

Assessment Against S9.1 Ministerial Directions

Section 9.1 Direction	Applies?	Comments
Focus area 1: Planning Systems		
1.1 Implementation of Regional Plans	Applies	<p><u>NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869)</u></p> <p>As identified within the NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869), the objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p>The proposal requires consultation with government agencies to address matters pertaining to:</p> <ul style="list-style-type: none"> • land use conflict; • flooding; • Aboriginal objects and places, or areas of significance to Aboriginal people. <p>The proposal is potentially inconsistent with the North Coast Regional Plan 2036 as it may permit an intensification of development on land that has some of the above values. It is considered appropriate that consistency with this direction remain unresolved until consultation is undertaken with Department of Primary Industries – Agriculture, NSW Department of Planning and Environment – Floodplain Management Division, State Emergency Service, Northern Rivers Reconstruction Corporation and the Local Aboriginal Land Council.</p> <p><u>Response:</u></p> <p>The Planning Proposal is consistent with the North Coast Regional Plan 2036 as identified within Question 3 of this Planning Proposal.</p> <p>The Planning Proposal is also consistent with the Draft North Coast Regional Plan 2041 as addressed within Question 3 of this Planning Proposal.</p> <p>The following points are also made in respect to the above matters raised by NSW DPE:</p> <ul style="list-style-type: none"> • The proposal is not considered to result in land use conflict as addressed within Question 8 of the Planning Proposal. • A small area (1,000m²) will be retained within the RU1 Primary Production Zone above the 1 in 100 year flood line to provide for a future livestock refuge in the event of a flood. • Flooding has been adequately addressed throughout the updated Planning Proposal. Additional details have been provided within the report to address the flooding matters raised by the NSW BCD, and the NSW SES. • An AHIMS database search identifies no record of an Aboriginal site or places within a 50 metre radius of the subject site.

1.2 Development of Aboriginal Land Council land	N/A	-
1.3 Approval and Referral Requirements	Applies	<p>No referral or concurrence requirements are proposed within the Planning Proposal.</p> <p>Condition no. 3 of the Gateway Determination requires consultation with the following public authorities/organisations:</p> <ul style="list-style-type: none"> • Department of Primary Industries – Agriculture • Department of Planning and Environment – Floodplain Management Division • State Emergency Service • Northern Rivers Reconstruction Corporation • NSW Mining, Exploration and Geoscience • Gugin Gudduba Local Aboriginal Land Council <p>Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.</p> <p>The Planning Proposal has been updated to address the flooding matters raised by the NSW BCD, and the NSW SES.</p> <p>The Planning Proposal has also been updated to address the NSW DPI concern. In this regard, a small area (1,000m²) will be retained within the RU1 Primary Production Zone above the 1 in 100 year flood line to provide for a future livestock refuge in the event of a flood.</p>
1.4 Site Specific Provisions	N/A	-
Focus area 1: Planning Systems – Place-based		
1.5 Parramatta Road Corridor Urban Transformation Strategy	N/A	-
1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	N/A	-
1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A	-
1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A	-

1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	N/A	-
1.10 Implementation of the Western Sydney Aerotropolis Plan	N/A	-
1.11 Implementation of Bayside West Precincts 2036 Plan	N/A	-
1.12 Implementation of Planning Principles for the Cooks Cove Precinct	N/A	-
1.13 Implementation of St Leonards and Crows Nest 2036 Plan	N/A	-
1.14 Implementation of Greater Macarthur 2040	N/A	-
1.15 Implementation of the Pyrmont Peninsula Place Strategy	N/A	-
1.16 North West Rail Link Corridor Strategy	N/A	-
1.17 Implementation of the Bays West Place Strategy	N/A	-
1.18 Implementation of the Macquarie Park Innovation Precinct	N/A	-
Focus area 2: Design and Place		
-	-	This Focus Area was blank when the Directions were made
Focus area 3: Biodiversity and Conservation		
3.1 Conservation Zones	N/A	-
3.2 Heritage Conservation	Applies	<p><u>NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869)</u></p> <p>As identified within the NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869), this direction states that a planning proposal must contain provisions that facilitate the conservation of heritage and Aboriginal cultural significance.</p> <p>While a search of the AHIMS database did not identify any Aboriginal sites or places within a 50-metre radius of the subject land it is considered appropriate that formal consultation be undertaken with the Local Aboriginal Land Council before this direction is resolved.</p>

3.3 Sydney Drinking Water Catchments	N/A	-
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	N/A	
3.5 Recreation Vehicle Areas	N/A	-
3.6 Strategic Conservation Planning	N/A	-

Focus area 4: Resilience and Hazards

4.1 Flooding	Applies	<p><u>NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869)</u></p> <p>As identified within the NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869), this direction applies to a planning proposal that creates, removes or alters a zone or provisions that affects flood prone land.</p> <p>The planning proposal seeks to amend the R1 General Residential zone to align with the 1 in 100-year flood line. The planning proposal states that all future dwelling sites within the proposed R1 zone will be required to be located above the Flood Planning Level of RL 59.75m AHD. Levels will be required to be confirmed prior to public exhibition in accordance with the Kyogle Floodplain Risk Management Plan 2009.</p> <p>However, the proposal is not supported by a site-specific flood study. Council indicates that it is their preference that the zone boundary reflect the 1 in 100-year flood line and that they would be supportive of dwellings being located above the probable maximum flood (PMF) level to ensure safety of occupants. This approach will permit land to be zoned for the highest and best use while also allowing the appropriate location of future homes.</p> <p>The Kyogle Floodplain Risk Management Plan 2009 indicates that the subject site is not affected by 'high hazard depth' (Figure 16) or rare extreme hazards (Figure 17). However, portions of Anzac Drive are affected by these constraints. Anecdotal advice from Council indicates that evacuation is not prevented at this location and that flood evacuation plans are available for the town.</p> <p>It is noted that the subject land incorporates an unformed road reserve which extends some 85 metres southwards from Anzac Drive (adjacent to the eastern property boundary) before heading west across the site (on the northern side of the existing dwelling) to the western property boundary and beyond. The road reserve ultimately connects with Morgans Road and Anzac Drive. As such, an alternative evacuation route from the land could potentially be provided.</p>
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4.2 Coastal Management	N/A	-

4.3 Planning for Bushfire Protection	N/A	The subject land is not identified as being on bushfire prone land as adopted by Council.
4.4 Remediation of Contaminated Land	Applies	<p><u>NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869)</u></p> <p>As identified within the NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869), the objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>The subject site is located within 200m of the decommissioned Swamp Paddock Cattle Dip, located on the northern side of Anzac Drive. While a preliminary contaminated land assessment has been completed for the northern part of the site (the existing R1 General Residential area), an assessment has not been completed over the subject land. There is therefore incomplete knowledge as to whether residential development on the subject land is appropriate.</p> <p>Prior to community consultation, a preliminary investigation of the land is to be carried out in accordance with the contaminated land planning guidelines.</p> <p>Response: Contaminated land has been addressed under Question 8 of the Planning Proposal.</p> <p>In accordance with the Gateway Determination conditions, a preliminary contaminated land assessment has been completed by Greg Alderson & Associates for that part of the land proposed to be rezoned and is contained within Attachment 7. Whilst full reference should be made to that report, it considers that the site is suitable for rezoning from rural to residential.</p>
4.5 Acid Sulfate Soils	N/A	-
4.6 Mine Subsidence and Unstable Land	N/A	-
Focus area 5: Transport and Infrastructure		
5.1 Integrating Land Use and Transport	Applies	<p>Justified Inconsistency</p> <p><u>NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869)</u></p> <p>As identified within the NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869), this direction is relevant to the planning proposal as it will alter a zone and provisions relating to urban land.</p> <p>The proposal is inconsistent with the terms of this direction as it does not specifically consider Improving Transport Choice – Guidelines for planning and development (DUAP 2001) and The Right Place for Business and Services – Planning Policy (DUAP 2001).</p>

		<p>Considering that the proposal only facilitates some minor additional development directly adjoining an existing urban area the inconsistency is considered to be of minor significance.</p> <p>Despite the inconsistency of minor significance noted by the NSW DPE, the following response was submitted within the initial Planning Proposal:</p> <p><u><i>Improving Transport Choice</i></u> Access to the public road network to and from the site will be achieved from the adjoining public road network. Local bus services already service the development precinct.</p> <p>The proposal is not inconsistent with the relevant location and design guidelines (Part 3) contained within the document 'Improving Transport Choice' with regard to housing. The proposal relates to the rezoning of land which adjoins an existing urban zoned footprint.</p> <p><u><i>The Right Place for Business and Services</i></u> 'The Right Place for Business and Services' document relates to business and services and does not directly apply to the current Planning Proposal for residential development.</p>
5.2 Reserving Land for Public Purposes	N/A	-
5.3 Development Near Regulated Airports and Defence Airfields	N/A	-
5.4 Shooting Ranges	N/A	-
Focus area 6: Housing		
6.1 Residential Zones	Applies	<p>The Planning Proposal involves the application of a zoning framework consistent with residential development within the immediate locality. The R1 General Residential zone provides for a variety of residential and other compatible land uses including dwellings, dual occupancies and multi dwelling housing.</p> <p>The rezoning of the land for residential purposes will have positive social and economic effects, and in particular the development of the land for housing will assist in meeting regional dwelling targets identified within the NCRP 2036. Significant community benefit associated with the proposed development will be found in the provision of additional housing to service the future ageing population needs of the Kyogle LGA.</p> <p>The proposal is therefore responsive to and consistent with the Kyogle LSPS as follows:</p> <p><u>Planning Priority B2 – Plan to provide great housing choice for our community</u></p> <p>The social-economic characteristics profile contained within the LSPS identifies that in relation to age structure, the Kyogle LGA has a higher proportion of persons aged 50-69 than the</p>

		<p>Regional NSW average. As such the LSPS identifies a number of challenges faced in the LGA including:</p> <ul style="list-style-type: none"> • High proportion of older persons; • Deficiency in housing choice and supply, which is a barrier to relocation and retention <p>The proposal is consistent with Direction 23 of the NCRP and therefore is consistent with Planning Priority B2.</p> <p>The proposed rezoning will enable additional housing that will be designed to accommodate seniors living which will assist in addressing the need to provide much needed housing for the ageing population.</p> <p>With respect to local service infrastructure, the subject land is located immediately adjoining an urban environment and is in close proximity to reticulated water, sewer, telecommunications, electricity and stormwater drainage networks.</p> <p>The Planning Proposal is consistent with the Local Government Narrative for Kyogle under the North Coast Regional plan 2036, as it provides for the provision of additional opportunities for new housing to support the village lifestyle of Geneva located on the northern fringe of Kyogle.</p> <p>The proposed rezoning will offer a logical extension of the existing residential zone to further residential development on suitable land with similar characteristics as the current R1 zoned portion. The proponent intends on subdividing and in-turn delivering further residential development that will continue to be orientated towards seniors living. Whilst future dwelling designs may be orientated to accommodate seniors living, they will not be expressly restricted to this age group.</p>
6.2 Caravan Parks and Manufactured Home Estates	N/A	-
Focus area 7: Industry and Employment		
7.1 Business and Industrial Zones	N/A	-
7.2 Reduction in non-hosted short-term rental accommodation period	N/A	-
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	N/A	-
Focus area 8: Resources and Energy		
8.1 Mining, Petroleum Production and Extractive Industries	Applies	<p>Justified Inconsistency</p> <p><u>NSW Department of Planning and Environment's Gateway determination report [PP-2022-2869]</u></p>

		<p>As identified within the NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869), the objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.</p> <p>This direction applies to the planning proposal as it will have the effect of prohibiting extractive industries on the subject land.</p> <p>Considering the size of the area proposed to be rezoned as well as the fact that the it constitutes infill development the inconsistency is considered to be of minor significance. Consultation with NSW Mining, Exploration and Geoscience is recommended.</p> <p>The Department of Regional NSW – Mining, Exploration & Geoscience have confirmed in correspondence dated 14 November 2022 that they have no resource sterilisation issues for consideration.</p>
Focus area 9: Primary Production		
9.1 Rural Zones	Applies	<p><u>NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869)</u></p> <p>As identified within the NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869), this direction states that a planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</p> <p>The proposal is inconsistent with this direction as it rezones rural land for residential purposes and is not identified in Council's Department approved Kyogle Local Growth Management Strategy 2010.</p> <p>Consistency with this direction will remain unresolved until consultation has been undertaken with Department of Primary Industries – Agriculture.</p> <p>Response:</p> <p>Justified Inconsistency</p> <p>The Planning Proposal seeks to rezone land zoned RU1 Primary Production to an R1 General Residential Zone.</p> <p>To address the inconsistency of Clause 1(a), the Planning Proposal report provides a study which gives consideration to the objective of the direction which is to "<i>protect the agricultural production value of rural land</i>".</p> <p>The key points of justification are as follows:</p> <ul style="list-style-type: none"> The Planning Proposal does not propose to rezone State or Regionally Significant farmland identified within the Northern Rivers Farmland Protection Project Final Map 2005. The rezoning will involve 'Other Rural Land' with the regionally significant farmland contained within the residue lot.

		<ul style="list-style-type: none"> • The proposal does not involve rezoning land identified as Important Farmland under the North Coast Regional Plan 2036. • The Planning Proposal is consistent with the various strategic plans relevant to the site as addressed within Questions 3 & 4 of the Planning Proposal. • The proposal is not considered to result in land use conflict as addressed within Question 8 of the Planning Proposal. <p>The Planning Proposal has been updated to address the NSW DPI concern. In this regard, a small area [1,000m²] will be retained within the RU1 Primary Production Zone above the 1 in 100 year flood line to provide for a future livestock refuge in the event of a flood.</p>
9.2 Rural Lands	Applies	<p><u>NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869)</u></p> <p>As identified within the NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869), the direction applies when a planning proposal will affect land within an existing or proposed rural or conservation zone, including alteration of any existing rural or conservation zone boundary, or that changes the existing minimum lot size on land within a rural or conservation zone.</p> <p>Amongst other things, the direction requires that a planning proposal be consistent with any applicable regional plan. As consistency with Direction 1.1 is currently unresolved, consistency with this direction will also remain unresolved until consultation is undertaken with Department of Primary Industries – Agriculture, NSW Department of Planning and Environment – Floodplain Management Division, State Emergency Service, Northern Rivers Reconstruction Corporation and the Local Aboriginal Land Council.</p> <p><u>Response:</u></p> <p>The Planning Proposal seeks to rezone land zoned RU1 Primary Production to an R1 General Residential Zone. The Planning Proposal also seeks to amend the minimum lot size to 500m² for that part of the land proposed to be rezoned to R1.</p> <p>To address the requirements of sub-clauses 1 & 2 in regards to rezoning land from rural to residential, and amending the minimum lot size, the following is submitted.</p> <ul style="list-style-type: none"> • Direction 1 of the North Coast Regional Plan 2036 provides guidelines where urban growth areas can be varied as new information becomes available or to fix anomalies. Any variation must be in accordance with the Urban Growth Area Variation Principles provided within NCRP 2036. Compliance with these principles is provided within Attachment 3 of the Planning Proposal. The variation to the urban growth area is justified given the site is adjacent to and directly adjoins existing residential development within an R1 General Residential zone. • The Planning Proposal is consistent with the various strategic plans relevant to the site as addressed within Questions 3 & 4 of the Planning Proposal.

		<ul style="list-style-type: none"> • The Planning Proposal does not propose to rezone State or Regionally Significant farmland identified within the Northern Rivers Farmland Protection Project Final Map 2005. The rezoning will involve 'Other Rural Land' with the regionally significant farmland contained within the residue lot. • The proposal does not involve rezoning land identified as Important Farmland under the North Coast Regional Plan 2036. • The suitability of the site in regards to environmental values has been addressed within the Planning Proposal. • The suitability of the site in regards to natural and physical constraints has been addressed within the Planning Proposal. • Given the location of the site, which directly adjoins a residential land zone, the proposal is not considered to reduce opportunities for investment in rural economic activities. • The area proposed for rezoning is not used for any intensive form of agricultural activity. • The proposal is not considered to result in land use conflict as addressed within Question 8 of the Planning Proposal. • SEPP (Primary Production) 2021 has been addressed in Attachment 4 of the Planning Proposal. • Social, economic and environmental matters have been considered and addressed within the Planning Proposal. <p>In addition to the above:</p> <ul style="list-style-type: none"> • The Planning Proposal has been updated to address the flooding matters raised by the NSW BCD, and the NSW SES; • The Planning Proposal has also been updated to address the NSW DPI concern. In this regard, a small area [1,000m²] will be retained within the RU1 Primary Production Zone above the 1 in 100 year flood line to provide for a future livestock refuge in the event of a flood.
9.3 Oyster Aquaculture	N/A	-
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	Applies	The Planning Proposal does not propose to rezone State or Regionally Significant farmland identified within the Northern Rivers Farmland Protection Project Final Map 2005. The rezoning will involve 'Other Rural Land' with the regionally significant farmland contained within the residue lot.