



IRF22/2448

Gateway determination report – PP-2022-2527

Rezone land at 16-18 & 21 Cusack Place Yass to R1
General Residential Zone and 700 sqm minimum lot
size

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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
Ecological Assessment Report 2021
Traffic Assessment Report 2021
Contamination Site Assessment Report 2021

Aboriginal Cultural Heritage Due Diligence Report 2021

Bush Fire Assessment 2022

Flood Study 2022

DP Plan showing electricity easements

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Yass Valley
PPA	Yass Valley Council
NAME	Cusack Place, Yass residential (R5 to R1)
NUMBER	PP-2022-2527
LEP TO BE AMENDED	Yass Valley LEP 2013
ADDRESS	16-18 & 21 Cusack Place Yass
DESCRIPTION	Lot 1 DP 1007355 and Lot 2, 3 & 4 DP 1185025.
RECEIVED	13/07/2022
FILE NO.	IRF22/2448
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 objectives of the planning proposal are to increase the housing density of 16-18 & 21 Cusack Place Yass by rezoning the land from R5 Large Lot Residential Zone (2ha minimum lot size) to R1 General Residential Zone (700 sqm minimum lot size).

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Yass Valley LEP 2013 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	R5 Large Lot Residential Zone	R1 General Residential Zone

Minimum lot size	2 ha MLS	700 sqm MLS
Number of dwellings	18 Lots	300 lots

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

1.4 Site description and surrounding area

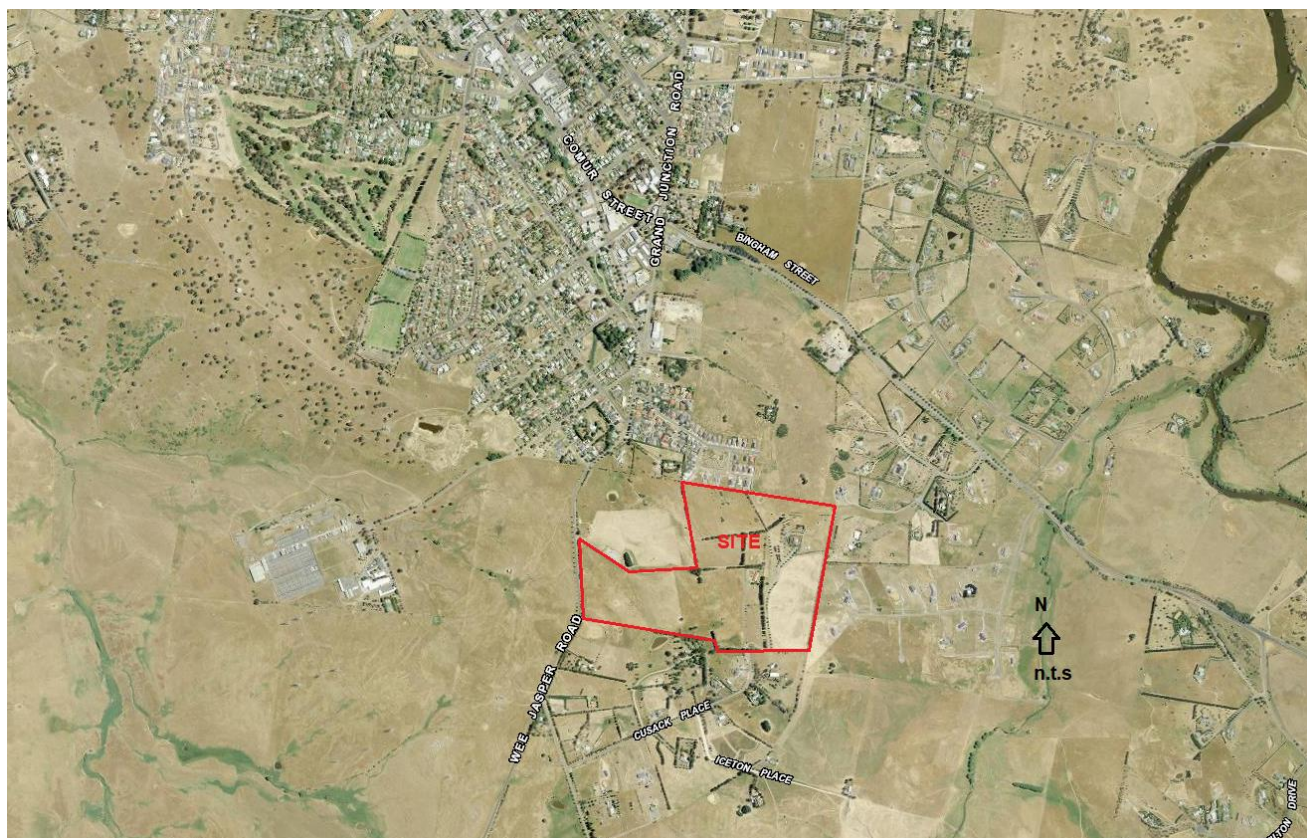


Figure 1 Subject site and site context (source: Planning Proposal and NSW SixMap 2022)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Zoning and Lot Size maps, which are suitable for community consultation.

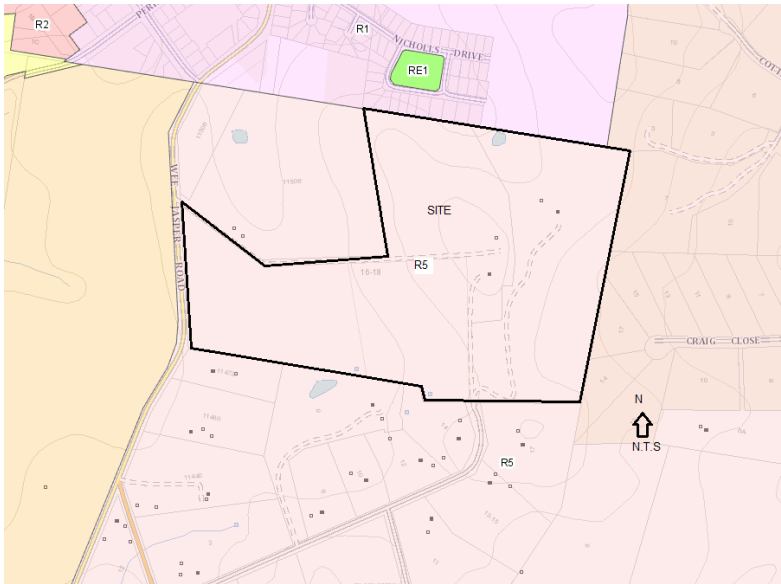


Figure 2 Current zoning map (Source: NSW Spatial Viewer)

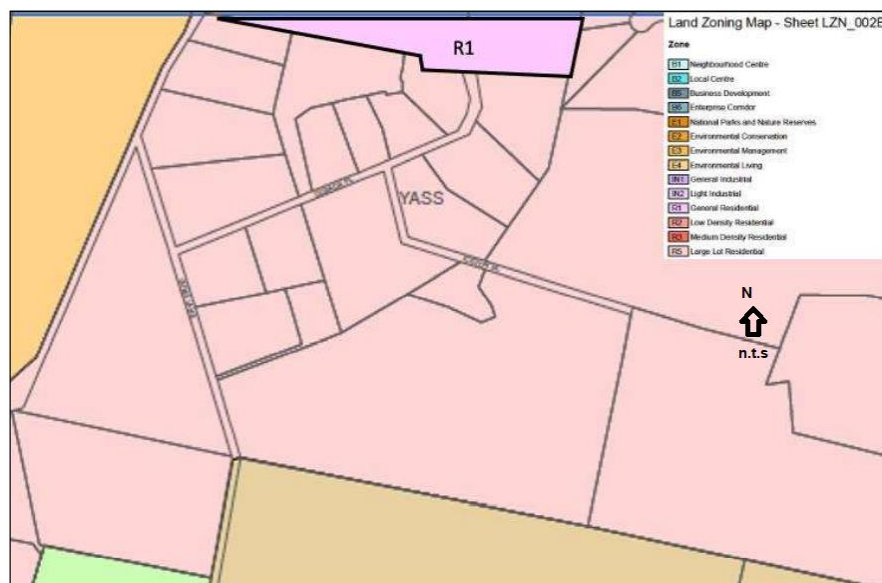


Figure 3 Proposed zoning maps LSZ 001H and 002B (Source: Planning Proposal)

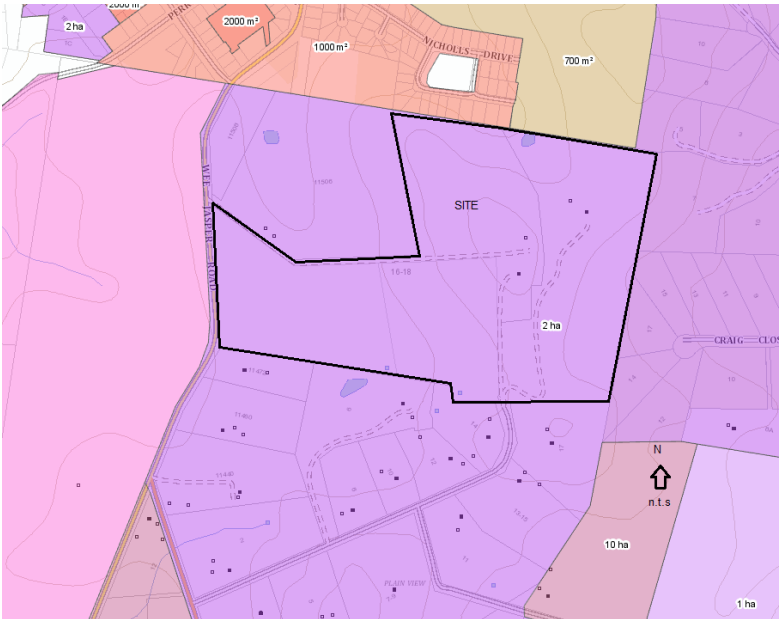


Figure 4 Current minimum lot size map (Source: NSW Spatial Viewer)

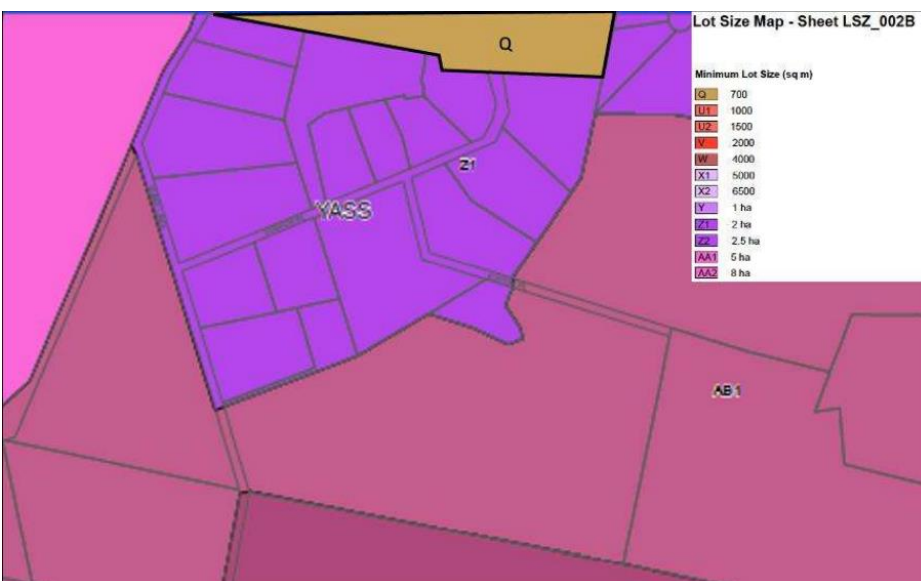


Figure 5 Proposed minimum lot size maps LSZ 001H and 002B (Source: Planning Proposal)

2 Need for the planning proposal

Q1. Is the planning proposal a result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?

The planning proposal seeks to increase the housing density on the site by rezoning it to R1 General Residential Zone and 700 sqm minimum lot size consistent with the Councils adopted Yass Valley Settlement Strategy.

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

The planning proposal is the only means of increasing the housing density on the site by rezoning it to R1 General Residential Zone and 700 sqm minimum lot size

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.

The planning proposal seeks to rezone land already zoned R5 Large Lot Residential Zone (2 ha minimum lot size) to R1 General Residential Zone (700 sqm minimum lot size).

The planning proposal indicates that it is consistent with Goal 2 -A diverse environment interconnected by biodiversity corridors, Goal 3 Healthy and connected communities and Goal 4 Environmentally sustainable housing choices.

Comment

The proposal is consistent with the Regional Plan, particularly the following Directions under Goal 4:

- Direction 24 Deliver greater housing supply and choice,
- Direction 25 Focus Housing growth in locations that maximise infrastructure and services, and
- Direction 27 Deliver more opportunities for affordable housing.

3.2 Local Strategic Planning Assessment

The change from R5 Zone to R1 Zone to increase housing density on the site is consistent with the Yass Valley Settlement Strategy adopted by Council and adopted by the Department on the 20 September 2018.

The proposal is also consistent with Council's Local Strategic Planning Statement.

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 1.1 Implementation of Regionals Plans	Yes	The planning proposal is consistent with the South East and Tablelands Regional Plan. See section commentary outlined in 3.1 of this report on consistency with the regional plan.
3.2 Heritage Conservation	Yes	<p>The planning proposal does not seek to remove any provisions for the protection of heritage. The proposal contains an assessment on the impacts on Aboriginal Cultural Heritage and it identified Aboriginal artefacts within the site including a stone quarry.</p> <p>It is recommended that Council be required to consult with NSW Heritage and the Local Aboriginal Land Council regarding the findings and recommendations from the Aboriginal Cultural Heritage Due Diligence Report that accompanies the planning proposal.</p>
4.1 Flooding	To be determined	<p>A Flood Study accompanies the planning proposal, and it indicates that the site is affected by flood prone land (see section 4.1 of the report on environmental impacts - flooding).</p> <p>The Direction applies because the proposal seeks to change planning controls affecting flood prone land. It is potentially inconsistent with clause (6) (c) of the Direction, i.e., a planning proposal must not contain provisions that apply to the flood planning area which permit a significant increase in the development of that land. It is recommended that Council consult with DPE Biodiversity and Conservation to determine if the information in the planning proposal and flood assessment justify any inconsistency with the Direction.</p>
4.3 Planning for Bushfire Protection	Yes	The planning proposal acknowledges that the site is identified as bush fire prone land and that consultation is required with the NSW Rural Fire Service consistent with the requirements of the Direction.

4.4 Remediation of Contaminated Land	Yes	<p>The planning proposal included a Detailed Site Investigation report (land contamination) prepared by Lanterra Consulting 2021. The report concluded that, based on the results of the investigation and the current setting of the site, the risk of contamination that may pose a risk to the future land uses is low. Lanterra concluded that the site is suitable for future residential land use.</p> <p>Comment</p> <p>The planning proposal is consistent with the Direction because the proponent has commissioned an investigation into land contamination in accordance with the requirements of the Direction. The report concluded that the risk of land contamination to the future use of the land is low.</p>
5.1 Integrated Land Use and Transport	Yes	<p>The proposed increase in housing density is consistent with Council's Yass Valley Settlement Strategy endorsed by the Department.</p>
6.1 Residential Zones	Yes	<p>The site is already zoned for large lot residential development and the proposed increase in housing density is consistent with the Council settlement strategy endorsed by the Department 20 September 2018.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

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

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Ecological Assessment	<p>The planning proposal is accompanied by an ecological assessment by Wedgetail Project Consulting 2021. The report concluded as follows.</p> <p><i>The site inspection identified that the majority of the Study Area consists of mixed grasslands which are dominated by Exotic species. There are a number of plantings across the site, which are predominantly exotic species. There are some minor areas of native plantings, however, the majority of these plantings are non-endemic native species as such they do not constitute a native vegetation community.</i></p> <p><i>The Study Area contains limited habitat for threatened species due to the degraded nature of the vegetation and dominance of exotic species within the grasslands. Tree species occurring within the Study Area are predominantly planted and are generally young. No hollow-bearing trees were identified. Three dams occur in the Study Area which contained water at the time of survey, but no standing vegetation. On this basis the Study Area is appropriate from an ecological perspective to be rezoned for residential purposes.</i></p> <p>Comment</p> <p>The site is unlikely to have a significant ecological impact based on the findings of the ecological assessment. It is recommended that Council consult with DPE Biodiversity and Conservation on the planning proposal and the findings of the ecological assessment.</p>
Bushfire Risk Assessment	<p>The planning proposal is accompanied by a Strategic Bushfire Study Report by BPAD and Cool Burn Pty Ltd bush fire consultants 2022. The report concluded that the “<i>site is suitable for development in the context of bushfire risk</i>” and “<i>New development can comply with PBP and residential subdivision approvals.</i>”</p> <p>Comment</p> <p>The report correctly states that site is identified as bush fire prone land and consultation is required with the NSW Rural Fire Service. It is recommended that Council be required to consult with the NSW Rural Fire Service on the planning proposal and the bushfire assessment report.</p>

Land Contamination Assessment	<p>The planning proposal included a Detailed Site Investigation report (land contamination) prepared by Lanterra Consulting 2021. The report concluded that, based on the results of the investigation and the current setting of the site, the risk of contamination that may pose a risk to the future land uses is low. Lanterra concluded that the site is suitable for future residential land use.</p> <p>Comment</p> <p>The planning proposal can progress because the report on the risk of land contamination concluded that the risk of land contamination to the future use of the land is low.</p>
Flood Assessment	<p>The planning proposal is accompanied by a Flood Risk Assessment prepared by Torrens Consulting. The flood assessment concluded that the site has flood prone land, but flood risk is low, and the site is suitable for subdivision because most of the proposed subdivision is outside of the floodplain. Risk to life and property can be managed through the application of a 0.3m freeboard above the 1% AEP flood and the exclusion of residential development within the flood planning area (FPA). The assessment also states that local raising of the ground surface through bulk earthworks can serve to manage the flood risk and increase the development yield of the site.</p> <p>Comment</p> <p>It is recommended that the Council be required to consult with DPE Biodiversity and Conservation (Flood Unit) on the planning proposal and outcome of the flood assessment.</p>

4.2 Social and economic

The proposal seeks to increase housing density on the site to accommodate the population of Yass by utilising a site that is already zoned for large lot residential development. Provided the site can satisfy any environmental and infrastructure constraints identified during the consultation process there does not appear to be any adverse economic impacts associated with the proposal.

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

Table 10 Social impact assessment

Social and Economic Impact	Assessment
Aboriginal Cultural Heritage Assessment	<p>The planning proposal is accompanied by an Aboriginal Cultural Heritage Due Diligence Report 2021 prepared by Dr Giles Hamm, ARCHAEOLOGICAL RISK ASSESSMENT SERVICES PTY LIMITED. One new Aboriginal site was identified during the Due Diligence investigation. This site is made up of one artefact scatter (containing 90 stone artefacts) quarry material and a Potential Archaeological Deposit. The newly recorded site located within the assessment area has been assessed as having medium archaeological/scientific significance.</p> <p>The report made the following recommendations.</p> <ul style="list-style-type: none"> • <i>“As a result of the due diligence assessment it is recommended that no further archaeological investigation is required.</i> • <i>A majority of the planning proposal area contains low archaeological potential.</i> • <i>If as a result of any new development proposal, the newly recorded Aboriginal site (AS/Quarry/PAD) cannot be avoided, it is recommended that under section 90 of the National Parks & Wildlife Act 1974, an application for an area based Aboriginal Heritage Impact Permit (AHIP) to impact the site should be lodged with the Heritage NSW.”</i> <p>Comment</p> <p>It is recommended that Council consult with NSW Heritage and the Local Aboriginal Land Council on the planning proposal and Aboriginal Cultural Assessment Report.</p> <p>It is noted that the site can already be developed for housing at a lower density.</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 11 Infrastructure assessment

Infrastructure	Assessment
Preliminary Servicing Assessment	<p>The planning proposal is accompanied by a Preliminary Servicing Strategy 2022 that demonstrates that development of the site for higher density residential development is appropriate having regard to water supply, sewerage, stormwater, and floodwater management. The report acknowledges that the site contains a number of electricity easement (high voltage 22kv, 66kv and 132kv lines). The planning proposal also recommends consultation with TransGrid and Essential Energy.</p> <p>Comment</p> <p>It is recommended that Council be required consult with TransGrid and Essential energy regarding the potential impact/implications of high voltage lines criss-crossing the site.</p>
Traffic Impact Assessment	<p>The planning proposal includes a Traffic Impact Assessment report 2021 prepared by Quantum Traffic 2021. The report states “<i>Vehicle access to the development is proposed at three (3) locations: via an extension of Cusack Place across the south boundary of the site, via a new intersection on Wee Jasper Road on the west boundary of the site and via a new connection to the Mary Reed Estate across the north boundary of the site. This arrangement will assist in the distribution of traffic demands associated with the proposed development and will provide a level of redundancy to the local road network.</i>”</p>

5 Consultation

5.1 Community

Council proposes a community consultation period of 20 working days.

The exhibition period proposed is considered appropriate.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

- Transport for NSW
- NSW Rural Fire Service
- DPE Biodiversity and Conservation
- Heritage NSW
- Local Aboriginal Land Council
- TransGrid

- Essential Energy

6 Timeframe

Council proposes a 3 month time frame to complete the LEP.

A 3 month timeframe to undertake community and agency consultation and to complete the plan is highly optimistic. Department recommends a time frame of 9 months to provide Council sufficient time for community and agency consultation, reporting to Council on the public exhibition and the preparation of LEP maps and draft instrument.

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

7 Local plan-making authority

As the planning proposal is a standard proposal that does not raise any significant state or regional planning issues the Department recommends that Council be authorised 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:

- It is a standard planning proposal that does not raise any significant state or regional planning issues
- The site is already zoned for residential development
- The proposed increase in housing density for the site is consistent with Council's endorsed Yass Valley Settlement Strategy endorsed by the Department.

9 Recommendation

It is recommended the delegate of the Secretary:

- Note that the inconsistency with section 9.1 Directions 4.1 Flood Prone Land requires consultation with DPE Biodiversity and Conservation – Flood Unit and may require further justification.

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

1. Consultation is required with the following authorities:
 - Transport for NSW
 - NSW Rural Fire Service
 - DPE Biodiversity and Conservation
 - Heritage NSW – Aboriginal Cultural Heritage
 - Local Aboriginal Land Council
 - TransGrid
 - Essential Energy
2. The planning proposal should be made available for community consultation for a minimum of 20 working days.
3. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.

4. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



27/9/22

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