

## Planning and Assessment

PP-2022-1301

### Gateway determination report

<b>LGA</b>	Maitland
<b>PPA</b>	Maitland City Council
<b>NAME</b>	Reclassify 2 Sites from Community to Operational (0 Homes, 0 Jobs)
<b>NUMBER</b>	PP-2022-1301
<b>LEP TO BE AMENDED</b>	<i>Maitland Local Environmental Plan 2011</i>
<b>ADDRESS</b>	Council Car Park High Street East Maitland John Arthur Ave and Thomas Coke Drive
<b>DESCRIPTION</b>	Lot 21 of DP 541629 Lot 848 of DP 703278, Part of Lot 1538 DP 832922 and Part of Lot 8884 DP 786883
<b>RECEIVED</b>	13 April 2022
<b>FILE NO.</b>	IRF22/1304
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1. INTRODUCTION

### 1.1 Site description

Site 1: Council Car Park at High Street, East Maitland, Lot 21/DP 541629 (Figure 1),



Figure 1 - Item 1 - High Street Council car park

Site 2: Access handle to A & D Lawrence Fields via Thomas Coke Drive, comprising:

- Part Lot 848 of DP 703278,
- Part Lot 1538 of DP 832922, and
- Part Lot 8884 of DP 786883 (Figure 2).



Figure 2 - Item 2 - Reserve at John Arthur Ave and Thomas Coke Drive

## 1.2 Existing planning controls

There is no intention to amend the existing planning controls. Both sites will retain their current land zoning and controls:

- the reclassification of Item 1 is to correct an anomaly existing on this land, adjoining lots are classified as operational. This will allow Council to formalise rear access to properties subject to DA2021/344 for alterations and additions to an existing Veterinary Clinic; and
- the reclassification of Item 2 is to allow access to an approved subdivision to the west of the site to provide access in accordance with NSW Rural Fire Service advice to provide a through road. The through road will ensure the subdivision is compliant with *Planning for Bushfire Protection 2019*.

## 1.3 Surrounding area

Item 1 is located in the East Maitland local centre and provides access to the rear of properties fronting High Street. The surrounding area is characterised by commercial premises within the East Maitland local centre and low to medium-density housing. The site is approximately 300m north west of the Victoria Street railway station located to the north east of the site (Figure 3).





Figure 3 Locality map for Item 1 - East Maitland

Item 2 forms the access to A & D Lawrence Oval and is surrounded by low-density residential development.

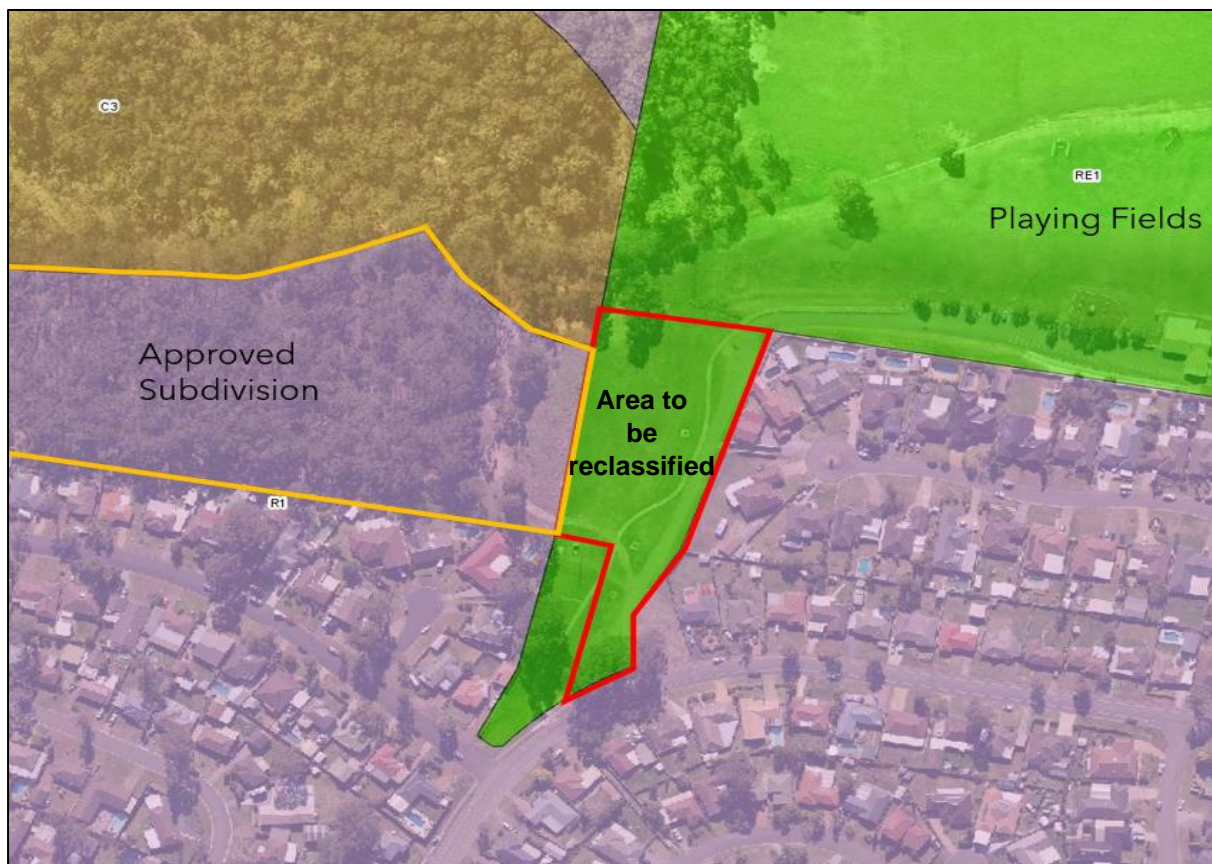


Figure 4 Locality map for Item 2 - A & D Lawrence Oval

## 2. PROPOSAL

## 2.1 Description of planning proposal

The planning proposal seeks to reclassify the following Council-owned sites from community to operational land:

- Item 1: Lot 21 of DP 541629 Council Car Park/Rear Lane East Maitland; and
- Item 2: Lot 848 of DP 703278 (John Arthur Ave), Part Lot 1538 of DP 832922 and Part Lot 8884 of DP 786883 (Thomas Coke Drive).

## 2.2 Objectives or intended outcomes

The objectives of the planning proposal are to amend Schedule 4 of the *Maitland Local Environmental Plan 2011* to enable the reclassification of community Land to operational Land.

The intended outcome for the two items in this planning proposal are as follows:

- Item 1: reclassify the land from community to operational for the purpose of amending an anomaly of a parcel of land that forms part of an existing carpark and access lane; and
- Item 2: reclassify the land from community to operational for the purpose of legal and practical access to an approved residential subdivision.

The objectives and intended outcomes are clear.

## 2.3 Explanation of provisions

The planning proposal includes the following provisions:

### Item 1 – Council-owned car park

- Amend Schedule 4, Part 1 to reclassify the land from community to operational and remove interests relating the extinguishment of a deed on the land.
- No changes are proposed to the:
  - a. Land Zoning Map, which identifies the site as zoned B2 Local Centre; and
  - b. Minimum Lot Size Map, which identifies the site as having a minimum lot size of 215m<sup>2</sup>.

### Item 2 – Access handle to A & D Lawrence Fields

- Amend Schedule 4, Part 1 to reclassify the land from community to operational and remove interests relating to a plan of management for that part of the land being reclassified;
- Amend the Land Reclassification (Parts Lot) Map to include this item.

The land is currently RE1 Public Recreation and this will not change.

The explanation of provisions is clear.

## 2.4 Mapping

The planning proposal includes a proposed Land Reclassification (Part Lot) Map for Item 2.



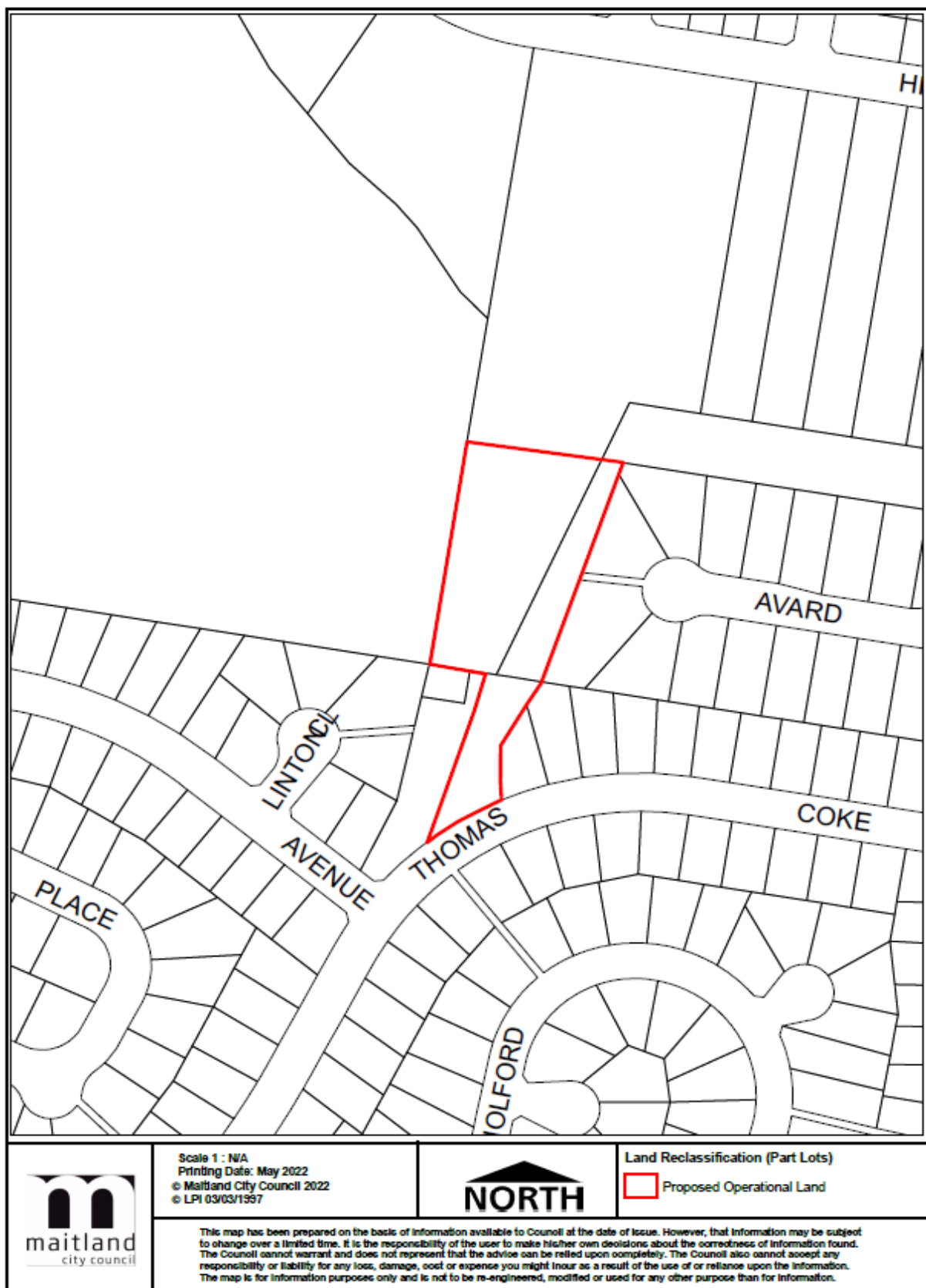


Figure 5 Part land to be reclassified Item 2 - A & D Lawrence Oval

The map is suitable for public exhibition.

### 3. NEED FOR THE PLANNING PROPOSAL

Both sites have been identified as a result of development applications that identified anomalies as well as a legal access requirement issued as part of general terms of approval from the NSW Rural Fire service.

A planning proposal is the only means of reclassifying the two sites.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 Regional / District**

Item 1 is the correction on an anomaly and does not require assessment against the relevant regional plans.

Item 2 is consistent with the Objective for Nimble Neighbourhoods of the draft *Hunter Regional Plan 2041* which has a target of 80% infill in the Greater Newcastle area with the provision of access for allows for additional housing to be provided. The item is also consistent with Strategy 16 of the *Greater Newcastle Metropolitan Plan 2036* to provide housing in existing urban areas.

### **4.2 Local**

Item 1 is the correction on an anomaly and does not require assessment against the Local Strategic Planning Statement.

Item 2 is consistent with the following Planning Priority of *Maitland Local Strategic Planning Statement 2042+*, as follows:

- 1. Plan for diverse and affordable housing to meet the needs of our growing and changing community.

The proposed reclassification of Item 2 will enable the construction of a through road that will provide access to an approved subdivision for new housing, contributing to the housing needs of Maitland.

### **4.3 State environmental planning policies (SEPPs)**

For the purpose of reclassification there are no relevant State Environmental Planning Policies applicable.

### **4.4 Section 9.1 Ministerial directions**

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

<b>Direction</b>	<b>Consistent</b>	<b>Reasons for consistency or inconsistency</b>
4.3 Planning for Bushfire Protection	To be determined	Item 2 (A & D Lawrence Oval) is bushfire prone (Figure 6).



Figure 6 Bushfire prone map (site outlined yellow)

The planning proposal notes NSW RFS issued General Terms of Approval in relation to PBP 2019 compliant access for an approved subdivision under DA11-932 (Figure 7).

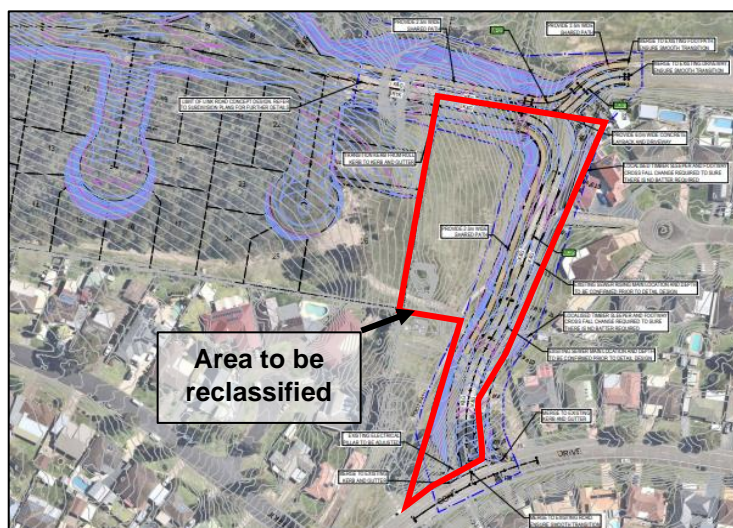
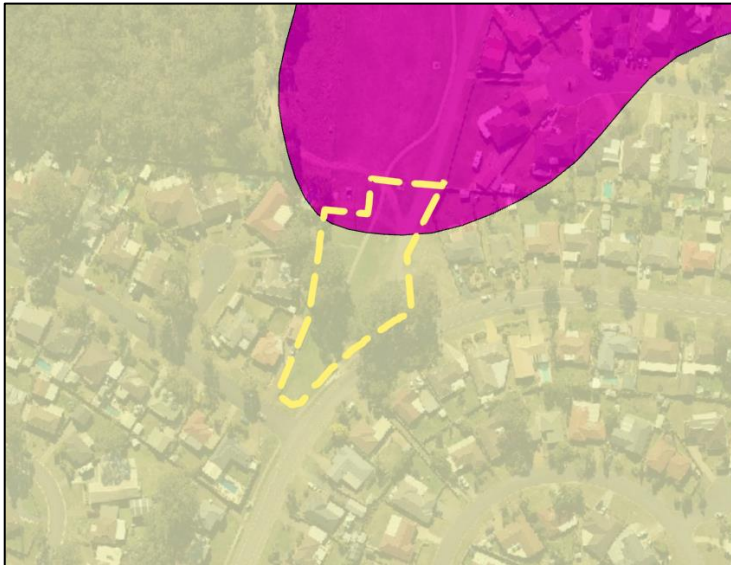


Figure 7 Extract approved subdivision and road design plan

The planning proposal notes NSW RFS advised Council on 18 August 2021 that documentation provided had not satisfactorily addressed the issues relating to access. However, the planning proposal also notes the access is capable or satisfying Table 5.3b of *Planning for Bushfire Protection 2019*, subject to redesign.

Consistency with the direction requires the Commissioner of NSW RFS to confirm they do not object to the progression of the planning proposal. In this instance, Council should seek to resolve the outstanding concerns raised by NSW RFS through the development application process underway. In doing so, Council may be able to demonstrate consistency with the direction.

As the proposed recalssification of the land will enable formalisation of the access road, consultation with NSW

Direction	Consistent	Reasons for consistency or inconsistency
		<p>RFS is considered reasonable to ensure compliant bushfire access is provided.</p> <p>Consistency with the direction will be determined following consultation with NSW RFS and prior to finalisation of the local environmental plan.</p>
4.5 Acid Sulfate Soils	Inconsistency minor and justified	<p>Item 2 (A &amp; D Lawrence Oval) is affected by Class 2 and Class 5 Acid Sulfate Soils (Figure 8).</p>  <p><i>Figure 8 Acid sulfate soils map (site outlined yellow)</i></p> <p>The planning proposal has addressed the direction or considered the <i>Acid Sulfate Soils Planning Guidelines</i>. It indicates the proposal is for reclassification only with the zone remaining and is not considered an intensification of land uses.</p> <p>Development consent was granted for DA11-932. Clause 7.1 of <i>Maitland Local Environmental Plan 2011</i> requires the preparation of an acid sulfate soils management plan in accordance with the Acid Sulfate Soils Manual to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p> <p>The inconsistency with the direction is minor and justified as the proposal only seeks to reclassify the land and there is already development consent for the proposed subdivision and construction of the road.</p>
5.2 Reserving Land for Public Purposes	To be determined	<p>Applies to Item 2 (A &amp; D Lawrence Oval).</p> <p>The planning proposal is inconsistent with this direction as the change in community to operational land will reduce existing reservations of land for public purposes.</p> <p>Approval of the Department of Planning, Industry and Environment Secretary is required. The relevant planning</p>



Direction	Consistent	Reasons for consistency or inconsistency
		<p>authority must satisfy the Planning Secretary the inconsistency is of minor significance.</p> <p>The planning proposal notes NSW RFS issued general terms of approval in relation to <i>Planning for Bushfire Protection 2019</i> compliant access for an approved subdivision under DA11-932 (Figure 6).</p> <p>The reclassification of part of the A &amp; D Lawrence Oval will not impact on the operation of the public reserve. The reclassification of and existing access handle to provide for road access to the proposed subdivision adjoining the reserve will provide improved access to A &amp; D Lawrence Oval.</p> <p>Consistency with the direction will need to be determined prior to finalisation of the local environmental plan.</p>
7.1 Business and Industrial Zones	Consistent	<p>The planning proposal notes that reclassification of land in the Council car park is to correct an anomaly. The current zone is B2 Local Centre in which car parks are permissible.</p> <p>The planning proposal is consistent with the direction.</p>

## 5. SITE-SPECIFIC ASSESSMENT

### 5.1 Social

Item 1 - the planning proposal will allow legal access to the adjoining Veterinary Clinic and resolve an anomaly for the site.

Item 2 - the planning proposal will provide legal access to an approved subdivision, enabling the construction of additional housing stock for the increasing population.

### 5.2 Environmental

The planning proposal does not intend to remove any habitat and as both sites have existing infrastructure, no detrimental environmental impact should occur.

Item 2 – NSW RFS has provided general terms of approval on a development application ensuring compliance with *Planning for Bushfire Protection 2019*.

### 5.3 Economic

The reclassification of both sites will allow for additional jobs during construction and additional housing for the community close to local employment opportunities.

### 5.4 Infrastructure

The proposed reclassification will:

Item 1 – formalise access for businesses in the East Maitland commercial centre, and

Item 2 – enable a new section of road to be constructed, providing improved and bushfire-compliant access to A & D Lawrence Oval and a new residential subdivision.

## **6. CONSULTATION**

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### **6.1 Community**

Community consultation is required in accordance with Schedule 1 Clause 4 of the *Environmental Planning and Assessment Act 1979*, the planning proposal is to be exhibited for 28 days.

A public hearing is required under Section 29 of the *Local Government Act 1993* in accordance with the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

### **6.2 Agencies**

The planning proposal has recommended no agency consultation.

Consultation with NSW RFS is recommended to confirm that the road access provided (Item 2) is compliant with *Planning for Bushfire Protection 2019* and the planning proposal can therefore progress.

## **7. TIME FRAME**

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The planning proposal is categorised as “standard” in accordance with the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021), which has an end-to-end timeframe of 320 working days.

The planning proposal will need to be finalised on or before 7 March 2023.

## **8. LOCAL PLAN-MAKING AUTHORITY**

Maitland City Council should not be granted local plan-making authority as the planning proposal applies to Council-owned land.

## **9. RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. Note consistency with section 9.1 Ministerial directions 4.3 Planning for Bushfire Protection, which will be determined following consultation with NSW RFS, and 5.2 Reserving Land for Public Purposes will need to be determined prior to the final plan being made.

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

1. The planning proposal be updated prior to public exhibition to address consistency with section 9.1 Ministerial directions 4.5 Acid Sulfate Soils and 5.2 Reserving Land for Public Purposes.
2. The planning proposal should be made available for community consultation for a minimum of **28** days.

3. A public hearing is required under Section 29 of the *Local Government Act 1993*.
4. The following agencies / organisations should be consulted:
  - NSW Rural Fire Service.
5. The LEP is categorised as standard and the LEP is to be finalised on or before 7 March 2023.
6. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.



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30/06/2022

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