

Planning and Assessment

IRF19/42551

Gateway determination report

LGA	Lake Macquarie
PPA	Lake Macquarie City Council
NAME	Rezone to R3 Medium Density Residential, expand the B1 Neighbourhood Centre and update LEP mapping for various properties at Windale
NUMBER	PP_2019_LAKEM_003_00
LEP TO BE AMENDED	Lake Macquarie LEP 2014
ADDRESS	Various properties, refer to Attachment 1 of the Planning Proposal
DESCRIPTION	Various properties, refer to Attachment 1 of the Planning Proposal
RECEIVED	17 May 2019
FILE NO.	IRF19/42551
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 would rezone land at Windale:

- from R2 Low Density Residential to R3 Medium Density Residential on land between Windale and the Mount Hutton shops;
- enable the expansion of the Windale shops by rezoning R3 Medium Density Residential land to B1 Neighbourhood Centre and increase heights for the existing shops;
- make several minor zone, height and minimum lot size changes to reflect the intended use of land and lot boundaries for land off Mulga and Munro Streets, Yertala Close and the Windale Bowling Club; and
- remove sites from the land reservation acquisition maps where they are no longer required for land located off Yertala Close and the Windale Bowling Club.

1.2 Site description

Land to be rezoned to R3 Medium Density Residential

This land consists of predominantly single storey detached dwelling houses, refer to Figure 1.



Figure 1: Land to be rezoned to R3, land off Mulga and Munro streets, land to be rezoned at the Windale neighbourhood shops

Land to be rezoned at the Windale neighbourhood shops

This land is located opposite the existing neighbourhood shops on Lake Street and consists of single storey detached dwelling houses, some of which are used as health consulting rooms. Refer to Figure 1.

Land off Yertala Close

This land consists of townhouses and a reserve. The reserve contains two distinct areas, being a western portion that contains lawn, footpaths and trees, and an eastern portion which is heavily vegetated. Refer to Figure 2.



Figure 2: Land of Yertala Close

Windale Bowling Club

The bowling club site consists of a club house, bowling greens and carpark. The undeveloped northern and eastern portions of the site are vegetated and adjoin a creek. Refer to Figure 3.



Figure 3: Windale Bowling Club site

Land off Mulga Street and Munro Street

This land consists of single and two storey town houses and detached dwellings that front Mulga Street. At the rear of the dwellings is a drainage reserve which fronts Munro Street. Refer to Figure 1.

1.3 Existing planning controls

Land to be rezoned to R3 Medium Density Residential

The site is zoned R2 Low Density Residential and has a maximum building height of 8.5 m and a minimum lot size of 450 m².

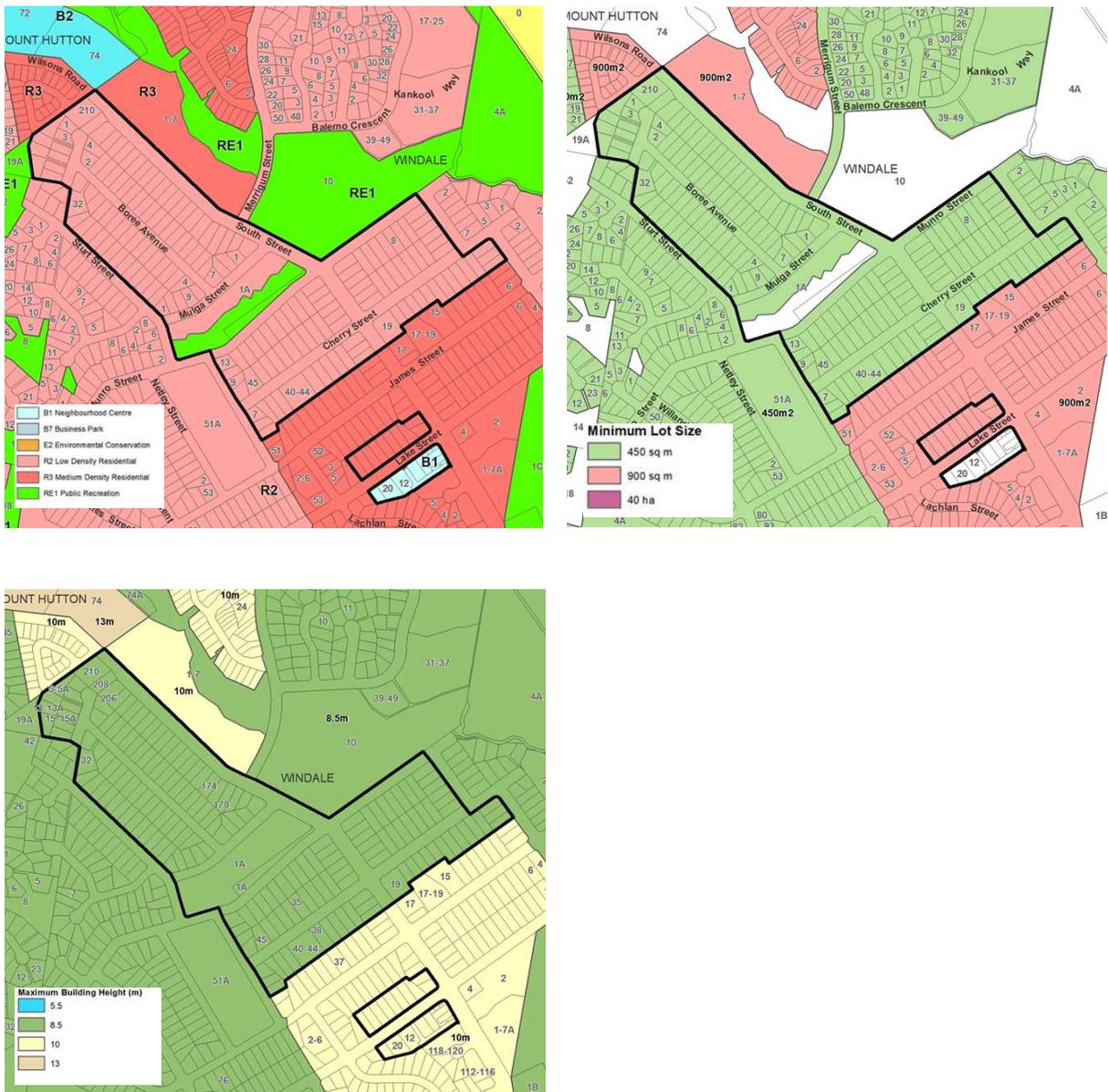


Figure 4: Existing planning controls for land to be rezoned to R3, land off Mulga and Munro streets, and land to be rezoned at the neighbourhood shops (clockwise from top left: zone, minimum lot size and height)

Land to be rezoned at the Windale neighbourhood shops

The site is zoned R3 Medium Density Residential and B1 Neighbourhood Centre. It has a maximum building height of 10 m, and a minimum lot size of 900 m² and no minimum lot size standard. Refer to Figure 4.

Land off Yertala Close

The site is currently zoned R2 Low Density Residential, RE1 Public Recreation and E2 Environmental Conservation. It has maximum building height of 5.5 m and 8.5 m, and minimum lot sizes of no lot size, 450 m² and 40 ha. Part of the site is identified as being land to be acquired for environmental conservation. Refer to Figure 5.

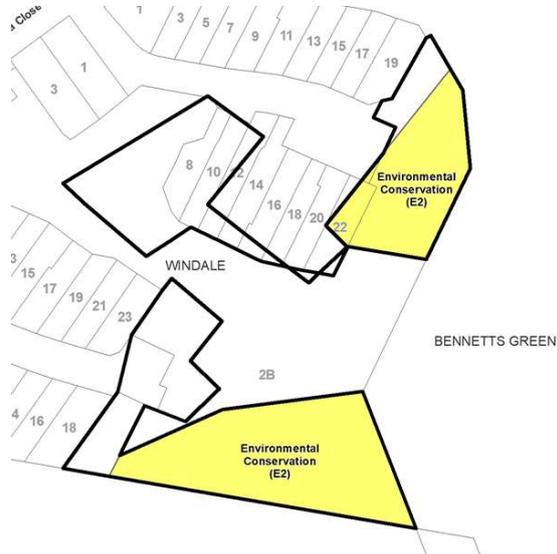
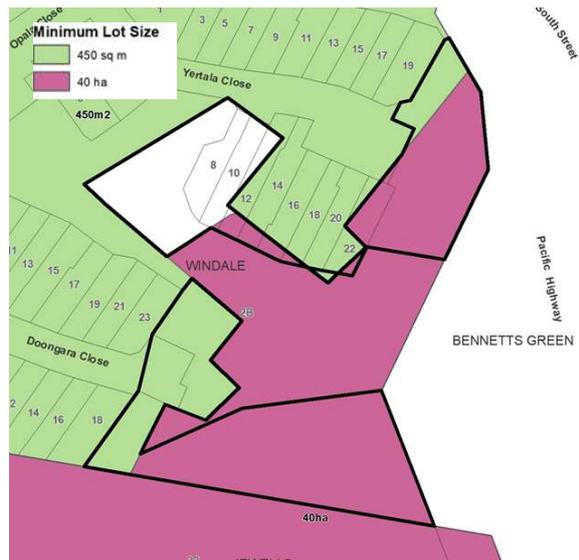
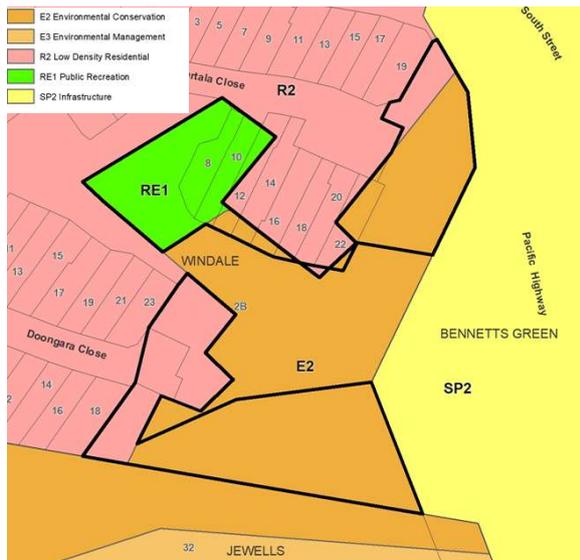


Figure 5: Existing planning controls for land of Yertala Close (clockwise from top left: zone, minimum lot size, height, land acquisition).

Windale Bowling Club

The bowling club site is zoned RE1 Public Recreation, and has a maximum building height of 8.5 m and has no minimum lot size standard. It is also identified as land to be acquired for local open space. Refer to Figure 6.



Figure 6: Existing planning controls for the Windale Bowling Club (clockwise from top left: zone, minimum lot size, height, land acquisition).

Land off Mulga Street and Munro Street

The site is zoned R3 Medium Density Residential and RE1 Public Recreation. It has a maximum building height of 8.5 m, and a 450 m² and no minimum lot size standard applies to the residential and drainage portions of the site respectively.

1.4 Surrounding area

Windale is centrally located in terms of the suburbs located on the eastern side of Lake Macquarie. It has good access to retail and services in the form of Lake Macquarie Square (at Mount Hutton), Charlestown (four km to the north) and Belmont (seven km to the south), with public transport available. Employment areas such as Bennetts Green and the Gateshead industrial estate are within two kilometres. Warners Bay (employment, entertainment) and access to the lake itself is within five kilometres to the west.

Access to employment and services more broadly in the region can be accessed via the Inner City Bypass (John Hunter Hospital, University of Newcastle Callaghan

campus) and the Pacific Highway. Several primary and secondary schools are located within 10 km. Refer to Figure 7.



Figure 7: Surrounding area

1.5 Summary of recommendation

The planning proposal is supported subject to conditions.

The proposal would facilitate the development of parts of Windale for medium density residential, consistent with housing outcomes of the Hunter Regional Plan and Greater Newcastle Metropolitan Plan.

Conditions are proposed to ensure consultation with the relevant agencies and the community. Council's intention to exhibit its draft development control plan provisions with the exhibition of the planning proposal is supported.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objectives of the planning proposal are:

- encourage medium density housing in the walkable area between the Windale and Mount Hutton shops;
- enable the Windale shops to expand to meet the existing and future needs of the suburb as it grows;
- tidy up land zone and associated maps in the Lake Macquarie Local Environmental Plan 2014 to ensure they reflect the intended use of land and property boundaries; and
- remove the Land Reservation Acquisition Maps from land where they are no longer required for public purposes.

The objectives are clear and do not require and changes.

2.2 Explanation of provisions

The explanation of provisions is summarised in the following table:

Amendment applies to	Explanation of Provisions
<i>Land to be rezoned to R3</i>	<p>Land to be rezoned to R3 Medium Density Residential.</p> <p>Maximum height of building limit is to be increased to 10 m.</p> <p>The minimum lot size limit is to be increased to 900 m².</p>
<i>Land at the Windale neighbourhood shops</i>	<p>Land opposite the existing Windale shops is to be rezoned B1 Neighbourhood Centre.</p> <p>The minimum lot size is to be removed.</p> <p>All of the existing and proposed B1 land at the Windale shops is to have the maximum height of building limit increased to 13 m.</p>
<i>Land off Yertala Close</i>	<p>Remove the identified lands from the Land Reservation Acquisition Map (LRA Map).</p> <p>Rezone land to R2 Low Density Residential and E2 Environmental Conservation.</p> <p>The maximum height of buildings limit will change to 8.5 m (for proposed R2) and 5.5 m (for proposed E2).</p> <p>The minimum lot size will be changed to 450 m² (for proposed R2) and 40 ha (for proposed E2).</p>
<i>Windale Bowling Club</i>	<p>Remove the identified lands from the Land Reservation Acquisition Map (LRA Map).</p> <p>Rezone to RE2 Private Recreation and E2 Environmental Conservation.</p>
<i>Land off Mulga Street and Munro Street</i>	<p>Rezone to R3 Medium Density Residential and RE1 Public Recreation.</p> <p>The maximum height of building limit will change to 10 m (for proposed R3) and 8.5 m (for proposed RE1).</p> <p>The minimum lot size will be changed to 900 m² (for proposed R3) and no minimum lot size standard (for proposed RE1).</p>

The explanation of provisions is clear. The planning proposal also details the existing controls and briefly summarises the reason for each change.

2.3 Mapping

The planning proposal includes several maps to identify land affected by the planning proposal and to show existing and proposed planning controls. These are clear and no changes are required.

3. NEED FOR THE PLANNING PROPOSAL

Land to be rezoned to R3 Medium Density Residential

Council has progressed a Housing Supply Potentials Study (2018) and Housing Study (2018) which identifies areas that may be suitable for low rise medium density development. The studies identify Windale as a suitable area because it is well located in terms of access to services, facilities, and employment hubs, and has capacity for future growth.

The Housing Study considers feasibility and notes that development of Windale for medium density housing is not feasible currently because of low land values and sales prices. Notwithstanding, Council intends to do several public works projects to increase the desirability and amenity of the suburb. This includes a public art project, new skate park, new community facility and library, and potentially rehabilitation works to nearby Scrubby Creek.

The Hunter Regional Plan and Greater Newcastle Metropolitan Plan supports councils amending their planning controls to support more infill development. Historically, limited low rise medium density development has occurred in Lake Macquarie LGA and this trend needs to change in suitable areas to cater for future growth. Reviewing the planning controls for areas such as Windale, which are well located in terms of access to jobs, services and facilities is supported.

While Council's feasibility analysis does not suggest medium density development would occur under existing market conditions, the revised planning controls are supported. Council's ongoing works program, coupled with the locational benefits of Windale, suggest that over time medium density infill development may occur.

Lands identified to be rezoned to R3 have been determined by Council's walkability tool. It considers the transport network (active and non-active) and proximity to services and facilities that residents may want to walk to determine a land parcel's 'walkability'. Topography has also been considered. The Department supports this approach for identifying which Windale lands should be rezoned.

The need for this component of the proposal is therefore supported and it is recommended it be supported by the Gateway.

Land at the Windale neighbourhood shops

Council advises that this component of the proposal results from there being insufficient business zoned land at the existing neighbourhood shops. Commercial development is occurring in the land opposite the existing B1 zoned area. Council advises that the increased height limit is to enable three storey commercial development is consistent with its approach to B1 zoned land elsewhere.

This is a minor change that recognises the existing demand for commercial floor space in the Windale neighbourhood centre as well as catering for the future demand that may result from more residential development in the area.

The need for this component of the proposal is therefore supported and it is recommended it be supported by the Gateway.

Land off Yertala Close

Council advises that this land is owned by the Land and Housing Corporation and has been subdivided and developed. The planning controls however do not align with the cadastre and the planning proposal seeks to fix this. Council states that while the reserve is identified as land to be acquired in the LEP, it is not identified as this in its contribution plan.

This change may be supported. This a minor change to ensure that the planning controls accurately reflect the development on the ground. Removing the site from the acquisition map is not anticipated to have adverse impacts on its environmental qualities given its existing E2 zone.

The need for this component of the proposal is therefore supported and it is recommended it be supported by the Gateway.

Windale Bowling Club

Council advises that the inclusion of the site on the acquisition map and its RE1 zoning is an error. It suggests that the error may have resulted when the site was transferred from public to private ownership in 1992. Council does not seek to acquire the site for public recreation purposes.

The proposed changes would fix an error with the existing planning controls. The need for this component of the proposal is therefore supported and it is recommended it be supported by the Gateway.

Land off Mulga Street and Munro Street

Council seeks to align the planning controls with the existing development boundary as the controls currently apply the RE1 zone to land developed for residential purposes. The RE1 zone should just apply to the drainage reserve.

The proposed changes would fix an error with the existing planning controls. The need for this component of the proposal is therefore supported and it is recommended it be supported by the Gateway.

4. STRATEGIC ASSESSMENT

4.1 State

There are no State level strategies that provide specific guidance relevant to this planning proposal.

4.2 Regional

Hunter Regional Plan 2036 (HRP)

The planning proposal components to expand the R3 and B1 zones in Windale are consistent with the following directions of the HRP:

- Direction 21 to create a compact settlement;
- Direction 22 to promote housing diversity and direction; and
- Direction 25: to monitor housing and employment supply and demand

There is no specific guidance relevant to the other components as they are minor matters that address mapping anomalies.

Greater Newcastle Metropolitan Plan 2036 (GNMP)

The planning proposal component to expand the R3 zone is consistent with Strategy 16 which is to prioritise the delivery of infill housing opportunities within existing areas.

There is no guidance relevant to the other components of the planning proposal.

4.3 Local

Lifestyle 2030 Strategy

Council identifies the planning proposal as being consistent with the aims and objectives of the strategy to provide medium density housing opportunities near centres.

The Department considers the planning proposal component to expand the R3 zoning in Windale consistent with this strategy outcome.

Draft Lake Mac 2050 (to replace Lifestyle 2030)

Council notes that the draft strategy (exhibited October 2018) identifies Windale as an infill and growth investigation area. The planning proposal component to expand the R3 zone aligns with this outcome. Further, Council states that the expansion of the B1 zone at Windale is consistent with the strategy's intention to reinforce the role of the centre.

The Department concurs with Council's assessment.

4.4 Section 9.1 Ministerial Directions

The planning proposal is consistent with the relevant directions except the following directions where the proposal is either inconsistent or further work is required before consistency can be determined:

1.1 Business and Industrial Zones

The proposal is inconsistent because it would create a new employment land area that is not identified in a strategy endorsed by the Secretary. Expansion of the B1 zone to land opposite the existing neighbourhood shops is supported. Businesses are already starting to occur on the land suggesting a need for further employment land capacity in this location. The existing B1 is 0.64 ha. Expanding the B1 centre to 1.36 ha total is not anticipated to undermine the higher order centre at Mount Hutton. It is recommended that the Secretary agree that the inconsistency is of minor significance.

2.1 Environment Protection Zones

The proposal is inconsistent because it would reduce the environmental protection standards applying to E2 zoned land by rezoning it to R2. Parts of the land off Yertala Close are proposed to be rezoned from E2 to R2 to ensure that the zone aligns with the development that has occurred. This change corrects a LEP mapping anomaly. It is recommended that the Secretary agree that the inconsistency is of minor significance.

4.2 Mine Subsidence and Unstable Land

Some of the land to be rezoned to R3 in the proposal are in a mine subsidence district. Consultation with Subsidence Advisory NSW is required before consistency with this direction can be determined.

4.4 Planning for Bushfire Protection

Some of the land to be rezoned in the proposal are bushfire prone. Consultation with the NSW Rural Fire Service is required before consistency with this direction can be determined.

6.2 Reserving Land for Public Purposes

The direction provides that changes to the zoning or reservations of land for public purposes may only occur with the approval of the relevant public authority and the Secretary. The proposal would rezone land for public purposes (the reserve off Yertala Close is owned by the Land and Housing Corporation). It would also change the reservation of land (land off Yertala Close, Windale Bowling Club sites) where Council, as the relevant public authority, no longer intends to acquire the land.

As discussed earlier, these components of the planning proposal are supported. It is therefore recommended that the Secretary approve the changes to the reservations of land for public purposes. Consultation with the Land and Housing Corporation is required before the Secretary may approve the proposed zone changes to the reserve land off Yertala Close.

4.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with the relevant SEPPs being SEPP 19 Bushland in Urban Areas and SEPP 55 Remediation of Land.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

Expansion of the R3 zone is likely to have a positive social impact by providing increased housing and housing choice in a suburb that is well located in terms of its proximity to jobs, services and facilities. It is also likely to create more demand for services and public transport, potentially increasing the services available to existing residents. Council has prepared development control plan provisions to support the increased density. The provisions are proposed to be exhibited with the planning proposal. A Gateway determination condition is proposed to ensure that this occurs.

A social benefit is also anticipated as a result of expanding the B1 zone. The additional business zoned land may facilitate additional business and services at the neighbourhood shops thereby providing greater convenience and choice for residents.

5.2 Environmental

Environmental impacts are not anticipated.

5.3 Economic

Expanding the B1 zone by 0.72 ha may facilitate additional local employment opportunities in the area.

5.4 Infrastructure

No adverse servicing or infrastructure impacts are anticipated.

6. CONSULTATION

6.1 Community

Council proposes a 28 day community consultation period. As the proposal would potentially change the local character of Windale a minimum of 28 days is considered appropriate.

6.2 Agencies

Consultation with Subsidence Advisory NSW, NSW Rural Fire Service and the Land and Housing Corporation is required.

7. TIME FRAME

Council proposes a six month completion timeframe for the planning proposal. A nine month timeframe is considered appropriate to provide a buffer for any unanticipated delays.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested that it be the local plan-making authority. This is supported because the proposal aligns with the housing outcomes of the Hunter Regional Plan and Greater Newcastle Metropolitan Plan as well as Council's studies and draft Lake Mac 2050 Strategy.

9. CONCLUSION

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

- it supports increased infill residential development and housing choice in an area that is well located in terms of proximity to services, jobs and facilities;
- it enables an expansion of the existing neighbourhood centre to facilitate business growth without undermining the higher order Mount Hutton centre; and
- corrects several LEP mapping anomalies and ensures that the LEP reflects Council's land acquisition intentions at Windale.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.1 Business and Employment Zones and 2.1 Environment Protection Zones are minor or justified;
2. approve the change to the reservation of land for public purposes for section 9.1 Direction 6.2 Reserving Land for Public Purposes; and
3. note that the consistency with section 9.1 Directions 4.2 Mine Subsidence and Unstable Land, 4.4 Planning for Bushfire Protection and 6.2 Reserving Land for Public Purposes (Land and Housing Corporation site) is 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:
 - Subsidence Advisory NSW
 - NSW Rural Fire Service
 - Land and Housing Corporation
3. The time frame for completing the LEP is to be nine months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.
5. Council publicly exhibit its draft development control plan provisions with the planning proposal.



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