



IRF23/2286

Gateway determination report – PP-2023-746

211 Ceres Siding Road, Narromine - Additional
Permitted Use

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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
A - Council Meeting Report Request Gateway determination – Narromine Shire Council – 12 July 2023
B - Council Meeting Minutes Request Gateway determination – Narromine Shire Council – 12 July 2023
C - Planning Proposal PP-2023-746 – Premise – 11 April 2023
D - Council Meeting Report Residential Strategy – Narromine Shire Council – 14 April 2021

Relevant reports and plans

E – Council Meeting Minutes Residential Strategy – Narromine Shire Council – 14 April 2021

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Narromine Shire
PPA	Narromine Shire Council
NAME	211 Ceres Siding Road Additional Permitted Use
NUMBER	PP-2023-746
LEP TO BE AMENDED	Narromine Local Environmental Plan 2011
ADDRESS	211 Ceres Siding Road, Narromine
DESCRIPTION	Lot 2 DP 826750
RECEIVED	26/07/2023
FILE NO.	IRF23/2286
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
DWELLING/JOBS	1 dwelling/0 jobs

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to provide opportunities for the development of a dwelling house on the subject site, consistent with the surrounding land use patterns.

The objective of this planning proposal is clear and adequately explains the intent of the proposal.

1.3 Explanation of provisions

The planning proposal seeks to grant dwelling permissibility to a rural property by inserting a provision in Schedule 1 Additional permitted uses of the *Narromine Local Environmental Plan 2011* (NLEP 2011). Clause 4.2B Erection of dwelling houses on land in certain rural and conservation zones of NLEP 2011 prohibits the development of a dwelling house at the subject site as it does not meet the minimum lot size requirement. The proposed APU provision will enable the development of a dwelling house despite the provisions of clause 4.2B of NLEP 2011.

It is noted Schedule 1 of NLEP 2011 consists of existing sunset provisions only permitting the development of dwelling houses up to a certain timeframe. The planning proposal does not

propose for sunset provisions to be applied for the subject site and the insertion of the subject site in Schedule 1 will provide permissibility in perpetuity.

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

The subject site is Lot 2 DP 826750 and is commonly known as 211 Ceres Siding Road, Narromine. The subject site is approximately 5ha of predominantly vacant rural land on a battle-axe allotment that is zoned RU1 Primary Production with an MLS standard of 400ha.

The subject site is 4km north-west of the Narromine CBD and is near Narromine Aerodrome, Main Western Railway and various agricultural land uses. An existing irrigation channel is south of the subject site.

The subject site is prone to bushfire and flooding and consists of two (2) existing groundwater bores as well as some existing outbuildings and rainwater tank to the south-east.

The subject site's access handle is partially mapped as sensitive terrestrial biodiversity along the Ceres Siding Road frontage. The proposal does not affect this portion of the subject site.

As Lot 1 DP 826750 (209 Ceres Siding Road, Narromine) is benefited by the subject site's 9.3m wide right of carriageway easement to Ceres Siding Road, it actively uses the access handle for access purposes.

The subject site is burdened by a restriction on title that a residential building cannot be erected without written consent from Council.

The planning proposal's land use assessment demonstrates the subject site is within vicinity to multiple existing dwelling houses that do not comply with the minimum lot size standards on properties zoned as RU1 Primary Production.



Figure 1: Subject site highlighted in blue (Source: Nearmap, 18 September 2023 - annotated)

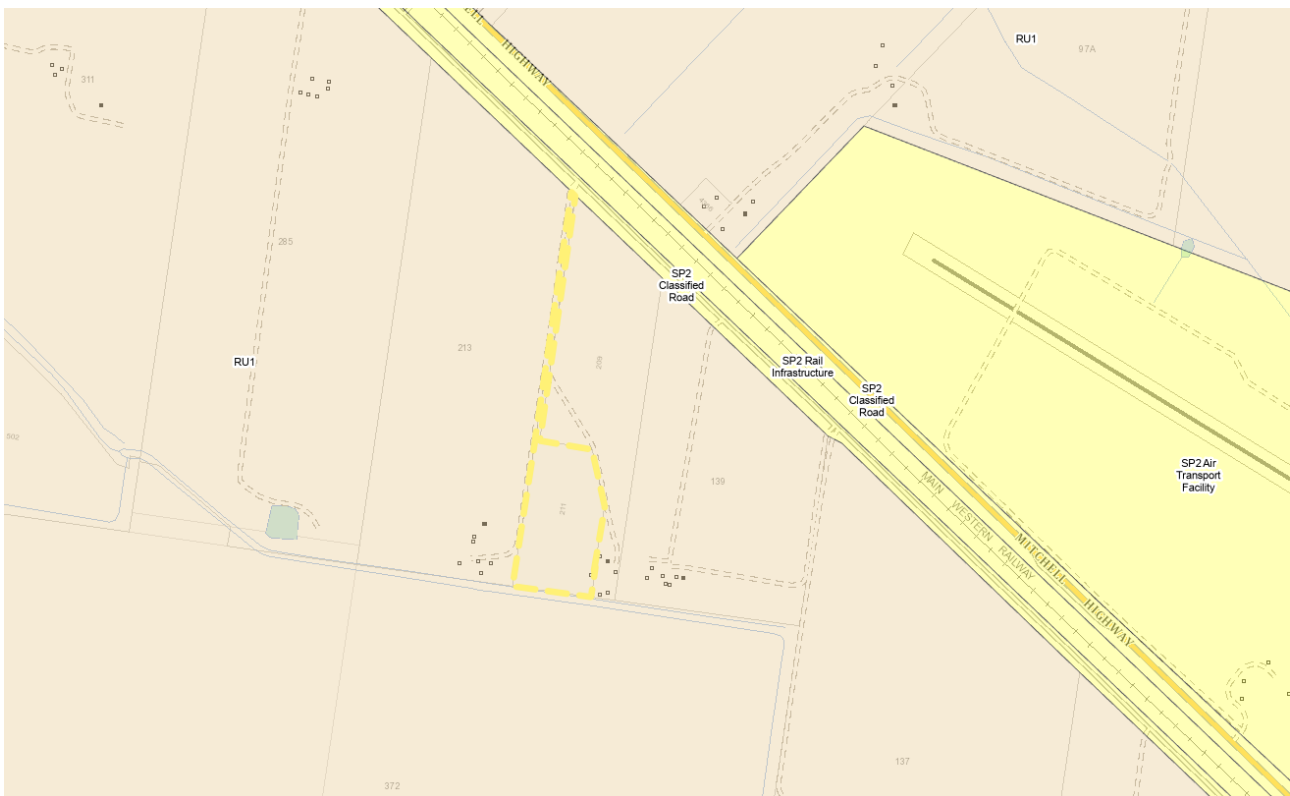


Figure 2: Locality map with zoning overlay of subject site, outlined in yellow (Source: ePlanning Spatial Viewer)

1.5 Mapping

The planning proposal does not require any LEP map amendments to NLEP 2011.

The Department does not require the planning proposal to prepare an Additional Permitted Use LEP map in this instance.

1.6 Background

In a Council meeting held on April 2021, Council considered the Narromine Shire Residential and Large Lot Residential (Land Use) Strategy 2018 (residential strategy) and whether a planning proposal can be prepared to implement the recommendations of the residential strategy.

Council received a submission from the subject site's landowner requesting the site to be considered in the residential strategy which would enable rural residential development. In lieu of including the subject site in the residential strategy and associated planning proposal, Council resolved to consider a future planning proposal for the subject site subject to additional investigations which supports the opportunity for a dwelling house.

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?

Narromine Shire Council resolved to support the planning proposal at a Council meeting held on 12 July 2023. The planning proposal is not a direct result of a strategic study or report.

The planning proposal is broadly consistent with the Narromine Shire Local Strategic Planning Statement 2020 (LSPS). Priority 4 of the LSPS stated 'adopted strategies and planning proposals should aim to provide flexibility to utilise the existing lots close to towns as rural lifestyle opportunities.' The subject site is an existing 5ha lot located within 4km of the Narromine CBD and can provide rural lifestyle opportunities.

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

Amending NLEP 2011 is the sole means by which a future development could be lodged, assessed, and determined to permit and facilitate the development of a dwelling house on the subject site.

Rezoning the subject site to achieve the proposal's intended objectives and outcomes is not appropriate as it may significantly impact the locality's existing agricultural land activities.

A dwelling house development application with a clause 4.6 variation request would likely not be supported as the variation to the development standard (clause 4.2B of NLEP 2011) is significant. It is assumed that Council (as the consent authority) considers this as an inappropriate pathway as a Council resolution was made in April 2021 that a planning proposal be considered for the development of a dwelling house.

The proposed amendment to Schedule 1 of NLEP 2011 is the best means of achieving the intended objectives and outcomes of the planning proposal and will also ensure greater planning certainty.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against the relevant aspects of the Central West and Orana Regional Plan 2041 and the Department is satisfied the proposed amendment is generally consistent with the Regional Plan.

Table 3 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 5: Identify, protect and connect important environmental assets	<p>The subject site's access handle entrance area along the road frontage is mapped as 'Sensitive Area' under the NLEP 2011 Terrestrial Biodiversity Map because of existing vegetation along the Ceres Siding Road reserve (refer to Figure 3 below). The planning proposal identified 'PCT 82 - Western Grey Box' vegetation along the northern and southern aspect of the subject site.</p> <p>The planning proposal is in relation to granting dwelling entitlement for the subject site. With the indicative dwelling location in the south of the lot, it is unlikely that the existing vegetation with sensitive biodiversity values will be affected by future development of a dwelling house. Future upgrade works to the existing access handle entrance to accommodate the dwelling house is unlikely. The dwelling house's indicative location and its impacts to environmental assets can be assessed in detail in the development application stage.</p>



Figure 3: NLEP 2011 Terrestrial biodiversity overlay on subject site's access handle
(Source: ePlanning Spatial Viewer)

Objective 7: Plan for resilient places and communities

Bushfire: The subject site is identified to be bushfire prone land along the southern boundary and access handle entrance. The indicative location of the dwelling house will be towards the southern portion of the site. Based on aerial imagery depicting existing vegetation, the indicative location of the dwelling house in this proposal is acceptable and does not pose significant risk to life. Notwithstanding, final location, bushfire attack level ratings and asset protection zones will be considered during the assessment of the subsequent development application.

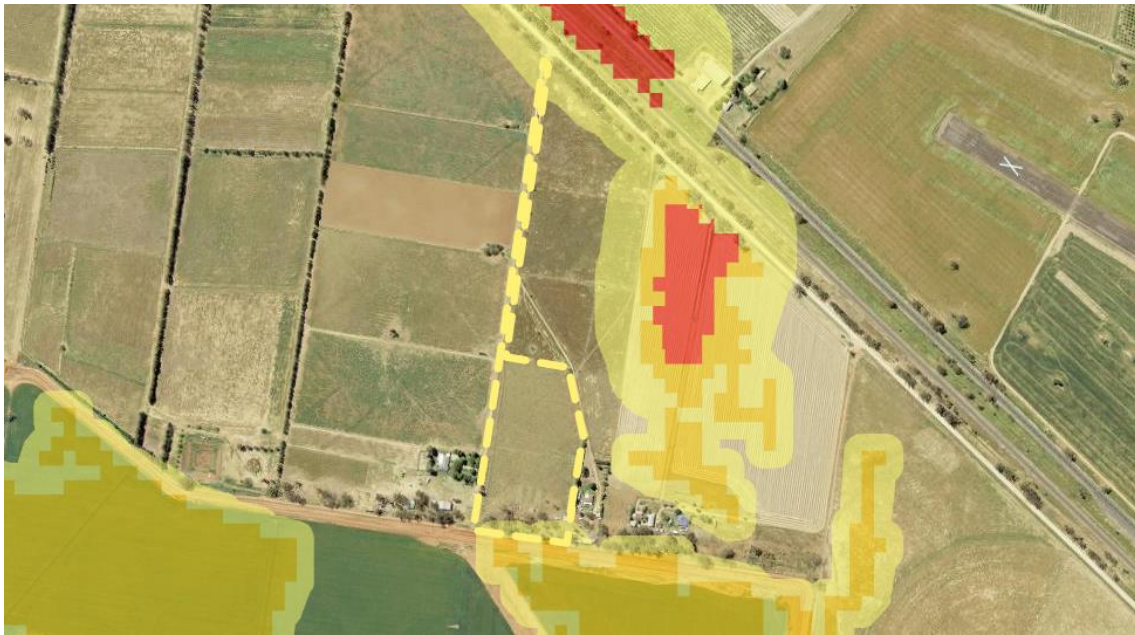


Figure 4: Aerial image of subject site with bushfire overlay (Source: ePlanning Spatial Viewer)

Flooding: NLEP 2011 maps the whole site as flood prone land. Council's report has included a flood map excerpt from the *Narromine Town Floodplain Risk Management Study and Plan Update 2021* demonstrating the extent of the 1% Annual Exceedance Probability (AEP) and its associated flood planning constraint categories for the subject site. The indicative dwelling house location is outside of the 1% AEP and will only be impacted during a probable maximum flood (PMF) event. The planning proposal has considered Council's study and anticipates a dwelling house can be developed above the flood planning level (FPL) indicated in Council's flood study. The Department is satisfied that the subsequent development application can adequately address the flood constraints of the subject site.

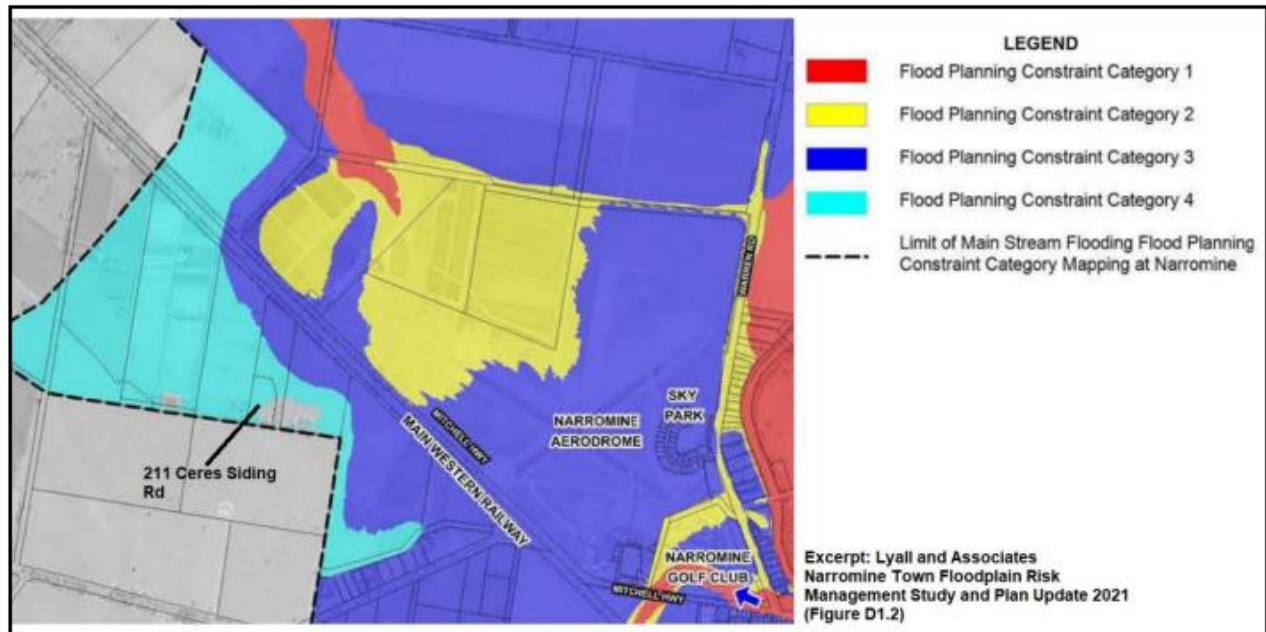


Figure 5: Extent of 1% AEP and associated flood planning constraint categories for the subject site
(Source: Narromine Town Floodplain Risk Management Study and Plan Update 2021)

<p>Objective 8: Secure resilient regional water resources</p>	<p>There are two existing groundwater bores within the north-western portion of the subject site. There is potential for groundwater to be impacted as the proposed dwelling house will likely require associated onsite sewage management. During the subsequent development application stage, Council will need to address the heads of considerations of clause 6.6 Groundwater vulnerability of NLEP 2011 relating to groundwater extraction and contamination impacts.</p>
<p>Objective 15: Manage rural residential development</p>	<p>The proposed amendment to Schedule 1 Additional Permitted Use to grant dwelling permissibility on land zoned RU1 Primary Production is consistent with this direction and its relevant actions.</p> <p>A dwelling house is not considered to be an incompatible use for the subject site and locality. The dwelling house is unlikely to adversely impact agricultural land uses within the area and will not increase pressure on infrastructure and services. Due to the subject site's existing lot size, the land is already fragmented and inserting an APU dwelling house provision will not result in further fragmentation.</p> <p>The planning proposal has considered the locality's land use pattern within a 2km radius of the subject site and identified multiple RU1 Primary Production zoned properties with existing dwelling houses not complying with the MLS development standard (refer to Figure 8 of the planning proposal). Based on recent aerial imagery, it is noted that these undersized rural properties could still undertake certain agricultural land activities without it being adversely impacted by a dwelling house.</p> <p>Notwithstanding, the subject site is mapped under DPI – Agriculture's Draft State Significant Agricultural Land Map. The draft map is at early stages and is not certain however, a Gateway determination condition is recommended requiring DPI – Agriculture be consulted to provide guidance on the appropriateness of the proposal.</p>

Objective 19: Protect agricultural production values and promote agriculture innovation, sustainability and value-add opportunities

Refer to Objective 15 discussion above.

Notwithstanding the Department's assessment of the planning proposal against the regional plan's objectives above, a Gateway determination condition is recommended requiring the planning proposal to be amended prior to community consultation demonstrating consistency with the relevant objectives of the Central West and Orana Regional Plan 2041.

3.2 Local

The proposal states that it 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
Narromine Local Strategic Planning Statement 2020	<p>The proposal gives effect to the Narromine LSPS 2020 as follows:</p> <p>a) Planning Priority 4 A range of housing options for the community.</p> <p>The planning priority states, ‘adopted strategies and planning proposals should aim to provide flexibility to utilise the existing lots close to towns as rural lifestyle opportunities.’</p> <p>The subject site is an existing lot located 4km from the Narromine CBD and is therefore considered to be in close vicinity to a town. The proposed APU provisions will effectively enable rural lifestyle opportunities.</p> <p>b) Planning Priority 9 Manage natural environments for current and future generations.</p> <p>The planning proposal will not adversely impact the subject site’s surrounding natural environments.</p>
Narromine Shire Residential (and Large Lot Residential) Strategy 2018	<p>The residential strategy did not consider the subject site for potential residential development as further site investigations were required (refer to Section 1.6 of this report above).</p> <p>However, the residential strategy considered the subject site’s western adjoining lot (213 Ceres Siding Road, Narromine, Lot 661 DP 608132):</p> <p>c) LONG TERM: Lot 551 DP608132 (213 Ceres Siding Road) is a smaller holding at ~30ha with less agricultural potential. Surrounding lots to the west and east are small but the 372 Dandaloo Road property (above) is to the south and has some agricultural potential. As this site is in the flood planning area it should only be considered if no flood free land is available in the long term and with the majority of adjacent land owners with small lots agreeing to be in Zone R5;</p> <p>Figure 6: Extract of commentary for 213 Ceres Siding Road (Source: Narromine Shire Residential (& Large Lot Residential) Strategy 2018)</p> <p>The residential strategy also stated that 213 Ceres Siding Road (western adjoining lot) could be considered for rural lifestyle due to its smaller lot size.</p> <p>While the residential strategy is more focused on the viability of rezoning the surrounding area to R5 Large Lot Residential, the planning proposal has taken into account the residential strategy’s considerations such as holding size, flood impacts, desirability, adjoining land uses, road access and infrastructure services.</p> <p>With consideration of the residential strategy’s commentary for 213 Ceres Siding Road and surrounding properties, the planning proposal is considered acceptable as:</p> <ul style="list-style-type: none"> the subject site is already fragmented with a lot size of 5ha and has less agricultural potential the indicative location of the dwelling house is not within the 1% AEP flood event area it will only be introducing 1 dwelling house and will not result in significant demand to the existing infrastructure rezoning to R5 Large Lot residential is not proposed will not adversely impact supply of rural lifestyle lots in Narromine.

Narromine Shire Council
Agricultural Land Use
Strategy Intensive Plant
Agriculture 2013

Section 6 of the strategy considers multiple factors to consider for dwelling entitlements. The planning proposal has assessed the proposal against the strategy's dwelling entitlement factors and has demonstrated that there are sufficient grounds for the subject site to be granted dwelling entitlement (refer to pages 14-15 of the planning proposal).

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions (as from 21 September 2023) is discussed in the table below:

Table 5 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of regional Plans	Consistent	The planning proposal is generally consistent with the Central West and Orana Regional Plan 2041. Refer to Section 3.1 above.
1.4 Site Specific Provisions	Consistent	The proposed Additional Permitted Use provision will allow a land use (dwelling house) to be carried out in the existing land zoning without imposing additional development standards or requirements.
4.1 Flooding	Consistent	<p>The planning proposal is generally consistent with this direction as it will not:</p> <ul style="list-style-type: none"> • permit development in floodway and high hazard areas • result significant increase to dwelling density • result in significant flood impacts to other properties • rezone the subject site from rural to residential zoning <p>The planning proposal has considered the subject site's flood constraints and demonstrated a dwelling house could developed without adversely creating further impacts (refer to Section 3.1 above).</p>
4.3 Planning for Bushfire	Consistent, subject to consultation with NSW RFS.	<p>The subject site is partially mapped as bushfire prone land – Vegetation Category 2 along the access handle and southern boundary.</p> <p>In accordance with the direction, a Gateway determination condition is recommended requiring consultation with NSW RFS.</p>

4.4 Remediation of Contaminated Land	Consistent, subject to Gateway determination condition.	<p>Despite the planning proposal stating the subject site is unlikely to be contaminated, the subject site is surrounded by agricultural/horticultural uses that likely use various types of chemicals to facilitate activities. In addition, no sufficient evidence has been provided in the planning proposal to demonstrate the subject site did not have any potentially contaminating activities conducted in the past. Historical aerial images (1990s) suggest there were some potentially contaminating activities undertaken on the subject site (refer to Figure 7 below).</p> <p>A Gateway determination condition is recommended requiring a Preliminary Site Investigation (PSI) report to be prepared prior to the finalisation of the LEP. The PSI will inform Council the appropriateness of a dwelling house for the subject site. Due to the nature of the proposal, the Department is satisfied this matter can be addressed during the development application stage.</p>
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Figure 7: Extract of historical aerial imagery of subject site
(Source: Historical Imagery Viewer, Department of Customer Service, 02/05/1991)

5.3 Development Near Regulated Airports and Defence Airfields	Consistent	<p>The proposed dwelling house on the subject site is negligible and will not impact the air operations of Narromine Aerodrome.</p> <p>With consideration of the subject site's location and distance, the proposed dwelling house will highly unlikely encroach within Narromine Aerodrome's obstacle limitation surfaces (OLS).</p> <p>Construction standards for aircraft noise can be considered during the development application stage.</p>
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8.1 Mining, Petroleum Production and Extractive Industries	Consistent	The subject site is not land subject to exploration or mining titles.
9.1 Rural Zones	Consistent	The direction prohibits rezoning of rural zoned land to residential, business, industrial, village or tourist zone. The planning proposal does not propose rezoning.
9.2 Rural Lands	Consistent	The proposed dwelling house APU provision will not result in further rural land fragmentation and will not adversely affect the operation of existing and future rural land uses within the locality. A future dwelling house for the subject site will not increase pressure on existing infrastructure and services.

3.4 State environmental planning policies (SEPPs)

The proposed dwelling house APU provision is generally consistent with the following relevant SEPPs:

- State Environmental Planning Policy (Sustainable Buildings) 2022
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Primary Production) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021

Despite Narromine LEP 2011 not being an instrument referenced in Part 6, Schedule 4 of SEPP (Primary Production 2021), the planning proposal has considered Part 2, Schedule 4 of the SEPP consisting of heads of consideration matters for the erection of a dwelling in RU1 Primary Production.

It is noted that for any subsequent development applications made, Council will be required to consider the abovementioned SEPPs during assessment.

4 Site-specific assessment

4.1 Environmental

The subject site is constrained by bushfire, biodiversity, potential contamination, flooding and groundwater vulnerability. The planning proposal, enabling the development of one (1) dwelling house, will not be adversely affected by these constraints. In addition, Council is required to consider the likely environmental impacts and suitability of future development as required by the Act when assessing subsequent development applications.

Refer to sections 3.1 and 3.3 above for detailed discussions of the subject site's environmental constraints.

4.2 Social and economic

The planning proposal is anticipated to generate minimal social and economic impacts to the subject site and locality.

The planning proposal has considered the locality's land use pattern within a 2km radius of the subject site and identified multiple RU1 Primary Production zoned properties with existing dwelling houses not complying with the MLS development standard (refer to Figure 8 of Planning Proposal).

Based on recent aerial imagery, it is noted that these undersized rural properties could still undertake certain agricultural land activities without it being adversely impacted by a dwelling house.

In addition, Council is required to consider the likely social and economic impacts and suitability of future development as required by the Act when assessing subsequent development applications. During the development application stage, Council will assess the potential impacts the dwelling house may create onto the surrounding agricultural activities.

4.3 Infrastructure

The subject site has access to public roads that are capable of accommodating traffic generated by a dwelling house.

The subject site has existing access to electrical and telecommunications infrastructure, and water and sewer infrastructure may be facilitated by rainwater tanks and an onsite septic system.

The planning proposal will not likely result in an increased demand to infrastructure and services.

5 Consultation

5.1 Community

The planning proposal is categorised as standard under the LEP Making Guideline (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

The Department agrees with the planning proposal recommending the following agencies be consulted with and given 30 working days to comment:

- NSW Rural Fire Service
- Department of Primary Industries – Agriculture

6 Timeframe

A five (5) month time frame is proposed to complete the LEP. However, this timeframe will overlap with close-down periods in December 2023 and January 2024.

To account for delays caused by close-down periods and for the community consultation, a timeframe of seven (7) months is recommended. As Part 6 of the planning proposal contains an out-of-date LEP amendment timeline, a Gateway determination condition is recommended to include a revised timeline prior to the commencement of public exhibition.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal consist of standard 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;
- Due to the subject site's unique setting, there is opportunity to facilitate a dwelling house that will not result in adverse land use conflicts; and
- The planning proposal process is a transparent mechanism to allow permissibility of a dwelling house on the subject site.

Based on the assessment outlined in this report, the proposal requires amendments prior to community consultation as outlined in section 9 below.

9 Recommendation

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions recommended to be included in the Gateway determination:

1. Prior to community consultation, the planning proposal is to be amended addressing the following matters:
 - a) Amend the Project Timeline to reflect the Gateway determination of the proposal and subsequent milestone for finalisation in seven (7) months.
 - b) Demonstrate consistency with the relevant objectives of the Central West and Orana Regional Plan 2041.
2. Consultation is required with the following public authorities:
 - a) Department of Primary Industries – Agriculture
 - b) NSW Rural Fire Service
3. Prior to finalisation of the LEP, a Preliminary Site Investigation report is to be submitted to the planning proposal authority which informs the appropriateness of a dwelling house on the subject site.
4. The planning proposal should be made available for community consultation for a minimum of 20 working days.
5. The timeframe for completing the LEP is to be seven (7) months from the date of the Gateway determination.
6. Given the nature of the planning proposal, it is recommended that the Gateway determination authorise council to be the local plan-making authority.



9/10/23

Tim Collins

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(Signature)

12 October 2023

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