



IRF23/74

Gateway determination report – PP-2022-4277

Amendments to RU5 Village Zone Land Use Table-
Leeton Shire Council

January 2023



Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Gateway determination report – PP-2022-4277

Subtitle: Amendments to RU5 Village Zone Land Use Table- Leeton Shire Council

© State of New South Wales through Department of Planning and Environment 2023. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (January 2023) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

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.

Contents

1	Planning proposal	Error! Bookmark not defined.
1.1	Overview.....	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	2
1.4	Site description and surrounding area.....	3
1.5	Mapping.....	5
1.6	Background	5
2	Need for the planning proposal	6
3	Strategic assessment	6
3.1	Riverina Murray Regional Plan 2041.....	6
3.2	Local Strategic Planning Framework.....	6
3.3	Section 9.1 Ministerial Directions	7
3.4	State environmental planning policies (SEPPs)	8
4	Site-specific assessment	11
4.1	Environmental.....	11
4.2	Social and economic.....	11
4.3	Infrastructure	11
5	Consultation	11
5.1	Community	11
5.2	Agencies.....	11
6	Timeframe	12
7	Local plan-making authority	12
8	Assessment summary	12
9	Recommendation	13

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning proposal to amend Leeton Local Environmental Plan 2014 (V1) dated 27 October 2022
Leeton Shire Council Housing Strategy 2021-2041
Leeton Shire Council Local Strategic Planning Statement 2020

Liveable Leeton Community Strategic Plan 2035

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Leeton
PPA	Leeton Shire Council
NAME	Amendments to RU5 Village Zone Land Use Table
NUMBER	PP-2022-4277
LEP TO BE AMENDED	Leeton Local Environmental Plan 2014
ADDRESS	Applies to all zone RU5 land
DESCRIPTION	Applies to all zone RU5 land
RECEIVED	14/12/2022
FILE NO.	IRF23/74
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
DWELLINGS/JOBS	N/A

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:

- Amend the *Leeton Local Environmental Plan (2014)* to replace the 'closed zone' land use table of the RU5 Village zone with an 'open zone' table.
- Support the development of housing diversity in the villages of Murrami, Wamoon, and Whitton to provide appropriate housing and to address housing affordability.
- Enable greater access to community, health, and commercial services in the villages.
- Encourage business development in the villages by permitting a greater range of commercial land uses in the RU5 Village zone.
- Correct anomalies in the RU5 Village Zone Land Use Table regarding the permissibility of certain land uses.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal contains an explanation of amendments to the Leeton LEP 2014 that explains how the objectives of the proposal will be achieved. Proposed amendments are:

- Removing uses captured by the group term *Residential accommodation* from *Item 4 Prohibited* and included those uses in *Item 3 Permitted with consent*. These uses are:
 - Boarding houses
 - Group homes
 - Hostels
 - Multi dwelling housing
 - Residential care facilities
 - Residential flat buildings
 - Secondary dwellings
 - Semi-detached dwellings
 - Serviced apartments
 - Shop top housing.
- Removing the use *Specialised retail premises* from *Item 4 Prohibited* so that this use is captured by the group term *Commercial premises* in *Item 3 Permitted with consent*.
- Removing the uses *Hotel and motel accommodation* and *Serviced apartments* from *Item 4 Prohibited* so that these uses are captured by the group term *Tourist and visitor accommodation* in *Item 3 Permitted with consent*.
- Removing the use *Agriculture* that is a group term including aquaculture, extensive agriculture, intensive livestock agriculture and intensive plant agriculture from *Item 3 Permitted with consent* so that those uses are included in *Item 4 Prohibited*. Bee keeping, horticulture and viticulture are to remain in *Item 2 Permitted without consent*.
- Including the use *Industries* that is a group term including general industry and heavy industry in *Item 4 Prohibited*.
- Including the following uses that are associated with a waterway or use of waterways in *Item 4 Prohibited*:
 - Boat launching ramps
 - Boat sheds
 - Charter and tourism boating facilities
 - Jetties
 - Water recreation structures
- Opening the land use table to the RU5 Village zone by removing the words '*Any other development not specified in item 2 or 3*' from *Item 4 Prohibited* and inserting the words '*Any other development not specified in item 2 or 4*' at the end of *Item 3 Permitted with consent* so that uses that are not specified in the land use table are permitted with consent. This will have the effect of making the following uses that are not specified in *Item 4 Prohibited* as uses that are *Item 3 Permitted with consent* as '*Any other development not specified in item 2 or 4*':
 - Amusement centres
 - Boat building or repair facilities
 - Depots
 - Early education and care facility
 - Emergency services facility
 - Entertainment facility

- Exhibition homes
 - Exhibition villages
 - Freight transport facilities
 - Function centres
 - Health services facilities
 - Industrial retail outlets
 - Industrial training facilities
 - Light industries
 - Mortuaries
 - Passenger transport facilities
 - Research stations
 - Storage premises
 - Transport depots
 - Truck depots
 - Vehicle body repair workshops
 - Warehouse or distribution centres
 - Wholesale supplies
- Rationalising Item 3 Permitted with consent by including group terms where all subsets and land uses that fall under that group term are or are proposed to be permitted with consent, other than where a subset or land use is permitted with consent and the group term is prohibited. This involves removing specific uses from Item 3 Permitted with consent that are uses captured by a group term, for example, *homes industries* which are included in the subset *light industries*, *neighbourhood shops* which are a type of *shop* and a subset of *retail premises*, and *water recycling facilities* which are included in the group term *sewerage systems* which are currently permitted with consent. This also involves including uses that fall outside of group terms. The exceptions to this change are those uses mandated to be specifically included in the land use table under the Standard Instrument.

The explanation and intent of the proposed land uses is clear and adequate.

It is to be noted that the above is the intent of Council to allow a range of land uses however the final drafting of the land use table will be subject to legal drafting by Parliamentary Counsel and may be subject to change.

1.4 Site description and surrounding area

The planning proposal applies to the RU5 Village zones in the following localities. The following reticulation maps indicate that the village have servicing capacity for additional development.

Murrami

Murrami is serviced with reticulated water and there is capacity to service new development. Given that medium density and commercial development is not anticipated in Murrami, Council does not plan to install a reticulated sewerage system. The management of wastewater for any new development proposals would be assessed on merit by considering the capacity of soils and land area to adequately treat and dispose of effluent on site.

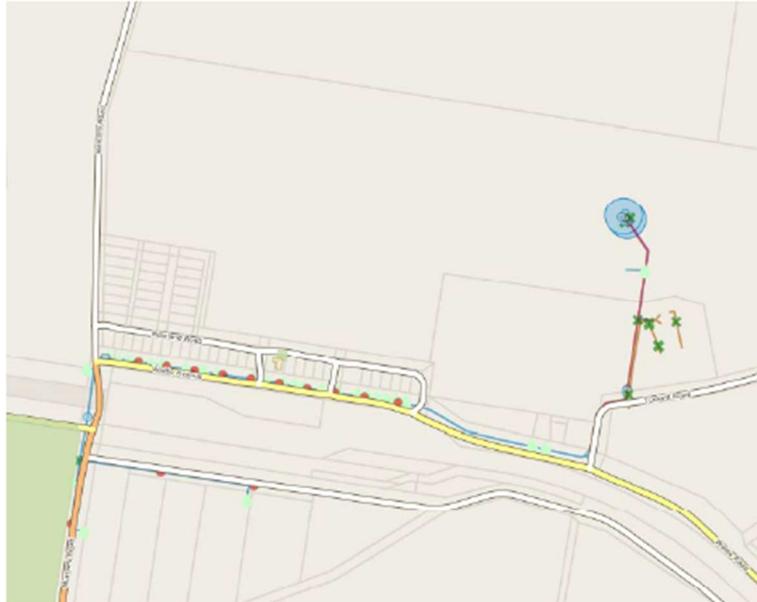


Figure 1 Reticulated water network, Murrumbidgee (source: Applicant's documentation)

Wamboona

Wamboona is serviced with reticulated water and there is capacity for new development. Wastewater is currently managed using onsite sewerage systems; however, Council advise it is considering the installation of a reticulated sewerage system.



Figure 2 Reticulated water network, Wamboona (source: Applicant's documentation)

Whitton

A reticulated water network services the entire village of Whitton, while approximately 80% of properties are connected to the reticulated sewerage system. Owners of properties that aren't connected to the network may opt to connect at their own cost. Council advise there is capacity in both water and sewer systems to cater for growth in Whitton.

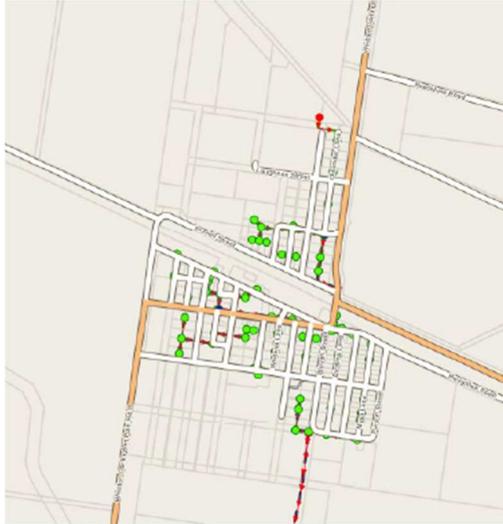


Figure 3 Reticulated water network, Whitton (source: Applicant’s documentation)

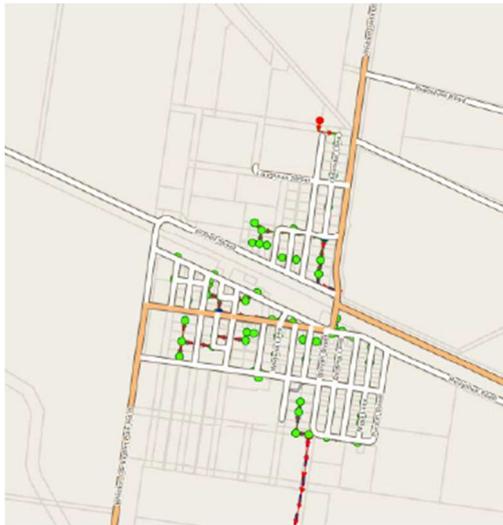


Figure 4 Reticulated sewer network, Whitton (source: Applicant’s documentation)

1.5 Mapping

The land the subject of this planning proposal is located within Leeton local government area that is zone RU5 Village. There are no proposed changes to the LEP maps required.

1.6 Background

- The planning proposal has been prepared in response to a resolution by Leeton Shire Council on 27 July 2022 to prepare a planning proposal to amend *Leeton Local Environmental Plan (LEP) 2014*.
- The purpose of the planning proposal is to allow flexibility in the RU5 Village zone by replacing the ‘closed zone’ land use table with an ‘open zone’ table and allow flexibility for land use permissibility.

- The planning proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979*.
- The planning proposal is categorised as ‘Standard’.

2 Need for the planning proposal

A review of the land use table for the RU5 Village zone is not identified as an action in the *Leeton Shire Council Local Strategic Planning Statement*, however, the planning proposal will implement objectives of the LSPS regarding the provision of housing diversity to address affordability.

The planning proposal also presents an opportunity to correct anomalies and to identify uses that would promote business development and access to community, health, and commercial services.

The proposed amendment to *Leeton LEP 2014* to apply an ‘open zone’ to the RU5 Village zone is considered the best means of achieving the intended outcomes of the planning proposal. The proposal will facilitate a wider range of land use to be permitted. This approach maximises opportunities for residential and business development in villages across the Leeton LGA.

Generally zone RU5 Village is a flexible zone to allow a range of land uses in a rural village setting and uses proposed will add to the variety of uses available in Leeton LGA without undermining the Leeton township .

3 Strategic assessment

3.1 Riverina Murray Regional Plan 2041

The planning proposal was lodged prior to the Riverina Murray Regional Plan 2041 being finalised on 18 January 2023. The following table provides an assessment of the planning proposal against relevant aspects of the draft Riverina Murray Regional Plan 2041. Objective 16 of the finalised Riverina Murray Regional Plan 2041 has been updated from ‘supporting tourism’ to ‘support the visitor economy’. Given the minor nature of the change, the planning proposal remains consistent with the final Plan.

Table 3 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 5: Ensure housing supply, diversity, affordability, and resilience	The planning proposal supports infill development and other low impact development such as commercial and health facilities in the RU5 Village zone.
Objective 16: Support the visitor economy	The planning proposal ensures that planning controls support and enable appropriate business development in the RU5 Village zone.

3.2 Local Strategic Planning Framework

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 4 Local strategic planning assessment

Local Strategies	Justification
Leeton Shire Council Local Strategic Planning Statement 2020	<p><i>Priority Five – Housing aims to ensure the community has access to diverse housing options. A greater range of housing types is needed to accommodate diverse lifestyles and changing demographics in the Shire. The planning proposal is consistent with this priority.</i></p> <p>Action 3 of the LSPS states <i>review local planning controls to provide greater housing choice by investigating existing density standards and minimum lot sizes.</i> This planning proposal implements Action 3 by aiming to make a greater range of housing types permissible in small villages as an alternative to detached dwellings, catering for an ageing population and seasonal workers.</p>
Liveable Leeton Community Strategic Plan 2035	<p>Outcome Sc3 of the Plan states <i>We have access to health and support services that cater for all our needs.</i> The planning proposal aims to support this outcome by making health services facilities and emergency services facilities permissible in the RU5 Village zone. This may facilitate the development of these services in the Shire's villages as the need arises.</p> <p>The planning proposal also supports Outcome Ec2 <i>We attract and retain new business and residents and our population is growing</i> by permitting a greater range of commercial land uses in villages.</p> <p>Thirdly, the planning proposal aims to achieve Outcome Ec5 <i>We have access to a range of housing options that suit the needs of short and long-term residents</i> by promoting opportunities for infill development, including the provision of diverse housing to accommodate the ageing population and seasonal workers.</p>
Leeton Shire Council Housing Strategy 2021-2041	<p>Increases in working age and retirement age cohorts, as well as an increase in lone person households are expected to drive demand for smaller housing types and medium density development. Housing affordability is also an issue as low-medium income households compete for limited private rental housing. The planning proposal will facilitate a greater range of housing types in villages to cater for diverse needs.</p>

3.3 Section 9.1 Ministerial Directions

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

Table 5 Section 9.1 Ministerial Direction assessment

Directions	Consistent (Yes/No)	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	The proposal is consistent with the <i>Riverina Murray Regional Plan 2041</i> by supporting the visitor economy and increasing the permissibility of development that aims to address housing supply, diversity, affordability, and resilience.

4.3 Planning for Bushfire Protection	No – not at this time and consultation is required with NSW RFS	Part of the land that is zone RU5 is identified as being bushfire prone. Council is required to consult with NSW Rural Fire Service (RFS) prior to community consultation and include RFS response as part of the exhibition package.
6.1 Residential Zones	Yes	The proposal is consistent with Direction 6.1 as the proposed amendments to the land use table will broaden the range of housing types to be permitted in villages, therefore making more efficient use of available land and infrastructure. The planning proposal shows available capacity of water and sewer networks to accommodate growth in villages.
9.1 Rural Zones	Yes	The planning proposal does not seek to rezone land or change zone boundaries.
9.2 Rural Lands	Yes	The proposal is consistent with this Direction in terms of the strategic planning framework by supporting the visitor economy, business development and housing diversity, supply and affordability. The planning proposal applies only to land zoned RU5 Village and will not impact on primary production land including agricultural uses, rural lands, or the right to farm. No amendment to minimum lot size is proposed.

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 6 Assessment of the planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Housing 2021	<p>The principles of this Policy are as follows –</p> <ul style="list-style-type: none"> (a) Enabling the development of diverse housing types, including purpose-built rental housing, (b) Encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors, and people with a disability, (c) Ensuring new housing development provides residents with a reasonable level of amenity, (d) Promoting the planning and delivery of housing in locations where it will make good 	Consistent	Proposed amendments to the land use table are consistent with the SEPP.

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
	<p>use of existing and planned infrastructure and services,</p> <p>(e) Minimising adverse climate and environmental impacts of new housing development,</p> <p>(f) Reinforcing the importance of designing housing in a way that reflects and enhances its locality,</p> <p>(g) Supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,</p> <p>(h) Mitigating the loss of existing affordable rental housing.</p>		
SEPP 65 - Design Quality of Residential Apartment Development	This Policy aims to improve the design quality of residential apartment development in New South Wales.	Consistent	Subsequent development as a result of the planning proposal will be subject to a development application where this SEPP may be considered.
Primary Production 2021	This SEPP aims to facilitate the orderly economic use and development of lands for primary production and reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity, and water resources.	Consistent	The planning proposal aims to amend the permissibility of some land uses in zone RU5 Village land use table; however, this will not impact primary production.
Resilience and Hazards 2021	This SEPP contains chapters relating to coastal management, hazardous and offensive development and remediation of land.	Consistent	This SEPP may be relevant should potentially contaminated land be proposed for development. The proposal makes no changes to

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
			these considerations.
Resources and Energy 2021	This SEPP provides requirements for mining, petroleum production and extractive industries	Consistent	The proposal makes no changes to these considerations
Transport and Infrastructure 2021	This SEPP aims to facilitate the effective delivery of infrastructure across the State.	Consistent	<p>The planning proposal acknowledges that the provisions of this SEPP are to be considered with DAs for permissible land uses, noting the SEPP prevails over <i>Leeton LEP 2014</i>. Uses that are identified as prohibited in the SEPP are not permitted with or without consent in the RU5 Village zone notwithstanding the proposed amended land use table.</p> <p>The planning proposal is consistent with this SEPP.</p> <p>The LUT will be subject to Parliamentary Counsel drafting</p>

4 Site-specific assessment

4.1 Environmental

There are no known direct environmental impacts as a result of the proposed amendments to the RU5 Village zone land use table. Assessment of potential environmental impacts will be assessed at the development application stage.

4.2 Social and economic

The planning proposal will provide opportunities for a greater range of land uses and development types within villages. Housing diversity will be improved by permitting a variety of dwelling types to cater for more affordable and diverse housing types. New business opportunities will be facilitated by making commercial and tourism land uses permissible. This will increase access to community facilities, and health and commercial services, resulting in social and economic benefits for Leeton Shire.

4.3 Infrastructure

Infrastructure has been addressed in Section 1.4 Site description and surrounding area.

5 Consultation

5.1 Community

Council proposes a community consultation period of 20 working days.

The exhibition period proposed is considered appropriate, and is a condition of the Gateway determination.

5.2 Agencies

Preliminary consultation with the Department identified the planning proposal as 'Standard'. The Department also indicated the inclusion of a land use matrix identifying changes, and consistency of the planning proposal with Council's Local Housing Strategy and Local Strategic Planning Statement.

Council did not identify agencies to be consulted. Given part of the land is bushfire prone (Refer to Figure 5), referral with NSW Rural Fire Service has been included as a condition of this Gateway determination. As mentioned above, Council is required to include evidence of consultation with RFS as part of the exhibition package.

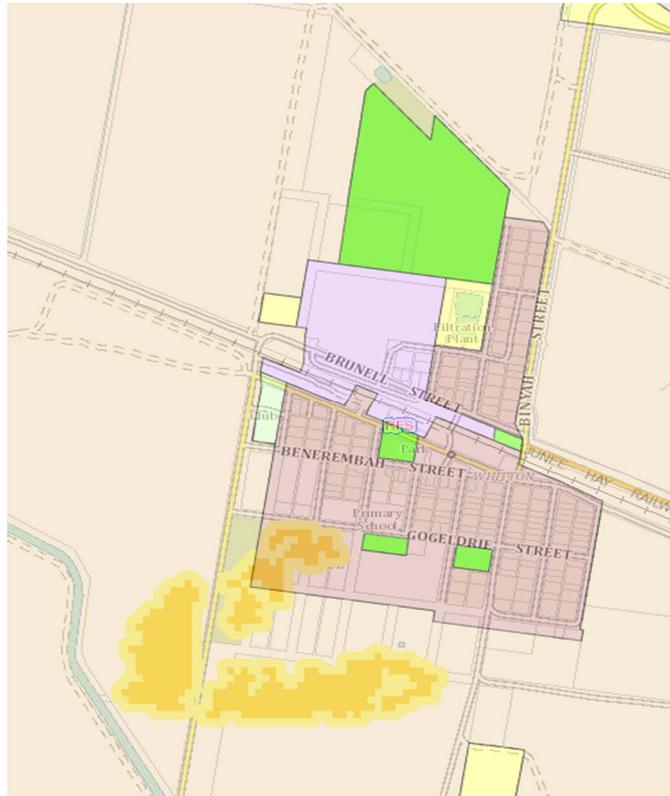


Figure 5 Bushfire prone land in Whitton (source: ePlanning Spatial Viewer)

6 Timeframe

The Department recommends a time frame of nine (9) months to complete the LEP to ensure it is completed in line with its commitment to reduce processing times.

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

7 Local plan-making authority

Council has not advised whether it would like to exercise its functions as a Local Plan-Making Authority. As the planning proposal consists of basic LEP amendments, 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 generally consistent with the relevant local, regional and State legislation and policies.
- It is not expected to result in adverse environmental, social, economic and infrastructure impacts.
- It is consistent with Council's Housing Strategy, Community Strategic Plan and Local Strategic Planning Statement.
- The planning proposal process is a transparent mechanism to amend the *Leeton Local Environmental Plan 2014* to replace the 'closed zone' land use table of the RU5 Village zone with an 'open zone' table.
- Allow flexibility for land use in zone RU5.

9 Recommendation

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

1. Prior to community consultation, the planning proposal is to be updated to:
 - (a) amend the Project Timeline to reflect the Gateway determination of the proposal and subsequent milestones for finalisation in nine (9) months.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the Local Environmental Plan Making Guideline (Department of Planning and Environment, 2022) and must be made publicly available for a minimum of 20 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Local Environmental Plan Making Guideline (Department of Planning and Environment, 2022).
3. Prior to community consultation, Council is required to consult with NSW Rural Fire Service under section 3.34(2)(d) of the Act, as part of the subject land is bushfire prone.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination,
 - (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
6. The LEP amendment should be completed within nine (9) months from the date of the Gateway determination.



(Signature)

7/02/2023 (Date)

Wayne Garnsey

Manager, Western Region



(Signature)

7/2/2023 (Date)

Garry Hopkins

Director, Western Region

Assessment officer

Tom Scoble

Planning Officer, Western Region

02 5852 6828