

## Planning Proposal

to amend

**Blayney Local Environmental Plan 2012**

as follows:

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### PP3: Six (6) Unsewered Villages & Surrounds

- PP3A: Minimum Lot Size (MLS) for Subdivision or Residential Accommodation requiring on-site effluent management (in Zone RU5 Village & Zone R5 Large Lot Residential)
- PP3B: Dwelling Opportunity – within 500m of certain Urban Zone(s)

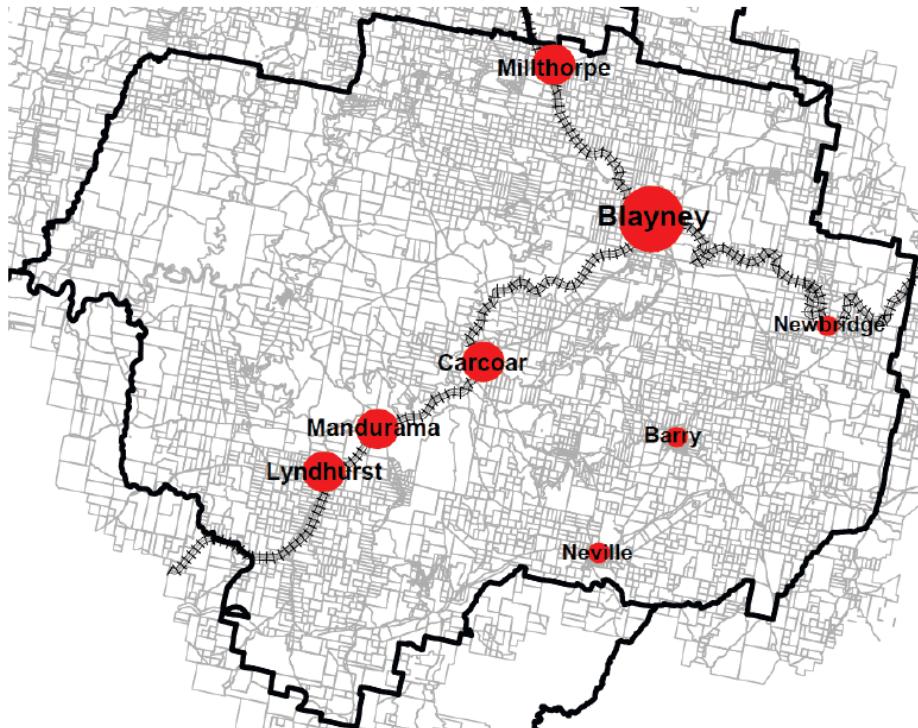


Figure 1: Map showing location of six (6) unsewered villages in the Blayney Local Government Area (excluding Blayney & Millthorpe).

Prepared on behalf of Blayney Council for  
Submission to the NSW Department of Planning, Industry & Environment (DPIE)

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## Document Control

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## 1 OVERVIEW

### 1.1 Overview of Key Amendments

This Planning Proposal seeks to amend *Blayney Local Environmental Plan 2012* ('BLEP2012') relating to areas of the six (6) unsewered villages (Carcoar, Mandurama, Lyndhurst, Neville, Newbridge & Barry) and surrounds as follows:

1. **PP3A: Minimum Lot Size (MLS) for Subdivision and Residential Accommodation (primarily dwellings) requiring on-site effluent management** in Zone RU5 Village and Zone R5 Large Lot Residential areas for those villages. Currently, there is an MLS for subdivision but not an MLS for dwellings on existing lots requiring on-site effluent management. For some villages, dwellings may require ownership of several smaller lots to achieve the MLS.
2. **PP3B: Dwelling Permissibility – within 500m of Certain Urban Zone(s)**, as follows:
  - a) Carcoar, Mandurama, Neville & Newbridge – 500m of Zone RU5 Village;
  - b) Lyndhurst – 500m of Zone RU5 Village AND Zone R5 Large Lot Residential;
  - c) Barry – 500m of Zone R5 Large Lot Residential.

The Planning Proposal justification is broken down into these two (2) components but the statutory review/guidelines are addressed for them collectively at the end of this Report to comply with the Guideline.

### 1.2 Process Overview

The Planning Proposal has been prepared in accordance with *Divisions 3.4 – Environmental Planning Instruments (LEPs) of the Environmental Planning and Assessment Act 1979* ('EP&A Act') and the NSW Government Guideline (Dec 2018) 'A guide to preparing planning proposals' ('Guideline').

Section 1.3 of the Guideline states that a Planning Proposal should provide enough information to determine whether there is merit in the proposed amendment proceeding to the next stage of the plan making process including identifying relevant environmental, social, economic and other site-specific considerations.

However, it is not a development application, so it is NOT required to consider specific detailed matters that should form part of a development application. Sufficient detail is required to determine the merit of the Proposal and support a Gateway Determination from the NSW Government.

The Gateway Determination may provide details of further studies/consultation required by Council to enable the public exhibition and finalisation of the LEP amendments but we believe that the site review in this Planning Proposal should be sufficient to at least achieve a Gateway Determination.

A Gateway Determination under the EP&A Act is requested from the NSW Department of Planning, Industry & Environment ('DPIE') to allow this planning proposal to be placed on public exhibition.

The regional office of DPIE has delegations to make Gateway Determinations unless the proposal is not supported or is contentious because it is not consistent with strategic planning for the area (in which case, the Executive may consider the application). Planning Circular PS 18-013 (14 December 2018) updates delegation of plan making decisions under the EP&A Act (and replaces PS16-005 & PS12-006).

Section 3.34(2)(g) of the EP&A Act provides that if the planning proposal authority is a council, the Gateway Determination may authorise the council to make the proposed instrument and set out any conditions the council is required to comply with before the instrument is made and, as a result, the council becomes the local plan-making authority.

Blayney Council requests that this matter is delegated to Council to become the plan making authority as the Proposal is consistent with the adopted *Blayney Settlement Strategy 2020* recommendations.

Please see **Section 3.6 - Part 6: Project Timeline** of this Report for an indicative timetable of steps to achieve the outcomes in this Proposal.

## 2 PLANNING PROPOSAL – SITE & JUSTIFICATION OVERVIEW

As there are several components to this Planning Proposal, the key objectives, amendments, justification and review occurs in this Section of the Report for each component.

### 2.1 PP3 Overview – Blayney Settlement Strategy 2020

The key support/justification for the amendments in this Proposal PP3 come from the adopted Elton Consulting *Blayney Settlement Strategy 2020* ('Settlement Strategy'), particularly the recommendations for the six (6) unsewered villages. This was adopted in February 2021 by Council.

Some key recommendations are shown in the Table of key recommendations (below) and on the *Structure Plan* for each relevant village at the start and in Section 4.3.2 of the *Settlement Strategy* that cover the two (2) components of this Planning Proposal.

Figure 2: Table showing key recommendations for six (6) villages in Settlement Strategy Section 4.3.2 p.105-114.

#### Settlement Strategy – Key Recommendations as follows:

##### Carcoar

- » Protect the land to the north of Carcoar from fragmentation below 2ha to enable future expansion of the village as Large Lot Residential zone should reticulated sewerage become available. A minimum Lot Size of 4000sqm can be applied if reticulated water and sewer is provided.
- » Increase the minimum lot size for the erection of a dwelling applicable to land in the RU5 Village zone to 2,000sqm, with the ability to reduce the minimum lot size to 1,000sqm if reticulated sewerage is provided.
- » Inclusion of an additional provision in the BLEP that allows for dwellings on RU2 Rural Landscape zoned land in certain circumstances where the lot has an area of at least 2ha and is within 500m of the RU5 Village zone.
- » All Large Lot Residential zoned land around Carcoar which currently has a Minimum Lot Size of less than 1ha to be consistently set at 4,000sqm.

##### Mandurama

- » Generally provide a consistent minimum lot size applicable to land in the RU5 Village zone to 2,000sqm with the ability to reduce the minimum lot size to 1,000sqm if reticulated sewerage is provided.
- » The area comprising approx. 1.8ha, south of Banana Street Mandurama, zoned RU5 Village to have a minimum lot size of 4,000sqm, due to this area having potential; stormwater, access and servicing constraints.
- » Apply a minimum lot size in the R5 Large Lot Residential zone of 4000sqm.
- » Include a provision in the BLEP that allows for dwellings on RU1 Primary Production zoned land in certain circumstances where the lot has an area of at least 2ha and is within 500m of the RU5 Village zone or R5 Large Lot Residential zones.
- » 34 Mandurama Road (lot 1014 DP 834806) which is 22ha allotment as Future Investigation Area for Large Lot Residential zone with a Minimum Lot Size of 2ha.

##### Lyndhurst

- » Generally provide a consistent minimum lot size applicable to land in the RU5 Village zone to 2,000sqm with the ability to reduce the minimum lot size to 1,000sqm if reticulated sewerage is provided.
- » Apply a minimum lot size in the R5 Large Lot Residential zone west of Lyndhurst of 4000sqm.
- » Minimum lot size in the R5 Large Lot Residential zone East of Lyndhurst to remain at 1ha.
- » Include a provision in the BLEP that allows for dwellings on RU1 Primary Production zoned land in certain circumstances where the lot has an area of at least 2ha and is within 500m of the RU5 Village zone or R5 Large Lot Residential zones.

**Newbridge**

- » Provide a consistent minimum lot size applicable to land in the RU5 Village zone of 2,000sqm.
- » Include a provision in the BLEP that allows for dwellings on RU1 Primary Production zoned land in certain circumstances where the lot has an area of at least 2ha and is within 500m of the RU5 Village zone.
- » All Large Lot Residential zoned land which currently has a Minimum Lot Size of less than 1ha to be consistently set at 4000sqm.

**Neville**

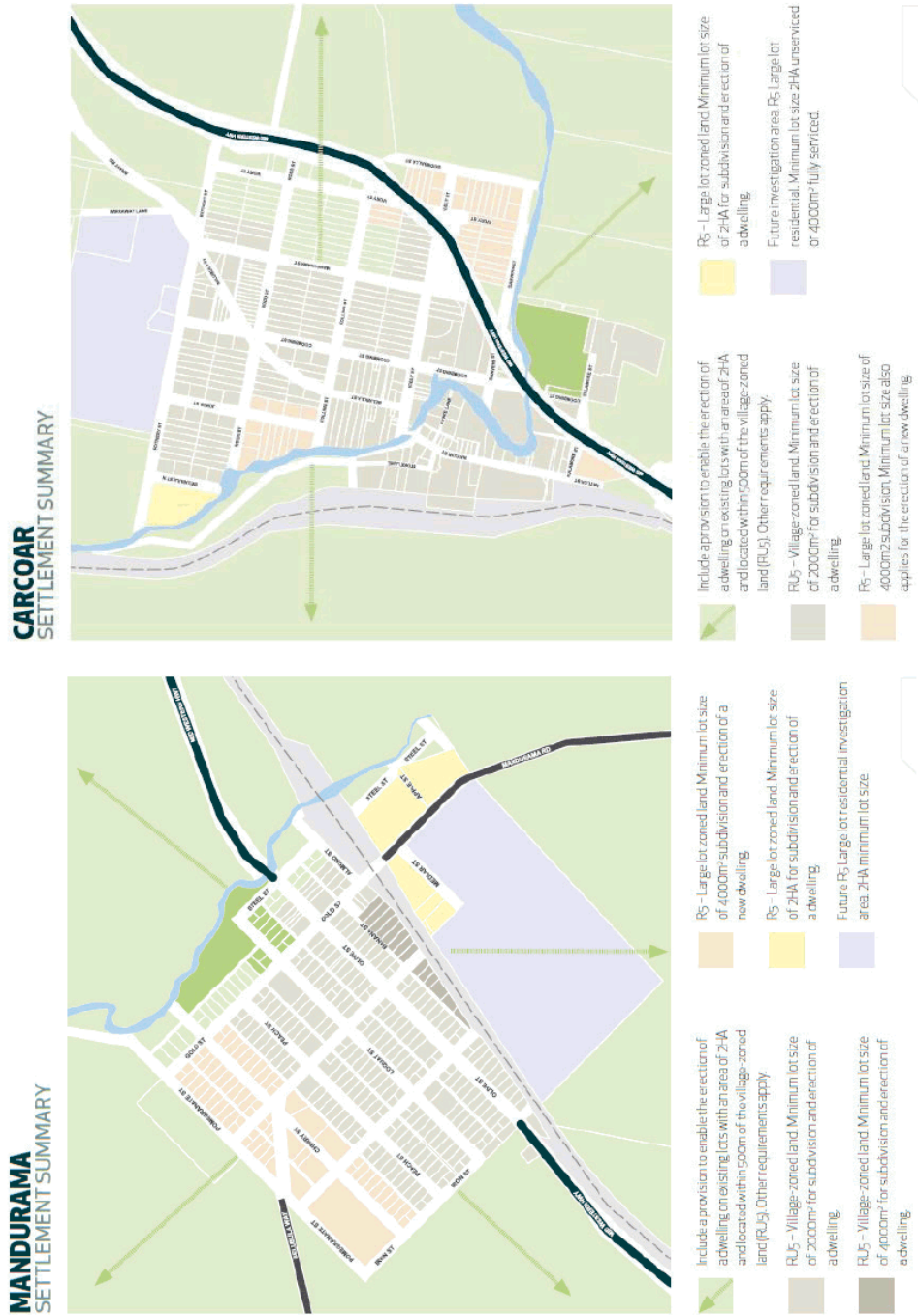
- » Provide a consistent minimum lot size applicable to land in the RU5 Village zone of 2,000sqm.
  - » Include a provision in the BLEP that allows for dwellings on RU1 Primary Production zoned land in certain circumstances where the lot has an area of at least 2ha and is within 500m of the RU5 Village zone.
  - » All Large Lot Residential zoned land which currently has a Minimum Lot Size of less than 1ha to be consistently set at 4000sqm.
- The Large Lot Residential zoned land (4 lots) at the intersection of Egbert Street and Kentucky Road which currently has a minimum lot size of 1.25ha is slightly reduced to 1ha.
- All other Large Lot Residential zone land shall have the minimum lot size applicable for subdivision under the current BLEP.

**Barry**

- » Provide a consistent minimum lot size applicable to land in the R5 Large Lot Residential zone to 4,000sqm.
- » Include a provision in the BLEP that allows for dwellings on RU1 Primary Production zoned land in certain circumstances where the lot has an area of at least 2ha and is within 500m of the R5 Large Lot Residential zone.

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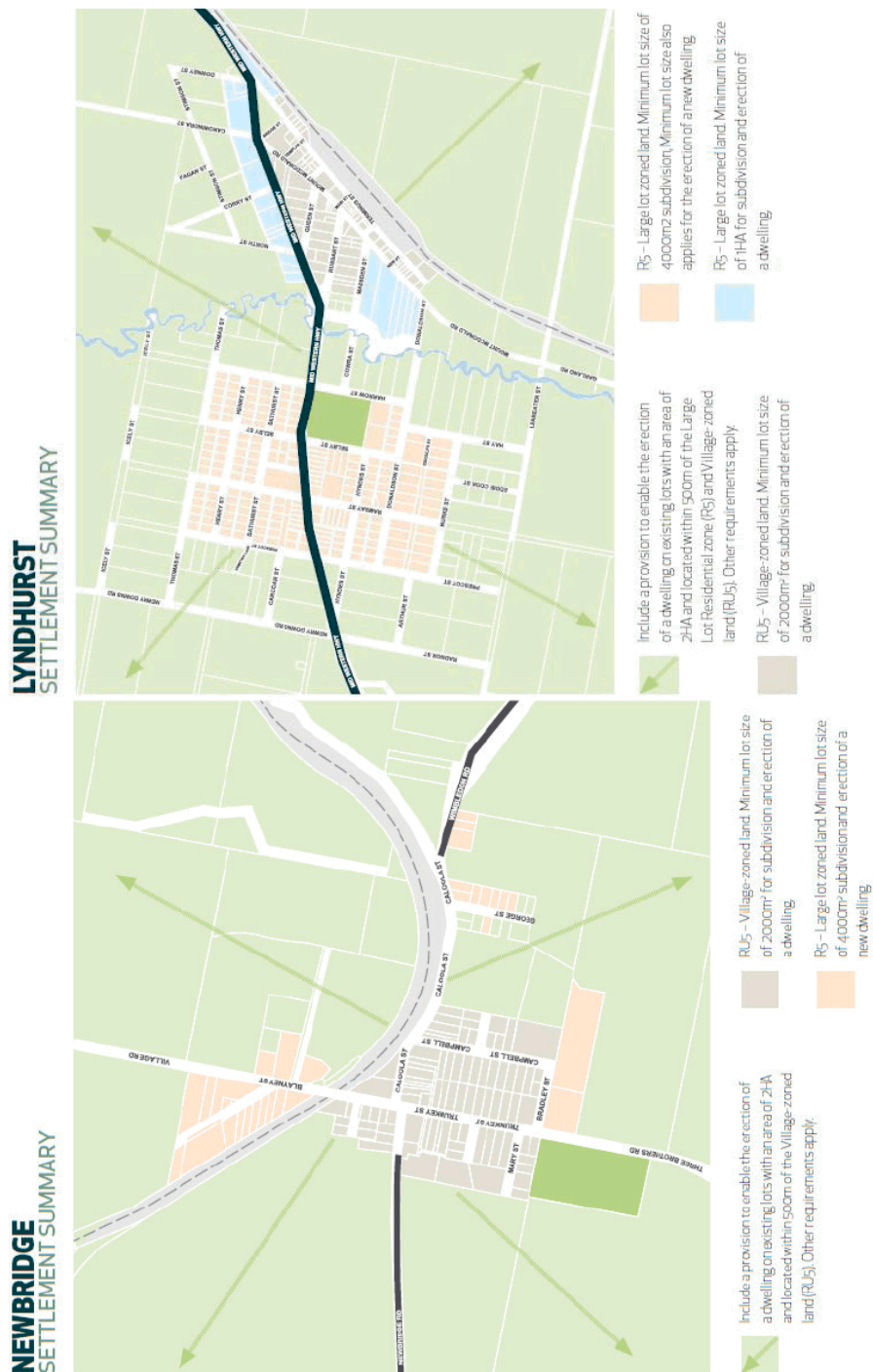
Figure 3: Excerpt of Structure Plans for Six Villages (recommendations) from Settlement Strategy 2020.



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## 2.2 PP3A: Minimum Lot Size (MLS) for Subdivision or a Dwelling

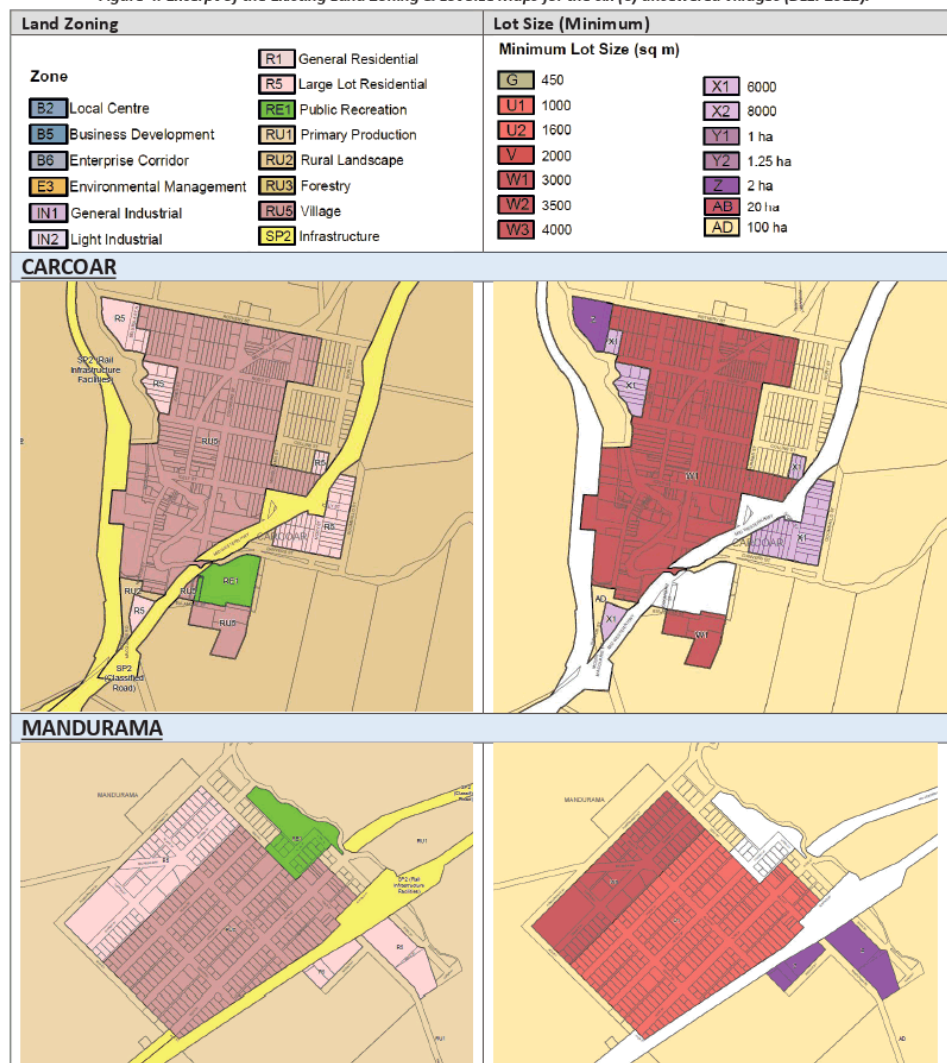
### 2.2.1 Location & Description

Proposal PP3A applies to the majority of land within Zone RU5 Village and Zone R5 Large Lot Residential in the six (6) unsewered villages of Carcoar, Mandurama, Lyndhurst, Neville, Newbridge & Barry (see the relevant maps below).


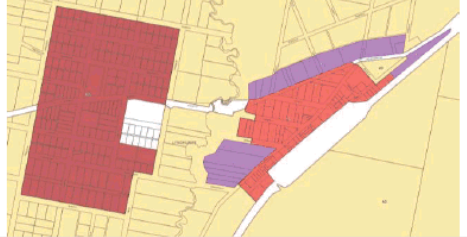
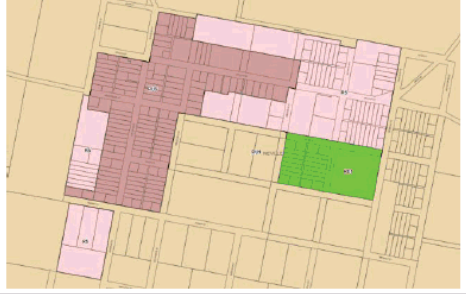
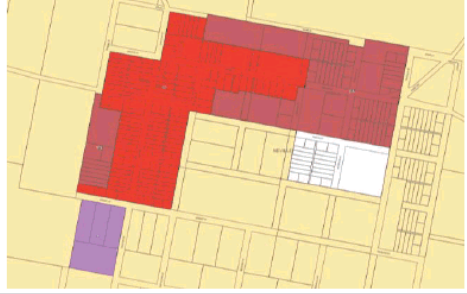

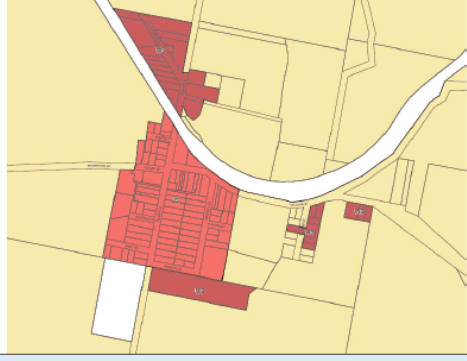
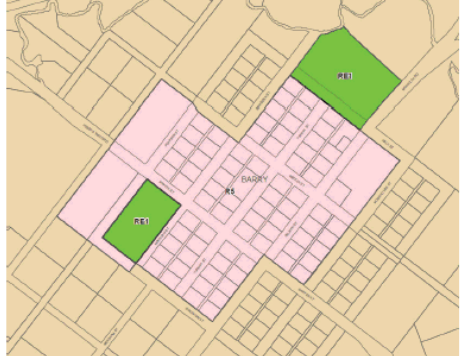
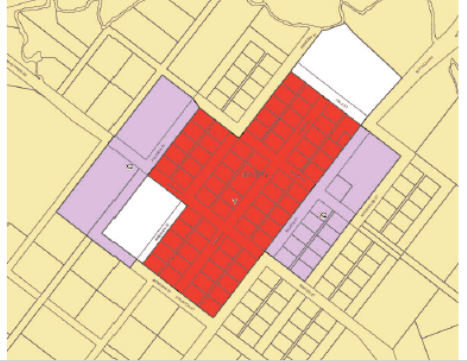
### 2.2.2 Existing Zoning & Lot Size

The following are excerpts from the existing BLEP2012 Land Zoning Map (LZN\_004A) and Lot Size Map (LSZ\_004A):

Figure 4: Excerpt of the Existing Land Zoning & Lot Size Maps for the six (6) unsewered villages (BLEP2012).



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Land Zoning	Lot Size (Minimum)
<b>LYNDHURST</b>	
	
<b>NEVILLE</b>	
	
<b>NEWBRIDGE</b>	
	
<b>BARRY</b>	
	

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## 2.2.3 Proposed Amendment

### 2.2.3.1 Objective(s)

The objective of this component of the proposal is to introduce a Minimum Lot Size (MLS) to support residential accommodation (primarily dwellings) requiring on-site effluent management and/or subdivision in the unsewered villages. This will ensure there is sufficient lot area to support a dwelling with suitably-sized on-site effluent system as well as necessary buildings and other site requirements whilst minimising the risk of environmental impacts.

**Note:** Whilst this will also amend the MLS for Torrens Title subdivision, the majority of existing lots in these villages are already smaller than the MLS so additional subdivision opportunity is limited. The most significant effect of this amendment is the minimum lot size to apply for a dwelling (which is sometimes larger than the existing lot size).

### 2.2.3.2 Existing/Proposed Lot Size

The following table seeks to summarise the recommendations of the *Settlement Strategy* for lot size in each of the six (6) unsewered villages (noting that there is currently no minimum lot size to apply for a dwelling in Zone RU5 Village or Zone R5 Large Lot Residential so the existing lot size minimums in the table below are for subdivision only BUT in the future will apply to the permissibility of a dwelling or dual occupancy on that land).

A summary of the changes is as follows:

- a) In Zone RU5 Village – provide a consistent MLS of 2,000m<sup>2</sup> instead of different MLS in some villages;
- b) In Zone R5 Large Lot Residential – provide a consistent MLS of 4,000m<sup>2</sup> where Existing MLS < 1ha.

This is summarised for each village in the following table:

*Figure 5: Summary of Existing/Proposed Lot Size Recommendations (Settlement Strategy).*

VILLAGE	Zone	Area/Location	Existing Lot Size	Proposed Lot Size	Impact Subdivision
Carcoar	RU5 Village	Village core	3,000m <sup>2</sup>	2,000m <sup>2</sup>	Decrease
	R5 LLR	NW corner/Belubula St	2ha	2ha	No change
	R5 LLR	Remainder/majority	6,000m <sup>2</sup>	*4,000m <sup>2</sup>	Decrease
Mandurama	RU5 Village	South of Banana St	1,000m <sup>2</sup>	@4,000m <sup>2</sup>	Increase
	RU5 Village	Remainder	1,000m <sup>2</sup>	2,000m <sup>2</sup>	Increase
	R5 LLR	East of Rail Line	2ha	#2ha	No change
	R5 LLR	West of Rail Line	4,000m <sup>2</sup>	4,000m <sup>2</sup>	No change
Lyndhurst	RU5 Village	Village core	1,000m <sup>2</sup>	2,000m <sup>2</sup>	Increase
	R5 LLR	West of Creek	3,500m <sup>2</sup>	4,000m <sup>2</sup>	Increase
	R5 LLR	East of Creek	1ha	1ha	No change
Neville	RU5 Village	Village core	2,000m <sup>2</sup>	2,000m <sup>2</sup>	No change
	R5 LLR	Egbert St/Kentucky Rd	1.25ha	1ha	Decrease
	R5 LLR	Remainder	4,000m <sup>2</sup>	4,000m <sup>2</sup>	No change
Newbridge	RU5 Village	Village core	1,600m <sup>2</sup>	2,000m <sup>2</sup>	Increase
	R5 LLR	All	4,000m <sup>2</sup>	4,000m <sup>2</sup>	No change
Barry	R5 LLR	Village core	2,000m <sup>2</sup>	4,000m <sup>2</sup>	Increase
	R5 LLR	Village edge	8,000m <sup>2</sup>	4,000m <sup>2</sup>	Decrease

\* Carcoar - Settlement Strategy Summary Map does not exactly match existing lot size boundaries for west Zone R5 4000m<sup>2</sup> area. It is assumed this is an error and existing lot size boundaries are used.

# Mandurama - text states 4,000m<sup>2</sup> for all Zone R5 but this is inconsistent with the mapping (mapping prevails).

@ Mandurama – This new area adjusts the existing Lot Size boundaries.

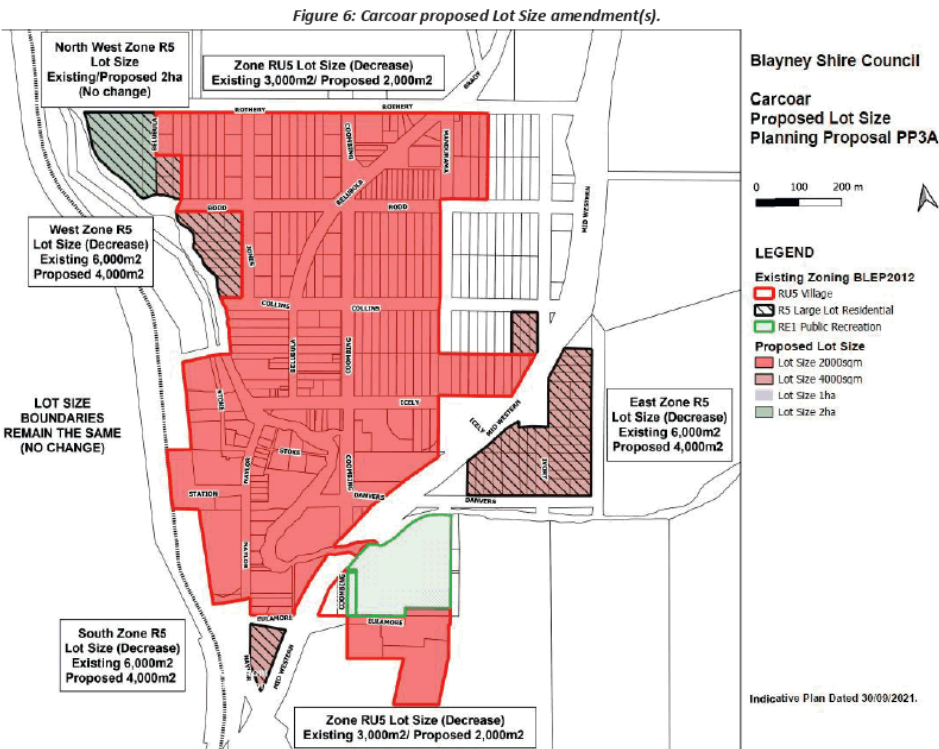
2.2.3.3 Preferred Approach

- The preferred approach of this component of the Proposal has several elements:
- a) To amend the **Lot Size Maps** for each of the relevant villages to reflect the proposed Minimum Lot Size (MLS); and
  - b) To add **new clause wording** to limit the application for erection of residential accommodation requiring on-site effluent management to lots that meet the Lot Size on the Lot Size Map.

Please see *Section 2.2.4 - Possible Method(s)* below for **indicative desired clause wording** and alternative approaches. No change is proposed to the Land Zoning or any other BLEP2012 Maps.

2.2.3.4 Map(s)

The Maps below show the proposed Lot Size changes .

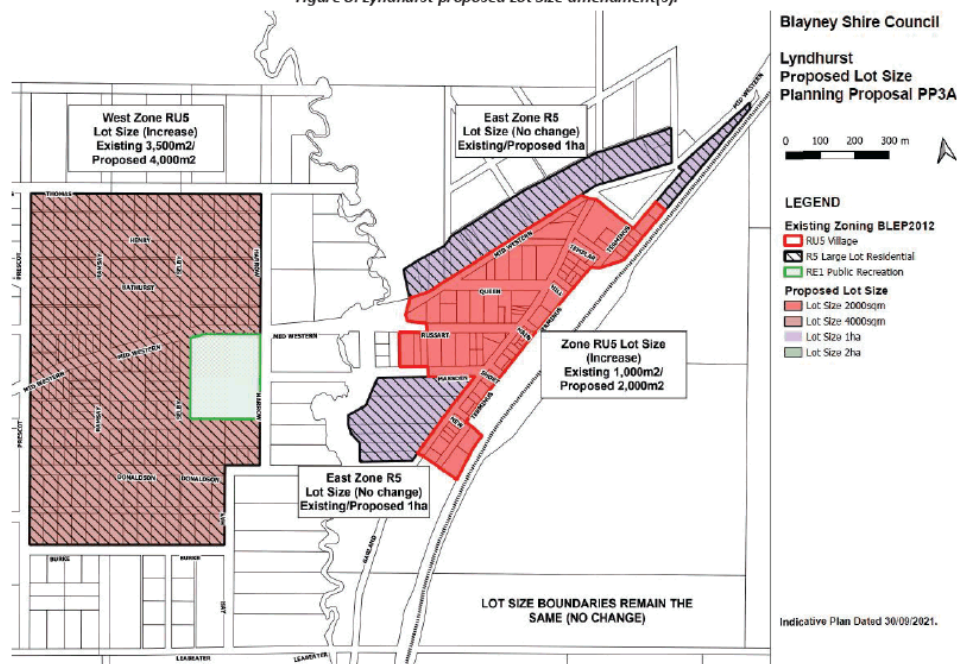


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Figure 7: Mandurama proposed Lot Size amendment(s).



Figure 8: Lyndhurst proposed Lot Size amendment(s).



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Figure 9: Newbridge proposed Lot Size amendment(s).

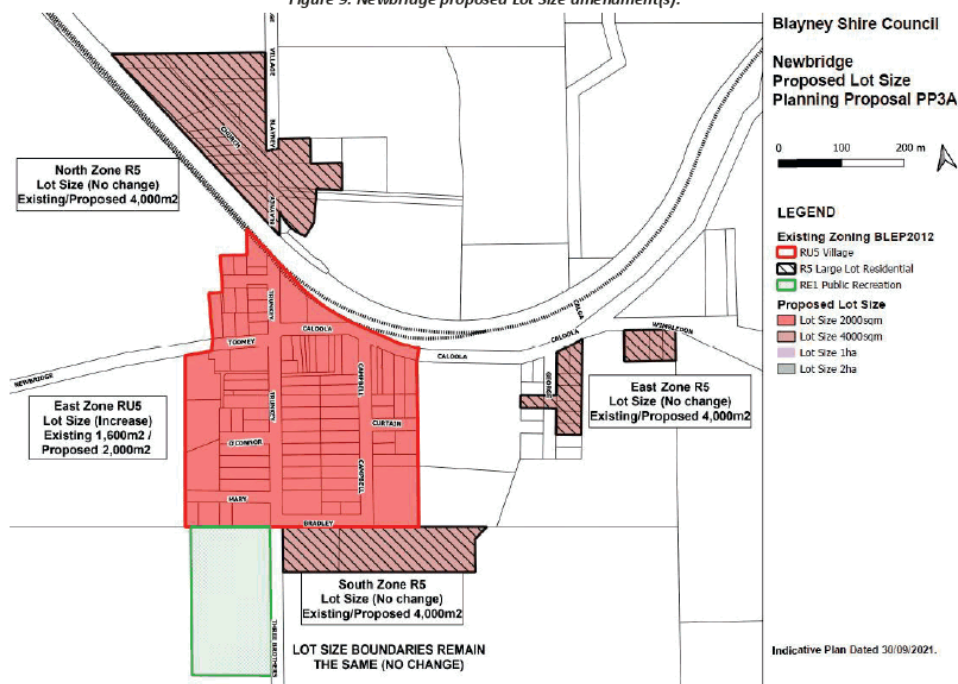
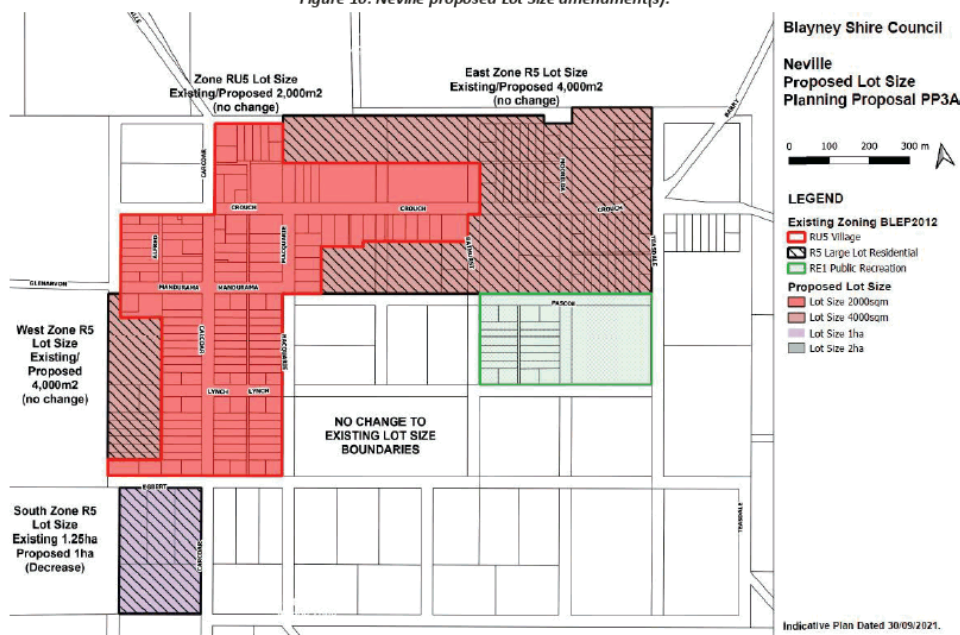
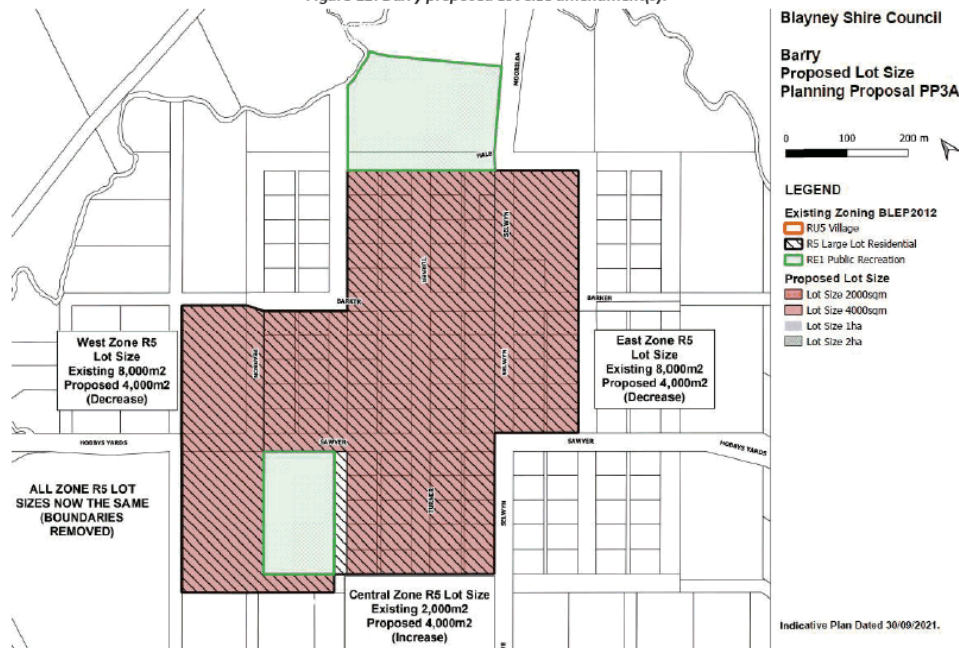


Figure 10: Neville proposed Lot Size amendment(s).



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Figure 11: Barry proposed Lot Size amendment(s).



#### 2.2.3.5 Justification(s)

The key justification(s) for the Amendment(s) are summarised as follows:

##### a) Existing Control(s)/Issue(s)

Under the existing controls there is a Minimum Lot Size (MLS) for subdivision through the link between *Clause 4.1 – Minimum subdivision lot size* and the Lot Size Map(s) for each village. However, most of the villages have historic subdivision patterns and the majority of lots are significantly below the MLS. As a result, it is difficult to enforce the MLS as limited subdivision is required.

In addition, and more significantly, there is no existing control to prevent a land owner applying for development on an existing lot well below the MLS (subject to demonstrating an on-site effluent system can fit on the property). However, often these systems fail and there is no additional site area to expand or redesign the on-site effluent system. The environmental impacts may be significant and it is difficult to retrospectively fix the issue.

##### b) Potential Solution(s)/Settlement Strategy

Therefore, Council's preference is to set reasonable MLS for BOTH subdivision and residential accommodation requiring on-site effluent management whilst these villages are not connected to reticulated sewer.

Whilst there is a mix of changes to lot size that both decrease and increase the MLS – in effect the majority of these changes will increase the MLS for residential accommodation (but not other development) requiring on-site effluent management as the majority of existing lots are well below the existing or proposed MLS.

These amendments were recommended in the adopted *Settlement Strategy 2020* (See *Section 2.1 – PP3 Overview – Blayney Settlement Strategy 2020*). It is also important to note they were considered in the *Draft Settlement Strategy 2012* but at the time they were not supported by the Councillors and only implemented for Torrens Title subdivision at a range of lot sizes across villages. Unlike the 2012 Strategy, the 2020 Strategy is seeking to have a greater degree of consistency in supported lot size between MLS for each zone between villages.

##### c) Land Supply

The *Settlement Strategy 2020* has reviewed dwelling opportunity and constraints for the six (6) unsewered villages. It is implied that this Planning Proposal PP3A will not unduly constrain additional dwelling growth potential (infill)

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development) for both Zone RU5 Village and Zone R5 Large Lot Residential in the six (6) villages for the following reasons:

- a) As the table in *Figure.5* shows, the minimum lot size proposed for each village is a MIX of some that stay the same, some that increase and some that decrease;
- b) The merit assessment process may have otherwise determined that larger lots were required to support on-site effluent systems and associated development so the impact of mandating increases in lot sizes may not have reduced dwelling approvals significantly; and
- c) In part any actual or perceived reduction in dwelling permissibility may be offset by some small additional dwelling growth around the villages in Planning Proposal PP3B below.

#### 2.2.4 Possible Method(s)

Changing the Minimum Lot Size for BOTH residential accommodation (primarily dwellings) and subdivision is best achieved by amending BLEP2012 to change the relevant Lot Size Map(s) for each village so that it is clear what areas are affected on the maps and there is a clear minimum lot size shown (even if varied by a linked clause).

The method results in a site-specific outcome whilst creating a transparent connection between the land use controls and the intended development outcomes (easily visible on the map(s)). The amended maps would link directly to the *Clause 4.1 – Minimum subdivision lot size* (particularly subclause (3)) to govern lot size by Torrens Title Subdivision.

However, changing the Lot Size Map(s) does not resolve the issue of the existing lot pattern enabling dwellings on lots below the MLS. *Clause 4.2A – Erection of dual occupancies and dwelling houses on land in certain rural zones* does not apply to Zone RU5 or Zone R5 (urban/residential zones) in PP3A so there is no mechanism to prevent a dwelling being applied for on any existing lot that is below the MLS on the Lot Size Map(s) (including the majority of lots in each settlement).

It is NOT appropriate to add the relevant urban/residential zones to Clause 4.2A as subsection (3)(c) would enable a dwelling to be applied for on each and every lot because it would be ineffectual as they would satisfy the exemption that is 'a lot created under an environmental planning instrument before this Plan commenced and on which the erection of a dual occupancy or dwelling house was permissible immediately before that commencement'.

The alternative would be to add a new clause to BLEP2012 that specifically overrules Clause 4.1 & Clause 4.2A for lots in the areas identified in this Planning Proposal consistent with the objective above (see Section – *Example - Lithgow LEP 2014* below).

##### 2.2.4.1 Example - Lithgow LEP 2014

The *Lithgow LEP 2014* provides an example of where the objective in this Proposal has been achieved by adding a new clause to govern dwellings in Zone RU5 Village and Zone R5 Large Lot Residential.

#### 4.2B Erection of dwelling houses, dual occupancies and secondary dwellings in Zone RU5 and Zone R5

- (1) The objectives of this clause are as follows—
  - (a) to ensure that development is undertaken on appropriately sized lots that have access to available essential services,
  - (b) to manage development density affected by subdivision patterns approved under the planning instrument in force immediately before the commencement of this Plan.
- (2) This clause applies to land in the following zones—
  - (a) Zone RU5 Village,
  - (b) Zone R5 Large Lot Residential.
- (3) Development consent must not be granted for the erection of a dwelling house, dual occupancy or secondary dwelling on land to which this clause applies, and on which no dwelling house, a dual occupancy or a secondary dwelling has been erected, unless the lot—
  - (a) is not smaller than the minimum size shown on the Lot Size Map in relation to that land, or
  - (b) was created by a subdivision for which development consent was granted under an environmental planning instrument, and on which the erection of a dwelling house, dual occupancy or secondary dwelling would have been permissible, immediately before the commencement of this Plan, or
  - (c) resulted from a subdivision for which development consent was granted under an environmental planning instrument, and on which the erection of a dwelling house, dual occupancy or secondary dwelling would have been permissible, if the plan of subdivision had been registered before the commencement of this Plan.

#### 2.2.4.2 Draft BLEP2012 Clause 4.2C Amendment

The preferred approach of Council is to adopt the approach in Lithgow LEP 2014 above (with amendments shown by strikeout or in red) and add a new clause to BLEP2012 (possibly as Clause 4.2C). Draft indicative wording is set out below.

**NOTE: The Clause wording MAY CHANGE and is subject to approval by DPIE and Parliamentary Counsel.**

#### **4.2C Erection of residential accommodation requiring on-site effluent management in Zone RU5 and Zone R5**

- (1) The objectives of this clause are as follows—
- (a) to ensure that residential accommodation requiring on-site effluent management is undertaken on appropriately sized lots that have ~~access to available essential services~~ sufficient lot size to support the development and an on-site effluent management system,
  - (b) to enable residential accommodation requiring on-site effluent management on lots that were created under this environmental planning instrument (but not ~~manage development density affected by subdivision patterns approved under the planning instrument in force immediately before the commencement of this Plan~~).
- (2) This clause applies to land in the following zones—
- (a) Zone RU5 Village,
  - (b) Zone R5 Large Lot Residential.
- (3) Development consent must not be granted for the erection of ~~dwelling house, dual occupancy or secondary dwelling~~ residential accommodation requiring on-site effluent management on land to which this clause applies, and on which no dwelling house or dual occupancy requiring on-site effluent management has been erected, unless the lot—
- (a) is equal to or larger ~~not smaller~~ than the minimum size shown on the Lot Size Map in relation to that land, or
  - (b) was created by a subdivision for which development consent was granted under ~~an~~ this environmental planning instrument (prior to the amendment creating this clause), and on which the erection of a dwelling house, dual occupancy or secondary dwelling would have been permissible, immediately before the commencement of this Plan, or
  - (c) resulted from a subdivision for which development consent was granted under ~~an~~ this environmental planning instrument (prior to the amendment creating this clause), and on which the erection of a dwelling house, dual occupancy or secondary dwelling would have been permissible, if the plan of subdivision had been registered before the commencement of this Plan.

- a) **Applicable Zones:** The proposed clause applies to Zone RU5 Village and Zone R5 Large Lot Residential that are the relevant urban/residential zones in the unsewered villages in this Planning Proposal. It does not extend to other urban or rural zones. **Note:** This will also extend it to Millthorpe (both Zone RU5 and R5) and Blayney (only Zone R5) that is not specifically addressed in this proposal. However, it will have no effect in the urban areas of Millthorpe and Blayney as on-site effluent management would not be required.
- b) **Other LLR Areas:** It would also extend to Large Lot Residential areas along Forest Reefs Rd and Browns Creek Rd but as these are new subdivision areas with an MLS of 2ha there should not be any historic lots below the MLS on the Lot Size Map so it should be consistent with (or merely reinforce) existing controls. If these areas were excluded it may require the mapping of all areas to which this clause applies which adds complexity to BLEP2012 and is less desirable.
- c) **Applicable Development:** The Lithgow example clause only applied this clause to dwellings, dual occupancies and secondary dwellings. Likewise, *Settlement Strategy 2020* only referenced the need to increase the minimum lot size for 'dwellings' but it was implicit that the intent of the recommendation was to achieve appropriate environmental outcomes for on-site effluent management systems for all residential accommodation. It is accepted that dwellings (in the form of dwelling houses, dual occupancies & secondary dwellings) are the most likely forms of development in the applicable zones for these villages. However, ideally the clause would apply to all residential accommodation that requires the construction of a new (or upgrade of existing) on-site effluent management system. Other permissible forms of development (e.g., commercial or industrial) should be considered on their merits and may be able to provide alternative solutions to effluent management. This Proposal does not seek to hamper growth of employment uses in the villages.
- d) **Previous Subdivisions (approved):** It cannot apply to subdivisions that were approved under previous environmental planning instruments as this would undermine the objective. However, proposed subclause 3(b) states that if there were approved subdivisions since BLEP2012 commenced then it would be equitable to permit a dwelling on each created lot assuming it has been demonstrated that the site can support an appropriate on-site effluent management system (**Note:** This may result in the lodgement of a limited number of applications prior to

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the LEP amendment in this Proposal commencing to approve subdivision but this Proposal must still be considered).

- e) **Previous Subdivisions (not registered):** Addressed by proposed subclause 3(c) above.

## 2.2.5 Site Analysis & Other Relevant BLEP2012 Controls

This Section provides a brief review of some of the key relevant controls in BLEP2012 and site constraints/ opportunities for the Site/Affected Area that may influence the outcomes in this Planning Proposal and the suitability of the Site.

BLEP2012 Clause / Constraint	Comment
<b>2.1 - Land Use Zones / Land Use Table</b>	This Proposal does not seek to change the Land Use Table or Land Zoning Map for the relevant villages.
<b>4.1 – Minimum Subdivision Lot Size</b>	This Proposal DOES seek to change the Lot Size Maps for the villages in accordance with Table 3A1 in Section 2.2.3.2 above with the justification(s) noted above.
<b>4.1AA – Minimum subdivision lot size for community title schemes</b>	These Clauses are NOT APPLICABLE as they only apply to rural zones and not the subject Zone RU5 Village and Zone R5 Large Lot Residential. Therefore, community title and strata title are still permitted below the MLS in the applicable areas (subject to consent). There is no need to apply Clauses 4.1AA & 4.1A to the subject land because subdivision below the MLS is a low risk as most lots are already below the MLS and new dwelling applications are still subject to the larger lot sizes required by this Planning Proposal.
<b>4.1A – Minimum subdivision lot size for strata plan schemes in certain rural zones</b>	
<b>4.2 – Rural subdivision</b>	PP3A does not affect rural subdivision under Clause 4.2 or boundary adjustments under Clause 4.2B and neither of these clauses need to apply to the subject land. However, the Proposal seeks to manage potential land use conflicts consistent with the requirements of Clause 4.2A without compromising that clause.
<b>4.2A – Erection of dwelling houses or dual occupancies on land in certain rural zones</b>	
<b>4.2B – Boundary adjustments between lot sin certain rural zones</b>	
<b>5.1 – Relevant Acquisition Authority</b>	No change to Land Acquisition mapping/outcomes required. At the date of this report there was no land mapped in BLEP2012.
<b>5.10 – Heritage Conservation</b>	The Proposal affects lots size throughout six (6) of the villages. There may be listed heritage items where the lot size is changing but they have not been individually assessed. For the majority of villages, the lot size is increasing for subdivision (and it is increasing for all villages for dwelling permissibility) so heritage impacts should decrease. Newbridge is the only village with a heritage conservation area and the lot size is increasing in the Zone RU5 Village or staying the same in Zone R5 Large Lot Residential so there should be no additional impact. However, it is consistent with standard practice to consider this during the development assessment process.
<b>5.21 Flood Planning</b>	There are currently no Flood Maps in the six (6) villages as a Flood Study has not been conducted in these areas but this clause still applies where land is below the Flood Planning Level. The Proposal is more likely to decrease dwelling densities (or remain the same) so this reduces the potential for flood impacts. Flooding still needs to be addressed by all applications (where relevant).
<b>6.2 Stormwater Management</b>	The Proposal is likely to decrease potential dwelling densities in the six (6) villages which should decrease stormwater impacts. Stormwater still need to be addressed by all applications (where relevant).
<b>6.3 Terrestrial Biodiversity</b>	The mapped Terrestrial Biodiversity does sometimes overlap with the six (6) villages. This Proposal is likely to decrease dwelling potential and resulting vegetation impacts. This is best considered in more detail during the development assessment process.
<b>6.4 Groundwater Vulnerability</b>	Of the six (6) villages, groundwater vulnerability only significantly impacts Newbridge. This Proposal is likely to decrease dwelling potential and resulting groundwater impacts. As there is no reticulated sewer, appropriate geo-technical studies for on-site effluent can generally avoid or mitigate this risk for new dwellings. This is best considered in more detail during the development assessment process.
<b>6.5 Drinking Water Catchments</b>	Of the six (6) villages, only Neville and Barry are in a drinking water catchment (for Lake Rowlands) but the Proposal is likely to decrease dwelling potential and

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BLEP2012 Clause / Constraint	Comment
	resulting catchment impacts. However, appropriate geo-technical studies for on-site effluent can generally avoid or mitigate this risk for new dwellings. This is best considered in more detail during the development assessment process.
<b>6.6 Riparian Land &amp; Watercourses</b>	There are riparian watercourses mapped within or close to each of the six (6) villages. However, generally BLEP2012 sought to increase setbacks for Zone RU5 & Zone R5 areas from watercourses from likely flood prone land and encourages setbacks for dwellings from these watercourses. This is best considered in more detail during the development assessment process.
<b>6.7 Development within a Designated Buffer Area</b>	The only designated buffer area near a village is at Neville but this is outside the Zone RU5/R5 area so there is a low risk of any impact.

**Naturally Occurring Asbestos (NOA):** Of the six (6) villages, only Neville & Newbridge are within an area with Medium Naturally Occurring Asbestos (NOA) Potential on the Naturally Occurring Asbestos in NSW Map (<https://trade.maps.arcgis.com/>). This Proposal will generally decrease dwelling yield by increasing minimum lot size to support a dwelling so it decreases risk of asbestos impacts and can be appropriately conditioned for any development.

**Aboriginal Heritage:** A specific review of Aboriginal heritage has not been conducted but would need to be considered for any relevant sites during the development application process. This Proposal relates to existing Zone RU5 and Zone R5 areas where there has been significant disturbance and a lower probability of finding relics. There are some significant watercourses, but very few of these are permanent and setbacks are proposed. This can be considered in more detail during the development assessment process.

**Gas Pipeline:** The main gas pipeline does not run in or close to any of the six (6) villages and would not be affected by the additional dwelling potential.

**Conclusion:** Based on the above brief review there are no key environmental constraints that would prevent the Proposed Amendment(s) from achieving a Gateway Determination.

## 2.3 PP3B: Dwelling Permissibility – within 500m of Certain Zones

### 2.3.1 Location & Description

This part of the Planning Proposal ('PP3B') applies to lots (without a dwelling) within Zone RU1 Primary Production or Zone RU2 Rural Landscape ONLY within 500m of the **existing** Zone RU5 Village Zone and/or Zone R5 Large Lot Residential areas ('Urban Areas' - as set out in **Table 3B1** in *Section 2.3.3.1* below) in the six (6) unsewered village that meets certain criteria set out below ('Site PP3B').

### 2.3.2 Existing Zoning & Lot Size

The land within Site PP3B has the following key land use controls in BLEP2012:

- a) Zone RU1 Primary Production or Zone RU2 Rural Landscape (Land Zoning Map);
- b) Minimum Lot Size of 100ha (Lot Size Map).

Under BLEP2012 *Clause 4.2A – Erection of dwelling houses or dual occupancies on land in certain rural zones* – subclause (3) - Development consent **must not be granted** for the erection of a **dwelling house** or **dual occupancy** in Zone RU1 or Zone RU2, and on which no dwelling house or dual occupancy has been erected, unless the land—

(a) is a lot that is at least the minimum lot size shown on the [Lot Size Map](#) in relation to that land (i.e., 100ha).

There are other exceptions under subclause (3)(b) to (f) but these are very restricted. Existing holdings no longer exist under BLEP2012.

This means there can be existing small lots (significantly less than <100ha), often part of the historic subdivision patterns of each village, without a dwelling in close proximity to a settlement that are of an insufficient size to be viable for extensive agriculture (without off-farm income) and cannot apply for a dwelling at this time because they do not achieve the minimum lot size in *Clause 4.2A*.

Council considers that the use of these limited numbers of lots around the existing urban areas of each village for dwellings has the potential to promote population and economic growth with minimal impact on surrounding agriculture or agricultural productivity.

### 2.3.3 Proposed Amendment(s)

#### 2.3.3.1 Objective(s)

The Objective of this component of the Proposal is to permit a development application for a dwelling house (or dual occupancy) on a lot or holding that meets the following criteria:

##### Core Criteria

##### The lot or holding:

- a) Is in Zone RU1 Primary Production or Zone RU2 Rural Landscape (rural land);
- b) Has no existing dwelling house or dual occupancy;
- c) Includes all or a significant part of the lot within 500m of Zone RU5 Village and/or Zone R5 Large Lot Residential area as set out in **Table 3B1** below;

*Figure 12: Table of relevant zones from which 500m is measured for each of the six (6) settlements.*

Settlement/Village	Zone(s) from which 500m is Measured
Carcoar	Zone RU5 Village
Lyndhurst	Zone RU5 Village + Zone R5 Large Lot Residential
Mandurama	Zone RU5 Village
Newbridge	Zone RU5 Village
Neville	Zone RU5 Village
Barry	Zone R5 Large Lot Residential

- d) Has a minimum area of 1.5 hectares;
- e) Not significantly affected by any environmental or other significant constraints (see 'Additional Constraint Criteria' below); and
- f) Has legal access to a public road; and,

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as such, has been mapped as having 'dwelling opportunity' on the new 'Dwelling Opportunity Map(s)' to be incorporated into BLEP2012.

Additional Constraint Criteria

The more detailed environmental or other constraints that may prevent a lot/holding from being suitable for consideration for a dwelling and include, but are not limited to (focussed on key issues for the six (6) villages & surrounds) – the lot/holding:

- a) **Access:** Has the ability to create a safe and legal point of access to a public road (not a Crown Road and preferably not a Classified Road);
- b) **Growth:** Is not identified in the *Settlement Strategy 2020* for future rezoning for additional urban or large lot residential growth;
- c) **Heritage:** Is not a heritage item and would not impact significantly on any heritage conservation area (Newbridge is only relevant village with a HCA);
- d) **Environment:** Has a suitable dwelling envelope and access that is unlikely to be affected by natural hazards such as flooding or bushfire and is setback from any key watercourses and sensitive biodiversity. Where there is no existing flood study then the precautionary principle is applied to avoid land that foreseeably is below the flood planning level of 1% Annual Exceedance Probability (AEP) + 500mm freeboard;
- e) **Visual Impact:** Is likely to have a suitable dwelling envelope/location that would not compromise the overall vista and/or create a detrimental visual amenity impact (e.g., steeper slopes around Carcoar in the visual catchment of the village and key heritage items);
- f) **Land Use Conflict:** Is likely to have a suitable dwelling envelope/location that provides a suitable setback/buffer to avoid or minimise any significant land use conflict on an adjoining or nearby property, particularly for protection of agricultural land and operations and/or known mineral potential lands/existing extractive resource buffers.
- g) **Agricultural Potential:** Is on significantly fragmented land (lot size generally < 10ha) and is not part of a large agricultural holding where an additional dwelling would conflict with the agricultural potential of the land and extend dwellings significantly beyond the historic urban subdivision pattern of each village.

Other Limitations

- a) **Merit Assessment:** It is important to note that the identification of a lot as having 'dwelling opportunity' does not 'entitle' that land owner to a dwelling approval. Any application will still need to address the requirements of the relevant planning controls and is subject to a merit assessment. Therefore, it does not avoid the need to address any site-specific constraints or requirements in accordance with the relevant planning controls and the merit assessment may still prohibit a dwelling on that land.
- b) **Time Limitation:** This 'dwelling opportunity' will only be valid for **five (5) years** from the Date of Commencement of this Amendment to BLEP2012. This will give a reasonable time for land owners to seek consent plus another five (5) years to physically commence any consent. The time limitation ('sunset clause') seeks to avoid additional impacts on agriculture after that time period has elapsed.
- c) **Consistency:** This 'dwelling opportunity' is an extension of the same or similar opportunity given to Millthorpe that may be approved under an earlier Planning Proposal named PP2B. This creates consistency for all of the smaller settlements (other than the Town of Blayney).

**2.3.3.2 Preferred Approach**

There are two significant ways to achieve the above objective:

- a) Map the specific lots that could achieve the criteria to support a dwelling so it is clear to those land-owners and neighbours where that potential is located – New 'Dwelling Opportunity' Maps for each relevant village;
- b) Amend the clause wording in BLEP2012 – possibly by drafting a clause that sets out core criteria and/or links 'dwelling opportunity' to the 'Dwelling Opportunity' Maps for each relevant village;

Amending the clause wording in BLEP2012 to provide a clause that set out all of the criteria without mapping lots/holdings with 'dwelling opportunity' would require an Applicant to address the criteria and provides more flexibility for landowners but less certainty for the community and neighbouring lots.

Council's preference is to map the specific lots based on the criteria above and analysis below and amend *Clause 4.2A of BLEP2012* to provide an exception to the Lot Size requirement for the mapped lots.

Please see *Section 2.3.4 - Possible Method(s)* below for **indicative desired clause wording** and alternative approaches.

### 2.3.3.3 Affected Lots

The following are tables showing the lots with **Dwelling Opportunity** (pink fill) supported by MAPS in the Appendices - including key mapped site constraints/criteria and a summary table of the lots identified with a 'dwelling opportunity' for each village.

*Figure 13: Carcoar – Table of Dwelling Opportunity (pink fill) with some key criteria/constraints (with aerial photo).*

No. on Map	CARCOAR Address	Title (Lot/DP)	Comment (if required)
1	16 Mandurama St	Lots 11-20 Sect 6 DP758225	One (1) dwelling entitlement for this holding. Many of the lots have significant environmental constraints. It is Council's intention that all of the lots are consolidated and the dwelling sited to minimise impacts.

*Figure 14: Lyndhurst - Table of Dwelling Opportunity (pink fill) with some key criteria/constraints (with aerial photo).*

No. on Map	LYNDHURST Address	Title (Lot/DP)	Comment (if required)
1	117 Garland Rd	Lot 3 DP197791	N/A
2	116 Garland Rd	Lot 2 DP197791	Flooding may need to be addressed.
3	10 Hay St	Lot 2 Sect 35 DP758629	Flooding may need to be addressed.
4	4 Hay St	Lot 89 DP750393	Flooding may need to be addressed.
5	2 Hay St	Lot 90 DP750393	Flooding may need to be addressed.
6	16 Leabeater St	Lot 5 Sect 36 DP758629	Frontage to both Leabater & Hay Sts.
7	1 Burke St	Lot 5 Sect 37 DP758629 Lot 1 DP130262	One (1) dwelling opportunity for this part of the holding.
8	1 Burke St	Lots 3-12 Sect 38 DP758629	One (1) dwelling opportunity for this part of the holding.
9	1 Burke St	Lot 32 DP750393	One (1) dwelling opportunity for this lot with a road frontage.
10	6609 Mid Western Highway	Lots 2 & 3 Sect 26 DP758629	One (1) dwelling opportunity for these two (2) lots. Vegetation to be protected. Access from Prescott St only.
11	6578 Mid Western Highway	Lot 1 DP1123773	Access from Newry Downs Rd only.
12	6578 Mid Western Highway	Lots 2 & 3 DP1123773	One (1) dwelling opportunity for these two (2) lots. Access from Prescott St only.
13	111 Prescott St	Lot 1 DP133604 Lot 84 DP750393	One (1) dwelling opportunity for these two (2) lots.
14	111 Prescott St	Lots 77-79 DP750393	One (1) dwelling opportunity for these three (3) lots.
15	2 Thomas St	Lot 1 Sect 1 DP758629	One (1) dwelling opportunity for this lot.
16	2 Thomas St	Lot 2 Sect 1 DP758629	One (1) dwelling opportunity for this lot.
17	14 -16 Thomas St	Lot 1 Sect 3 DP758629 Lot 3 DP130390	One (1) dwelling opportunity for these lots subject to consolidation.
18	7-10 Thomas St	Lot 2 Sect 3 DP758629; Lot 1 DP130389	One (1) dwelling opportunity for these two (2) lots.
19	22 Thomas St	Lot 2 Sect 4 DP758629; Lot 1 DP1126655	One (1) dwelling opportunity for these two (2) lots – access from Selby St most likely.
20	16 Harrow St	Lot A DP308921; Lots 1-3 DP1092791	One (1) dwelling opportunity for these four (4) lots. Flooding may need to be addressed.
21	12 Harrow St	Lot 1 DP123347	Flooding may need to be addressed.
22	6 – 8 Harrow St	Lot 1 Sect 22 DP758629 Lot 2 Sect 22 DP758629	Flooding may need to be addressed

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Figure 15: Newbridge - Table of Dwelling Opportunity (pink fill) with some key criteria/constraints (with aerial photo).

No. on Map	NEWBRIDGE Address	Title (Lot/DP)	Comment (if required)
1	45 Caloola St	Lot 8 DP1090786	Frontage to Caloola St and George St. May require flood study depending on proposed dwelling location.
2	29 Caloola St	Part Lot 1010 DP1129792	

Figure 16: Neville - Table of Dwelling Opportunity (pink fill) with some key criteria/constraints (with aerial photo).

No. on Map	NEVILLE Address	Title (Lot/DP)	Comment (if required)
1	1663 Neville Rd	Lot 1 DP1039920	Whilst these are part of a larger agricultural holding the lots are part of this historic subdivision pattern of the village. Impacts on agriculture would still need to be addressed.
2	1663 Neville Rd	Lot 2 DP1039920	
3	70 Teasdale Rd	Lot 1 Sect 3 DP758767	Only one (1) lot in this holding is given a dwelling opportunity as it immediately adjacent to the urban area.
4	71 Kentucky Rd	Lot 4 Sect 32 DP758767	Only one (1) lot in this holding is given a dwelling opportunity as it has a road frontage.
5	7 Macquarie St	Lot 421 DP750399 & Lot 3 DP247651	Only one (1) lot in this holding is given a dwelling opportunity as it has a road frontage.
6	779 Barry Rd	Lot 415 DP750399 Lot 1 DP1161407	One (1) dwelling opportunity for this holding.
7	48 Crouch St	Lot 1 Sect 12 DP758767	N/A

Figure 17: Barry - Table of Dwelling Opportunity (pink fill) with some key criteria/constraints (with aerial photo).

No. on Map	BARRY Address	Title (Lot/DP)	Comment (if required)
1	27 Pearson St	Lots 1-10 Sect 9 DP758062 Lot 16 DP111690	One (1) dwelling entitlement for this holding. Flooding may need to be addressed.
2	2306 Hobbys Yards Rd	Lots 143-144 DP750399 Part Lot A DP111690	One (1) dwelling entitlement for this holding. Flooding may need to be addressed.
3	40 Coombing Ln	Lot 215 DP750399	N/A
4	46 Barry Rd	Lots 162, 163 & 165 DP750399	One (1) dwelling entitlement for this holding. Flooding may need to be addressed.
5	47 Barry Rd	Lots 236 DP750399	One (1) dwelling entitlements for this lot. Flooding may need to be addressed.
6	47 Barry Rd	Lots 237 DP750399	One (1) dwelling entitlements for this lot. Flooding may need to be addressed.
7	2225 Hobbys Yards Rd	Lots 167 & 168 DP750399	One (1) dwelling entitlement for this holding.
8	2225 Hobbys Yards Rd	Lots 166 & 176 DP750399	One (1) dwelling entitlement for this holding.
9 & 10	2225 Hobbys Yards Rd	Lots 1-10 Sect 19 DP758062; Lots 1-10 Sect 20 DP758062; Lots 7-10 DP111690	Two (2) dwelling entitlements for this holding with access preferably from Selwyn St for both dwellings (not Hobbys Yards Rd).
11	2 Barker St	Lots 1-10 Sect 16 DP758062; Lots 5 & 6 DP111690	One (1) dwelling entitlement for this holding. Access preferred from Barker St (not Hobbys Yards Rd)

#### 2.3.3.4 Justification(s)

The key justification(s) for the Amendment(s) are summarised as follows:

##### a) Settlement Strategy

The area within 500m of the proposed Village Zone in Zone RU1 Primary Production and/or Zone RU2 Rural Landscape was recognised in the adopted **Settlement Strategy 2020** as having potential for some limited dwelling permissibility subject to the criteria set out in this Proposal (See *Section 2.1 – PP3 Overview – Blayney Settlement Strategy 2020*). The inclusion in the Strategy provides the strategic support for this component (PP3B) of the Planning Proposal.

##### b) Limited Dwelling Growth

The amendment would allow for some limited dwelling growth to meet residential demand in close proximity to each of the six (6) villages without having to expand the urban or large lot residential zoning. It is noted that there are a number of constraints to growth in and around the existing urban and large lot residential areas so this provides some additional flexibility. It also, in part, offsets a reduced dwelling growth potential due to increased Minimum Lot Sizes (MLS) for dwellings set out in Planning Proposal PP3A above.

##### c) Minimum Lot Size – Environmental Impact

The requirement for a minimum of 1.5ha of land (whether an existing lot or by consolidation with adjacent land) would ensure sufficient lot area to likely accommodate any dwelling and their associated on-site effluent management areas (subject to a geo-technical study). It would also allow for some setbacks/buffers to adjoining land and any relevant environmental or natural hazards on-site. This will minimise conflict between buildings, on-site effluent management, bores on the land or adjacent land, groundwater and surface water systems, and sensitive environmental areas.

##### d) Agricultural Impact

The criteria to achieve a 'Dwelling Opportunity' is relatively strict and results in limited lots/holdings having the opportunity to apply for approval for a dwelling as per **Table 3B2** below. This number of additional dwelling/lots is unlikely to have a significant impact on the 'Right to Farm' and land use conflict with surrounding agriculture. All of these lots are located close to the urban area where there are existing dwellings on most surrounding lots and are generally on a size/holding that is unsuitable for any viable agriculture on their own.

*Figure 18: Table of 'Dwelling Opportunities' identified for each of the six (6) settlements.*

TABLE.3B2 - Settlement	Number of 'Dwelling Opportunities'
Carcoar	1
Lyndhurst	22
Mandurama	0
Newbridge	2
Neville	7
Barry	11
<b>TOTAL</b>	<b>43</b>

#### 2.3.4 Possible Method(s)

There are different possible method(s) for achieving the objective(s) of this component of the Proposal. It could involve either changes to BLEP2012 clause wording, changes to mapping or both.

**NOTE:** Same or similar draft clause wording was proposed in a separate and earlier Planning Proposal PP2B for Millthorpe (approved to seek a Gateway Determination in June 2021). Any BLEP2012 clause wording to satisfy this Planning Proposal PP3B should seek to align with the adopted/approved wording in PP2B as long as it achieves the objectives in this Planning Proposal PP3B.

##### 2.3.4.1 Example - Mid-Western Regional LEP 2012

The *Mid-Western Regional LEP 2012* provides an example of where the objective in this Proposal has been achieved by amending standard instrument Clause 4.2A (that is also present in BLEP2012) to provide an exception to the lot size requirement if a lot meets the specific criteria as set out below.

##### 4.2A Erection of dwelling houses and dual occupancies on land in certain zones

- (1) The objectives of this clause are as follows—
- (a) to minimise unplanned rural residential development,

- (b) to enable the replacement of lawfully erected dwelling houses in rural and environmental protection zones,
- (c) to control rural residential density affected by historical subdivision patterns in Zone R5 Large Lot Residential.
- (2) This clause applies to land in the following zones—
  - (a) Zone RU1 Primary Production,
  - (b) Zone RU4 Primary Production Small Lots,
  - (c) Zone RU5 Village,
  - (d) Zone R5 Large Lot Residential,
  - (e) Zone E3 Environmental Management.
- (3) Development consent must not be granted for the erection of a dwelling house or dual occupancy on land in a zone to which this clause applies, and on which **no dwelling house or dual occupancy has been erected**, unless the land—
  - (a) is a lot that is at least the minimum lot size shown on the [Lot Size Map](#) in relation to that land, or
  - (b) is a lot or holding that existed before this Plan commenced and on which the erection of a dwelling house or dual occupancy was permissible immediately before that commencement, or
  - (c) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house or dual occupancy would have been permissible if the plan of subdivision had been registered before that commencement, or
  - (d) is an existing holding that is not within Zone R5 Large Lot Residential, or
  - (e) would have been a lot or a holding referred to in paragraphs (a)–(d) had it not been affected by—
    - (i) a minor realignment of its boundaries that did not create an additional lot, or
    - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose, or
  - (f) is, in the case of land within 500 metres of land within Zone RU5 Village, a lot that has an area of at least 5 hectares, that has a sealed road frontage and that is connected to the sealed road network, or
  - (g) is a holding within Zone R5 Large Lot Residential that has an area of at least 5 hectares, that has all weather access, including all weather vehicular access, to which adequate services provided by public utility undertakings are available and that is suitable for the on-site disposal of domestic wastewater, or
  - (h) is a former holding, or
  - (i) is a former rural lot that has an area of at least 40 hectares.

#### 2.3.4.2 Draft BLEP2012 Clause 4.2A Amendment

**NOTE:** This amendment aligns with a separate Planning Proposal PP2- Millthorpe & Surrounds that has already received a Gateway Determination. Any wording for this amendment should be compatible with the outcomes of that Planning Proposal. The amended clause is only duplicated here for ease of reference to the new **Dwelling Opportunity Maps** for the additional Unsewered Villages added by this Proposal.

As suggested above, the preferred approach to achieve the objective of PP3B is to amend BLEP2012 – Clause 4.2A – *Erection of dwelling houses or dual occupancies on land in certain rural zones* with indicative wording (amendments in red/strikeout) as follows.

This provides greater certainty with the number of potential dwelling sites to improve the transparency and application of the amended control. However, it also places a time-limit on the use of the control so that if not taken-up then the original lot size requirement will be reinstated.

**NOTE: The Clause wording MAY CHANGE and is subject to approval by DPIE and Parliamentary Counsel.**

#### 4.2A Erection of dwelling houses or dual occupancies on land in certain rural zones

- (1) The objectives of this clause are as follows—
  - (a) to minimise unplanned rural residential development,
  - (b) to enable the replacement of lawfully erected dwelling houses or dual occupancies in rural and environmental protection zones.
- (2) This clause applies to land in the following zones—
  - (a) Zone RU1 Primary Production,
  - (b) Zone RU2 Rural Landscape.
- (3) Development consent must not be granted for the erection of a dwelling house or dual occupancy on land to which this clause applies, and on which no dwelling house or dual occupancy has been erected, unless the land—
  - (a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or

(b) is a lot created under this Plan (other than under clause 4.2 (3)), or  
(c) is a lot created under an environmental planning instrument before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or  
(d) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house or dual occupancy would have been permissible if the plan of subdivision had been registered before that commencement, or  
~~(e) is an existing holding, or~~  
~~(e)f) would have been a lot or a holding referred to in paragraph (a), (b), (c), or (d) or (e) had it not been affected by—~~  
(i) a minor realignment of its boundaries that did not create an additional lot, or  
(ii) a subdivision creating or widening a public road or public reserve or for another public purpose, or  
(f) is a lot or holding, identified or outlined as having 'dwelling opportunity' on the Dwelling Opportunity Map(s) and has a minimum area of 1.5 hectares.

(4) Land ceases to ~~be an existing holding~~ have a 'dwelling opportunity' for the purposes of subclause (3) ~~(e)f)~~ if an application for development consent referred to in that subclause is not made in relation to that land within 5 years after the commencement of the amendment enabling this clause and the Dwelling Opportunity Map(s) in of this Plan.

(5) Development consent may be granted for the erection of a dwelling house or dual occupancy on land to which this clause applies if there is a lawfully erected dwelling house or dual occupancy on the land and the dwelling house or dual occupancy to be erected is intended only to replace the existing dwelling house or dual occupancy.

(6) In this clause—  
~~existing holding means land that—~~  
~~(a) was a holding on 12 January 1973, and~~  
~~(b) is a holding at the time the application for development consent referred to in subclause (3) is lodged,~~  
~~whether or not there has been a change in the ownership of the holding since 12 January 1973, and includes any other land adjoining that land acquired by the owner since 12 January 1973.~~  
**holding** means all adjoining land, even if separated by a road or railway, held by the same person or persons.

- a) **Minimum Lot Size:** Whilst the Settlement Strategy had a recommendation for a 2ha Minimum Lot Size, it is noted that in the *Key Recommendations – Smaller Villages* (page.x) that 'Council will consider lots down to a minimum size of 1.5ha'. This will not substantially increase the number of lots/holdings with dwelling opportunities.
- b) **Lot Consolidation:** Where lots are identified as having 'dwelling opportunity' but do not have a lot size of 1.5ha then they may consolidate with adjacent lots also identified as having 'dwelling opportunity' to achieve that minimum lot size (i.e., the dwelling opportunity is identified by the 'outline' of the lots so coloured).
- c) **Existing Holdings:** The removal of the original subclause (3)(e) and definition in subclause (6) relating to 'existing holdings' is an administrative amendment only to remove unnecessary wording and allows the existing numbering to be retained. The opportunity to apply for an existing holding no longer exists under BLEP2012 as the 'sunset clause' in subclause (4) has passed. This is subject to DPIE approval. Clause numbering to be updated as required.
- d) **Other Dwelling Opportunities Below the Minimum Lot Size:** The amendment does NOT remove any of the other opportunities to apply for a dwelling below the minimum lot size set out in Clause 4.2A(3)(b) to (d). Therefore, these historic rights (other than 'existing holdings') are protected.

#### 2.3.4.3 Draft BLEP2012 Clause 4.6 Amendment

**NOTE:** This amendment aligns with a separate Planning Proposal PP2- Millthorpe & Surrounds that has already received a Gateway Determination. Any wording for this amendment should be compatible with the outcomes of that Planning Proposal. The amended clause is only duplicated here for ease of reference

to the new **Dwelling Opportunity Maps** for the additional Unsewered Villages added by this Proposal.

The Settlement Strategy suggests that in order to be considered for dwelling opportunity under this clause that the lot or holding must have a minimum of 2ha but it concedes that it could be as little as 1.5ha. The amendment to Clause 4.2A above has used the lower 1.5ha as the threshold.

Therefore, it is not the intent of Council that this development standard is further reduced by a Variation Request under Clause 4.6 of BLEP2012. As a result, it is necessary to exclude this particular development standard in the exemptions to Clause 4.6 with the following draft wording (subject to the outcomes for Clause 4.2A above):

**NOTE: The Clause wording MAY CHANGE and is subject to approval by DPIE and Parliamentary Counsel.**

**Clause 4.6 Exceptions to development standards (BLEP2012) – Draft Amendment to following subclauses:**

- (8) This clause does not allow development consent to be granted for development that would contravene any of the following—
- (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,
  - (c) clause 5.4,
  - (d) [clause 4.2A\(3\)\(f\) or clause 4.2A\(4\)](#).

Alternatively, Council could apply a minimum lot size of 2ha and allow Clause 4.6 variation (potentially up to 10%) but this would only allow variation of 0.2ha to a minimum lot size of 1.8ha. 1.5ha is deemed by the Settlement Strategy to be the preferred threshold so this approach is not recommended.

Subclause (6) relates to subdivision in rural zones and is not applicable because Clause 4.2A(3)(f) only seeks to provide dwelling opportunity on the identified land, not permit additional subdivision below the Minimum Lot Size.

### 2.3.5 Site Analysis & Other Relevant BLEP2012 Controls

This Section provides a brief review of some of the key [relevant](#) controls in BLEP2012 and site constraints/ opportunities for the Site/Affected Area that may influence the outcomes in this Planning Proposal and the suitability of the Site (see the Figures above for mapping of key site constraints).

BLEP2012 Clause / Constraint	Comment
<b>2.1 - Land Use Zones / Land Use Table</b>	This Proposal does not seek to change the Land Use Table or Land Zoning Maps but permits dwellings where they meet the defined criteria. Dwellings are permissible in Zone RU1 Primary Production so this is consistent.
<b>4.1 – Minimum Subdivision Lot Size</b>	This Proposal does not seek to change the Lot Size Maps but permits dwellings where they meet the defined criteria even though the lots do not meet the minimum lot size under Clause 4.2A. The Proposal seeks to amend Clause 4.2A to provide an exemption to the Lot Size requirement with specific criteria.
<b>4.2A – Erection of dwelling houses or dual occupancies on land in certain rural zones</b>	
<b>5.1 – Relevant Acquisition Authority</b>	No change to Land Acquisition mapping/outcomes required. At the date of this report there was no land mapped in BLEP2012.
<b>5.10 – Heritage Conservation</b>	No listed heritage items will have the additional 'dwelling opportunity'. Of the six (6) unsewered villages, only Newbridge has a heritage conservation area (HCA) and only 2 dwelling opportunities are located in the HCA. In any future DA for a dwelling on the lots in the HCA may need to be addressed through a heritage impact statement.
<b>5.16 – Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones</b>	This Proposal does not remove the need to address Clause 5.16 for Zones RU1 & RU2 and ensures that any application for a dwelling will address and minimise the potential land use conflicts with agriculture.
<b>5.21 Flood Planning</b>	There are currently no Flood Maps in the six (6) villages as a Flood Study has not been conducted in these areas but this clause still applies where land is below the Flood Planning Level. Generally, new dwelling applications in proximity to watercourses would need to demonstrate that the dwelling envelope and access is above the Flood Planning Level (so some applications may require a Flood Study). Where possible, dwelling opportunities have been limited near watercourses with known flood potential. This is best considered in more detail during the development assessment process.
<b>6.2 Stormwater Management</b>	The Proposal is unlikely to significantly increase densities or stormwater impacts as it involves single dwellings/dual occupancies on larger semi-rural lots. This is best considered in more detail during the development assessment process.
<b>6.3 Terrestrial Biodiversity</b>	The mapped Terrestrial Biodiversity does sometimes overlap with 'dwelling opportunity' sites. Heavily vegetated sites have generally

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BLEP2012 Clause / Constraint	Comment
	been excluded. However, where there is sufficient area for a dwelling that would have minimal impact on that biodiversity they have been included. The mapping sometimes does not correlate with the extent of vegetation on the ground or the significance of that biodiversity. This is best considered in more detail during the development assessment process.
<b>6.4 Groundwater Vulnerability</b>	Of the six (6) villages, groundwater vulnerability only significantly impacts Newbridge. This Proposal is unlikely to increase impacts as there are limited dwelling opportunities at Newbridge. As there is no reticulated sewer, appropriate geo-technical studies for on-site effluent can generally avoid or mitigate this risk for new dwellings. This is best considered in more detail during the development assessment process.
<b>6.5 Drinking Water Catchments</b>	Of the six (6) villages, only Neville and Barry are in a drinking water catchment (for Lake Rowlands) so all of the dwelling potential for these 2 villages could affect this catchment. However, appropriate geo-technical studies for on-site effluent can generally avoid or mitigate this risk for new dwellings. This is best considered in more detail during the development assessment process.
<b>6.6 Riparian Land &amp; Watercourses</b>	There are riparian watercourses mapped within or close to each of the six (6) villages. Generally, dwelling opportunities have been excluded on likely flood prone land and only lots with reasonable setbacks from the watercourses have a dwelling opportunity. This is best considered in more detail during the development assessment process.
<b>6.7 Development within a Designated Buffer Area</b>	The only designated buffer area near a village is at Neville but there are no dwelling opportunities located in or near this buffer.

**Naturally Occurring Asbestos (NOA):** Of the six (6) villages, only Neville & Newbridge are within an area with Medium Naturally Occurring Asbestos (NOA) Potential on the Naturally Occurring Asbestos in NSW Map (<https://trade.maps.arcgis.com/>). The slight increase in dwelling permissibility is unlikely to significantly increase the risk of exposing Asbestos and can be addressed at the Development Application stage and can be appropriately conditioned for any development.

**Aboriginal Heritage:** A specific review of Aboriginal heritage has not been conducted but would need to be considered for any relevant sites during the development application process. The dwelling opportunity lots are generally in or near urban areas where there has been significant disturbance and a lower probability of finding relics. There are some significant watercourses, but very few of these are permanent and setbacks are proposed. This can be considered in more detail during the development assessment process.

**Gas Pipeline:** The main gas pipeline does not run in or close to any of the six (6) villages and would not be affected by the additional dwelling potential.

**Conclusion:** Based on the above brief review there are no key environmental constraints that would prevent the Proposed Amendment(s) from achieving a Gateway Determination.

### 3 PLANNING PROPOSAL – STATUTORY REVIEW

The guidelines require the Planning Proposal to address six (6) parts, including:

- Part 1 - A statement of the **objectives** or intended outcomes of the proposed LEP;
- Part 2 - An **explanation** of the provisions that are to be included in the proposed LEP;
- Part 3 - The **justification** for those objectives, outcomes and provisions and the process for their implementation;
- Part 4 – **Maps**, where relevant, to identify the intent of the planning proposal and the area to which it applies;
- Part 5 - Details of the community **consultation** that is to be undertaken on the planning proposal. Part 5 would be confirmed following a gateway determination by the Department of Planning, Industry & Environment (DPIE); and,
- Part 6 – **Project Timeline** to detail the anticipated timeline for the plan making process.

#### 3.1 Part 1: Objectives or Intended Outcomes

**Part 1** of the planning proposal should be a short, concise statement setting out the objectives or intended outcomes of the planning proposal. It is a statement of what is planned to be achieved, not how it is to be achieved. It should be written in such a way that it can be easily understood by the general community.

See the **Objective(s)** in Sections 2.2.3.1 & 2.3.3.1 of this Report for each component of this Planning Proposal.

#### 3.2 Part 2: Explanation of Provisions

**Part 2** of the planning proposal provides a more detailed statement of how the objectives or intended outcomes are to be achieved by means of amending an existing local environmental plan.

See the **Preferred Approach** in Sections 2.2.3.3 & 2.3.3.2 and **indicative desired clause wording** in Sections 2.2.4 & 2.3.4 of this Report for each component of this Planning Proposal.

#### 3.3 Part 3: Justification of Proposed LEP Amendments

**Part 3** of the planning proposal provides a justification that sets out the case for the making of the proposed LEP. The overarching principles that guide the preparation of planning proposals are:

- The level of justification should be proportionate to the impact the planning proposal will have;
- It is not necessary to address the question if it is not considered relevant to the planning proposal (as long as a reason is provided why it is not relevant);
- The level of justification should be sufficient to allow a Gateway determination to be made with the confidence that the instrument can be finalised and the time-frame proposed.

As a minimum a planning proposal must identify any environmental, social and economic impacts associated with the proposal. Generally detailed technical studies are not required prior to the Gateway determination.

In accordance with the Department of Planning's 'Guide to Preparing Planning Proposals', this section provides a response to the following issues:

- Section A: Need for the planning proposal
- Section B: Relationship to strategic planning framework
- Section C: Environmental, social and economic impact
- Section D: State and Commonwealth interests.

See the **Justification(s)** in Sections 2.2.3.5 & 2.3.3.4 of this Report for each component of this Planning Proposal.

### 3.3.1 Section A – Need for the Planning Proposal

#### 1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

This Proposal is based on the recommendations of the Elton Consulting (2020) *Blayney Settlement Strategy* ('Settlement Strategy') as detailed in *Section 2.1 - PP3 Overview – Blayney Settlement Strategy 2020*. This has had public consultation and being adopted by Blayney Shire Council in early 2021.

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

The Planning Proposal and the proposed amendments to BLEP2012 are the best way of achieving the objectives of each component of this Proposal. See the **Preferred Approach** in *Sections 2.2.3.3 & 2.3.3.2* and **indicative desired clause wording** in *Sections 2.2.4 & 2.3.4 – Possible Method(s)* of this Report for each component of this Planning Proposal. This also reviews alternative approaches and confirms that the preferred approach is the best way forward.

The proposed amendments are not of a scale to be considered 'State or Regionally Significant' such that amendments to a State Environmental Planning Policy ('SEPP') would be appropriate to sit above and amend BLEP2012. These are local planning matters only.

### 3.3.2 Section B – Relationship to Strategic Planning Framework

#### 3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

### Central West and Orana Regional Plan 2036 (June 2017)

Regional plans have been prepared for all parts of NSW including the *Central West and Orana Regional Plan 2036* (June 2017 – *CWORP*) noting there is no District Plan in the Central West & Orana Region. The *CWORP* includes directions, planning priorities and specific actions for a range of different matters relevant to Blayney LGA (ONLY THE RELEVANT PRIORITIES, DIRECTIONS & ACTIONS ARE SHOWN), as follows:

DIRECTION	Actions	RESPONSE
<b>Goal 1: The most diverse regional economy in NSW</b>		
<b>Direction 1:</b> Protect the region's diverse and productive agricultural land.	1.2 Protect important agricultural land from land use conflict and fragmentation, and manage the interface between important agricultural lands and other land uses.	<b>PP3A</b> – No additional impact on agricultural lands as it only changes lot size for subdivision and residential development in existing urban (Zone RUS Village) and quasi-urban (Zone R5 Large Lot Residential) land. The majority of changes reduce potential for sensitive uses (e.g., dwellings) in proximity to agricultural land and, thereby, reduce potential land use conflict.  <b>PP3B</b> – The increase of dwelling opportunity in the rural zones within 500m of the urban areas of the six (6) villages is limited (see mapping and <i>Figure.12</i> in <i>Section 2.3.3.4 – Justification(s)</i> of this Report). The permissibility has been clearly mapped so it is known and transparent. The majority of dwelling opportunity sites are surrounded by smaller urban or 'lifestyle' blocks that provide little conflict with agriculture.
<b>Direction 8:</b> Sustainably manage mineral resources.	8.1 Consult with the Division of Resources & Geosciences when assessing applications for land use changes strategic land use planning, rezoning and planning proposals) and new development or expansions. 8.2 Protect areas with potential mineral and energy resources extraction through local	<b>PP3A</b> – No additional impact on mineral potential lands as it only changes lot size for subdivision and development in existing urban (Zone RU5 Village) and quasi-urban (Zone R5 Large Lot Residential) land. Known mineral potential lands (Mineral Resource Audit Map) do not overlap with urban

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DIRECTION	Actions	RESPONSE
	land use strategies and local environmental plans. 8.3 Protect infrastructure that facilitates mining from development that could affect current or future extraction.	areas of these villages and/or the land use conflict is unlikely to be increased. <b>PP3B</b> – Additional 'dwelling opportunity' has not been identified on known mineral potential lands or near existing extractive industries and additional dwellings close to rural villages is unlikely to significantly increase land use conflict potential.
<b>Direction 12:</b> Plan for greater land use compatibility.	12.2 Identify and protect important agricultural land in local plans. 12.3 Create local strategies to limit urban & rural housing development in agricultural & extractive resource areas, industrial areas, & transport corridors. 12.4 Amend planning controls to deliver greater certainty of land use.	Land use conflicts are addressed in relation to <i>Goal 1 - Directions 1 &amp; 8 above and Goal 3 Direction 19 below</i> . The <i>Settlement Strategy 2020</i> is an approved land use strategy that balances competing needs for additional housing with agriculture, mineral resources and transport corridors. This Planning Proposal implements the recommendations of that Strategy and uses methods that give a reasonable level of certainty of development outcomes and their likely impacts.
<b>Goal 2: A stronger, healthier environment and diverse heritage</b>		
<b>Direction 13:</b> Protect & manage env. assets <b>Direction 14:</b> Manage & conserve water resources for the env. <b>Direction 15:</b> Increase resilience to natural hazards & climate change <b>Direction 16:</b> Respect & protect Aboriginal heritage assets <b>Direction 17:</b> Conserve & adaptively re-use heritage assets	13.1 Protect high environmental value assets through local environmental plans. 13.2 Minimise potential impacts arising from development in areas of high environmental value, and consider offsets or other mitigation mechanisms for unavoidable impacts. 14.2 Locate, design, construct & manage new developments to minimise impacts on water catchments, including downstream areas & groundwater resources. 15.1 Locate developments, including new urban release areas, away from areas of known high biodiversity value; areas with high risk of bushfire or flooding; contaminated land; & designated waterways. 15.8 Manage the risks of disturbance in areas affected by naturally occurring asbestos by increasing public awareness and providing mapping to Councils. 16.1 Protect, manage and respect Aboriginal objects and places in accordance with legislative requirements. 17.2 Prepare, review & update heritage studies in consultation with the wider community to recognise & conserve heritage assets & items, & include appropriate local planning controls.	None of the proposed areas for new development are located in areas with high risk of bushfire or flooding, in close proximity to riparian watercourses, where biodiversity values can't be protected, or on known Aboriginal heritage or cultural sites and/or these issues are capable of being addressed at the development application stage. Naturally occurring asbestos has been addressed for each Site area above. <b>PP3A</b> – This Proposal only changes lot size for subdivision and development in existing urban (Zone RUS Village) and quasi-urban (Zone R5 Large Lot Residential) land. My increasing MLS for development with on-site effluent systems it potentially reduces environmental impacts, particularly on watercourses and groundwater systems, and increases potential for setbacks from environmentally sensitive areas. <b>PP3B</b> – The increase of dwelling opportunity in the rural zones within 500m of the urban areas of the six (6) villages is limited (see mapping and Table in <i>Figure.12</i> of Section 2.3.3.4 of this Report). The permissibility has been clearly mapped so it is known and transparent. Heritage items have been included. These are >1.5ha lots where dwelling envelopes can be sited within minimal impacts on vegetation or watercourses and sites with significant constraints have been removed. All environment & heritage issues will still need to be addressed by future DAs.
<b>Goal 3: Quality freight, transport and infrastructure networks</b>		
<b>Direction 19:</b> Enhance road and rail freight links.	19.5 Identify existing and proposed freight and transport corridors in local land use strategies to minimise the encroachment of incompatible land uses.	<b>PP3A</b> – No additional impact on key transport corridors (road and rail) as it largely increases the MLS for subdivision/ development – thereby decreasing density in Zone RU5 Village and Zone R5 Large Lot Residential land.

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DIRECTION	Actions	RESPONSE
		<b>PP3B</b> – The increase of dwelling opportunity in the rural zones within 500m of the urban areas of the six (6) villages is limited (see mapping and Table.3B2 in Section 2.3.3.4 of this Report). Only a very small number of lots may require access to a classified road and impacts can be assessed during the DA process.
Direction 20: Enhance access to air travel & public transport	20.1 Identify development opportunities for appropriate and complementary land uses and limit the encroachment of incompatible development around Bathurst, Orange, Dubbo, Mudgee and Parkes airports.	The six (6) unsewered villages are outside the Obstacle Limitation Surface (OLS) and Noise (ANEF) impact areas around Orange Regional Airport so there are no additional impacts.
Direction 21: Coordinate utility infrastructure investment.	21.3 Monitor development and ensure that infrastructure is responsive to investment opportunities.	Proposal areas are all located in close proximity to the existing urban area of the six (6) unsewered villages where there are reasonable existing utilities (except reticulated sewer). PP3A will largely decrease dwelling density & infrastructure demand. The slight increases in density associated with PP3B is unlikely to compromise existing utilities/infrastructure and will rely on on-site effluent management & water.
<b>Goal 4: Dynamic, vibrant and healthy communities.</b>		
Direction 23: Build the resilience of towns and villages.	23.2 Work with councils to better understand the drivers of population change and implications for local communities.	The two (2) components of this Proposal seek to match housing provision to site capacity and proximity to village services and employment. PP3A may result in a slight decrease in dwelling yield (guided by environmental outcomes) but this is partly offset by a slight increase in dwelling potential in PP3B.
Direction 25: Increase housing diversity & choice.	25.2 Increase housing choice in regional cities & strategic centres at locations near or accessible to services & jobs. 25.3 Align infrastructure planning with new land release areas to provide adequate & timely infrastructure. 25.4 Locate higher density development close to town centres to capitalise on existing infrastructure & increase housing choice.	This will enable growth that produces improved environmental outcomes (particularly for on-site effluent systems) whilst increasing flexibility around the perimeters of the villages. This aligns with growth projections set out in the <i>Settlement Strategy 2020</i> . PP3A modifies existing zoned areas so there is limited additional requirement or pressure on existing infrastructure. PP3B only creates potential for limited dwellings around the perimeter where lots can be appropriately serviced.
Direction 28: Manage rural residential development.	28.1 Locate new rural residential areas: • close to existing urban settlements to maximise the efficient use of existing infrastructure and services, including roads, water, sewer and waste services, and social and community infrastructure; • to avoid and minimise the potential for land use conflicts with productive, zoned agricultural land and natural resources; and • to avoid areas of high environmental, cultural or heritage significance, regionally important agricultural land or areas affected by natural hazards.	<b>PP3A</b> – Not applicable. <b>PP3B</b> – The increase of dwelling opportunity in the rural zones within 500m of the urban areas of the six (6) villages is limited (see mapping and Table.3B2 in Section 2.3.3.4 of this Report). They are within 500m of the relevant village/LLR zone and are largely surrounded by quasi-'lifestyle' lots with limited agricultural conflict. Land use conflict is also addressed in the Goals/Directions above.
<b>Local Government Narratives – Blayney</b>		

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DIRECTION	Actions	RESPONSE
	<p>Blayney Local Government Area directly benefits from its proximity to Orange and Bathurst. Residential land releases at Millthorpe and Blayney will meet the needs of a growing population who want to work locally, or in Bathurst or Orange.</p> <ul style="list-style-type: none"> <li>• Leverage Blayney's strategic advantages including its proximity to Bathurst, Orange, Cowra, Canberra and Sydney; the existence of major utility services; and access to transport, warehousing and freight facilities.</li> <li>• Leverage opportunities from the Local Government Area's rural character to support diverse industries such as tourism.</li> </ul>	<p>The Proposal seeks to address the <i>Settlement Strategy</i> recommendations to manage (predominantly residential) growth in and around each of the six (6) unsewered villages. It improves environmental outcomes for on-site effluent management systems with appropriate lot sizes. This will hopefully align strategic outcomes with development outcomes, minimise unsuitable development applications, decrease development costs and impacts on Council resources and improve growth potential in line with the narrative for the LGA.</p>

**4. Will the planning proposal give effect to a council's endorsed local strategic planning statement or another endorsed local strategy or strategic plan?**

Yes, the Planning Proposal will give effect to Council's endorsed LSPS and *Settlement Strategy 2020* and is consistent with the other adopted land use strategies of the LGA, as follows:

**Local Strategic Planning Statement (LSPS)**

Council have prepared a *Local Strategic Planning Statement* (July 2020) (LSPS) to guide future land use decisions in the area. The LSPS was prepared PRIOR to the *Settlement Strategy* so it does not include or address the specific recommendations in that strategy. The LSPS does not specifically refer to the Subject Sites OR suggest the outcomes in this Planning Proposal but this Proposal is consistent with the key relevant Planning Priorities identified in that Statement (ONLY THE RELEVANT PRIORITIES, DIRECTIONS & ACTIONS ARE SHOWN), as follows:

DIRECTION	ACTIONS	RESPONSE
<b>1: Leverage the central &amp; strategic location of the Blayney Shire to encourage growth &amp; economic opportunities</b>		
Reinforce the town of Blayney as the primary retail / business & commercial centre of the Shire.	Guide local and strategic planning to encourage new industries and businesses, and manage the interface with other land uses.	Whilst the six (6) unsewered villages are not the primary centre, they still support a significant population and are located with reasonable proximity to Blayney, Orange, Bathurst and Cowra. Appropriate development in the villages will enhance Blayney as the primary retail/business centre. Land use conflicts are addressed above. See response to CWORP Goal 1 for more details.
<b>2: Support sustainable growth in the mining &amp; agribusiness Sectors within Blayney Shire.</b>		
Protect agricultural land use resources whenever possible, by discouraging land uses unrelated to agriculture from locating on agricultural land and minimising the ad hoc fragmentation of rural land.	Continue to work with Government agencies and other stakeholders to promote Blayney Shire as a productive and viable agricultural and mining local government area.	Potential conflict with agriculture and mineral potential / extractive industry is addressed in detail in response to CWORP Goals 1, 3 & 4 above.
<b>3: Support sustainable growth in the transport, manufacturing &amp; logistics sectors within Blayney Shire.</b>		
Maximise freight and logistics access to the Main Western Line and where possible promote lower residential densities and increased setbacks to the rail line.	Continue to leverage and support the Blayney Demondrille Line and upgrades to Mid-Western Highway and Millthorpe Road to improve access within Blayney Shire and the region.	The Proposal balances growth of sensitive uses in each of the villages. There will be limited additional growth adjacent to the Mid-Western Highway and rail lines. See more detail in response to CWORP Goal 3 above.

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DIRECTION	ACTIONS	RESPONSE
<b>4: Provide diverse housing choices &amp; opportunities to meet changing demographic &amp; population needs.</b>		
Recognise the current demand for dwelling lots with a more rural or landscape character and enhance those settlements with the ability to provide for this type of development. Focus large-scale urban residential development in the town of Blayney and Millthorpe where there are higher levels of service, infrastructure and facilities to support growth.	Implement the recommendations within the review of the Draft Blayney Settlement Strategy 2019. Guide local and strategic planning to create diverse housing choices and opportunities within Blayney Shire.	This Proposal is consistent with and implements the recommendations of the <i>Settlement Strategy 2020</i> , part of which is to manage environmental outcomes and provide suitable development in each of the villages, especially urban and large lot residential housing. See more detail in response to CWORP Goal 4 above.
<b>6: Protect &amp; conserve the natural environment &amp; heritage qualities while adapting to the impacts of hazards &amp; climate change.</b>		
Protect key heritage assets, heritage streetscapes and town and village entrances by identifying the desired character and ensuring development is sensitive to character in Blayney, Millthorpe, Carcoar and Newbridge.	Continue to work with Government agencies and other stakeholders to give the community skills and knowledge to deal with climate change and hazards and cultural heritage.	PP3A will largely reduce dwelling potential in most villages and offsets any minor increase in dwelling potential under PP3B. Where there are increases in dwelling opportunity, heritage items and sensitive areas are either excluded or could be addressed during the development assessment process. See more detail in response to CWORP Goal 2 above.

### **Blayney Settlement Strategy (2020)**

This Proposal seeks to directly implement the recommendations of the Settlement Strategy as set out in this Report – Section 2.1 – PP3 Overview – *Blayney Settlement Strategy 2020*.

### **Sub-Regional Rural and Industrial Land Use Strategy (2008)**

The *Sub-Regional Rural and Industrial Land Use Strategy* (2008) ('2008 Subregional Strategy') covered Councils of Blayney, Cabonne and Orange and was primarily about rural and industrial land use outcomes that are largely unaffected by this Proposal.

Whilst it originally included stand-alone large lot residential recommendations these have now been incorporated into the *Blayney Settlement Strategy 2020* (addressed above). The key relevance of the 2008 Subregional Strategy is the protection of productive agricultural land and this is also addressed above.

### **DRAFT Subregional Rural and Industrial Lands Strategy (2019 to 2036)**

The Elton Consulting (10 February 2020) *Subregional Rural and Industrial Lands Strategy (2019 to 2036) – DRAFT* ('2020 Subregional Strategy') was publicly exhibited by Blayney Shire Council in 2020 but as its exhibition by Orange City Council was delayed – it is yet to be adopted. It will replace the 2008 Subregional Strategy (above).

As stated above, this Strategy predominantly provides recommendations for rural and industrial lands across the LGA. The key relevance of the 2020 Subregional Strategy is the protection of productive agricultural land and this is also addressed in the *Blayney Settlement Strategy 2020* review and the CWORP review above. PP3A is not applicable to the rural zones and PP3B has addressed the agricultural impacts above.

## Community Strategic Plan 2018-2028

The Proposal is also consistent with the *Blayney Community Strategic Plan* and the *Integrated Planning and Reporting* documentation including the Future Directions set out below (and addressed in the CWORP review above) though it does not have any specific directions/actions relevant to the specific outcomes in this Proposal:

- *Direction 1: Maintain and Improve Public Infrastructure & Services;*
- *Direction 2: Build the Capacity & Capability of Local Governance & Finance;*
- *Direction 3: Promote Blayney Shire to grow the Local & Visitor Economy;*
- *Direction 4: Enhance facilities & network that supports Community, Sport, Heritage & Culture;*
- *Direction 5: Protect our Natural Environment.*

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

A State Environmental Planning Policy (SEPP) is a planning document that deals with matters of significance for environmental planning for the State. An analysis of the applicable State Environmental Planning Policies (SEPP) is included in the table below. It is noted that the proposal is broadly consistent with any applicable SEPP's.

#### State Environmental Planning Policy (BASIX) 2004

This SEPP is concerned with appropriate water and energy consumption and sustainable residential development. The Proposal does not affect the application of BASIX to any future dwellings.

#### State Environmental Planning Policy (Infrastructure) 2007

This SEPP is concerned with appropriate opportunities for infrastructure development throughout the State and protecting that infrastructure from incompatible development. This is addressed in relation to CWORP Goal 3 above. Note that additional dwelling opportunity is unlikely to be created where it relies on direct access solely to a highway or is in proximity to the APA gas pipeline.

#### State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

There are no known mineral or extractive resources (as per the latest Mineral Resource Audit Map) in or near the Proposal Sites that would be affected by the Proposal. This is addressed in relation to CWORP Goal 1 above.

#### State Environmental Planning Policy No 55 – Remediation of Land

This SEPP seeks to promote remediation of contaminated land and reduce the risk of harm to human health – to be considered when rezoning land or consenting to development on land. Clause 6 and Clause 7 state that contaminated land be remediated when rezoning or when determining a development application. PP3A amends controls in existing urban or large lot residential areas. PP3B allows for minor dwelling opportunity in surrounding rural zones. There is no evidence this dwelling growth is occurring in contaminated areas. Council will conduct a desktop review of each of the sites with additional dwelling potential in PP3B in the Appendices and have confirmed that the subject land is suitable or can be made suitable for the proposed residential use. More detail/confirmation can be provided at the time of a future Development Application for any dwelling.

#### State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

This SEPP is concerned with protecting the biodiversity values and amenity of significant vegetation in non-rural areas (that includes Zone RU5 Village and Zone R5 Large Lot Residential) for PP3A. This Proposal seeks to minimise development in areas with significant existing vegetation or potential sensitive biodiversity. Generally, PP3A will likely reduce overall dwelling yield by introducing a Minimum Lot Size (MLS) that can enable increased protection and setbacks to significant vegetated areas. This can be addressed further at the Development Application stage.

#### State Environmental Planning Policies (Koala Habitat Protection) 2020 & 2021

The Koala SEPP 2020 applies to Zone RU1/RU2/RU3 land in Blayney. For the remainder of the zones, the Koala SEPP 2021 may apply. Both SEPPs aim to encourage the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range. Blayney LGA is identified in SEPP 2021 as containing koala habitat (Koala Management Area – Central & Southern Tablelands). As explained above, this Proposal seeks to minimise development in areas with significant existing vegetation or potential sensitive biodiversity. It is likely that there will be low or no impact on koalas or koala habitat but this can be appropriately addressed at the Development Application stage.

### 6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

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The relevant *Section 9.1 Directions* are addressed below and we suggest the Proposal is consistent with the Ministerial Directions (latest September 2020) as follows:

Section 9.1 Directions		Applicable to Planning Proposal	Date
<b>1. Employment and Resources</b>			
1.1	Business and Industrial Zones	Yes. PP3A may affect Zone RU5 Village that permits some commercial and light industrial uses but if these uses required on-site effluent management, they would have already been similarly constrained.	01/05/17
1.2	Rural Zones	Yes. Impacts on agriculture through PP3B are addressed in more detail above but are generally minimal due to limited 'dwelling opportunity' and clearly mapped locations.	14/04/16
1.3	Mining, Petroleum Production and Extractive Industries	There are no known mineral potential or existing extractive industries in close proximity to any of the affected land in this Proposal.	01/07/09
1.4	Oyster Aquaculture	No.	01/07/09
1.5	Rural Lands	Yes. See 1.2 <i>Rural Zones</i> above.	28/02/19
<b>2. Environment and Heritage</b>			
2.1	Environment Protection Zones	Yes. Mapped environmentally sensitive areas such as groundwater and biodiversity have been addressed for each Site above and the protections are not weakened by this Proposal.	14/04/16
2.2	Coastal Management	No.	03/04/18
2.3	Heritage Conservation	Yes. All growth sites are not listed heritage items but some are in or adjacent to the heritage conservation area but can be managed during the development application process.	01/07/09
2.4	Recreation Vehicle Areas	No.	14/04/16
2.5	E2 / E3 Zones & Environmental Overlays Far North Coast	No.	02/03/16
2.6	Remediation of Contaminated Land	It is understood that a condition of the Gateway Determination will require Council to undertake a preliminary desktop review of potential contamination for each property shown on the Dwelling opportunity Map.	17/04/20
<b>3. Housing, Infrastructure and Urban Development</b>			
3.1	Residential Zones	Yes. There are both increases and decreases in potential yield and permissibility in residential zones that align with environmental & infrastructure limitations.	14/04/16
3.2	Caravan Parks and Manufactured Home Estates	No change. Zone RU5 Village permits caravan parks but opportunities for these uses remains unchanged.	14/04/16
3.3	Home Occupations	No change.	01/07/09
3.4	Integrating Land Use and Transport	Yes. The proposal is consistent with increasing residential densities in or close to existing villages with suitable infrastructure and services.	14/04/16
3.5	Development Near Licensed Aerodromes	No. None known to be affected.	01/07/09
3.6	Shooting Ranges	No. There are no known rifle ranges in or near any of the Proposal Sites.	16/02/11
3.7	Reduction in non-hosted short term rental accommodation period	No. Byron Shire Council only.	15/02/19
<b>4. Hazard &amp; Risk</b>			
4.1	Acid Sulfate Soils	No. Land not mapped as acid sulfate prone land.	01/07/09

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4.2	Mine Subsidence and Unstable Soil	No. Land not mapped within a mine subsidence district or unstable land.	14/04/16
4.3	Flood Prone Land	Yes. The land is NOT mapped as flood prone land (there are no flood studies outside of the Town of Blayney) but flood potential has been taken into account in determining areas for dwelling growth and is not a major constraint or can be addressed at the development application stage.	01/07/09
4.4	Planning for Bushfire Protection	No. Land identified for growth is not currently mapped as having any bushfire potential (though this may change in the future).	19/02/20
<b>5. Regional Planning</b>			
5.10	Implementation of Regional Plans	Yes. The <i>Central West &amp; Orana Regional Plan</i> is addressed in more detail in <i>Question 3</i> of this section above. The Proposal is consistent with the Regional Plan.	14/04/16
5.11	Development of Aboriginal Land Council Land	No. Applies to Central Coast only.	06/02/19
<b>6. Local Plan Making</b>			
6.1	Approval & Referral Requirements	No change in referrals proposed.	01/07/09
6.2	Reserving Land for Public Purposes	No land reserved for public purpose affected.	01/07/09
6.3	Site Specific Provisions	No restrictive site-specific planning controls proposed.	01/07/09
<b>7. Metropolitan Planning – NOT APPLICABLE (Sydney only)</b>			

### 3.3.3 Section C – Environmental, Social and Economic Impact

#### 7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

Proposal PP3A is within existing urban and large lot residential areas where there is no increase in development density and it is aimed at reducing impact on the natural environment (PP3A is likely to decrease potential dwelling yield). PP3B 'dwelling opportunity' sites have sought to avoid heavily vegetated areas and are mostly on fragmented lots in close proximity to each village. Therefore, it is unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the Proposal but this can be best assessed during specific development applications.

#### 8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The Proposal seeks to reduce environmental impacts compared to existing controls (particularly for PP3A from on-site effluent management). PP3B may have slightly higher potential for environmental impacts but generally constrained sites have been excluded from the additional 'dwelling potential'. This Proposal highlights some of the site constraints for each of the Proposal areas but demonstrates they do not preclude the Proposal from proceeding and overall. Any future development application for Proposal areas is required to address the likely environmental effects in more detail.

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

The Proposal seeks to provide a balanced approach to growth in and around each of the six (6) unsewered villages to provides a diversity/choice of housing locations aligned with the site and environmental constraints of each area. Minor growth in dwellings in PP3B is offset by the slight reduction in potential in PP3A from increased Minimum Lot Size (MLS) compared to existing lot sizes.

### 3.3.4 Section D – State and Commonwealth Interests

#### 10. Is there adequate public infrastructure for the planning proposal?

Infrastructure is addressed in more detail in relation to CWORP Goal 3 above. In summary, PP3A is located within existing villages (with appropriate infrastructure levels) and PP3B is located within 500m of certain urban zones. .

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Additional pressure on local infrastructure and services is likely to be balanced by the slight decrease in dwelling yield in PP3A versus the slight increase in PP3B.

**11. What are the views of state and commonwealth public authorities consulted in accordance with the gateway determination?**

The Proposal mostly makes changes that are of local significance only and do not relate significantly to State infrastructure, heritage, environmental significance or other state or commonwealth issues.

We have based some of the justification on regular/historic advice from key NSW Government agencies responsible for protection of the natural environment, water and planning to support this Proposal but not consulted directly with these agencies.

The Gateway Determination can set out any further agencies that require consultation (see also Consultation opportunities in this Report **Section 3.6 - Part 5: Community Consultation** below).

### 3.4 Part 4: Mapping

See the **Map(s)** in Sections 2.2.3.4 & 2.3.3.3 of this Report for each component of this Planning Proposal. This can be compared to the **Existing Zoning and Lot Size** in Sections 2.2.2 for PP3A only. See also the mapping recommendations from the *Settlement Strategy 2020* in Section 2.1.

Standard Instrument format mapping can be prepared once a Gateway Determination has been issued. Council may seek assistance from DPIE's mapping division. It may not be required for the public exhibition period unless it is conditioned by the Gateway Determination.

### 3.5 Part 5: Community Consultation

The planning proposal community consultation is to be undertaken in accordance with the requirements set out in 'A guide to preparing planning proposals' (2018) and any requirements set out in the Gateway Determination.

It is important to note that the amendments in this Proposal were some of the key recommendations of *Blayney Settlement Strategy 2020* that was publicly exhibited in late 2020 and adopted in February 2021. Therefore, the changes have been recently notified to affected land owners and the community during that process.

The Planning Proposal will be notified for a minimum period of 28 days. The notification period is expected to be outside the Christmas / New Year period (see timeline below). The notification would be placed on Council's website and advertised in the Blayney Chronicle and possibly also on Council's Facebook site.

The notification would:

- Reference this report that includes a description of the objectives or intended outcomes of the planning proposal and the land affected by the planning proposal;
- Advise when and where the planning proposal can be inspected;
- Give the name and address of the Council for the receipt of submissions; and
- Indicate the last date for public submissions.

During the exhibition period, the following material will be made available for inspection at Council's offices in Blayney:

- The Planning Proposal, in the form approved for community consultation by the Director General of Planning;
- The Gateway Determination and any associated conditions or requirements.

Additional consultation is also expected with key government agencies and stakeholders during the public exhibition period – possibly through a letter or notification including, but not limited to:

- Department of Planning, Industry & Environment ('DPIE') including offices associated with the environment & heritage & Mining, Exploration & Geosciences (MEG)
- Department of Premier & Cabinet
- Department of Primary Industries
- Department of Regional NSW including Local Land Services
- Natural Resources Access Regulator (NRAR)
- Central Tablelands Water ('CTW') (water infrastructure).

### 3.6 Part 6: Project Timeline

The following provides an anticipated / estimated project timeline for completion (subject to Gateway / Council requirements and extent of submissions/amendments). It demonstrates that from the date of the Gateway Determination it is expected the amendments can be made / commence in up to 9 months from date of Gateway Determination (subject to COVID, Council elections, and matters outside Council's control):

Table 1 - Project Timeline Task	Anticipated timeframe
Planning Proposal to Council for approval to send to DPIE	October 2021
Forward Proposal to DPIE	
Commencement date (Gateway determination)	November/December 2021
Timeframe for the completion of required technical information	January 2022 (unlikely to be required)
Government agency consultation (pre and post exhibition as required by Gateway determination)	January 2022
Commencement and completion for public exhibition period	January/February 2022
Dates for public hearing (if required)	February 2022
Consideration of submissions	February/March 2022
Consideration of a proposal post exhibition	March 2022
Date of submission to the Department to finalise LEP	March/April 2022
Anticipated date RPA will make the plan (if delegated)	April/May 2022
Anticipated date RPA will forward to the Department for notification	Mid 2022
Potential for amendments to commence	Mid 2022



