subject site is not identified as flood prone land on the LEP or DCP maps identifying flooding on the site, however previous documentation submitted to support past rezoning amendments on this site demonstrate that the land is flood affected.</p> <p>The flood prone area, along Burkes Gully will be rezoned, however it appears the intention (as outlined in previous sections of this report) is to utilise this area for drainage management and green open space.</p> <p>The flood prone nature of the land and intention for this section of the subject site is not clear from</p>

		<p>the current documentation submitted and so the inconsistency is considered to remain outstanding.</p> <p>It is considered that the flood prone nature of the land should be illustrated on a map and information provided in the documentation that clearly outlines the proposed use of this land, prior to community consultation. Additionally, the proposal shall be referred to the Biodiversity Conservation Division for review and comment.</p> <p>It is not considered appropriate to determine whether this inconsistency has been resolved until the Biodiversity Conservation Division has reviewed and provided comment on the proposal.</p>
5.10	No	<p>As outlined under section 3.1, there are some Actions of the Regional Plan that have not been addressed in the documentation that would demonstrate consistency with the Regional Plan, or justify that the inconsistency is minor or that the overall intent of the Regional Plan is achieved by the proposal.</p> <p>As such, the proposal is considered to be inconsistent with this Direction.</p> <p>A number of recommendations have been placed on the Gateway determination to demonstrate consistency or justify the inconsistency.</p> <p>The amended planning proposal will be submitted to the Department prior to public exhibition and will take into account any changes as relevant to the updated studies.</p> <p>It is not considered appropriate to determine whether this inconsistency has been resolved until the amended documentation has been submitted to the Department, prior to community consultation.</p>
6.3	No	<p>The proposal is inconsistent with this Direction as it seeks to implement site specific density controls for the Arcadia Estate.</p> <p>Due to the outstanding inconsistencies identified in section 9.1 Directions above, it is not considered appropriate to determine whether this inconsistency is minor, until the outstanding inconsistencies with other directions have been resolved.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is considered consistent with all relevant SEPPs. Of note, a Preliminary Site Contamination Investigation was undertaken to support the previous rezoning from rural zone to

the current residential and business zones. The study addressed SEPP No. 55 in a site suitability statement. The current rezoning reflects a reconfiguration of the existing R1 General Residential, R2 Low Density Residential and B1 Neighbourhood Centre zones on the subject lands.

4 Site-specific assessment

4.1 Environmental

The previous assessment undertaken to support the rezoning under Amendment No. 12 indicated that significant impact was not likely. The Flora and Fauna Assessment from 2015 concluded that no significant impact will result for any New South Wales or Commonwealth listed threatened species populations or ecological communities providing that all development is restricted to previously cleared and/or modified land and mitigation recommendations outlined in the report are implemented. Mitigation measures discussed in this report were to be incorporated into the proposed Development Control Plan for the area.

A Flora and Fauna Assessment Addendum dated May 2021 was submitted to support the proposed rezoning. The Addendum was required to the original report submitted to support the previous rezoning due to changes in legislation, namely the introduction of the *Biodiversity Conservation Act 2016*.

The addendum also captures the additional amendments proposed pursuant to this planning proposal. One minor inconsistency of note is the brief contained in the Addendum report, which does not identify the maximum number of dwellings/lots provision sought as part of the proposal.

This is considered of minor significance as the provision restricts the maximum number of residential dwellings/lots and does not materially affect the level of clearing or disturbance as a result of the proposal.

The Addendum report concludes that no significant impact will result for any NSW or Commonwealth listed threatened species as a result of the amendments to the Arcadia Estate.

The report identifies no significant adverse impact, providing:

- all development activities are restricted to previously cleared and/or modified land (ie areas of derived grassland), and
- mitigation recommendations as outlined in section 12 of the Envirofactor 2015 report are implemented.

According to the proposed structure plan contained in the Flora and Fauna Assessment Addendum Report, the proposal will protect and enhance 25ha, including 4ha remnant woodland patch as public reserve. An additional 16.9ha of existing derived grassland will be retained within a powerline easement.

Mitigation recommendations outlined in the Envirofactor 2015 report will ensure existing habitat is not adversely modified or isolated, by ensuring habitat for flora and fauna species is retained on-site.

Other environmental matters including flooding and contamination have been thoroughly addressed in earlier sections of this report and recommendations (as relevant) made in the Gateway determination.

Notwithstanding, for clarity during exhibition, it is considered the proposed structure plan should be reproduced in the main planning proposal report, to address multiple issues previously outlined in relation to environmental matters relating to the site. Additionally, the planning proposal should be updated to reference the section of the DCP that contains the mitigation measures identified in the Envirofactor 2015 report. In addition, the proposal shall be referred to BCD for review and comment.

4.2 Social and economic

The proposal is considered to have a positive social outcome as the release area will support future investment and delivery of a range of housing options within Tamworth, in an area already supported by existing infrastructure.

Notwithstanding, the impact of the proposed B1 Neighbourhood Centre zone will need to be further justified to ensure the proposal will not result in a negative impact upon the economic viability of the CBD and will contribute to maintaining the strength of the regional economy. The proposal will also need to investigate how the proposed centre identified in the Retail Demand Study can be achieved, given the current restrictions on gross floor area for neighbourhood supermarkets and floor space for shops more generally in the B1 zone.

Additionally, consultation with Heritage NSW and the local Aboriginal community will assist to inform the rezoning and the impact upon Aboriginal cultural heritage and any mitigating factors that could be implemented to manage the impact, where identified.

4.3 Infrastructure

Due to the size of the release area, it was determined appropriate as part of the previous assessment conducted to facilitate Amendment No. 12 that the subject lands be identified as an urban release area under Part 6 of the Tamworth Regional LEP 2010 and that an assessment of potential State infrastructure needs be undertaken post Gateway. The current proposal intends to retain the identification of the subject lands as an urban release area, which is supported.

Additionally, the following recommendations have been made throughout the Gateway determination which are relevant to infrastructure provision:

- Provide further information and justification in relation to the size of the B1 Neighbourhood Centre in relation to proposed social infrastructure,
- Update the planning proposal to address proposed servicing of the release area, particularly in light of the increased density on site, by way of a servicing strategy.

To ensure appropriate supply is available in the existing electricity network, consultation shall be undertaken with Essential Energy and Transgrid. Additionally, consultation shall be undertaken with NSW Office of Water.

Due to the 50 per cent increase in dwelling/population to be accommodated by the release area, it is also considered appropriate that relevant state agencies be consulted, to ensure adequate State infrastructure provision is available for the increased population. These agencies include NSW Police Force, Fire and Rescue NSW, NSW Ambulance, Hunter New England Health and the Department of Education.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and forms to the conditions of the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 28 days to comment:

- Heritage NSW;
- Transport for NSW;
- Biodiversity Conservation Division;
- Tamworth Local Aboriginal Land Council;
- Natural Resource Access Regulator;
- Essential Energy;
- NSW Police Force;
- Fire and Rescue NSW;
- NSW Ambulance;
- Hunter New England Health;
- Department of Education;
- Transgrid; and
- NSW Office of Water.

6 Timeframe

Council proposes a 9 month time frame to complete the LEP.

A time frame of 9 months is supported to ensure it is completed in line with the Department's commitment to reduce processing times.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making Authority.

As the planning proposal has a number of outstanding inconsistencies with section 9.1 Directions and the Regional Plan, the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The release area will support future investment and delivery of a range of housing options within Tamworth, in an area already supported by existing infrastructure,
- The proposal gives effect to an endorsed local strategy.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Address any outstanding inconsistencies with the Regional Plan and section 9.1 Directions,
- Provide further analysis and justification for the size of the proposed commercial zone and amend the planning proposal where relevant,
- Address any traffic impacts as a result of the proposed development; and
- Recognise the adoption of mitigation strategies proposed to manage impacts on Aboriginal cultural heritage in the associated DCP.

9 Recommendation

It is recommended the delegate of the Secretary:

- Approve the proposal's inconsistency with section 9.1 direction 3.2; and
- Note consistency with section 9.1 Directions 1.1 Business and Industrial Zones, 2.3 Heritage Conservation, 3.4 Integrating Land Use and Transport, 4.3 Flooding, 5.10 Implementation of Regional Plans and 6.3 Site Specific Provisions is unresolved and will require justification.

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

1. The planning proposal is to be updated to:
 - Recognise the intention to exhibit the relevant DCP and planning proposal concurrently.
 - Include reference to the section of the DCP that contains proposed Aboriginal cultural heritage mitigation measures identified in the Envirofactor 2015 report.
 - Address the potential for an increased risk of land use conflict resulting from the increased density outlined by the proposal, in particular to the proposed Southern Bypass, and identify any mitigation to manage the risk.
 - Amend the Economic Demand Study to:
 - Address the quantity of land required to deliver the necessary gross leasable floor area;
 - Review the impacts of the proposal in relation to the wider implications on the Tamworth central business district (CBD) and how the proposed B1 Neighbourhood Centre zone contributes to the strength of the regional economy;
 - Address specific requirements of New England North West Regional Plan 2036 Appendix A – Interim Settlement Planning Principles, as relevant to the Economic Demand Study;
 - Review the proposed mix of uses and justify the proposed size of the B1 zone, demonstrating that there are no adverse impacts to the existing Tamworth CBD; and
 - Discuss the likelihood and timing of a retail centre in Hillvue and adjust requirements for the subject lands accordingly.
 - Address proposed servicing of the release area, particularly in light of the increased density on site through preparation of a servicing strategy to support the proposal.
 - Address specific requirements of Appendix A – Interim Settlement Planning Principles, as relevant to the wider release area.
 - Prepare a Traffic Impact Statement that considers the impact of the proposal on adjoining road networks.
 - Demonstrate the nature of flood prone land relative to the subject lands on a map and provide information in the documentation that clearly outlines the proposed use of this land.
2. Prior to community consultation, the planning proposal is to be revised to address condition 1 and forwarded to the Department for review and approval.
3. Consultation is required with the following public authorities:
 - Heritage NSW;
 - Transport for NSW;
 - Biodiversity Conservation Division;
 - Tamworth Local Aboriginal Land Council;
 - Natural Resource Access Regulator;
 - Essential Energy;
 - NSW Police Force;
 - Fire and Rescue NSW;
 - NSW Ambulance;

- Hunter New England Health;
 - Department of Education;
 - Transgrid; and
 - NSW Office of Water.
4. The planning proposal should be made available for community consultation for a minimum of 28 days.
 5. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
 6. Given the nature of the proposal, Council should not be authorised to be the local plan-making authority.



2/8/21

(Signature)_____
(Date)

Craig Diss

Manager, Northern Region



5/8/2021

(Signature)_____
(Date)

Jeremy Gray

Director, Northern Region

Assessment officer

Ella Wilkinson

Senior Planner, Northern Region

9995 5665