



Planning,
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Environment

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Gateway determination report – PP_2020_QPREG_001_00

Rezone land at Bywong and Wamboin from E4
Environmental Living to R5 Large Lot Residential (0
homes and 0 jobs)

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Contents

1	Planning Proposal	1
1.1	Overview and objectives of planning proposal	1
1.2	Explanation of provisions	2
1.3	Site description and surrounding area.....	2
1.4	Mapping.....	3
2	Need for the planning proposal	4
3	Strategic assessment	7
3.1	Regional Plan	7
3.2	Local.....	7
3.3	Section 9.1 Ministerial Directions	8
3.4	State environmental planning policies (SEPPs)	10
4	Site-specific assessment	10
4.1	Environmental.....	10
4.2	Social and economic.....	11
4.3	Infrastructure	12
5	Consultation.....	12
5.1	Community	12
5.2	Agencies.....	12
6	Timeframe	13
7	Local plan-making authority	13
8	Assessment Summary.....	13
9	Recommendation.....	13

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Council Report and Minutes – 12 February 2020
Review of E4 Environmental Living Zone in the Localities of Bywong and Wamboin – AQ Planning – March 2019
Environmental Living (E4) Zone Review for Bywong and Wamboin NSW – Biodiversity Values Assessment – BIOSIS – March 2019
Description of land proposed to be rezoned to R5 Large Lot Residential – November 2020

1 Planning Proposal

1.1 Overview and objectives of planning proposal

Table 2 Planning proposal details

LGA	Queanbeyan-Palerang
PPA	Queanbeyan-Palerang Regional Council
NAME	Rezone land at Bywong and Wamboin from E4 Environmental Living to R5 Large Lot Residential (0 homes, 0 jobs)
NUMBER	PP_2020_QPREG_001_00
LEP TO BE AMENDED	Palerang LEP 2014
ADDRESS	Various
DESCRIPTION	Various
RECEIVED	25/11/2020
FILE NO.	IRF20/5894
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

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

The objectives of the planning proposal are to:

- Rezone land at Bywong and Wamboin identified as having low biodiversity value from E4 Environmental Living to R5 Large Lot Residential; and
- Insert extensive agriculture as an Additional Permitted Use (permitted without consent) on land proposed to be rezoned R5 Large Lot Residential.

The objectives of this planning proposal are clear and adequate.

1.2 Explanation of provisions

The planning proposal seeks to amend the Palerang LEP 2014 as proposed below:

Table 3 Current and Proposed controls

Control	Current	Proposed
Zone	E4 Environmental Living	R5 Large Lot Residential
Additional permitted uses	N/A	Extensive agriculture (land proposed to be rezoned R5)

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.3 Site description and surrounding area

The planning proposal applies to approximately 412 lots in the localities of Bywong and Wamboin. As shown in **Figure 1**, the planning proposal applies to land zoned E4 under the Palerang LEP 2014.

Although the land to which the planning proposal applies is primarily used for residential purposes, it comprises a mix of land uses including dwellings, bed and breakfasts, home occupations, home businesses, home industries, stables and horse riding, limited livestock grazing, limited crop growing and horticulture and community halls.

The suburbs of Bywong and Wamboin are located approximately 7 kilometres north-west of Bungendore, 12 kilometres north of Queanbeyan CBD and 20 kilometres north-east of Canberra's city centre.

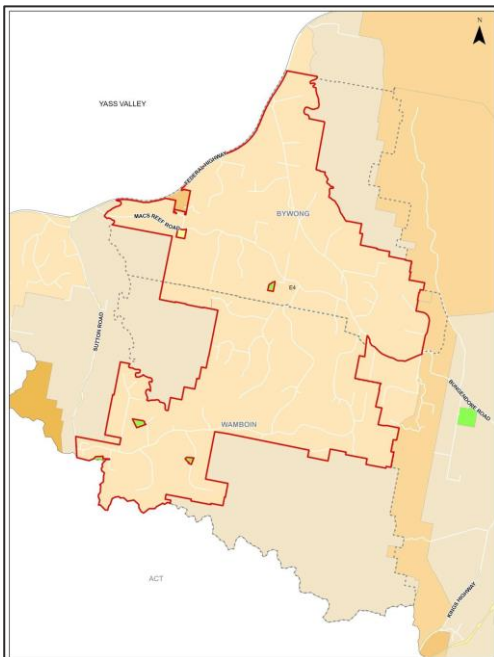


Figure 1: Current Land Zoning of planning proposal area (source: Queanbeyan-Palerang Regional Council)

1.4 Mapping

The planning proposal includes mapping showing the proposed changes to Palerang LEP 2014 Land Zoning Maps LZN_001 and LZN_004. The maps, shown in **Figures 2 and 3**, are suitable for community consultation.

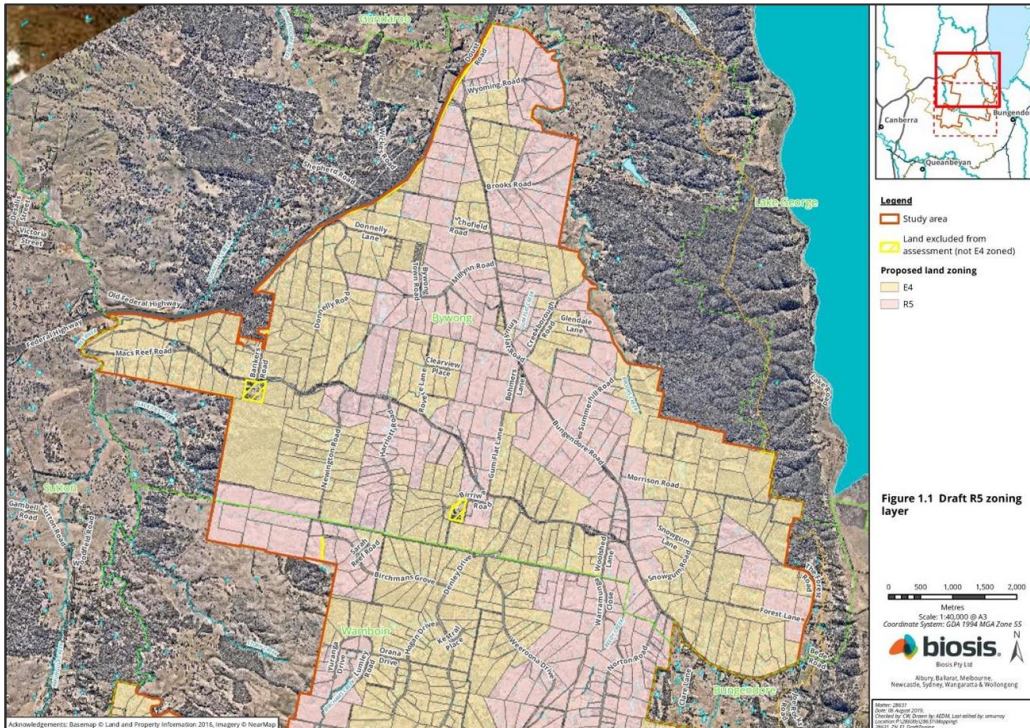


Figure 2: Proposed Land Zoning of planning proposal area (source: Queanbeyan-Palerang Regional Council)

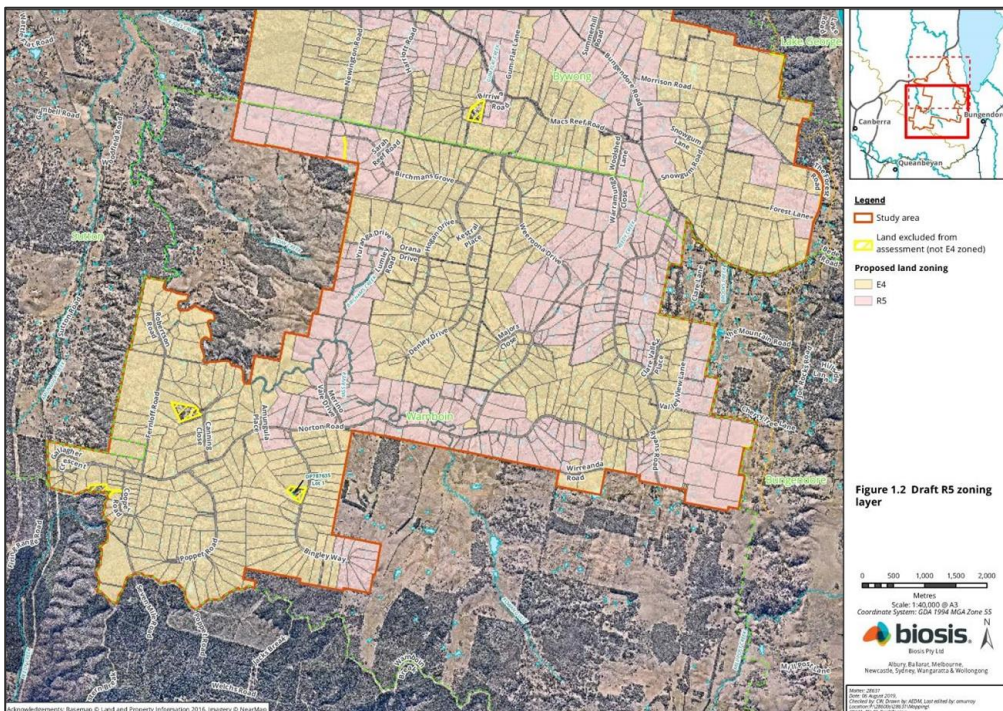


Figure 3: Proposed Land Zoning of planning proposal area (source: Queanbeyan-Palerang Regional Council)

2 Need for the planning proposal

The planning proposal states the proposed rezoning of land from E4 to R5 is in accordance with the recommendations of two studies prepared in support of the planning proposal; a review of the application of E4 Zones in the suburbs of Bywong and Wamboin and a native vegetation assessment.

Accordingly, the planning proposal seeks to rezone land from E4 to R5 where the land has been identified as wholly or predominantly Class 3 land (low biodiversity value). Land identified as wholly or predominantly Class 1 or 2 (high and moderate biodiversity value) will continue to be zoned E4.

The planning proposal notes the intended outcome of the proposed LEP amendment is consistent with LEP Practice Note PN 09–002 Environment Protection Zones which recommends the use of R5 zones to provide for residential housing in a rural setting where there are few environmental considerations.

Table 4 identifies the differences between the E4 and R5 Zones under the Palerang LEP 2014 in red text. Although there are several differences between the Land Use Tables for each zone, the differences are considered minor and unlikely to result in significant impacts within the suburbs of Bywong and Wamboin and surrounding areas. Noting the planning proposal does not seek to change the minimum lot size of the land proposed to be rezoned, the impact of the LEP amendment is likely to be minor.

Table 4 E4 and R5 Zone comparison Palerang LEP 2014

Zone	Zone objectives comparison	Land uses comparison group term sub-term
E4 Environmental Living	<ul style="list-style-type: none"> • provide for low-impact residential development in areas with special ecological, scientific or aesthetic values. • ensure that residential development does not have an adverse effect on those values. • encourage development that is visually compatible with the landscape. • minimise the impact of any development on the natural environment. • ensure that development does not unreasonably increase the demand for public services or facilities. • minimise conflict between land uses within the zone and land uses within adjoining zones. 	<p>Permitted without consent</p> <p>Extensive agriculture; Home businesses; Home occupations</p> <p>Permitted with consent</p> <p>Animal boarding or training establishments; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cellar door premises; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Farm buildings; Flood mitigation works; Function centres; Home-based child care; Home industries; Information and education facilities; Intensive plant agriculture; Neighbourhood shops; Oyster aquaculture; Places of public worship; Plant nurseries; Pond-based aquaculture; Recreation areas; Restaurants or cafes; Roads; Roadside stalls; Secondary dwellings; Tank-based aquaculture; Waste or resource transfer stations; Water recycling facilities; Water storage facilities (sub-term of Water supply systems)</p>

Zone	Zone objectives comparison	Land uses comparison group term sub-term
R5 Large Lot Residential	<ul style="list-style-type: none"> provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality. ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future. ensure that development in the area does not unreasonably increase the demand for public services or public facilities. minimise conflict between land uses within this zone and land uses within adjoining zones. minimise the impact of any development on the natural environment. 	<p>Permitted without consent</p> <p>Home businesses; Home occupations</p> <p>Permitted with consent</p> <p>Backpackers' accommodation; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cellar door premises; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Environmental protection works; Extensive agriculture; Farm buildings; Flood mitigation works; Group homes; Home-based child care; Home industries; Horticulture (sub-term of Intensive plant agriculture); Neighbourhood shops; Oyster aquaculture; Pond-based aquaculture; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads; Roadside stalls; Secondary dwellings; Sewage treatment plants; Tank-based aquaculture; Viticulture (sub-term of intensive plant agriculture); Water recycling facilities; Water supply systems</p>

The proposed inclusion of extensive agriculture as permitted without consent on land proposed to be rezoned R5 via Schedule 1 Additional permitted uses is also unlikely to result in significant impacts within the suburbs of Bywong and Wamboin and surrounding areas given extensive agriculture is currently permitted without consent on the land in accordance with the E4 Zone Land Use Table.

However, it is recommended that the Gateway determination require the planning proposal be revised prior to finalisation of the plan to insert an Additional Permitted Uses Map which identifies the land on which extensive agriculture is proposed to be permitted without consent.

The planning proposal is the best means of achieving the intended outcome of rezoning land in Bywong and Wamboin in accordance with its primary use and environmental attributes.

3 Strategic assessment

3.1 Regional Plan

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

Table 5 Regional Plan assessment

Regional Plan Objectives	Justification
Direction 14: Protect important environmental assets	<p>Although the planning proposal seeks to rezone land from E4 to R5, it is not inconsistent with Direction 14 of the Regional Plan as it only applies to land identified as having low biodiversity value.</p> <p>The planning proposal does not seek to facilitate additional subdivision opportunities or amend existing environmental protection standards under clause 6.3 Terrestrial Biodiversity of the Palarang LEP 2014.</p>
Direction 28: Manage rural lifestyles	<p>Although the planning proposal seeks to rezone land from E4 to R5, it is not inconsistent with Direction 28 of the Regional Plan as it does not seek to facilitate additional subdivision opportunities.</p> <p>The intended outcome of the planning proposal is to ensure land in Bywong and Wamboin is zoned in accordance with its primary use and environmental attributes.</p>

3.2 Local

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

Table 6 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	<p>The Queanbeyan-Palarang Local Strategic Planning Statement identifies Bywong and Wamboin as part of the LGAs rural residential areas.</p> <p>The planning proposal is consistent with the following planning outcomes for the LGAs rural residential areas:</p> <ul style="list-style-type: none"> • The environmental and rural values of these areas are maintained into the future; • Permissible land-uses are consistent with historical and ordinary activities that have previously occurred in these locations; and • Agricultural activities are protected and promoted in rural areas.

3.3 Section 9.1 Ministerial Directions

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

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Direction 1.5 Rural Lands	Yes	<p>The direction is applicable as the planning proposal affects land within an existing environment protection zone.</p> <p>The planning proposal states that it is consistent with the terms of the direction as it protects environmental values and does not impact farmers exercising their right to farm.</p> <p>The planning proposal is consistent with the terms of the direction as it will facilitate opportunities for the ongoing use of land in Bywong and Wamboin for a variety of compatible agricultural uses.</p>
Direction 2.1 Environment Protection Zones	Yes	<p>The direction is applicable as the planning proposal affects land within an existing environment protection zone.</p> <p>The planning proposal states that is inconsistent with the terms of the direction but that the inconsistency is justified by a study prepared in support of the planning proposal.</p> <p>Although the planning proposal seeks to rezone land from E4 to R5, it is consistent with the terms of the direction as it does not reduce existing environmental protection standards applying to the land under the Palerang LEP 2014, including terrestrial biodiversity mapping and associated LEP controls including lot size.</p>

Direction 2.6 Remediation of Contaminated Land	Yes	<p>The direction is applicable as the planning proposal affects land on which development for residential, educational, recreational or childcare purposes may be carried out.</p> <p>The planning proposal states Council has considered whether the land proposed to be rezoned R5 is contaminated by undertaking a search of Council's contaminated land register. One property was identified as possibly contaminated land, but the planning proposal notes an existing dwelling is situated on the site and it is unlikely to be developed further.</p> <p>The planning proposal is consistent with the terms of the direction as it has considered whether the land proposed to be rezoned is contaminated.</p>
Direction 3.1 Residential Zones	Yes	<p>The direction is applicable as the planning proposal applies to land within a proposed residential zone.</p> <p>The planning proposal states that it is consistent with the terms of the direction as it does not alter provisions applying to the provision of housing under Palerang LEP 2014.</p> <p>The planning proposal is consistent with the terms of the direction as it allows for the continuation of residential land uses in Bywong and Wamboin without reducing the permissible residential density of the land.</p>
Direction 3.3 Home Occupations	Yes	<p>The direction is applicable as the planning proposal affects land on which dwelling houses are permissible.</p> <p>The planning proposal is consistent with the terms of the direction as home occupations are permitted without consent on land zoned R5.</p>
Direction 3.4 Integrating Land Use and Transport	Yes	<p>The direction is applicable as the planning proposal affects land within a proposed residential zone.</p> <p>The planning proposal is consistent with the terms of the direction as it does not seek to facilitate additional subdivision opportunities on land proposed to be rezoned R5. Accordingly, the planning proposal is not inconsistent with the aims, objectives and principles of <i>Improving Transport Choice – Guidelines for planning and development (DUAP 2001)</i>, and <i>The Right Place for Business and Services – Planning Policy (DUAP 2001)</i>.</p>

Direction 4.4 Bushfire Prone Land	Unresolved	<p>The direction is applicable as the planning proposal affects land mapped as bushfire prone land.</p> <p>The planning proposal's consistency with the terms of the direction will be determined once Council has obtained written advice from NSW Rural Fire Service.</p>
Direction 5.10 Implementation of Regional Plans	Yes	<p>The direction is applicable as the planning proposal affects land subject to the South East and Tablelands Regional Plan 2036.</p> <p>The planning proposal is consistent with the terms of the direction as it is generally consistent with the overall intent of the South East and Tablelands Regional Plan 2036. A full assessment of the planning proposal's consistency with the Regional Plan is provided in section 3.1 of this report.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is not inconsistent with any SEPPs. SEPPs such as SEPP (Koala Habitat Protection) 2020 which are not relevant to determining the strategic merit of the planning proposal will be considered as part of any future development applications on the land to which the planning proposal applies.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 8 Environmental impact assessment

Environmental Impact	Assessment
Biodiversity impacts	<p>The planning proposal states land proposed to be rezoned to R5 has been identified as wholly or predominantly Class 3 land (low biodiversity value) by a native vegetation assessment prepared in support of the planning proposal. The planning proposal notes that Class 3 land comprises the following environmental attributes:</p> <ul style="list-style-type: none"> • Non-threatened native derived grassland vegetation. • Exotic /non-indigenous vegetation including scattered trees, grassland or cropping \ agricultural land. • Low value biodiversity connectivity corridors. <p>Although the planning seeks to rezone areas of Bywong and Wamboin from E4 to R5, land identified as wholly or predominantly Class 1 or 2 (high and moderate biodiversity value) will continue to be zoned E4.</p> <p>Importantly, the planning proposal does not seek to amend existing terrestrial biodiversity mapping and associated LEP provisions or facilitate additional subdivision opportunities.</p> <p>Accordingly, the impact of the planning proposal on areas with significant biodiversity value in Bywong and Wamboin are likely to minor.</p> <p>It is recommended that the Gateway determination require the planning proposal be referred to DPIE – Biodiversity and Conservation to ensure any potential environmental impacts are appropriately considered.</p>
Bushfire hazard	<p>Although the planning proposal notes most of the land in Bywong and Wamboin is mapped as bushfire prone, the proposal does not seek to facilitate additional subdivision opportunities on land proposed to be rezoned.</p> <p>While some additional land uses will be permissible on the land proposed to be rezoned, bushfire risk associated with individual developments will continue to be subject to the development assessment process.</p> <p>The planning proposal will be referred to NSW Rural Fire Service for comment in accordance with the requirements of Section 9.1 Ministerial Direction 4.4 Bushfire Prone Land.</p>

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 9 Social and economic impact assessment

Social and Economic Impact	Assessment
Land use conflict	<p>The planning proposal states that the proposed LEP amendment will apply a more suitable zone to the subject land noting its primary use and environmental attributes.</p> <p>Given the minor differences between the Land Use Tables for the E4 and R5 Zones and that land in Bywong and Wamboin is used predominantly for residential purposes, the planning proposal is unlikely to result in significant land use conflicts.</p>

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 3 Infrastructure assessment

Infrastructure	Assessment
Essential infrastructure and services	The planning proposal will not require any additional public infrastructure as it does not seek to facilitate additional subdivision opportunities on land proposed to be rezoned R5. Land in Bywong and Wamboin is not serviced by reticulated water or sewer networks

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

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

5.2 Agencies

Council has nominated the following public agencies to be consulted about the planning proposal.

- DPIE – Biodiversity and Conservation
- NSW Office of Water
- NSW Department of Primary Industries
- Transport for NSW
- NSW Rural Fire Service
- ACT Government

It is recommended the abovementioned agencies be consulted on the planning proposal and given 21 days to comment.

Although the impact of the planning proposal is considered minor, consultation with the abovementioned public authorities will ensure any potential environmental impacts, and the effect of the proposal on areas subject to natural hazards, are appropriately considered.

6 Timeframe

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

The Department recommends a time frame of 12 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

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

7 Local plan-making authority

Council does not request delegation to be the Local Plan-Making authority.

Council has not requested delegation to be the Local Plan-Making authority to allow for an “arm’s length” approach to the assessment of the planning proposal.

Given the planning proposal is a local matter with no regional significance, it is recommended that the Gateway determination authorise Council to be the local plan-making authority for this proposal.

8 Assessment Summary

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

- The planning proposal is the best means of achieving the intended outcome of rezoning land in Bywong and Wamboin in accordance with its primary use and environmental attributes.

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

- insert an Additional Permitted Uses Map which identifies the land on which extensive agriculture is proposed to be permitted without consent prior to finalisation of the plan.

9 Recommendation

It is recommended the delegate of the Secretary:

- Note that the consistency with section 9.1 Directions 4.4 Bushfire Prone Land is unresolved and will require justification.

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

1. The planning proposal is to be updated to:
 - Insert an Additional Permitted Uses Map which identifies the land on which extensive agriculture is proposed to be permitted without consent prior to finalisation of the plan.
2. Consultation is required with the following public authorities:
 - DPIE – Biodiversity and Conservation
 - NSW Office of Water
 - NSW Department of Primary Industries
 - Transport for NSW

- NSW Rural Fire Service
 - ACT Government
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
 4. The planning proposal must be exhibited 6 months from the date of the Gateway determination.
 5. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
 6. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



21/12/20

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22/12/2020

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