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PLANNING PROPOSAL

Yass Valley LEP 2013
'Kyeema' Gundaroo: Administrative
Amendment

November 2020



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PART 1 - OBJECTIVES / INTENDED OUTCOMES

The objective of the Planning Proposal is to amend the zone and lot size boundaries as they currently apply to land north of Gundaroo within the Yass Valley LEP 2013 (YVLEP), so as to align with the subdivision layout approved by Development Consent DA 185092.

PART 2 - EXPLANATION OF PROVISIONS

The objective will be achieved by:

- Amending the YVLEP zone boundaries between the R2 Low Density Residential, E3 Environmental Management and E4 Environmental Living zones on the Gundaroo Land Zoning Map (LZN_005E) (Refer Figure 1);
- Amending the YVLEP boundaries for the respective lot sizes of 2000 sqm (R2- V), 1 ha (E4- Y), 2 ha (E3- Z1), and 10 ha (E3- AB1) (Refer Figure 2);
- Amending the extent of the land edged blue on the Lot Size Map, to which Clause 6.12 of the YVLEP applies (Refer Figure 2);

The existing Land Zoning Map within the YVLEP is shown below in Figure 1, and Lot Size Map within Figure 2.

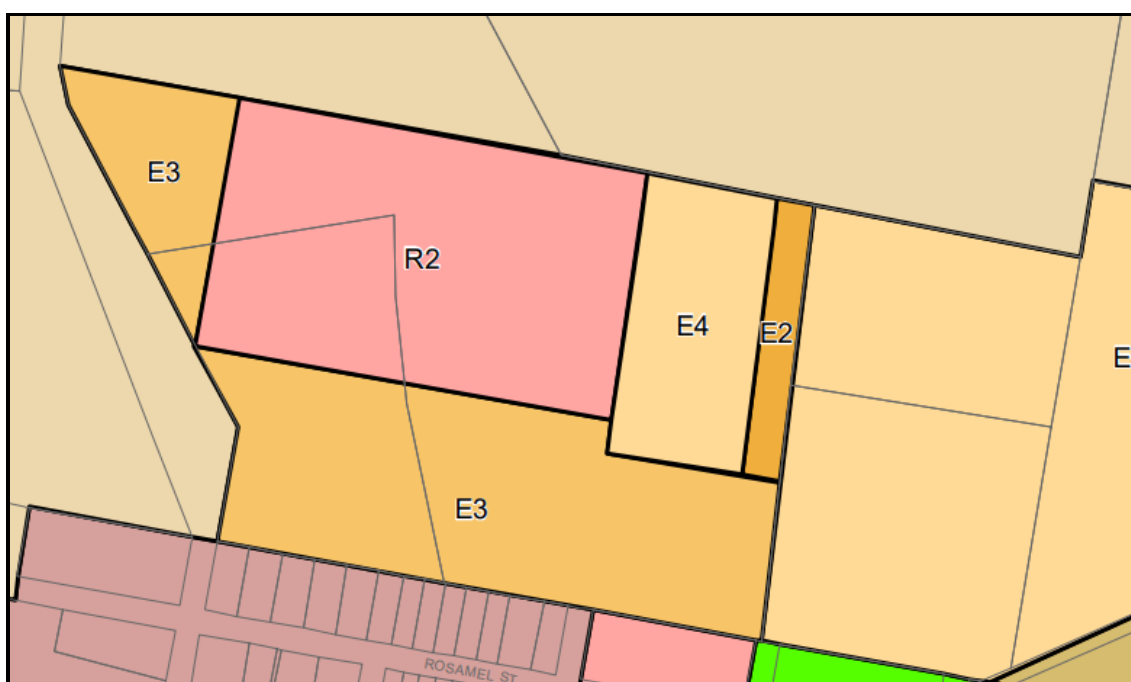


Figure 1: Land Zoning Map (LZN_005E) within Yass Valley LEP 2013

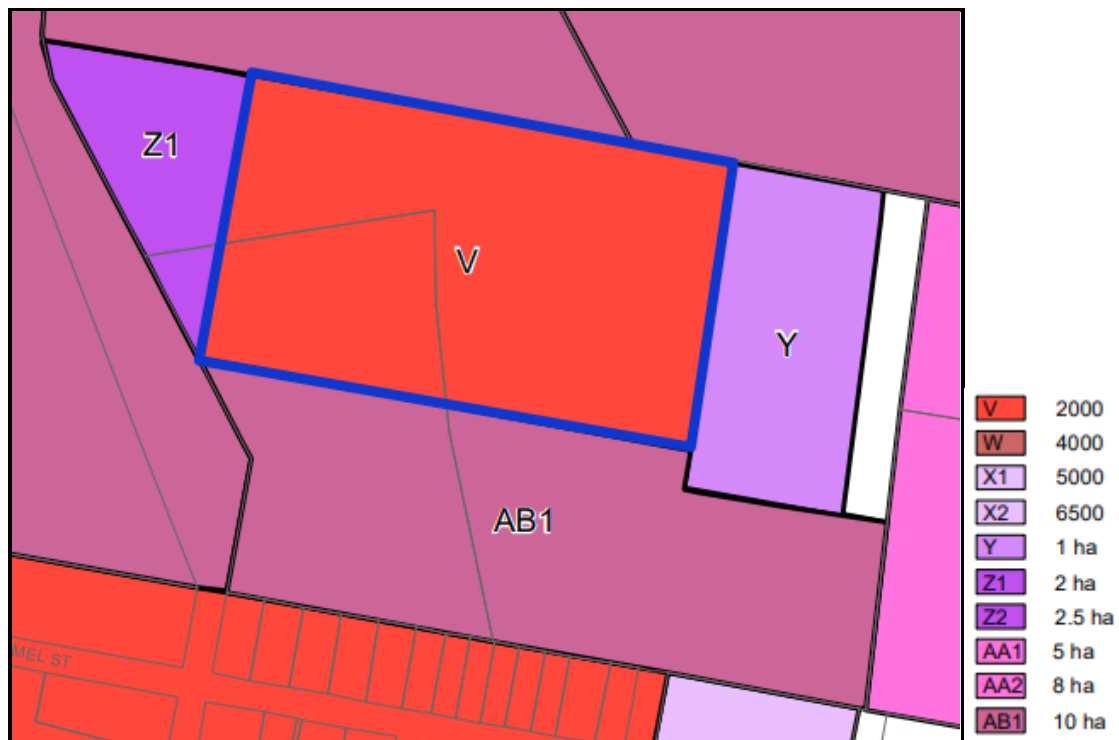


Figure 2: Lot Size Map (LSZ_005E) within Yass Valley LEP 2013

The discrepancies between the YVLEP and the approved development consent layout are shown (highlighted in blue and orange) in Figures 3 and 4, and only became apparent following the registration of the plan of subdivision and Council's receipt of the updated cadastre from NSW Spatial Services.

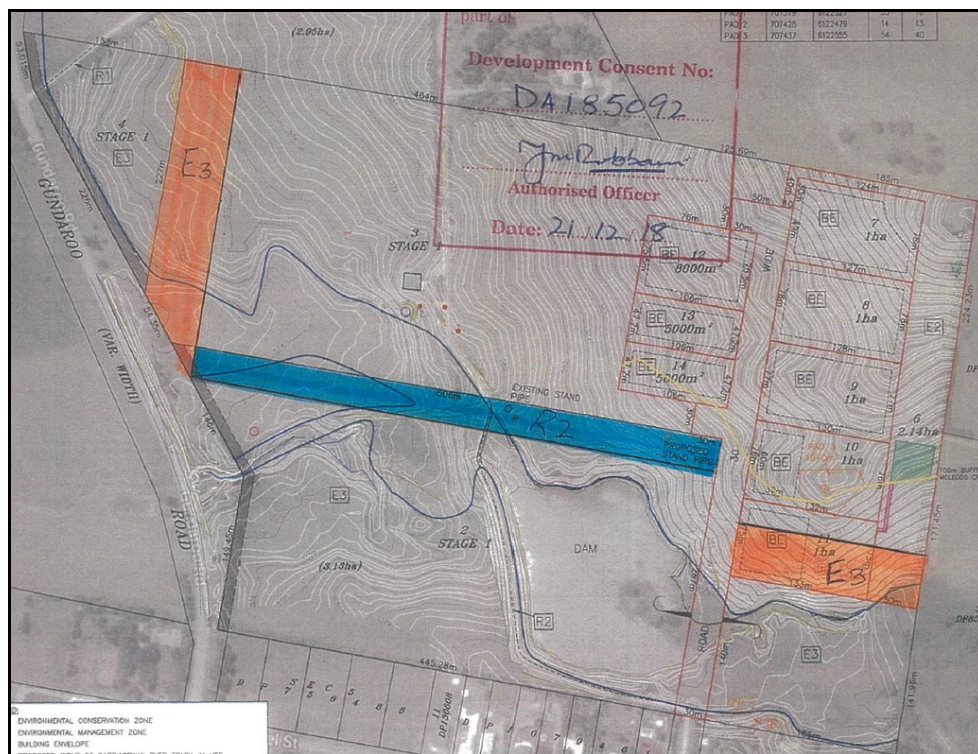


Figure 3: Approved Development Consent Plan -Stage 1

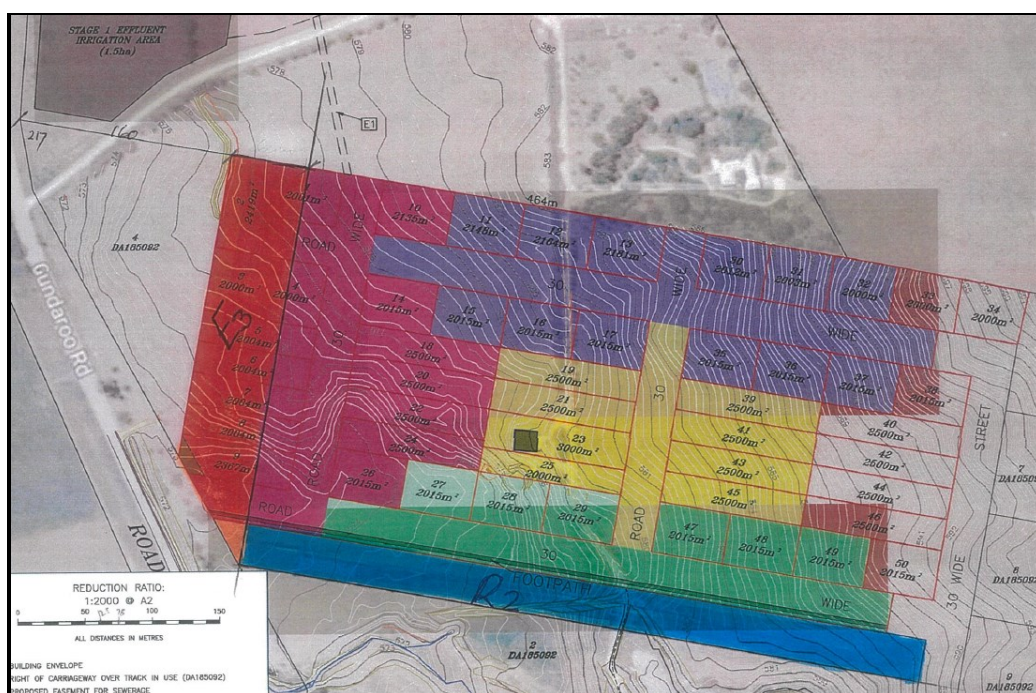


Figure 4: Approved Development Consent Plan -Stage 2

PART 3 - JUSTIFICATION

Section A - Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

No, it only relates to the current zone and lot size maps within the YVLEP instrument as they relate to an approved, inconsistent development consent. An error occurred during the survey and design of the subdivision, where the lot layout did not align with the zone boundaries as published as part of Amendment No. 2 on 2 March 2018. This error was not identified and a development consent subsequently issued on 21 December 2018. It was only noted after Council received an updated cadastre from NSW Spatial Services following the registration of the plan of subdivision

The site is included within the Gundaroo Masterplan and this proposal is not inconsistent with that document.

Amending the zones to be consistent with the consent would result in a proposed:

- increase of 0.68 ha of the R2 Low Density Residential zone;
- increase of 0.36 ha of the E2 Environmental Conservation zone;
- decrease of 0.47 ha of the E3 Environmental Management zone;
- decrease of 0.6 ha of the E4 Environmental Living zone;

It is also proposed to amend the respective correlating minimum lot size maps in the YVLEP.

It is noted that based on the current YVLEP zoning, the northern (Lute Street extension) road pavement is contained within the E4 area, and is proposed to be included within the R2 Zone. This would also

allow the inclusion of all of the lot to the north (Lot 24 on approved consent for stage 2) within the R2 zone, and the front boundaries of Lots 38, 40, 42, 44, 46 and 50 .

The southern strip of the current R2 zone is only partially proposed to be developed by a footpath with the remainder to remain within the balance of the McLeods Creek lot and proposed to be included within the E3 Environmental Management Zone. Through this planning proposal the R2 boundary is proposed to be relocated approximately 33 metres to the north. From a flood risk perspective, this is a better outcome as it removes a large area which is flood affected in a 1% AEP event from the R2 zone, associated with McLeods Creek.

The proposed extension of the E4 area to the south allows for the creation of a lot with a building envelope off the ridgeline. The continuation of the E2 zone, while not having any particular environmental values within it, allows a larger 'buffer area to the superb parrot habitat to the north, and includes the area at the rear of the lot which is affected by the 1% AEP Flood Event. The proposed encroachment of the E4 zone to the south into the E3 is justified as the land is not flood affected by the 1% AEP event and building enveloped have been included on the plan to prevent development occurring on the ridgeline. The overall decrease in the E3 area is offset by the proportion proposed to be converted to E2, increasing the Superb Parrot buffer.

The E3 zone area adjacent to Gundaroo-Sutton Rd was originally an arbitrary area to provide setback from the road. The southern portion of the area proposed to be included within the R2 is flood affected in a 1% AEP event as shown below.

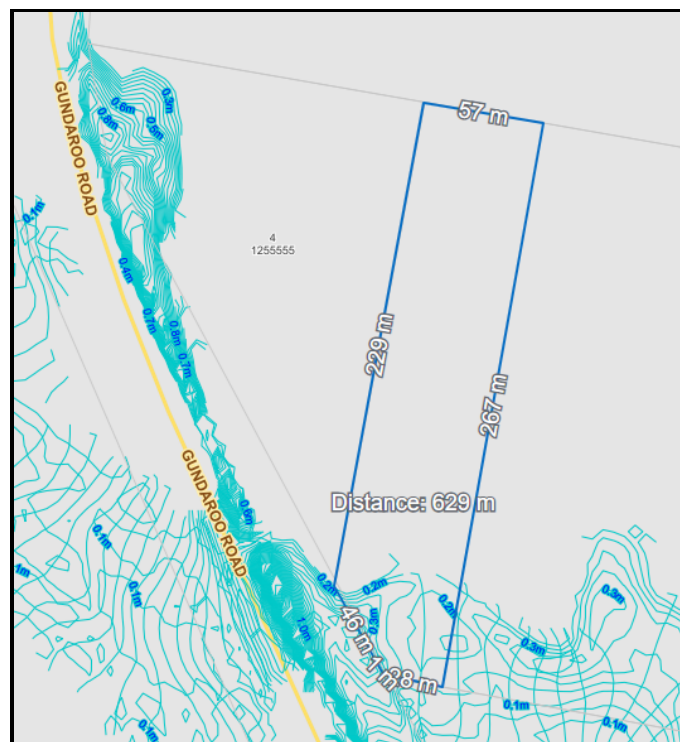


Figure 5: Proposed R2 Low Density Residential Zone with 1% AEP Contours
(Note: Scaled from Survey Plan)

The figure below shows the area proposed to be within the internal access road and E3 lot, confirming that Lot 9 (on approved consent for Stage 2) is not affected by the 1% AEP flood event at all, only the road access from Gundaroo-Sutton Road.



Figure 6: Proposed Road area and proposed balance part of E3 Environmental Management lot with 1% AEP Contours
(Note: Scaled from Survey Plan)

The approved subdivision lot layout was the result of detailed site investigations, including ecological and further Aboriginal Archaeological surveys that formed part of the development application and hence the detailed information did not inform the establishment of zone boundaries.

In addition, the draft zone layout was adopted by Council at its July 2015 meeting, however the Gundaroo Flood Study was not finalised and adopted by Council until May 2016 meaning flood information did not directly inform zone boundaries. A plan summarising the difference between the YVLEP and the approved development consent is shown below, with current zone boundaries shown in blue, and proposed in red, with approved lots notated by faint red lines.

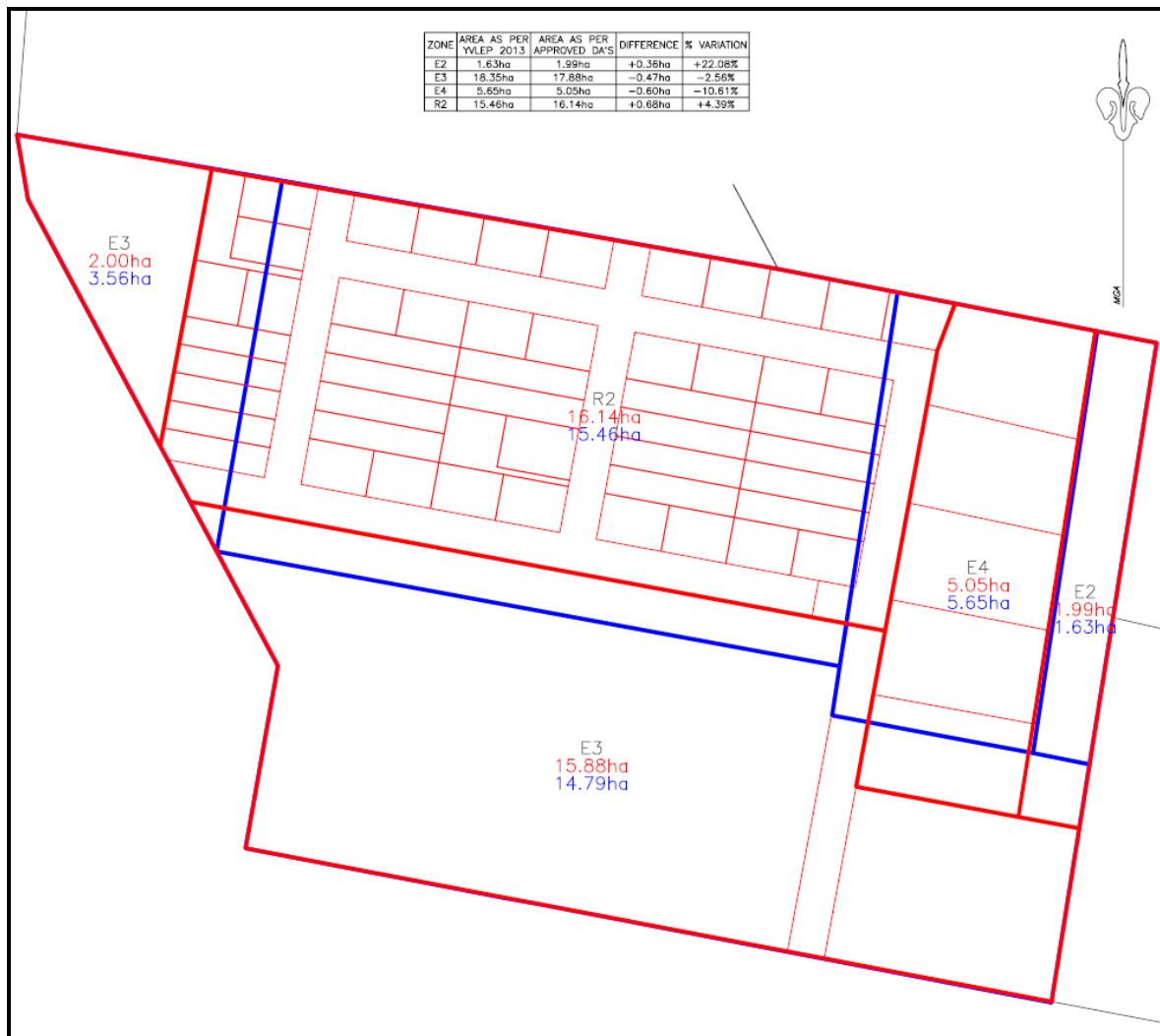


Figure 7: Zone Area Comparisons (Existing-Blue, Proposed- Red, Approved Lots-Red Faint)

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There is no other way to amend the zone boundaries and minimum lot sizes than amending the LEP maps.

Section B - Relationship to strategic planning framework.

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

Direction 16.4 of the South East and Tablelands Regional Plan states *Incorporate the best available information in local environmental plans consistent with current flood studies, flood planning levels, modelling, floodplain risk management plans and coastal zone management plans.* Direction 16.6 is also relevant, to *Manage risks associated with future urban growth in flood prone area as well as risks to existing communities.*

The zone boundaries are proposed to be amended to better reflect the recommendations of the Gundaroo Flood Study by reducing the extent of the residential zone which is affected by the 1% AEP flood event, and increasing development within areas which are not affected.

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The proposed amendment to the YVLEP 2013 is consistent with the Gundaroo Masterplan adopted by Council which includes the whole of this site. The masterplan requirements of continuation of the village grid, restricted development on the ridgeline and provision of the Superb Parrot buffer are all provided for in the approved development consent and proposed amendment.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The table below outlines the applicability and consistency of the planning proposal to the YVLEP 2013 with all State Environmental Planning Policies (SEPPs).

State Environmental Planning Policies	Relevance of SEPP to the Planning Proposal
SEPP Aboriginal Land 2019	Not applicable
SEPP Activation Precincts 2020	Not applicable
SEPP Affordable Rental Housing 2009	No affordable housing is proposed as part of this Planning Proposal.
SEPP (Building Sustainability Index: BASIX) 2004	Not applicable
SEPP (Coastal Management) 2018	Not applicable
SEPP (Concurrences and Consents) 2018	Not applicable
SEPP (Educational Establishments and Child Care Facilities) 2017	No part of this Planning Proposal relates to an Educational Establishment or Child Care Facility.
SEPP (Exempt and Complying Development Codes) 2008	Not applicable
SEPP (Gosford City Centre) 2018	Not applicable
SEPP (Housing for Seniors or People with a Disability) 2004	Not applicable
SEPP (Infrastructure) 2007	Not applicable
SEPP (Koala Habitat Protection) 2019 & 2020	Not Applicable
SEPP (Kosciuszko National Park—Alpine Resorts) 2007	Not Applicable
SEPP (Major Infrastructure Corridors) 2020	Not applicable
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Not Applicable
SEPP No 19—Bushland in Urban Areas	Not applicable
SEPP No 21—Caravan Parks	Not Applicable

SEPP No 33—Hazardous and Offensive Development	Not applicable
SEPP No 36—Manufactured Home Estates	Not Applicable
SEPP No 47—Moore Park Showground	Not Applicable
SEPP No 50—Canal Estate Development	Not applicable
SEPP No 55—Remediation of Land	Not applicable
SEPP No 64—Advertising and Signage	Not applicable
SEPP No 65—Design Quality of Residential Apartment Development	Not applicable
SEPP No 70—Affordable Housing (Revised Schemes)	Not applicable
SEPP (Penrith Lakes Scheme) 1989	Not applicable
SEPP (Primary Production and Rural Development) 2019	No part of this planning proposal relates to primary production or rural zoned land.
SEPP (State and Regional Development) 2011	No part of this planning proposal is state or regionally significant.
SEPP (State Significant Precincts) 2005	Not applicable
SEPP (Sydney Drinking Water Catchment) 2011	Not applicable
SEPP (Sydney Region Growth Centres) 2006	Not applicable
SEPP (Three Ports) 2013	Not applicable
SEPP (Urban Renewal) 2010	Not applicable
SEPP (Vegetation in Non-Rural Areas) 2017	Not applicable
SEPP (Western Sydney Aerotropolis) 2020	Not applicable
SEPP (Western Sydney Employment Area) 2009	Not applicable
SEPP (Western Sydney Parklands) 2009	Not applicable

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The following table documents the relevance and consistency of relevant Ministerial Directions issued under section 9.1 of the Environmental Planning & Assessment Act 1979.

Ministerial Directions under Section 9.1 of the EP&A Act	
2.1 Environment Protection Zones	<ul style="list-style-type: none"> A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. <p><i>Consistent</i></p>

	<ul style="list-style-type: none"> ▪ A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). <p><i>As the boundaries of the E3 zone were estimated around McLeods Creek, this layout allows some refinement to occur in the context of the Gundaroo Flood Study. Through this planning proposal the R2 boundary is proposed to be relocated approximately 33 metres to the north (increasing the E3 zone accordingly). From a flood risk perspective, this is a better outcome as it removes a large area which is flood affected in a 1% AEP event from the R2 zone associated with McLeods Creek. The reduction of the E3 zone is only proposed when there are no environmental values or constraints present i.e in the proposed extension of the E4 area and R2 zones.</i></p> <p><i>The Biodiversity Development Assessment Report prepared by Capital Ecology in 2019 (Attached) confirms that there is no native vegetation present nor do the areas within this planning proposal support habitat for any prescribed species.</i></p> <p><i>Inconsistent, however is of a minor significance, as this planning proposal will result in zone boundaries that better reflect the environmental characteristics.</i></p>
<p>2.3 Heritage Conservation</p>	<ul style="list-style-type: none"> ▪ A planning proposal must contain provisions that facilitate the conservation of: (b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people. <p><i>Consistent.</i></p> <p><i>During the original heritage assessment undertaken for the development in 2014 by Bowen Heritage Management two areas of potential archaeological deposits (PADs) were identified within the project boundaries which would be impacted by the subdivision, and the proposed extension to the E4 zone. These two areas were subjected to test excavations in July 2019. One of the areas of PAD (57-2-0890) was found to contain no deposits and as a result no heritage constraints applied to this area on Lot 10 within the development (the area where the E4 zone is proposed to be expanded into). Confirmation</i></p>

	<i>from Past Traces Heritage Consultants (2020) is attached.</i>
3.1 Residential Zones	<ul style="list-style-type: none"> ▪ A planning proposal must include provisions that encourage the provision of housing that will: <ul style="list-style-type: none"> (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. <p><i>Not applicable, as the development consent for the development has already been approved. These issues were considered as part of the original planning proposal for the land.</i></p> <ul style="list-style-type: none"> ▪ A planning proposal must, in relation to land to which this direction applies: <ul style="list-style-type: none"> (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land. <p><i>Inconsistent, however as the area of R2 being reduced is removing an area of land which is flood affected, this is considered to be of minor significance.</i></p>
4.3 Flood Prone Land	<ul style="list-style-type: none"> ▪ A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas). ▪ A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone. ▪ A planning proposal must not contain provisions that apply to the flood planning areas which: <ul style="list-style-type: none"> (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or

	<p>structures in floodways or high hazard areas), roads or exempt development.</p> <ul style="list-style-type: none"> ▪ A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General). ▪ For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General). <p><i>Inconsistent as there is a small area of the proposed western extension of the R2 zone which is affected by the 1% AEP flood event, however it impacts the road access to Gundaroo –Sutton Road only, not lots that have been created by the development consent.</i></p> <p><i>The planning proposal also seeks to shift the current R2 boundary 33 metres to the north (increasing the E3 zone accordingly). From a flood risk perspective, this is a better outcome as it removes a large area from the current R2 zone which is flood affected in a 1% AEP event associated with McLeods Creek. While it is acknowledged that the road will still be affected by such a flood, the extent and depth of flooding will be less.</i></p> <p><i>With regard to the PMF event, the whole of Gundaroo Village will be affected in terms of access and egress. There are no critical or sentive uses proposed on this site, and the adopted Gundaroo Flood Risk Management Plan specifies that these types of uses are potentially unsuitable in these areas.</i></p> <p><i>It is considered that the inconsistency is of minor significance.</i></p>
5.10 Implementation of Regional Plans	<ul style="list-style-type: none"> ▪ Planning proposals must be consistent with a Regional Plan released by the Minister for Planning <p><i>Consistent</i></p>

Section C - Environmental, social and economic impact

Q7. 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?

The planning proposal will not adversely impact upon threatened species, populations or ecological

communities, or their habitats as confirmed by the BDAR prepared by Capital Ecology (2019).

It does propose to increase the area set aside within E2 which acts as a buffer to Superb Parrot nesting trees to the north.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The E3 zone area adjacent to Gundaroo-Sutton Rd was originally an arbitrary area to provide setback from the road. The southern portion of the area proposed to be included within the R2 is flood affected in a 1% AEP event detailed in Section A of this planning proposal. This 1% AEP area proposed to be within the internal access road and E3 lot, confirming that Lot 9 (on approved consent for Stage 2) is not affected by the 1% AEP flood event at all, only the road access from Gundaroo-Sutton Road.

The planning proposal also seeks to shift the current R2 boundary 33 metres to the north (increasing the E3 zone accordingly). From a flood risk perspective, this is a better outcome as it removes a large area from the current R2 zone which is flood affected in a 1% AEP event associated with McLeods Creek.

Q9. Has the planning proposal adequately addressed any social and economic effects?

Social and economic effects were considered as part of the original planning proposal.

Section D - State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

The planning proposal does not trigger any requirement for additional public infrastructure as it is limited to an amendment of the zone boundaries only.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Council has not consulted any state or commonwealth public authority regarding the planning proposal, however there may be some consultation required as part of the gateway determination.

PART 4 - MAPPING

Mapping will be prepared consistent with Figure 5 above to:

- Amend the YVLEP zone boundaries between the R2 Low Density Residential, E3 Environmental Management and E4 Environmental Living zones on the Gundaroo Land Zoning Map (LZN_005E);
- Amend the YVLEP boundaries for the respective lot sizes of 2000 sqm (R2- V), 1 ha (E4- Y), 2 ha (E3- Z1), and 10 ha (E3- AB1)
- Amend the extent of the land edged blue on the Lot Size Map, to which Clause 6.12 of the YVLEP applies.

PART 5 - COMMUNITY CONSULTATION

In considering a planning proposal, community consultation is required under section 3.34(2)(c) of the *Environmental Planning and Assessment Act 1979*. It is envisaged that the planning proposal would be

exhibited for a minimum period of **28 days** under the Department's guidelines entitled '*A guide to preparing local environmental plans*'.

It is anticipated that a Public Hearing would not be required as no land is proposed to be reclassified, and the matters included within the planning proposal are of minor nature.

It should be noted that Council is seeking authorisation to exercise its delegation of local plan-making authority under section 3.36 of the *Environmental Planning and Assessment Act 1979*, as this planning proposal is considered to be a local, minor matter.

PART 6 - PROJECT TIMELINE

The following timeline is indicative and is provided to assist the Department in preparing the Gateway determination. It is acknowledged that the timeline will be influenced by a range of external factors, and is also subject to amendments by the Department through the Gateway process.

A timeline for actions required to finalise the planning proposal is documented in the following table.

Stage	Estimated timeframe
Anticipated commencement date (date of Gateway determination)	January 2021
Completion of any additional required technical information	N/A
Government Agency Consultation	February 2021
Public Exhibition (28 days)	February 2021
Consideration of submissions by staff	March 2021
Public Hearing	Not required
Post Exhibition consideration of planning proposal by Council	(only required if Council receives any major submission from state agency or public)
Submission to Minister to make the amending LEP under section 3.36 of the <i>Environmental Planning and Environment Act 1979</i>	April 2021