



IRF 21/4904

Gateway determination report – PP-2021-7118

Blayney LEP 2012 - Amending the minimum lot size for residential dwellings on RU5 and R5 zones in unsewered areas and permitting residential dwellings on smaller lots in RU1 and RU2 zones within 500m of certain RU5 and R5 zones

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Acknowledgment of Country

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

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Agenda – Ordinary Council Meeting Minutes dated 18 October 2021 (report) and Resolution
Planning proposal – PP3: Six (6) unsewered villages and surrounds prepared by iPLAN projects dated 7 October 2021

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Blayney Shire Council
PPA	Blayney Shire Council
NAME	Amending the minimum lot size for residential dwellings on RU5 and R5 zones in unsewered areas and permitting residential dwellings on lots in RU1 and RU2 zones within 500m of certain urban zones (RU5 and R5 zones)
NUMBER	PP-2021-7118
LEP TO BE AMENDED	Blayney Local Environmental Plan 2012
ADDRESS	Blayney Local Government Area
DESCRIPTION	Various - Refer to Section 2 of the Planning Proposal
RECEIVED	29/11/2021
FILE NO.	IRF21/4904
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal. The proposal intends to amend Blayney LEP 2012 (BLEP2012) controls to implement two key recommendations set out in the Council adopted Blayney Shire Settlement Strategy 2020 (BSSS 2020). The BSSS 2020 was adopted by Council on 15 February 2021 however has not been endorsed by DPE as Council is undertaking additional work in relation to some aspects of the strategy. The proposal is supported by the BSSS 2020 and will apply to land in six unsewered villages in Blayney Shire Local Government Area (Barry (locality), Carcoar, Lyndhurst, Mandurama, Newbridge and Neville) and seeks to:

- PP3A: Amend the minimum lot size area for residential development in RU5 and R5 zones to require minimum lot size for residential subdivisions and erection of new dwelling houses that require on site effluent management.
- PP3B: Permit residential dwellings on lots in RU1 and RU2 zones that are within 500m of RU5 or R5 zones in the six unsewered villages.

1.3 Background

The BSSS 2020 undertakes a detailed demand analysis for housing in the area and identified a shortfall for 560 dwellings based on forecasted housing trends. Demographic analysis indicates a population growth of 665 people over the last 10 years and significant inward migration from Orange and other nearby regional centres. The report notes that Blayney is already experiencing a downward trend in rental vacancy rates, higher average rents and an upward trend in sale prices of dwellings indicating a latent, or unmet, demand for new housing in the Shire. The BSSS 2020 outlines key recommendations to enable additional housing supply in the short to medium term and notes that amendments would be required to Blayney LEP 2012 by means of a planning proposal to facilitate the changes.

In May 2021, Blayney Shire Council lodged two planning proposals addressing recommendations of the BSSS 2020 to amend planning controls for the towns of Blayney (PP-2021-3581) and Millthorpe (PP-2021-3588) with conditional Gateway determinations issued.

This planning proposal seeks to facilitate two more recommendations set out in the BSSS 2020 for the six unsewered villages within Blayney Shire.

Although the BSSS 2020 has not been endorsed by the Department there is sufficient strategic and site-specific merit provided to allow the proposal to proceed to Gateway determination.

1.4 Site Description

1.4.1 Unsewered villages in Blayney Shire

This planning proposal applies to various land zoned RU5 Village, R5 Large Lot Residential, RU1 Primary Production and RU2 Rural Landscape in and around the villages of Barry (locality), Carcoar, Lyndhurst, Mandurama, Newbridge and Neville.

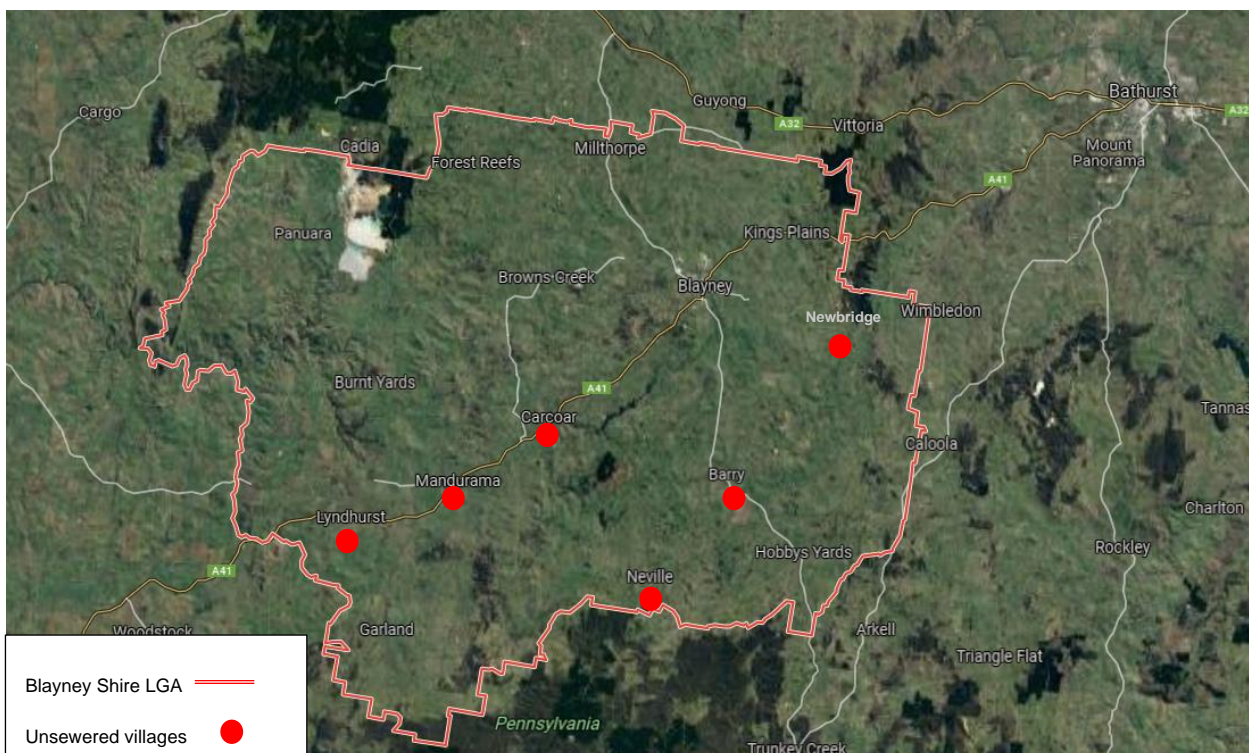


Figure 1 Map showing the location of the six unsewered villages in Blayney Shire subject to this planning proposal (Source: base image, google maps)

1.5 Explanation of provisions

The planning proposal seeks to implement two key recommendations (PP3A and PP3B) from the BSSS 2020. The proposal will apply to six unsewered villages.

1.5.1 New minimum lot size for residential dwellings in unsewered villages (Item PP3A)

The minimum lot size for residential subdivision in RU5 and R5 zones varies across the villages. The planning proposal recommends a new standard minimum lot size to support new dwelling houses in these zones within the six unsewered villages. Council submits that the new proposed standard residential lot size would minimise instances where dwellings are constructed on small inadequate sized lots that have insufficient area for effective onsite effluent management.

The proposed amendment is also in keeping with the BSSS 2020 which recommends restricting residential dwelling houses on lots less than the proposed minimum lot sizes. The BSSS 2020 notes that EPA's guideline titled 'The On-site Sewage Management for Single Households' dated 1998 is the most relevant guideline for managing onsite effluent management. The guideline recommends a minimum of 4,000m² for new residential subdivisions in unsewered areas. Based on local knowledge and to standardise the minimum lot size across the villages the BSSS 2020 recommends that Council adopt a minimum residential lot size of 2,000m² for RU5 Village zones and 4,000m² for R5 Large Lot Residential zones. The minimum RU5 lot size was reduced following exhibition of the BSSS 2020. A total of 26 submissions were received objecting to the blanket 4,000m² minimum lot size requirement on RU5 lots, considering RU5 lots have historically been smaller lots, between 1,000m² – 1,500m². Increasing the minimum lot size to 4,000m² could restrict development on a number of lots for which Council has on balance determined is not desirable. The strategy acknowledges that a proponent would still be required to demonstrate that the particular RU5 lot is suitable for and can accommodate an on-site sewerage system that will not impact adjoining land or have adverse environmental impacts. Council's planning proposal adopts the BSSS 2020 minimum lot size recommendations for RU5 and R5 lots as 2,000m² and 4,000m² respectively. The only exception is RU5 lots in Mandurama – south of Banana Street where a minimum lot size of 4,000m² is proposed by the strategy due to this area having stormwater and access constraints.

Page 12 of the planning proposal contains an adequate explanation of how the objective of the proposal will be achieved for this recommendation. The preferred approach (outlined on page 13 of the planning proposal) is to:

- Amend the minimum lot size maps for RU5 and R5 zoned land in the six unsewered villages. Broadly, the new minimum lot size proposed for dwelling houses in RU5 and R5 zones is 2,000m² and 4,000m² respectively; and
- Introduce a new local clause in the BLEP2012 permitting dwelling houses in unsewered villages if the lot size is equal to or greater than the mapped minimum lot size control. The new clause would only apply when consent is sought for the erection of a dwelling houses in unsewered areas that are zoned RU5 or R5. The clause would not apply should these areas become serviced by reticulated water and sewer in the future.

The Department notes that amending the minimum lots size maps may inadvertently restrict subdivision of all land uses permissible under the Blayney LEP 2012 in RU5 and R5 zones, including subdivision of land for uses such as neighbourhood shops, recreational areas and commercial uses. This is not desirable, and it would also be inconsistent with the proposal's objective (for Item PP3A) which seeks to only amend the lots size for dwelling houses in RU5 and R5 zones. Further, amending the minimum lot size for non-residential uses is not a recommendation of the BSSS 2020 and potential impacts resulting from it have not been considered and discussed in Council's planning proposal.

The Department recommends that Council update the planning proposal to address how sewage is managed for non-residential uses in the unsewered villages and advise if Council wish to apply the new minimum lot size to non-residential uses in R5 and RU5 zones. A condition to this end is recommended in the Gateway determination. Should Council wish to apply the new minimum lot size areas to all permissible land uses in RU5 and R5 zones, the planning proposal, including the proposal's objective (Item PP3A) are to be updated and a copy of the new planning proposal submitted to the Department prior to public exhibition.

If new lot size controls are to only apply to residential development, the Department does not support amending the Lot Size maps. Alternatively, the Department recommends a new subclause under clause 4.1 (Minimum Subdivision Lot Size) of the BLEP2012 that identifies, in words, the minimum lot size for any residential subdivisions in RU5 and R5 zones. The Department also recommends that the minimum lot size maps identify the affected areas to indicate areas to which the new subclause would apply. The Department considers that the mechanism can be resolved at drafting by Parliamentary Counsel however the intent of the proposal is to be clearly provided prior to public exhibition and agency consultation.

1.5.2 Permit residential dwellings on certain RU1 and RU2 lots in proximity to urban zones (Item PP3B)

The BSSS 2020 identified an opportunity to unlock development potential on certain RU1 and RU2 land to meet demand for residential homes close to the village core (RU5 and R5 zones) in the six unsewered villages. The proposal notes that the proposed amendments would increase dwelling yield by an additional 43 lots. Pages 21 and 22 of the planning proposal contains an explanation of provisions that adequately indicate how the objectives of the proposal will be achieved for this item. Council propose to:

- Map eligible lots on a new 'dwelling permissibility' map. Council would undertake a detailed review and map eligible lots that qualify based on the stated constraint criteria. Eligible RU1 and RU2 lots are mapped only if they are free of any environmental constraints, are not heritage listed and would not result in land use conflict. The proposal notes that approximately 43 additional lots would be eligible under this proposed amendment. The Department supports the mapping of the land to identify the dwelling house permissibility.
- Amend clause 4.2A of the BLEP2012 to include a new subclause (clause 4.2A(x)) that permits the erection of residential dwellings on lots mapped on the dwelling permissibility map and have a minimum lot size of 1.5 hectares. Council has proposed a sunset clause to this amendment requesting that eligible lots cease to have the dwelling opportunity 5 years from the commencement of the amendment. The Department supports this.
- Add clause 4.2A(x) as an exemption under clause 4.6 of the Blayney LEP 2012 to prevent any future Development Applications from seeking a variation to the minimum lot size of 1.5 hectares.

It is to be noted that the intent of the proposed changes are supported however the mechanism and wording of the provisions will be subject to legal and Parliamentary Counsel drafting.

1.6 Summary of Amendments

Table 3 Proposed changes

Control	Amendments apply to the following zones	Current	Proposed
	RU5 Village (Carcoar - Village Core)	3000m ²	2,000 m ²

Control	Amendments apply to the following zones	Current	Proposed
PP3A - Minimum lot size	R5 LLR (Carcoar -North West/ Belubula Street	2ha	2ha
	R5 LLR (Carcoar – remainder)	6,000m ²	4,000m ²
	RU5 Village (Mandurama – south of Banana Street)	1,000m ²	4,000m ²
	RU5 Village (Mandurama – remainder)	1,000m ²	2,000m ²
	R5 LLR (Mandurama – east of rail line)	2ha	2ha
	R5 LLR (Mandurama – west of rail line)	4,000m ²	4,000m ²
	RU5 Village (Lyndhurst - Village Core)	1,000m ²	2,000m ²
	R5 LLR (Lyndhurst – West of Creek)	3,500m ²	4,000m ²
	R5 LLR (Lyndhurst – East of Creek)	1ha	1ha
	RU5 Village Core (Neville - Village Core)	2,000m ²	2,000m ²
	R5 LLR (Neville – Egbert Street/Kentucky Road)	1.25ha	1ha
	R5 LLR (Neville – remainder)	4,000m ²	4,000m ²
	RU5 Village (Newbridge - Village Core)	1,600m ²	2,000m ²
	R5 LLR (Newbridge-remainder)	4,000m ²	4,000m ²
	R5 LLR (Barry - Village Core)	2,000m ²	4,000m ²
	R5 LLR (Barry - Village Edge)	8,000m ²	4,000m ²

Control	Amendments apply to the following zones	Current	Proposed
PP3A - New clause (4.2XX)		N/A	Only permit the erection of dwelling houses on zone RU5 or R5 lots that are equal to or greater than the minimum lot size
PP3B - Amend clause 4.2A	RU1 and RU2 zones	Permits residential dwellings on RU1 and RU2 lots that complies with the minimum lot size control	<ul style="list-style-type: none"> • Insert a new dwelling house permissibility map • Add a new clause permitting dwelling houses on certain zone RU1 and RU2 lots that have been mapped on the dwelling permissibility map and have minimum lot size of 1.5 hectares based on the Council constraint criteria

1.7 Mapping

The planning proposal includes figures showing the proposed changes to the Lot Size Maps and new dwelling permissibility maps relating to Item PP3B. However, the Department recommends that the Item PP3A amendments are inserted as subclause (clause 4.1 (XX)) under the BLEP 2012 and the Lot Size Maps are amended to include an MLS overlay outlining areas to which item PP3A applies. Council can confirm this mechanism prior to public exhibition. Prior to finalisation, Lot Size Maps and dwelling permissibility maps will need to be updated in keeping with the recommendation of the Gateway determination and the LEP Map technical guidelines.

2 Need for the planning proposal

The BSSS 2020 notes demand for housing in Blayney Shire is increasing and is likely to be higher than projected by 2036 (560 dwellings rather than 300 dwellings needed by 2036). Further, the BSSS 2020 identifies the need for more diverse and affordable housing options in the Shire to accommodate increasing short-term housing demand, increasing rents and critically low vacancy rates. The Strategy also identified the need for more housing options in the six villages.

In keeping with the BSSS 2020 recommendation, Item PP3B of this proposal aims to deliver more houses, close to town and services on well located / suitable lots by amending the Blayney LEP 2012. The proposal provides a flexible option for more housing in the short to medium term without needing to rezone agricultural land. Item PP3A will ensure that future dwelling houses are only built on suitably sized lots that can adequately accommodate an onsite effluent management system noting that these villages do not have access to reticulated water and sewer services at this time. This ensures that only appropriate land zoned R5 and RU5 are used for residential development,

preventing potential adverse health or environmental impacts associated with the failure of inadequate on-site effluent systems on small lots.

Council notes that the recommendations of the BSSS 2020 (Items PP3A and PP3B) cannot be achieved without a planning proposal to amend the BLEP 2012.

3 Strategic assessment

3.1 Regional Plan

The planning proposal has undertaken an assessment against the Central West and Orana Regional Plan on pages 31-34. The draft Central West and Orana Regional Plan 2041 is currently on exhibition between 22 November 2021 and 18 February 2022. Should draft be finalised, the planning proposal may need to address the most recent strategy.

The following table provides an assessment of the planning proposal against relevant aspects of the Regional Plan.

Table 3 Regional Plan assessment

Regional Plan Objectives	Justification
Direction 1: Protect the region's diverse and productive agricultural land	The proposal for the Town of Blayney will facilitate additional housing within Blayney LGA and reduce the need to rezone valuable agricultural land or cause fragmentation of arable land by increasing density of land within existing residential areas or in proximity to them.
Direction 12: Plan for greater land use compatibility.	Additional dwelling opportunities will be provided either within the existing town centre or in proximity to the village core, reducing fragmentation of productive agricultural land, consolidating residential land and providing opportunities for dwellings in proximity to existing infrastructure services.
Direction 25: Increase housing diversity & choice	<p>The proposed amendment will give effect to this Direction by providing more diverse and affordable housing outside of the main towns of Blayney and Millthorpe. The proposal is also consistent with the following actions of this Direction:</p> <ul style="list-style-type: none"> • Action 25. 4: Locate higher density development close to town centres to capitalise on existing infrastructure and increase housing choice • Action 25.5: Promote incentives to encourage greater housing affordability including a greater mix of housing in new release areas <p>Item PP3B will promote density close to the existing settlement zones (RU5 and R5 zones) which will reduce residential sprawl and ensure dwellings are delivered in areas that have access to essential utilities and infrastructure.</p>
Direction 28: Manage rural residential development	The proposal identifies suitable locations for additional rural residential living opportunities. The Department acknowledges that the proposal directly responds to recommendations set out in Council's BSSS 2020 and the proposed amendments locate new residential areas close to the village centre providing access to existing services and utilities, including social and community infrastructure which is desirable and in keeping with this Direction.

3.2 Local

The planning proposal (pages 34-36) demonstrates the proposal's consistency with relevant local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 4 Local strategic planning assessment

Local Strategies	Justification
Blayney Shire Local Strategic Planning Statement (LSPS) 2020	<p>The proposal provides more diverse housing options in the Shire in keeping with Planning Priority 4 of the LSPS. The proposal is in line with the following LSPS actions:</p> <ul style="list-style-type: none"> • <i>Implement the recommendations within the review of the (then) Draft Blayney Settlement Strategy 2019</i> • <i>Guide local and strategic planning to create diverse housing choices and opportunities within Blayney Shire.</i> <p>The LSPS further identifies changing demographics, population growth and rising demand for dwelling lots with rural and landscape character. It also notes a growing demand in villages like Newbridge that are experiencing higher housing demand due to its proximity to regional centres like Orange and Bathurst. This proposal will increase dwelling availability in the six villages of Blayney Shire outside of the main town centres.</p>
Blayney Shire Settlement Strategy 2020 (BSSS 2020)	<p>BSSS 2020 was endorsed by Council on 15 February 2021 and has been submitted to the Department who is waiting further advice from Council. The land use strategy balances competing needs for additional housing with management of agriculture and environmental constraints.</p> <p>The proposed amendments (Items PP3A and PP3B) are direct recommendations of the BSSS 2020 discussed in Section 4.3.3 (pages 105 - 139). The Strategy notes that the intent of the recommendation (and thereby the intent of the amendments set out in this proposal) are:</p> <ul style="list-style-type: none"> • Item PP3A: is to prevent health or environmental impacts due to onsite effluent management systems being installed on small lots • Item PP3B: to increase dwelling availability around the six villages to meet the short-term housing demand

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 5 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.2 Rural Zone	Inconsistent - Justified	The proposal affects rural land but does not rezone rural land. It seeks to ensure that proposed dwelling houses are built on a suitably sized land (Item PP3A) that is capable of an effective onsite effluent management and allows for dwellings on certain underutilised rural lots around the village fringe. The Director, Western Region (Delegate of the Secretary) can be satisfied the inconsistency is of minor significance in terms of the Direction and no further work is required.
1.3 Mining Petroleum Production and Extractive Industries	Consistent	The planning proposal notes that there are no potential or known mineral or extractive industries in proximity to any of the affected lots in this proposal. The zoning of the land is not changing and the permissible uses are not changing.

1.5 Rural Lands	Inconsistent – Justified	<p>The planning proposal is inconsistent with this Direction as it seeks to amend the minimum lot size of rural zoned land (RU1, RU2 and RU5). The Director, Western Region (Delegate of the Secretary) can be satisfied that that inconsistency is of minor significance in terms of the Direction and no further work is required for the following reasons:</p> <ul style="list-style-type: none"> • The proposal is in keeping with the directions and actions of the Central West and Orana Regional Plan 2036 and the Blayney LSPS. • The proposal directly responds to recommendations set out in the Council adopted BSSS 2020 • Item PP3A applies to R5 and RU5 zones and relates to land located in the village centre. Item PP3B relates to certain underutilised RU1 and RU2 lots that are 500m from the RU5 or R5 zones. The selection criteria (refer to page 22 of Council's proposal) for suitable lots under item PP3B is strict, ensuring only 43 additional lots will have dwelling house permissibility. Eligible lots have been selected having considered a range of Constraint Criteria including impact on adjoining agricultural land. The proposed lots are to be a minimum area of 1.5ha that can provide an adequate dwelling envelope, setback and buffer to minimise land use conflict with adjoining RU1 and RU2 lots. In addition the BSSS 2020 including the Constraint Criteria and the lots chosen have been subject to community consultation.
2.1 Heritage Conservation	Consistent	<p>The proposal is consistent with the Direction. The amendment will increase the minimum lot size for development. Further, Item PP3B does not apply to lots with heritage items and any lots eligible under PP3B would have a lot size of approximately 1.5ha. As such, the proposal is unlikely to increase density around heritage items. If required heritage impact they can be assessed and managed during development application process.</p>

2.6 Remediation of Land	Inconsistent – unresolved	<p>Item PP3B of this proposal involves RU1 and RU2 zoned lots which have been used and allow for agricultural activities. The terms of this Direction require Council to consider a Preliminary Site Investigation (PSI) Report noting that agricultural activity is identified as a use that may cause contamination of land under Table 1 of the contaminated land planning guidelines. The Department recommends a condition in the Gateway determination requesting that Council satisfy itself that the subject areas included in this proposal are suitable or can be made suitable for the residential use.</p> <p>The proposal is inconsistent with this Direction at this time.</p>
3.1 Residential Zones	Inconsistent – justified	<p>The planning proposal will enable broader choice of dwelling types in the area by facilitating additional dwelling opportunities with the appropriate minimum lot size, thus, reducing residential demand by increasing opportunities for more dwellings. Item PP3A is consistent with the Direction (Direction 3.1(5)) that requires residential lots to be developed only when the land can be adequately serviced. The amendments proposed to BLEP2012 would restrict development on small lots that cannot accommodate an onsite effluent management system.</p> <p>The Department notes that the amendment introduced by Item PP3A would slightly reduce the potential dwelling yield which is inconsistent with this Direction.</p> <p>Notwithstanding, the amendments proposed by Item PP3B would increase dwelling yield by an additional 43 lots. As such the proposal is not considered to significantly decrease the overall potential yield. Further, should the proposal result in a net reduction in residential lots.</p> <p>The Director, Western Region (Delegate of the Secretary) can be satisfied the inconsistency is of minor significance in terms of the Direction and no further work is required for the following reasons:</p> <ul style="list-style-type: none"> • The proposal directly responds to a recommendation from the Council adopted BSSS 2020. • The proposal directly responds to the objectives of this Direction. It seeks to reduce health or environmental impacts associated with onsite effluent management systems on small lots with limited site area by increasing lot size requirements in unsewered areas.

4.3 Flooding	Inconsistent - unresolved	<p>The Blayney Flood Study only applies to Blayney. No flood study or flood management plan has been carried out that applies to the six villages. The planning proposal (page 38) notes that flood potential has been taken into account in determining areas for dwelling growth and is not a major constraint or could be addressed at Development Application Stage.</p> <p>However, the preceding Blayney Shire Settlement Strategy dated 2012 (BSSS 2012) notes that a number of settlements in Blayney Shire are low-lying land along key watercourses with the potential for flooding. Particularly in Carcoar, the BSSS 2012 recommended measures to limit further residential development on high risk sites adjacent to the Belubula River.</p> <p>The north-eastern area of Mandurama may also be subject to potential inundation, limiting development potential. The flooding potential of Lyndhurst is relatively unknown, but there may be flooding impacts. The BSSS 2020 recommends undertaking a flood study and assessing impacts on on-site sewerage design before any intensification of residential density. The planning proposal also identifies that some of the subject lots may be affected by flooding.</p> <p>The Department notes that the proposal is not accompanied by a flood study and as such the proposal is inconsistent with the terms of this Direction at this time. The impact of the proposal against this Direction remains unresolved and subject to consultation with DPE Energy, Environment and Science prior to this matter being settled.</p>
4.4 Planning for Bushfire Protection	Consistent	<p>The lands the subject to this proposal have not been mapped as bushfire prone land. This aspect can be considered on a lot by lot basis at Development Application stage.</p>
5.10 Implementation of Regional Plans	Consistent	<p>The proposal is largely consistent with the Direction (see discussion in Section 3.1 of this report).</p>
6.1 Approval and Referral Requirements	N/A	<p>The proposal is consistent with the Direction as it does not intend to introduce any new referral or consultation requirements.</p>

6.3 Site Specific Provisions	Inconsistent - justified	<p>This Direction applies as the proposed dwelling houses will be permitted subject to certain considerations and criteria. The Director, Western Region (Delegate of the Secretary) can be satisfied that the inconsistency is of minor significance in terms of the Direction and no further work is required for the following reasons:</p> <ul style="list-style-type: none"> Based on the BSSS 2020 and Council identified criteria to ensure the environment not adversely affected There are clear guidelines, criteria and provisions as to what is required to achieve dwelling house permissibility
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3.4 State environmental planning policies (SEPPs)

The planning proposal identifies SEPPs that apply to the proposal and provides an assessment of the proposal's consistency with the SEPP on page 36. SEPPs considered relevant to the planning proposal are:

- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Infrastructure) 2007
- SEPP (Koala Habitat Protection) 2020 and 2021
- SEPP 55 - Remediation of Land
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The planning proposal is not inconsistent with any of the objectives within the identified SEPPs above. The specific controls and provisions in each of the SEPPs are not relevant to determining the strategic or site-specific merit of the planning proposal and may be considered as part of any future development applications for the subject land.

4 Site-specific assessment

The planning proposal provides site-specific assessment of the proposal in Section C, pages 37-38. This matter has been adequately addressed.

4.1 Environmental

Council notes that the proposal would prevent potential environmental and health impacts, including potential contamination of ground water and nearby watercourses, caused by failure of onsite effluent management systems on small lots. Other potential environmental impacts associated with the proposal are discussed in the table below.

Table 6 Environmental impact assessment

Environmental Impact	Assessment
Bushfire prone land	The subject areas are not currently mapped for Bushfire and can be assessed with each individual development application.

Flood prone land	Some of the land is identified as being affected by flooding. The Department recommends that Council consult with DPE EES and NSW SES (refer to Section 3.3 Section 9.1 Direction 4.3 Flooding above).
Contamination	There is potential contamination for all land and particularly for land that is identified as zone RU1 and RU2. Potential contamination will need to be considered by Council prior to community consultation and in detail with individual development applications.
Biodiversity	There are mapped biodiversity areas within some of the six villages which call up the provisions of the Terrestrial Biodiversity clause in BLEP 2012. The consideration of environmental attributes will be required with each development application.
Heritage	As discussed under Section 3.3, the proposal is unlikely to impact heritage items given the nature of the amendments sought.

Pages 21 and 22 of the planning proposal identify Core and Constraint Criteria when considering dwelling house permissibility on the subject land.

4.2 Social and economic

The proposal will provide the following social and economic benefits:

- Increase dwelling growth in the villages consistent with increasing housing demand in the area;
- Provide greater housing diversity and affordable housing options outside of Blayney and Millthorpe; and
- Ensure dwelling houses are located only on suitably sized lots, and in proximity to land zoned for urban uses (RU5 and R5 zones) to minimise land use conflict and any ensure adequate access to essential utilities and services.
- Provide dwelling house permissibility in the short-term having regard to clear criteria.

4.3 Infrastructure

Page 38 of the planning proposal advises that resulting lots will have access and can be serviced by all essential services and utilities infrastructure (except reticulated water and sewer). Lots relating to Item PP3A are located within existing villages and eligible lots relating to Item PP3B located within 500m of zones RU5 and R5. While the proposal relates to unsewered villages, the amendments sought by this proposal will ensure that an appropriate onsite effluent management system can be installed prior to developing the lot for the purposes of a dwelling house.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days. The exhibition period proposed is considered appropriate and forms one of the conditions of the Gateway determination.

5.2 Agencies

The proposal generally identifies agencies to be consulted.

It is recommended that DPE - Environment, Energy and Science is consulted on the planning proposal and given 21 days to comment.

5.3 Timeline

Council proposes nine (9) months to complete the LEP.

The Department supports a time frame of 9 months to ensure it is completed in line with its commitment to reduce processing times. The project time line should be updated in the planning proposal prior to community consultation.

6 Local plan-making authority

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

Having regard to the nature of the planning proposal that is supported by the BSSS 2020, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

7 Assessment summary

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

- The planning proposal provides more diverse and affordable housing options outside of Blayney and Millthorpe
- The proposal will provide more upfront certainty and clarity on which lots can adequately support dwelling houses
- The proposal consolidates density in areas with access to existing utilities and services and provides an improved outcome for the unsewered villages where inadequate site area is available for onsite effluent management system that pose health and environmental risks
- The proposal is consistent with relevant local plans, the regional plan and SEPPs.
- The proposal is consistent with Council's BSSS 2020.

The proposal should be updated before exhibition to:

- undertake a preliminary contamination investigation to satisfy Council the subject areas are suitable or can be made suitable for future residential use
- address how sewage is managed for non-residential uses in the unsewered villages and advise if Council wish to apply the new minimum lot size to non-residential uses in R5 and RU5 zones. Should Council wish to apply the new minimum lot size areas to all permissible land uses in RU5 and R5 zones, the planning proposal, including the proposal's objective (Item PP3A) are to be updated prior to community consultation. A copy of the new planning proposal is to be submitted to the Department for approval prior to community consultation.
- consult with DPE EES to seek advice about the local flooding and to satisfy consistency with Section 9.1 Direction 4.3 Flooding.

8 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistency with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 3.1 Residential Zones and 6.3 Site Specific Provisions have been justified as being of minor significance; and
- Note that the consistency with section 9.1 Directions 2.6 Remediation of Land and 4.3 Flood Prone Land are unresolved at this time and will require further clarification and justification.

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

1. Prior to community consultation the planning proposal is to be updated to:
 - a) undertake preliminary contamination investigations to satisfy Council the subject areas are suitable or can be made suitable for future residential use
 - b) address how sewage is managed for non-residential uses in the unsewered villages and advise if Council wish to apply the new minimum lot size to non-residential uses in R5 and RU5 zones. Should Council wish to apply the new minimum lot size areas to all permissible land uses in RU5 and R5 zones, the planning proposal, including the proposal's objective (Item PP3A) are to be updated prior to public exhibition.
 - c) update project timeline
2. Agency consultation is required with DPE – Environment, Energy and Science
3. The planning proposal should be made available for community consultation for a minimum of 28 days).
4. No public hearing is required
5. Mapping to comply with technical guidelines
6. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
7. Given the nature of the proposal, Council should be authorised to be the local plan-making authority



 (Signature)

4 February 2022

(Date)

Wayne Garnsey

Manager, Western Region



 (Signature)

4 February 2022

(Date)

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