

Amendment to Hay Local Environmental Plan  
2011

Removal of Minimum Lot Size from RU5 Village  
Zone & Rezoning of land from RU1 Primary  
Production to R2 Low Density Residential Zone

APRIL 2024

Submitted to NSW Department of Planning and Environment  
On behalf of Hay Shire Council

# Contact

Matt Johnson, Associate

Habitat Planning  
 409 Kiewa Street  
 Albury NSW 2640  
 02 6021 0662  
[habitat@habitatplanning.com.au](mailto:habitat@habitatplanning.com.au)  
[habitatplanning.com.au](http://habitatplanning.com.au)

Habitat Planning Pty Ltd  
 ABN 29 451 913 703  
 ACN 606 650 837

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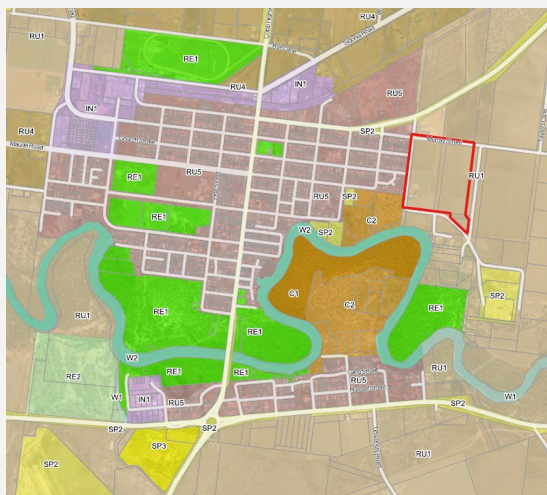
# Executive Summary

This Planning Proposal has been prepared by Habitat Planning on behalf of Hay Shire Council and is submitted to the New South Wales Department of Planning and Environment ('the Department') in support of a Planning Proposal to amend the *Hay Local Environmental Plan 2011* (LEP).

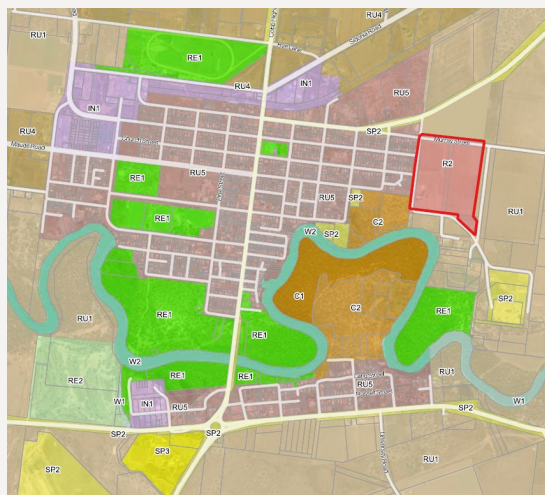
Specifically, the Planning Proposal seeks to:

- Remove the current 550sqm minimum lot size applicable to land located within the RU5 Village Zone (both North and South Hay).
- Rezone land identified as 229 Bourke Street (Lot 2, DP448476 and Lot 135, DP756755) and 41 Cemetery Road (Lot 168, DP756755) from RU1 Primary Production to R2 Low Density Residential Zone.
- Reduce the minimum lot size of land identified as 229 Bourke Street (Lot 2, DP448476 and Lot 135, DP756755) and 41 Cemetery Road (Lot 168, DP756755) from 90ha to 1,500sqm.
- Introduce a new land use zone within the Land Use Table of the LEP, being the R2 Low Density Residential zone.

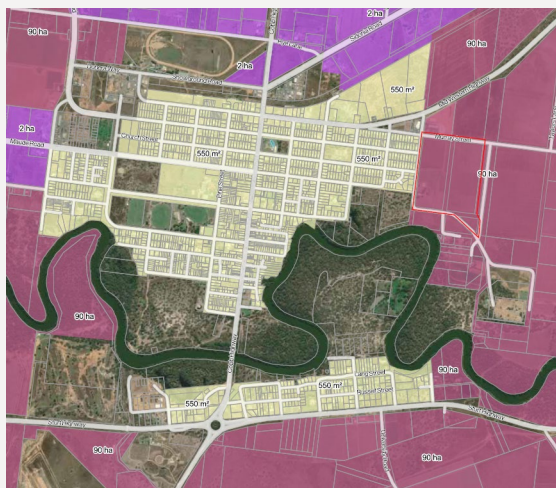
Details of the proposed changes are illustrated in the figures below.



**Figure 1 | Existing Land Zoning Map, subject land outlined**



**Figure 2 | Proposed Land Zoning Map, subject land outlined**



**Figure 3 | Existing Lot Size Map, subject land outlined**



**Figure 4 | Proposed Lot Size Map, subject land outlined**

The report has been prepared to address the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act), as well as satisfying the requirements of the NSW Department of Planning, Infrastructure & Environment's guideline titled: *Local Environmental Plan Making Guideline* (August 2023).

For the purposes of the Guideline, the application is classified as a 'Standard' Planning Proposal as it seeks to remove the minimum lot size applicable to additional land that was not previously identified in the Hay Structure Plan.

This Planning Proposal provides an analysis of the physical and strategic planning constraints and opportunities and considers the relevant environmental, social and economic impacts of the proposal and its strategic merit.

The Planning Proposal has strategic merit and is in the public interest for the following reasons:

- The proposal directly facilitates the recommendations outlined within Sections 5.1 & 5.2 of the *Hay Structure Plan* (July, 2022).
- The resultant development/redevelopment of the land will not create any unacceptable environmental or social impacts.
- The proposed amendment will encourage the development of existing urban areas to contribute to a diversity of housing types throughout the Municipality.
- Optimise the use of unconstrained land that is presently underutilised to further contribute to the provision of a diversity of housing options throughout the municipality through a variety of residential lot sizes (both small lot and residential lifestyle).
- The proposal will increase the diversity and type of residential housing that will cater for a range of housing needs and demands, particularly in response to an ageing population and increasing housing costs.
- There will be a net economic benefit for the Hay community in terms of growth and investment via the provision of additional residential allotments.
- The proposal does not require concurrence from other state government agencies.
- To identify and establish the residential growth area of Hay.
- The subject land can be provided with all urban services.

It is recommended that the Department resolve to support the changes sought to the mapping of the LEP as detailed in this Planning Proposal and as summarised as follows:

- Amend the Land Zoning Map – Sheet LZN\_005A and Sheet LZN\_009A by rezoning land identified as 229 Bourke Street (Lot 2, DP448476 and Lot 135, DP756755) and 41 Cemetery Road (Lot 168, DP756755) from RU1 Primary Production to R2 Low Density Residential Zone.
- Amend the Lot Size Map – Sheet LSZ\_005A and Sheet LSZ\_009A to remove the minimum lot size for land located within the RU5 Village Zone and reduce the minimum lot size of land identified as 229 Bourke Street (Lot 2, DP448476 and Lot 135, DP756755) and 41 Cemetery Road (Lot 168, DP756755) from 90ha to 1,500sqm.

It is recommended that Hay Shire Council resolve to support the changes to the LEP as detailed in this Planning Proposal and forward it to the NSW Department of Planning and Environment for a Gateway Determination.



# 1. Introduction

## 1.1. Overview

This Planning Proposal has been prepared by Habitat Planning on behalf of Hay Shire Council and is submitted to the NSW Department of Planning and Environment in support of a Planning Proposal to amend the *Hay Local Environmental Plan 2011* (LEP).

Specifically, the Planning Proposal seeks to:

- Remove the current 550sqm minimum lot size applicable to land located within the RU5 Village Zone (both North and South Hay).
- Rezone land identified as 229 Bourke Street (Lot 2, DP448476 and Lot 135, DP756755) and 41 Cemetery Road (Lot 168, DP756755) from RU1 Primary Production to R2 Low Density Residential Zone.
- Reduce the minimum lot size of land identified as 229 Bourke Street (Lot 2, DP448476 and Lot 135, DP756755) and 41 Cemetery Road (Lot 168, DP756755) from 90ha to 1,500sqm.
- Introduce a new land use zone within the Land Use Table of the LEP, being the R2 Low Density Residential zone.

This proposal has been prepared to address the requirements of Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), as well as satisfying the requirements of the NSW Department of Planning, Infrastructure & Environment's guideline titled: *Local Environmental Plan Making Guideline* (August 2023).

For the purposes of the Guideline, the application is classified as a 'Standard' Planning Proposal as it seeks to remove the minimum lot size applicable to additional land that was not previously identified in the Hay Structure Plan.

This report will demonstrate that the proposed amendment is consistent with the intent and objectives of the planning framework and strategic plans and policies. Consequently, this will provide the NSW Department of Planning and Environment (DPE) with the confidence to endorse the proposed amendment as sought by this Planning Proposal.

It is requested that Council forward the Planning Proposal to the Minister for Planning and Public Spaces for Gateway Determination in accordance with Section 3.34 of the EP&A Act. The Gateway Determination by the Minister will decide:

- Whether the matter should proceed (with or without variation).
- Any necessary technical studies or supporting studies.
- Whether the planning proposal needs to be amended (and possibly resubmitted to the Department) prior to exhibition.
- The duration and extent of community consultation.
- Whether consultation with State or federal authorities (if required).
- Whether a local contributions plan is to be exhibited at the same time as the planning proposal.
- Whether a public hearing is needed.
- The timeframes within which the various stages of the process for making of the proposed LEP are to be completed.
- Whether the council is to be authorised to make the proposed instrument as the Local Plan Making Authority (LPMA).

- Any other conditions.

## 1.2. Background & Pre-Lodgement Advice

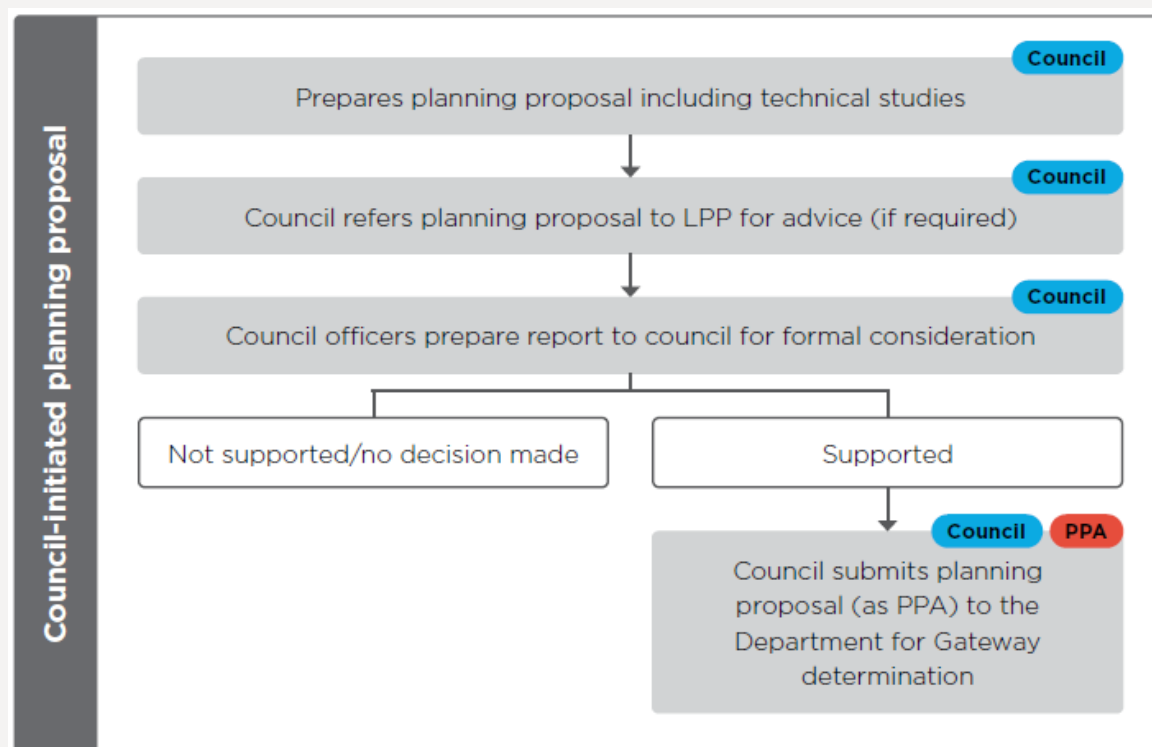
As required by the Department's guideline titled: *Local Environmental Plan Making Guideline* (August 2023), applicants are encouraged to undertake pre-lodgement discussions with Council (if proponent initiated) and/ or the Department (where Council initiated). The purpose of this stage is to provide early feedback and identify and resolve key planning issues upfront to enable a streamlined LEP making process.

The purpose of these pre-lodgement discussions is to identify key information requirements, infrastructure needs and consultation requirements with key government agencies.

Following the completion of the initial Stage 1 Pre-Lodgement phase, a Planning Proposal (this document) is subsequently prepared and submitted to Council.

It is noted that the Planning Proposal is classified as a Council-initiated Planning Proposal. The following flowchart shows the process for a Council-initiated planning proposal.

A flowchart depicting this process is reproduced below:



**Figure 5 – Flowchart: Stage 2 Council-initiated planning proposal**

In accordance with these requirements, a Scoping Report (Attachment A) was prepared and a pre-lodgement meeting was held with DPE on 3 April 2023.

Below is a brief summary of the items discussed during this meeting and formal advice provided post this meeting:

- *The removal of the minimum lot size (MLS) for RU5 zoned land in South Hay is not consistent with the Structure Plan and if it were included, it would not constitute a 'Basic' proposal for the purposes of the Gateway process.*
- *While it is possible for Council to include this area, a future Planning Proposal would need to*



*address the inconsistency with the Structure Plan and ensure that any issues that the Structure Plan would have considered have been addressed in the Planning Proposal.*

- *Section 1.3.1 of the draft Scoping Proposal refers to ‘the location of the area [to remove the MLS] is shown below at Figure 4.’ Figure 4 includes the RU5 zoned land at South Hay. As noted above, the area does not align with the Structure Plan Figure 35 (Page 49) regardless of the proposal’s validity and an analysis of the site similar to what was provided to justify the removal of MLS in the identified area in the Structure Plan will be required.*

*[Notwithstanding the above] we agree that the additional area you have identified on page 10 should be included for removal of the MLS.*

- *The Planning Proposal seeks to rezone 5 parcels of land to R2 Low Density, however Figure 36 of the Structure Plan identifies a small portion of land to be rezoned RE1 Public Recreation. The non-provision of land to be rezoned RE2 needs to be addressed in the Planning Proposal.*
- *Details regarding staging and supply and demand will need to be addressed as part of the future Planning Proposal.*
- *As the Scoping Report seeks to rezone RU1 zoned land, the Planning Proposal will need to address Section 9.1 Ministerial Directions 9.1 – Rural Zones and 9.2 – Rural Lands.*
- *Strategy 11.1 of the Riverina Murray Regional Plan 2041 needs to be addressed.*
- *NSW DPE will not support the inclusion of agricultural uses within the proposed R2 Low Density Residential zone as it is not consistent with the aims and objectives of this zone.*

The submission of this Planning Proposal seeks to address the matters raised in response to the Scoping Report.

### 1.3. Scope and Format of Planning Proposal

The Planning Proposal details the merits of the proposed changes to the LEP and has been structured in the following manner consistent with the Department of Planning & Environment’s guideline titled: *Local Environmental Plan Making Guideline*:

- Section 1.0 provides an introduction to the Planning Proposal.
- Section 2.0 provides a description of the site, its context and existing development, including identification of the land to which the changes are proposed.
- Section 3.0 contains the Planning Proposal, prepared in accordance with the matters to be considered in the Department of Planning’s document titled: *Local Environmental Plan Making Guideline*; and
- Section 4.0 provides the conclusions and recommendations to proceed with the Planning Proposal to Gateway Determination to amend the LEP.
- Appendices contains supporting plans and documentation.

### 1.4. Supporting Plans and Documentation

The Planning Proposal has been prepared with input from a number of technical studies and assessments which have been prepared to accompany the request. These documents are included as attachments to this report and are identified in Table 1.

**Table 1 – Attachments to Planning Proposal**

No.	Document Name	Prepared by
A	Scoping Proposal	Habitat Planning
B	Consistency with Riverina-Murray Regional Plan 2041	Habitat Planning
C	Consistency with State Environmental Planning Policies	Habitat Planning
D	Consistency with Section 9.1 Ministerial Directions	Habitat Planning
E	Preliminary Site Investigation (PSI)	McMahon Earth Sciences
F	Land Use Conflict Assessment Report (LUCRA)	Habitat Planning
G	Hay Structure Plan	Habitat Planning
H	Government Agency Responses to Hay Structure Plan	Various

## 2. Site Description

The subject Planning Proposal relates to the main urban area of the Hay township and South Hay located to the south of the Murrumbidgee River that is currently zoned RU5 Village.

The Planning Proposal also relates to land identified as 229 Bourke Street (Lot 2, DP448476 and Lot 135, DP756755) and 41 Cemetery Road (Lot 168, DP756755) located on the eastern fringe of the Hay township.

This area comprises a number of individual allotments. The location of the area is shown below at **Figure 6**.



**Figure 6 – Location of the subject land (outlined) in context**

## 3. Planning Proposal

This section of the report addresses the Department of Planning's document titled *Local Environmental Plan Making Guideline* and Section 3.33 of the EP&A Act. Specifically, this section provides:

- Objectives and intended outcomes;
- Explanation of provisions;
- Justification;
- Mapping
- Community consultation; and
- Project timeline.

### 3.1. Objectives and Intended Outcomes

The objective of this Planning Proposal is to amend the *Hay Local Environmental Plan 2011* by removing the 550sqm minimum lot size that currently applies to the RU5 Village Zone within the main township of Hay and South Hay.

The removal of the current minimum lot size will encourage urban renewal/infill development that will support population growth, as well as encourage greater diversity in the range and type of housing available within Hay that has readily available access to infrastructure and services.

In addition, the Planning Proposal also seeks to rezone land identified as 229 Bourke Street (Lot 2, DP448476 and Lot 135, DP756755) and 41 Cemetery Road (Lot 168, DP756755) from RU1 Primary Production to R2 Low Density Residential.

A corresponding reduction in the minimum lot size from 90ha to 1,500sqm is also proposed as it relates to this land.

In doing so, this will provide both infill and new greenfield opportunities for the township, which are currently unavailable.

### 3.2. Explanation of Provisions

Details of each of the proposed amendments sought by this Planning Proposal are discussed below:

#### 3.2.1 Removal of Minimum Lot Size Requirements in the RU5 Village Zone

The intended outcomes discussed above and within this report will be achieved by amending the LEP to remove the 550sqm minimum lot size that currently applies to the RU5 Village Zone within the main township of Hay and South Hay.

This will involve an amendment to the following LEP Map:

- Amend the Lot Size Map – Sheet LSZ\_005A to remove the minimum lot size for land located within the RU5 Village Zone.

The purpose of this change is to encourage residential infill development within the main urban area of Hay.



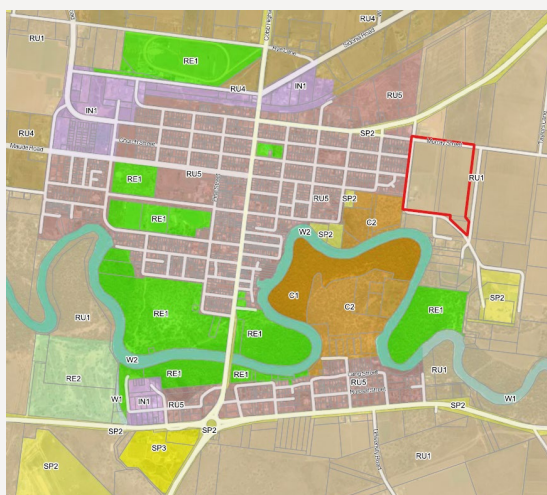
### 3.2.2 Rezoning of RU1 Primary Production Zoned Land & Reduction in Minimum Lot Size

The Planning Proposal seeks to rezone land identified as 229 Bourke Street (Lot 2, DP448476 and Lot 135, DP756755) and 41 Cemetery Road (Lot 168, DP756755) from RU1 Primary Production to R2 Low Density Residential. A corresponding reduction in the minimum lot size from 90ha to 1,500sqm is also proposed as it relates to this land.

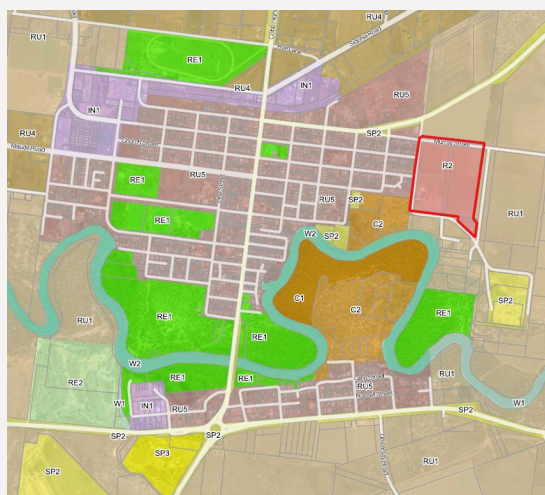
This will involve an amendment to the following LEP Maps:

- Amend the Land Zoning Map – Sheet LZN\_005A and Sheet LZN\_009A by rezoning land identified as 229 Bourke Street (Lot 2, DP448476 and Lot 135, DP756755) and 41 Cemetery Road (Lot 168, DP756755) from RU1 Primary Production to R2 Low Density Residential Zone.
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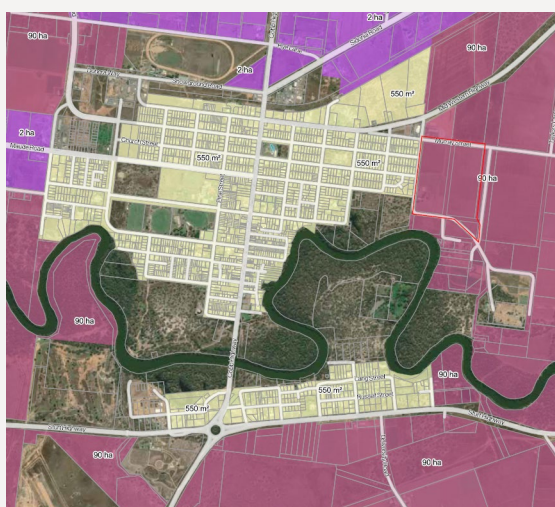
An extract of the existing and proposed Land Zoning and Minimum Lot Size Map identifying the proposed changes sought by this Planning Proposal are provided in **Figures 7-10**.



**Figure 7 | Existing Land Zoning Map, subject land outlined**



**Figure 8 | Proposed Land Zoning Map, subject land outlined**



**Figure 9 | Existing Lot Size Map, subject land outlined**



**Figure 10 | Proposed Lot Size Map, subject land outlined**

### 3.2.3 Inclusion of Land Use Table for R2 Low Density Residential Zone

In order to facilitate the proposed rezoning recommendations outlined in Section 3.2.2 above, the Planning Proposal seeks to introduce a new land use zone within the Land Use Table of the LEP, being the R2 Low Density Residential as follows:

[insert after RU5 Village Zone]

#### **R2 Low Density Residential**

##### **1 Objectives of zone**

- *To provide for the housing needs of the community within a low-density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

##### **2 Permitted without consent**

*Environmental Protection Works; Home-based child care; Home occupations; Roads*

##### **3 Permitted with consent**

*Attached dwellings; Bed and breakfast accommodation; Centre-based child care facilities; Dual occupancies; Dwelling houses; Group homes; Home industries; Oyster aquaculture; Pond-based aquaculture; Respite day care centres; Secondary dwellings; Tank-based aquaculture; Any other development not specified in item 2 or 4.*

##### **4 Prohibited**

*Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat building and repair facilities; Boat launching ramps; Camping grounds; Car parks; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Emergency services facilities; Entertainment facilities; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Function centres; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Local distribution premises; Mortuaries; Open cut mining; Passenger transport facilities; Port facilities; Recreation facilities (major); Registered clubs; Research stations; Residential accommodation; Restricted premises; Rural industries; Service stations; Sewerage systems; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water treatment facilities; Wholesale supplies; Wharf of boating facilities;*

### **3.3. Justification**

This section of the Planning Proposal sets out the justification for the intended outcomes and provisions, identifies the strategic planning context and outlines what the community benefit will be.

#### **3.3.1 Section A – Need for the Planning Proposal**

**Q1. Is the planning proposal a result of an endorsed Local Strategic Planning Statement (LSPS), strategic study or report?**

The Planning Proposal is generally consistent with the *Hay Local Strategic Planning Statement*.

The Planning Proposal has been prepared as a result of the *Hay Structure Plan (2022)*, as well as being generally consistent with the *Hay Shire Council Local Strategic Planning Statement (LSPS)*.

Further details regarding the LSPS and how this proposal aligns are provided below.

#### Hay Shire Council Local Strategic Planning Statement

The *Hay Shire Council Local Strategic Planning Statement* (LSPS) helps to guide the growth of Hay over the next 20 years. The LSPS aims to guide future land use planning and influence public and private investment.

The LSPS identifies planning priorities and future strategic planning activities, in the form of studies and strategies. The proposed development aligns with the following Planning Priority as set out in the LSPS

- *Planning Priority 1: Housing Choice*

*Ensure the community has access to diverse housing options.*

*Provide diverse housing choices and opportunities to meet changing demographics and population needs, with housing growth in appropriate locations.*

The rationale behind this objective as contained within the LSPS is reproduced below (emphasis added):

*It is predicted that there will be a slow decline in the population of Hay, which puts Hay in a unique position. Hay had a brief spike in housing demand in the past ten years with the construction of the cotton gin, but it needs to be stressed that housing demand will go down if there is no change in the economy and housing offering. In recent years there has been significant interest in the type of housing that is not relatively common or affordable in other areas of the state:*

- Rural Residential lots

- Medium density within close proximity of a small town.

- Riverfront land within driving distance from larger centres.

*There is also a demand for larger residential lots (2000m<sup>2</sup> and up), which deviates from the standard residential product available. This can be accommodated through the extension of the urban edge to include some unutilised agricultural land around the edges of Hay. Potential development will depend on the ability to provide services to these areas.*

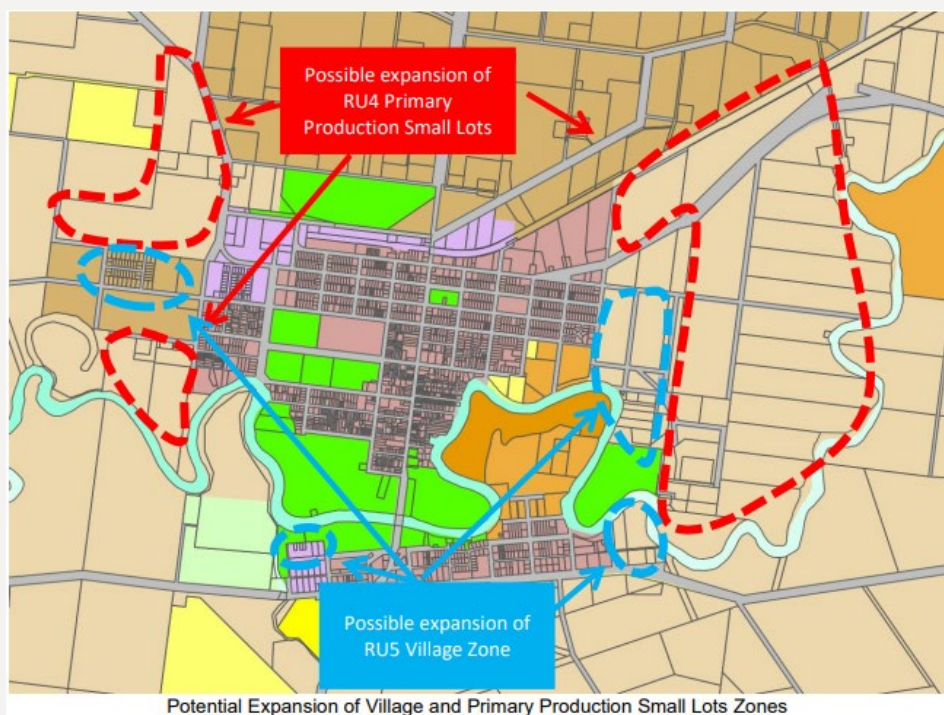
*...There is a demand for infill development and medium density development within walking distance of the main street, Lachlan Street.*

*In planning for growth and change, Council will strive to retain housing choice and diversity to meet community needs; ensure that development respects neighbourhood character and resident amenity; and ensure that housing growth is in the right locations reflecting land constraints and infrastructure capacity.*

Included under this Planning Priority was a plan identifying the 'Potential expansion of Village and Primary Production Small Lots Zones' within Hay. Importantly, this included land on the eastern side of the main township as 'Possible expansion of RU5 Village'.

A copy of this figure is reproduced below.





**Figure 11 | Potential Expansion of Village and Primary Production Small Lots Zone**  
(Source: Hay LSPS, 2020)

The LSPS recommends reviewing planning controls in the short term to provide a wider housing choice, as well as the preparation of draft Structure Plans for the areas.

Consistent with these action items, Hay Shire Council previously prepared a Structure Plan for the township, which amongst other things recommended the removal of the 550sqm minimum lot size that applies to the main urban area zoned RU5 Village.

The removal of this minimum lot size and encouragement of urban infill/renewal development will increase the range and type of housing available within the township. This will support ageing in place, reduce pressures on infrastructure and will reduce urban sprawl.

Similarly, the Structure Plan (and this subsequent Planning Proposal) is seeking to rezone land on the eastern side of town for low density residential purposes (1,500m<sup>2</sup> +). This will increase the range and type of housing within the township and will provide a transition between the urban centre and rural periphery.

This land is unconstrained from an environmental perspective and can be appropriately serviced with reticulated services.

Consequently, the subject Planning Proposal achieves this Planning Priority.

**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 considered the best means of achieving the objectives or intended outcomes as it will facilitate and encourage infill development and urban renewal of currently underutilised residential zoned land within the main township of Hay.

At present, the established lot size pattern of land within Hay is typical of smaller regional centres and consists of traditional quarter acre allotments (1,000m<sup>2</sup>) set within generous road reserves with rear laneways.

An example of the established lot size pattern is demonstrated below.



**Figure 12 – Example of Established Lot Size Pattern within Hay**

As can be seen above, much of this land is largely underutilised with a dwelling located towards the front of the property and minor outbuildings and shedding at the rear with large lawned areas.

Under the provisions of Clause 4.1 of the LEP, this land cannot be further subdivided for torrens title purposes unless it can achieve the minimum lot size requirements of the Lot Size Map, which in this instance is 550sqm.

Given that the size of each resultant lot created by a subdivision needs to achieve the 550sqm minimum, the average size of a lot would need to be greater than 1,100sqm before it can be further subdivided. As demonstrated above, the current minimum lot size that applies to the RU5 Village essentially prohibits the further subdivision of land for torrens title purposes.

It is acknowledged that an alternative to the subject Planning Proposal would be to utilise Clause 4.1(4) of the LEP, which allows for the subdivision of land to any size under the following acts:

- (a) *by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or*
- (b) *by any kind of subdivision under the Community Land Development Act 2021.*

Whilst the subdivision of land via either a community title or strata title subdivision will achieve the same outcome as a Torrens Title subdivision, this option is not preferred by some persons for the following reasons:

- Subdivision under a Strata title scheme requires the establishment and ongoing management of a Body Corporate, which creates logistical, financial and time constraints that may discourage development;
- Subdivision under a Community title scheme requires the establishment and enforcement of a development contract and community statement, which places burdens on owners and land purchasers.

Consequently, the removal of the 550sqm minimum lot size is considered to be appropriate and will ensure consistency with other forms of subdivision, whilst removing some of the barriers or disincentives to subdivide under these methods.

This is considered particularly important given that the main urban area of Hay contains a large amount of rear public laneways and corner sites that could easily be subdivided for torrens title purposes, but currently can't under the current planning controls.

A further alternative to the proposed removal of the existing 550sqm minimum lot size could include the introduction of a new local provision that allows for the concurrent subdivision of land and construction of a dwelling on land less than the minimum lot size.

Examples of such clauses exists within a number of other LEP's. For example Clause 4.1A of the *Albury Local Environmental Plan 2010* allows for the subdivision of land less than the minimum lot size (in this instance 450m<sup>2</sup>), where it involves the concurrent submission of a Development Application for both subdivision and residential dwellings.

Whilst this option does achieve a similar objective to that sought by the subject Planning Proposal the adoption of a new local provision versus the removal of the existing minimum lot size both require an amendment to the LEP.

It is also noted that the proposed removal of the minimum lot size within the main RU5 Village zone is consistent with a number of other gazetted LEP's that do not contain a minimum lot size within their main urban areas. This is particularly relevant, where it relates to commercial or community owned land.

In the absence of all the above alternatives, Council also has the option of granting Clause 4.6 variations to the minimum lot size requirements of Clause 4.1 of the LEP. Again, this option is not preferred as it could undermine the integrity of the LEP and would require ongoing reporting by Council.

Similarly, alternatives to the rezoning of land on the eastern fringe of town are limited given the current RU1 Primary Production zoning of the land. More specifically, Council cannot grant any variations to the minimum lot size under Clause 4.6 and the range and type of uses within this zone will not facilitate residential outcomes.

Consequently, the rezoning of this land is seen as the only viable option of achieving new greenfield residential growth within the township. Notwithstanding the above, in recognition of a potential oversupply of residential zoned land, the subject Planning Proposal only seeks to rezone a portion of the land identified within Figure 36 of the Hay Structure Plan.

Lastly, an investigation of various options has also been undertaken in relation to the proposed introduction of the R2 Low Density Residential Zone within the LEP. The most viable alternative would be to rezone this land RU5 Village consistent with the main urban area of Hay.

Whilst this option is available, the Hay Structure Plan identified the need to differentiate between various housing types including conventional urban areas proposed for more intensive infill residential development (see Item 3.2.1 above) as compared to larger lot residential development.

Similarly, the range of land uses permitted within the RU5 Village zone as compared to the R2 Low Density Residential Zone is much more extensive and includes a range of commercial and other activities that are not considered appropriate at the urban fringe as it may detract from the primacy of the main commercial centre and create potential land use conflicts.

### 3.3.2 Section B – Relationship to Strategic Planning Framework

#### Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The *Riverina Murray Regional Plan 2041* was adopted by the NSW government in 2022 and is the relevant regional strategy that provides the strategic planning framework to guide decision-making and development in the Riverina Murray region for the next 20 years.

The Regional Plan is structured into by three (3) key parts, with 18 underlying objectives including:

- Part 1 – Environment.
- Part 2 – Communities and Places
- Part 3 – Economy

Each of these parts and objectives is supported by a number of different strategies and actions, which seek to achieve the objectives of the goal.

More specifically, the Planning Proposal achieves the following objectives:

- *Objective 5 – Ensure housing supply, diversity affordability and resilience;*
- *Objective 6 – Support housing in regional cities and their sub-regions;*
- *Objective 7 – Provide for appropriate rural residential development.*

Each of these goals is supported by strategies, actions and collaboration activities. The proposed amendment responds to the Regional Plan by aligning with the following;

#### **Strategy 5.3, New urban development will:**

- minimise land use conflict with other uses, including agricultural land, freight corridors, industrial uses, and energy developments and corridors;
- be integrated with existing urban areas;
- protect the viability of city and town centres consider access to existing, or provide new, services and infrastructure as an area is developed;
- accord with staging and release plans.

The proposed removal of the minimum lot size within the RU5 Village Zone seeks to encourage an increase in density in areas close to amenity, services and existing infrastructure.

Similarly, the rezoning of additional land for low density housing purposes will increase the range and type of housing available within Hay.

Further consideration of the Planning Proposal against the relevant goals, directions and actions of the Regional Plan is undertaken in **Attachment B**.

#### Q4. Is the planning proposal consistent with a Council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Consideration of the *Hay Shire Council Local Strategic Planning Statement* has been addressed in Section 3.3.1 of the Planning Proposal.

#### Hay Structure Plan

The *Hay Structure Plan* was completed and endorsed by Council in 2022. It sought to implement the recommendations of the Hay Local Strategic Planning Statement, guiding land use planning decisions for residential, rural residential and industrial development within Hay for the next 20 years.



Of relevance, Section 5.1 of this Structure Plan related to the RU5 Village Zone of the main township of Hay.

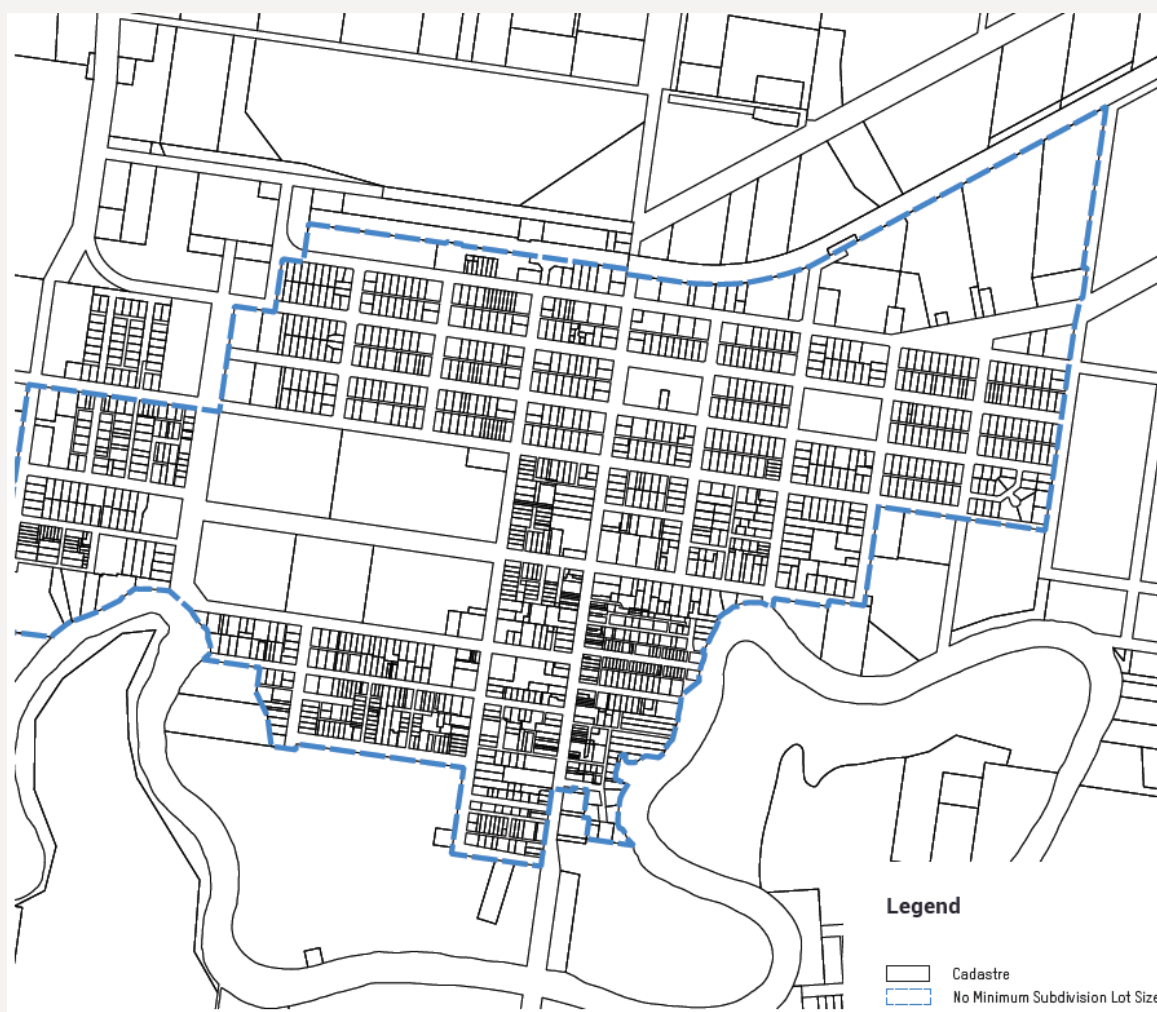
Whilst the Structure Plan noted that while there is enough RU5 Village Zoned land available for the next 44 years, to further encourage and consolidate residential development within areas proximate to services, amenities, infrastructure and encourage a gentle increase in density, abolishing the Lot Size Minimum (from 550m<sup>2</sup>) would allow at a minimum a dual occupancy and torrens title subdivision in an area where blocks are typically 1,000m<sup>2</sup>.

This is in recognition of a historical average lot size of 1,000m<sup>2</sup>, which may be constrained by the current 550m<sup>2</sup> minimum, which is preventing their further subdivision for torrens title purposes.

By removing this minimum lot size, this will ensure maximum flexibility and encourage infill development that will increase the range and type of housing. In addition, this will also result in a more efficient and sustainable use of infrastructure, which Council has confirmed has capacity to support this additional development.

Based on an analysis of the existing lot size pattern within the main urban area, the encouragement of infill development could yield approximately 250 additional residential dwellings.

An extract of Figure 35 from this strategy is reproduced below.



**Figure 13 – Removal of Minimum Lot Size for the RU5 Village Zone (Source: Hay Structure Plan)**

Therefore, the subject Planning Proposal has been prepared directly in response to the recommendations of the Hay Structure Plan.

It is acknowledged however that the Planning Proposal does derogate from Figure 35 of the Structure Plan (Figure 8 above) as it also seeks to remove the 550sqm minimum lot size that currently applies to South Hay, which is also zoned RU5 Village.

Reasons in support of this proposed variation are provided below:

- The non-inclusion of South Hay within Figure 35 of the previously endorsed Structure Plan was an error/oversight that has only now been identified.
- The inclusion of South Hay as part of the subject Planning Proposal will ensure that there is consistency in the minimum lot size requirements (or lack thereof) between the main Hay Township and South Hay. This will also avoid confusion for persons developing land within this zone where different development controls would otherwise apply.
- The land within South Hay has very similar characteristics and lot sizes to land contained within the main township north of the river, which warrants the establishment of the same controls.
- The area is already connected to relevant infrastructure and services and Council have confirmed that there is ample capacity within this infrastructure to service any resultant infill development.
- The level of infill development resulting from the removal of the 550sqm minimum lot size is considered to be limited (approximately 20-30 lots) due to the relatively smaller size of this area and the established lot size pattern and development that exists within this area.
- The land is largely unconstrained from natural hazard and environmental overlays, except for those lots that back onto the Murrumbidgee River.
- The level of variation is considered to be minor and achieves the intent and objectives of the previously endorsed Structure Plan.

For these reasons, the inclusion of South Hay within the subject Planning Proposal is considered appropriate in this instance.

In addition, the subject Planning Proposal seeks to implement the recommendations of **Section 5.2** of the Structure Plan by rezoning 23ha of RU1 Primary Production zoned land on the eastern fringe of town to R2 Low Density Residential Zone with a 1,500m<sup>2</sup> minimum lot size (see Figure 14).

The recommended rezoning of this land is consistent with previous strategic planning investigations and recommendations identified in Council's LSPS and are consistent with the environmental constraints of the land.

In total, the future subdivision of this land based on the proposed zoning and minimum lot size recommendations of this Strategy could increase the supply of residential zoned land by up to approximately 112 lots.

This equates to approximately 56 years' worth of land supply based on current residential take-up rates (2 dwellings per annum). Given the proposed amount of land supply, it is recommended the area is developed over a number of stages.

To avoid a potential oversupply of residential zoned and in recognition of landowner aspirations, the subject Planning Proposal only seeks to rezone the R2 zoned portion of land identified in the Structure Plan that is located south of Murray Street.

An extract of Figure 36 from this strategy is reproduced below.



**Figure 14 – Proposed R2 Low Density Residential Zone (Source: Hay Structure Plan)**

**Q5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?**

The Planning Proposal is consistent with other relevant State or Regional studies and strategic as outlined below:

*A 20 Year Economic Vision for Regional NSW*

The foreword to the Strategy states: *The 20 Year Economic Vision for Regional NSW is the NSW Government's plan to drive sustainable, long-term economic growth in regional NSW. It is the roadmap to unlock significant economic potential in regional NSW.*

For the purposes of this Strategy, the Hay Local Government Area is located within 'Inland' area of NSW. Inland areas are characterised by their rural character and small but stable populations with agribusiness and forestry industries the drivers of local economies.

Accordingly, the proposal will contribute to the priority actions and underlying principles of the '20 Year Economic Vision for Regional NSW'. Specifically, the proposal will support:

- *Principle 8: 'Sustainable economies and communities are better able to recover from shocks'.*

The proposal will encourage infill development and urban renewal, which will increase the range and type of housing product currently available within the township. It will also encourage ageing in place and seeks to better utilise land and infrastructure.

The provision of additional greenfield land adjacent to urban zoned land will also increase the range and type of residential housing options within the township.



### Housing 2041: NSW Housing Strategy.

Similarly, the Planning Proposal is also consistent with the NSW Government document titled: *Housing 2041: NSW Housing Strategy*.

*Housing 2041 represents the NSW Governments' 20 year vision for housing in NSW. Housing needs change over the course of our lives, reflecting our different aspirations and lifestyles, as well as the economic, environmental and social conditions of the day. All of these factors play a part in influencing our housing choices and the decisions we make and, in turn, the way we plan for and shape the character of our communities.*

*The plan embodies the NSW Government's goals and ambitions to deliver better housing outcomes by 2041 including housing in the right locations, housing that suits diverse needs and housing that feels like home.*

*The 20 year vision for Housing 2041 are outlined below:*

*People and communities have:*

- *access to housing security, diversity and support, irrespective of whether they live in metropolitan or regional areas*
- *choices that enable them to afford a home without compromising on basic needs*
- *support and opportunity in differing circumstances, including people in crisis, social housing residents, private rental tenants and those who aspire to home ownership.*

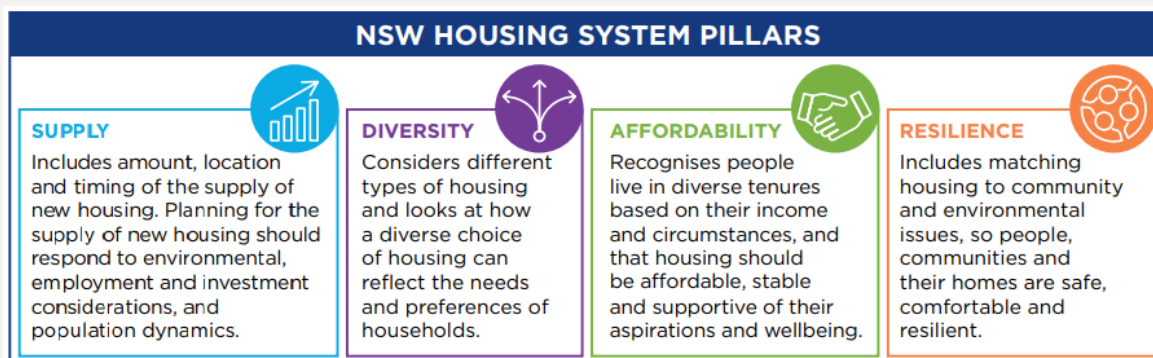
*Homes in NSW are:*

- *accessible and suitable for different stages of life or changing circumstances*
- *connected to local facilities, jobs and social networks, with infrastructure, services and spaces that people need to live sustainably*
- *designed to support human wellbeing and respond to the environment, maximise technology and support local character and place.*

Housing 2041 is underpinned by four key pillars being: supply, diversity, affordability and resilience of housing. The right type and size of housing (diversity) and housing in the right locations must be planned relative to infrastructure, the market and environmental factors (resilience)(see Figure below).

The proposed removal of the minimum lot size that applies to the RU5 zone and rezoning of land for R2 Low Density Residential purposes achieves the general aims and objectives of Housing 2041 as it seeks to increase housing supply and diversity within appropriate locations that are free from environmental constraint or hazards.

The rezoning of this land will also not create land use conflicts and can be appropriately serviced with infrastructure.



**Figure 15 – NSW Housing System Pillars**

**Q6. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

**Appendix C** provides an assessment of the Planning Proposal against all State Environmental Planning Policies (SEPP's). In summary, many of the SEPP's are not applicable to the Hay Local Government Area and even less are applicable to the circumstances of the Planning Proposal.

Notwithstanding, an assessment has been provided in **Appendix C** outlining whether the Planning Proposal is consistent, or where applicable, justifiably inconsistent with relevant SEPP's.

**Q7. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 Directions)?**

Section 9.1 (formerly s. 117) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) provides for the Minister for Planning and Homes to give directions to Councils' regarding the principles, aims, objectives or policies to be achieved or given effect to in the preparation of LEP's. A Planning Proposal needs to be consistent with the requirements of the Direction but in some instances can be inconsistent if justified using the criteria stipulated such as a Local Environmental Study or the proposal is of "minor significance".

An assessment of all s.9.1 Directions is undertaken in **Attachment D**. In summary, the Planning Proposal is either consistent, or justifiably inconsistent with the relevant Directions. Where there is an inconsistency, it has been justified utilising the provisions within each of the Directions.

**3.3.3 Section C – Environmental, Social and Economic Impact****Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The proposal will not result in any disturbance of habitat areas or natural features of the area as the land is either highly urbanised and already developed for the purposes of residential dwellings, commercial businesses and open public amenities and services (parks, schools etc), or comprises established rural land, which has historically been used for broadacre grazing and cropping.

Specifically, it is confirmed that the subject land is not identified in the Hay Shire Natural Resources Sensitivity – Land Map, Biodiversity Map or Water Map.

Similarly, a review of relevant environmental databases has confirmed that the area is not identified on the Biodiversity Values (BV) Map, nor does it contain any native vegetation and is limited to Plant Community Type 0 (PCT0), being non-native vegetation.

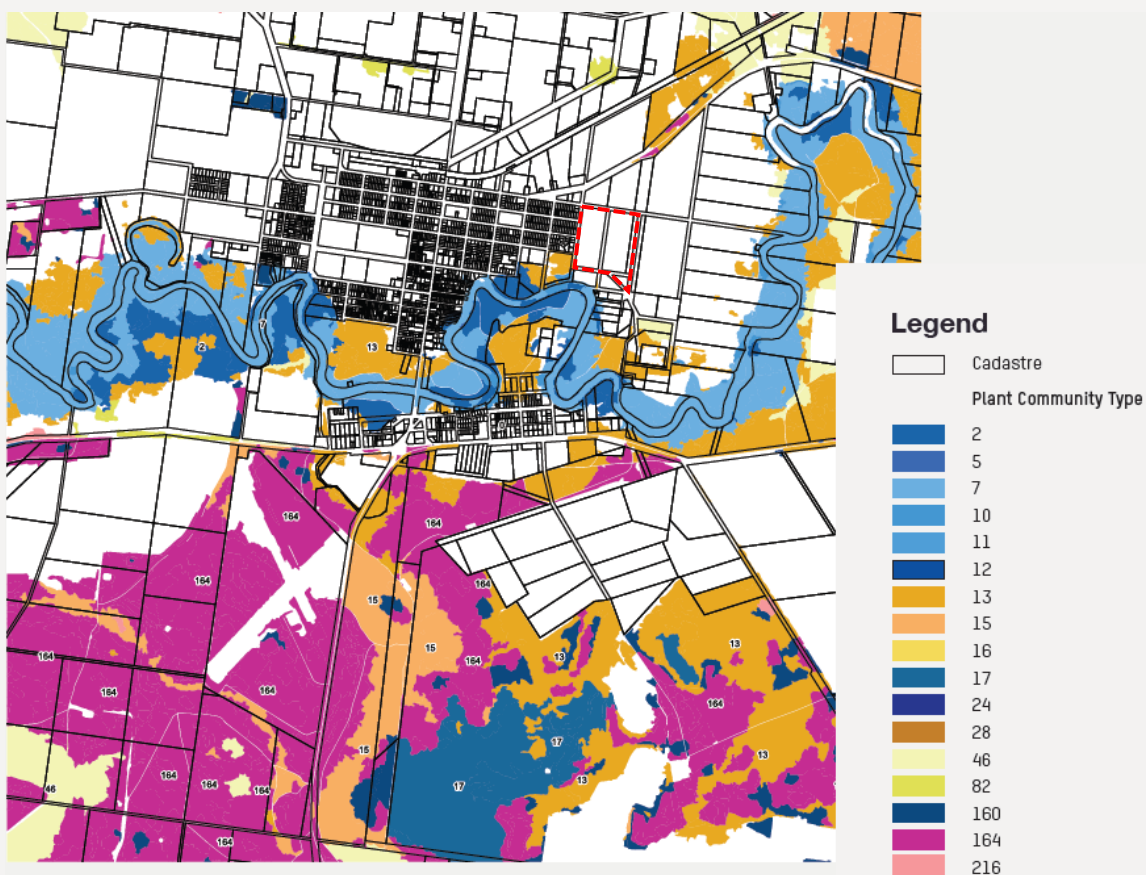
Furthermore, the proposed area for rezoning to R2 Low Density Residential contains very limited overstorey vegetation and trees, which are limited to planted vegetation around the existing dwelling. Similarly, the groundcover comprises non-native paddock grasses.

Therefore, the proposed changes sought by the Planning Proposal are not expected to adversely affect critical habitats, threatened species, or their habitats.

A copy of these plans is reproduced below.



**Figure 16 – Extract of Terrestrial Biodiversity and Biodiversity Values Map identifying area to be rezoned (outlined)** (Source: Hay Structure Plan, 2022)



**Figure 17 – Extract of State Vegetation Map identifying area to be rezoned (outlined)** (Source: Hay Structure Plan, 2022)

**Q9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

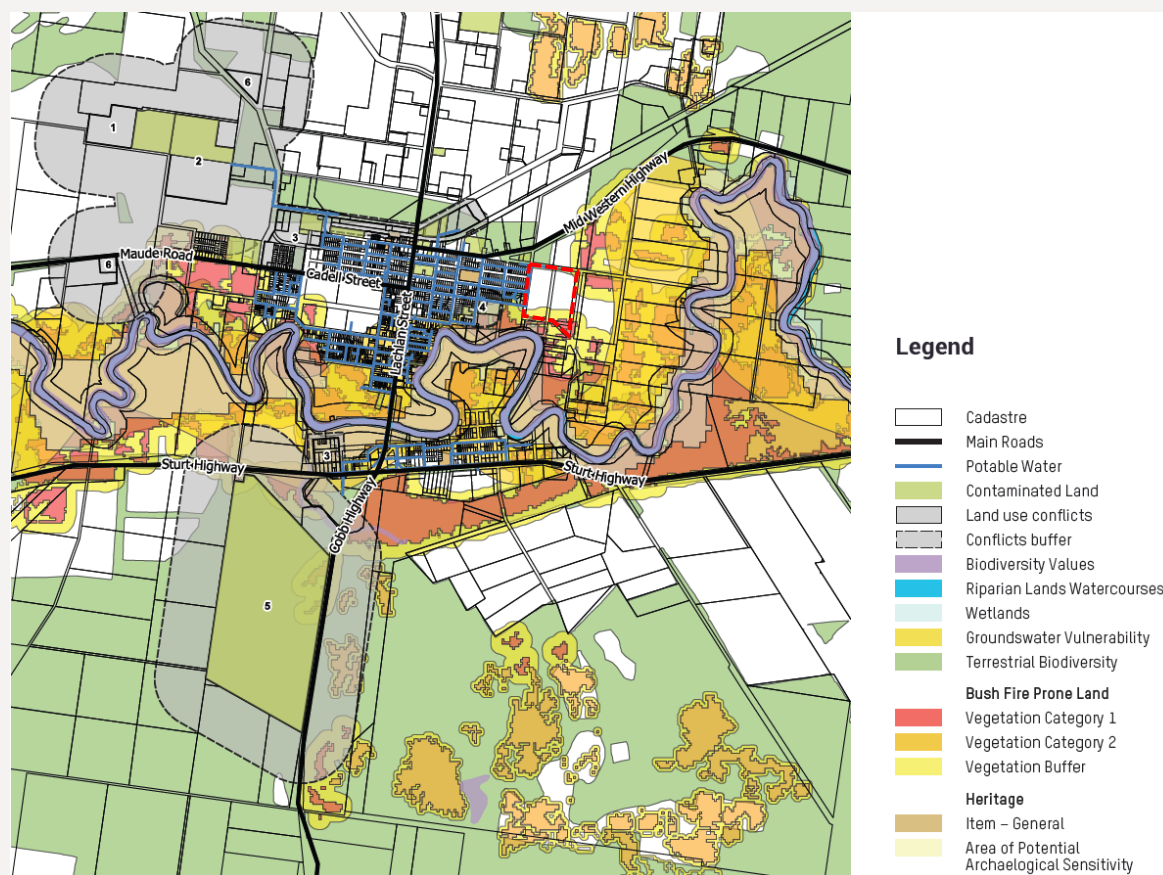
The proposed removal of the current minimum lot within the RU5 Village zone and rezoning of land to R2 Low Density Residential will not result in any direct environmental effects.

More specifically, the main urban areas of Hay and South Hay are largely unconstrained from bushfire and flooding impacts, as well as areas of groundwater vulnerability.

The land is also generally located outside of land use conflict buffer zones and avoids areas of Aboriginal cultural heritage significance, being land located adjacent to the Murrumbidgee River.

Further consideration of site-specific environmental impacts will be undertaken as part of any subsequent Development Application submitted for subdivision within this area.

A plan showing the relative lack of environmental constraints within the main urban areas is provided in the figure below.



**Figure 18 – Constraints and Opportunities Map identifying area to be rezoned (outlined)**

(Source: Hay Structure Plan, 2022)

Notwithstanding the above, matters regarding land contamination have been investigated in relation to the proposed R2 Low Density Residential site/s via the preparation of a Preliminary Site Investigation. This investigation was informed by both a desktop assessment and site inspection, which identified a number of potential sources of contamination that may materially affect future development of the site.

Such sources included persistent use of agricultural chemicals across the site, chemical storage, fuel storage tanks, rubbish, asbestos materials, septic systems and unknown fill sources.



Based on the findings of the PSI, a Detailed Site Investigation (DSI) is required as soil contamination is potentially present and the information available is insufficient to enable an appropriate level of risk assessment. The DSI should identify the nature of the potential contamination and delineate its lateral and vertical extent to a sufficient degree that appropriate site management strategies can be devised, if required.

Consequently, a DSI will be prepared in accordance with the recommendations of this study prior to the rezoning of the land. This will ensure that matters regarding land contamination will be appropriately addressed and that the land will be suitable for its intended purpose.

#### Q10. Has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal will have a generally positive social and economic impact as it seeks to facilitate and support infill development and urban renewal. In turn this will increase the range and type of housing available within Hay, which will cater for a range of demographics (such as first home buyers or seniors).

An assessment of existing and proposed residential land supply was undertaken within Section 2.3 of the previously endorsed Hay Structure Plan.

**Table 2:** Residential Land Supply Summary (current)

	Land Supply (ha)	Land Supply (lots)*	Demand (new homes p.a.)	Years Supply
RU5 Village (1,000m <sup>2</sup> )	23	184	4.2	44
<b>Total</b>	<b>23</b>	<b>184</b>	<b>4.2</b>	<b>44</b>

\*Note: the land supply calculation has been calculated assuming 20% of the total development site area is required for roads, drainage and open space. At present in Hay, this number is 40% of the total area.

**Table 3:** Residential Land Supply Summary (projected)

	Land Supply (ha)	Land Supply (lots)*	Demand (new homes p.a.)	Years Supply
RU5 Village (1,000m <sup>2</sup> )	23	184	7	26
<b>Total</b>	<b>23</b>	<b>184</b>	<b>7</b>	<b>26</b>

\*Note: the land supply calculation has been calculated assuming 20% of the total development site area is required for roads, drainage and open space. At present in Hay, this number is 40% of the total area.

#### Figure 19 – Residential Land and Supply Assessment

(Source: Hay Structure Plan, 2022)

Whilst it is acknowledged that the township of Hay currently has a residential land supply of 44 years (26 years if using projected take up rates), to further encourage and consolidate residential development within areas proximate to services, amenities, infrastructure and encourage a gentle increase in density, abolishing the Lot Size Minimum (from 550m<sup>2</sup>) would allow at a minimum a dual occupancy and torrens title subdivision in an area where blocks are typically 1,000m<sup>2</sup>.

The removal of this current restriction will therefore have a positive social and economic impact as it seeks to better use currently under-utilised land, will increase the range and type of residential housing within the township and will make more efficient use of infrastructure and services.

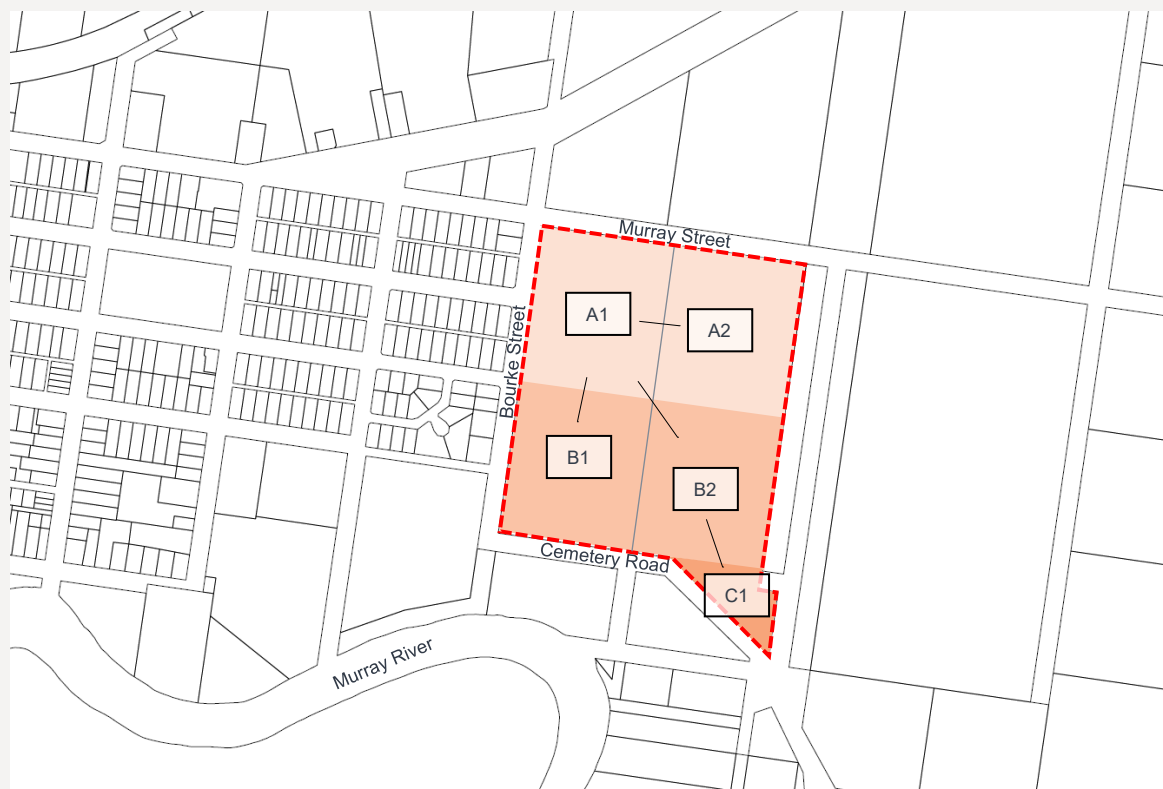
In addition, the subject Planning Proposal also seeks to rezone approximately 23ha of RU1 Primary Production zoned land on the eastern fringe of town to R2 Low Density Residential Zone with a 1,500m<sup>2</sup> minimum lot size.

The recommended rezoning of this land is consistent with previous strategic planning investigations and recommendations identified in Council's LSPS and are consistent with the environmental constraints of the land.

In total, the future subdivision of this land based on the proposed zoning and minimum lot size recommendations of this Strategy could increase the supply of residential zoned land by up to approximately 112 lots.

This equates to approximately 56 years' worth of land supply based on current residential take-up rates (2 dwellings per annum). Given the proposed amount of land supply, it is recommended the area is developed over a number of stages. An indicative staging plan is provided below. In summary, development will occur in a general southeast direction from Murray Street towards Cemetery Road.

To avoid a potential oversupply of residential zoned and in recognition of landowner aspirations, the subject Planning Proposal only seeks to rezone the R2 zoned portion of land identified in the Structure Plan that is located south of Murray Street.



**Figure 20 – Indicative Staging Plan**

Furthermore, in recognition of the size of these properties to be rezoned, the Hay Structure Plan recommends that a site specific masterplan be prepared for these properties prior to the submission of a Development Application for the site.

Amongst key issues to be investigated include:

- Lot layout and urban design;
- Infrastructure provisions and upgrade requirements;
- Open space and landscaping;
- Development staging and sequencing;

This is consistent with the recommendations of the Hay Structure Plan.

Furthermore, Section 6.5 of the Hay Structure Plan recommends the creation of a Development Control Plan, which amongst other things will include urban design controls, as well as consideration of environmental factors.

Lastly, matters regarding open space and pedestrian footpaths have also been considered in relation to the previous recommendations of the Hay Structure Plan (see Figure below).

It is confirmed that the future subdivision of this land will require the provision of pedestrian footpaths throughout the estate, which will connect with the existing footpath network.

Whilst it is acknowledged that the subject Planning Proposal does not seek approval to rezone a portion of the subject land as RE1 Public Recreation, in the absence of completing a master plan for this site, the exact location of this facility is unknown.

Consequently, it is recommended that the rezoning of this land for recreational purposes be deferred until after the completion of a site-specific master plan. This will likely form part of a future Council housekeeping/LEP Review amendment.



**Figure 21 – Indicative Footpath and Open Space Plan**



### 3.3.5 Section D – State and Commonwealth Interests

#### Q11. Is there adequate public infrastructure for the planning proposal?

The subject land is urban zoned (RU5) and is already developed for residential, commercial or community purposes. Consequently, the subject land has access to all relevant infrastructure including reticulated water, sewerage, drainage, gas, electricity and telecommunications.

Due to the central location of the land, being the main urban centre, these areas are well serviced by open space, public transport, as well as commercial, health and education facilities. The redevelopment/intensification of development within this area will ensure that new residents have readily available access to infrastructure and services.

The encouragement of infill development within the main urban centre as compared to new greenfield development will also reduce pressures on Council infrastructure and will make better use of existing infrastructure and services.



**Figure 22 – Infrastructure and Services Map**  
(Source: Hay Structure Plan, 2022)

Notwithstanding the above, the Planning Proposal also seeks approval to rezone a portion of land on the eastern fringe as R2 Low Density Residential. This land has been identified because it is not only largely unconstrained from an environmental and natural hazard perspective, but can be readily serviced with infrastructure and utilities.

These services will be extended from the existing urban area located to the west and will be extended in a logical sequenced/staged approach to avoid issues of leapfrogging.

#### **Q12. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?**

A scoping report was prepared, shared, and discussed with the NSW Department of Planning and Environment. The Department provided feedback on the Planning Proposal Scoping Report noting the requirement to justify the inclusion of South Hay as it was inadvertently omitted from the previously endorsed Hay Structure Plan.

The previous Structure Plan was referred to all relevant government agencies and public authorities. In response, the following agencies provided comment on the previous Structure Plan:

- NSW DPE
- Water NSW
- Transport for NSW
- NSW Department of Primary Industries – Agriculture

In summary, these agencies were all generally supportive of the proposed land use recommendations sought by the Structure Plan.

Specifically, many of the items requested by these agencies will be addressed via the preparation of a site-specific master plan for these sites. More specifically, the Planning Proposal does not seek to rezone land to RU4 Primary Production Small Lots for rural lifestyle purposes, which will address NSW DPI Agriculture's previous concerns.

Similarly, the proposed area to be rezoned will be sewerage, which will not create potential groundwater contamination issues.

Lastly, the subject Planning Proposal is supported by a Land Use Conflict Risk Assessment (LUCRA), which demonstrates that the proposed rezoning will not adversely affect agriculture.

Notwithstanding, it is expected that the Planning proposal will still be referred to any relevant government agencies as stipulated by the conditions of the Gateway Determination.

See Section 2.5 of this proposal for further details regarding community consultation.

### **3.4. Mapping**

The Planning Proposal seeks to amend the following maps within the LEP:

#### Land Zoning Map:

- Sheet LZN\_005A
- Sheet LZN\_009A

#### Minimum Lot Size Map:

- Sheet LSZ\_005A
- Sheet LSZ\_009A

An extract of the existing and proposed Minimum Lot Size Map is contained within **Figures 1-4**.

The draft LEP maps and associated Map Cover Sheet will be prepared in accordance with the NSW Department of Planning & Environment's: Standard Technical Requirements for Spatial Datasets and Maps (Version 2.0, August 2017).

### 3.5. Community Consultation

The Planning Proposal will be exhibited in accordance with the requirements of Part 1, Division 1, Clause 4 of Schedule 1 of the EP&A Act, the NSW Department of Planning and Environment's: *A Guide to Preparing Local Environmental Plans* and any conditions of the Gateway Determination (to be issued).

As the Planning Proposal is categorised as a 'standard' proposal, it expected to be placed on public exhibition for 20 days or as otherwise outlined in Council's Community Participation Plan.

Written notification of the community consultation will be provided in a local newspaper and on Councils' website. In addition to this, any affected landowner/s adjoining the subject land will be notified in writing, as well as any Public Authorities, Government Agencies and other key stakeholders as determined by the Gateway Determination.

The future consultation process is expected to include:

- written notification to affected landowners (where practical).
- public notices to be provided in local media, including in a local newspaper and on Councils' website.
- static displays of the Planning Proposal and supporting material in Council public buildings; and
- electronic copies of all documentation being made available to the community free of charge (preferably via downloads from Council's website).

The written notice will contain:

- a brief description of the intended outcomes of the Planning Proposal.
- an indication of the land which is affected by the proposal.
- information on where and when the Planning Proposal can be inspected.
- the name and address of Council for the receipt of submissions.
- the closing date for submissions; and
- confirmation whether the Minister has chosen to delegate Plan Making powers to Council.

During the public exhibition period the following documents will be placed on public exhibition:

- the Planning Proposal.
- the Gateway Determination.
- any technical information relied upon by the Planning Proposal.
- relevant council reports.

An electronic copy of all of the above information to be placed on public exhibition will be made available to the public free of charge.

At the conclusion of the public exhibition period Council staff will consider submissions made with respect to the Planning Proposal and will prepare a report to Council.

### 3.6. Project Timeline

The project timeline for the Planning Proposal is outlined in **Table 2**.

It is noted however, that there are many factors that can influence compliance with the timeframe including Council staffing resources, the cycle of Council meetings and submissions received, and issues raised. Consequently, the timeframe should be regarded as indicative only.

**Table 2 – Project Timeline (indicative)**

Project Milestone	Anticipated Timeframe
<b>Lodgement</b> Lodge Planning Proposal with council and make any necessary adjustments or changes prior to council accepting the plan	2 weeks for council to review and provide any comments regarding the submitted Planning Proposal and for the report to be updated.  Early-Mid April 2024
<b>Council Report (seeking Gateway Determination)</b> Council planning officers to prepare a report to council seeking council endorsement of the Planning Proposal and referral to the NSW DPIE seeking the issuing of a Gateway Determination.	2 weeks to prepare council report and include on council agenda.  Mid April 2024
<b>Request Gateway Determination</b> Council to request a Gateway Determination from the NSW Department of Planning to proceed to Planning Proposal to public exhibition (including any delegation of plan-making powers to council)	2 weeks following Council resolution and request for a Gateway determination  Mid May 2024
<b>Public Exhibition</b> Undertake public exhibition of Planning Proposal in accordance with the conditions of the Gateway Determination.	2 weeks to prepare and place a public notice in the paper and 4 weeks to publicly exhibit the Planning Proposal.  Mid May – Early July 2024
<b>Consider Submissions &amp; Finalise Document</b> Council planning officers to consider, respond and report on submissions received and issues raised (if any) and where necessary, recommended relevant changes to the Planning Proposal.	2 weeks to collate, consider and respond to submissions received (if any).  Mid-Late July 2024
<b>Council Report (consideration of submissions)</b> Council planning officers to prepare a report to council post public exhibition that considers any submissions received.	2 weeks to prepare council report and include on council agenda.  Late July 2024

<b>Submission to NSW DPIE/Parliamentary Counsel</b> Forward Planning Proposal to NSW DPE/Parliamentary Counsel (if delegated) for finalisation following public exhibition.	4 weeks  Late August 2024
<b>Notification</b> Finalisation/gazettal of Planning Proposal	2 weeks  Early September 2024

## 4. Conclusion

The Planning Proposal seeks to amend the *Hay Local Environmental Plan 2011* as follows:

- Remove the current 550sqm minimum lot size applicable to land located within the RU5 Village Zone (both North and South Hay).
- Rezone land identified as 229 Bourke Street (Lot 2, DP448476 and Lot 135, DP756755) and 41 Cemetery Road (Lot 168, DP756755) from RU1 Primary Production to R2 Low Density Residential Zone.
- Reduce the minimum lot size of land identified as 229 Bourke Street (Lot 2, DP448476 and Lot 135, DP756755) and 41 Cemetery Road (Lot 168, DP756755) from 90ha to 1,500sqm.
- Introduce a new land use zone within the Land Use Table of the LEP, being the R2 Low Density Residential zone.

The report has been prepared to address the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act), as well as satisfying the requirements of the NSW Department of Planning, Infrastructure & Environment's guideline titled: *Local Environmental Plan Making Guideline* (August 2023).

This Planning Proposal provides an analysis of the physical and strategic planning constraints and opportunities of the site and considers the relevant environmental, social and economic impacts of the proposal and its strategic merit.

The Planning Proposal has strategic merit and is in the public interest for the following reasons:

- The proposal directly facilitates the recommendations outlined within Sections 5.1 & 5.2 of the *Hay Structure Plan* (July, 2022).
- The resultant development of the land will not create any unacceptable environmental or social impacts.
- The proposal will increase the diversity and type of residential housing that will cater for a range of housing needs and demands, particularly in response to an ageing population and increasing housing costs.
- The promotion of infill housing within the main township will result in the better use of currently underutilised land that has readily available access to infrastructure and services and will not place pressures on Council reticulated infrastructure.
- There will be a net economic benefit for the Hay community in terms of growth and investment via the provision of additional residential allotments.
- The proposal does not require concurrence from other state government agencies.
- The subject land can be provided with all urban services.

Therefore, the proposed amendment to the LEP is appropriate and well-considered and warrants the support of Council before proceeding to a Gateway Determination.

## Attachment A: Scoping Proposal



## Attachment B: Consistency with Riverina-Murray Regional Plan 2041

Table 3 – Consistency with Riverina-Murray Regional Plan 2041

Part, Objective and Actions	Relevance to Planning Proposal	Consistency
<b>Part 1 – Environment</b>		
Objective 1 – Protect, connect and enhance biodiversity throughout the region.	Yes, the Planning Proposal seeks to rezone rural zoned land, which may contain biodiversity values.	<p>The Planning Proposal is consistent with this objective as it only seeks to rezone land that is unconstrained from a biodiversity.</p> <p>Specifically, the land contains few if any overstorey vegetation, which is generally limited to planted vegetation surrounding the existing house at 229 Bourke Street. Furthermore, groundcovers on-site consist of non-native paddock grasses.</p> <p>The subject land has been deliberately chosen following the completion of a land use constraints analysis as part of the previous Hay Structure Plan.</p>
Objective 2 – Manage development impacts within riverine environments	Yes, as the subject land is located in proximity to waterways.	<p>Whilst it is acknowledged that several portions of RU5 zoned land are located within proximity to the Murrumbidgee River, their further infill development as sought by this Planning Proposal is not expected to adversely affect the functions of this waterway.</p> <p>Similarly, the proposed rezoning of the land to R2 Low Density Residential is well setback from waterways and will be connected to reticulated sewerage, thereby not creating potential groundwater contamination issues.</p>
Objective 3 – Increase natural hazard resilience	Yes, as a portion of the subject land to be rezoned R2 Low Density Residential is bushfire prone.	The Planning Proposal is generally consistent with this objective despite seeking to rezone bushfire prone land. Whilst it is acknowledged that a portion of the land is classified as bushfire prone, this is largely limited to the southern and eastern extent of the site and primarily only relates to a bushfire buffer area.

Part, Objective and Actions	Relevance to Planning Proposal	Consistency
		<p>Given the predominant bushfire risk is a Grassland hazard and the topography of the land is flat/upslope, this will require the provision of a 10 metre wide Asset Protection Zone (APZ).</p> <p>In accordance with the NSW Planning for Bushfire Protection Guidelines 2019, any subdivision with more than 3 lots will require the provision of a perimeter road, which will act as the relevant APZ. This will ensure that future lot owners are appropriately protected from a bushfire risk perspective.</p>
<b>Part 2 – Communities and places</b>		
Objective 4 – Support Aboriginal aspirations through land use planning.	Not yet applicable, as the subject land is not known to contain any culturally significant land.	In the absence of any broader strategy for the area, the proposal will adhere to current legislation. Consideration of matters regarding Aboriginal Cultural Heritage is required under the NSW <i>National Parks and Wildlife Act 1974</i> .
Objective 5 – Ensure housing supply, diversity, affordability and resilience.	Yes, the Planning Proposal seeks to achieve residential outcomes.	<p>The Planning Proposal is consistent with this objective and the associated strategies as it seeks to facilitate infill development via the removal of the current minimum lot size that applies to the RU5 Village zone.</p> <p>Specifically, the Planning Proposal responds to the items under Strategy 5.3 as it avoids natural constraints and hazards, minimises land use conflicts and avoids areas of environmental sensitivity.</p> <p>The land is centrally located and has readily available access to all infrastructure and services, which will encourage walking and cycling and other alternative modes of transport.</p>

Part, Objective and Actions	Relevance to Planning Proposal	Consistency
		<p>The better use of currently under-utilised land will also reduce pressures on Council's reticulated infrastructure network, whilst allowing for modest infill development that still respects the established residential character of the area.</p> <p>Similarly, the rezoning of additional land for R2 Low Density Residential purposes also achieves the requirements of Strategy 5.3 as it will increase the supply of residential zoned land and avoids areas of environmental constraint following the completion of the previous Hay Structure Plan.</p> <p>The rezoning of this land will integrate with existing urban zoned land and will provide a transition from the urban centre to peripheral rural locations.</p>
Objective 6 – Support housing in regional cities and their sub-regions	Yes, the Planning Proposal seeks to achieve residential outcomes.	Hay Shire is not identified as a regional city, but rather forms part of the sub-regions. Although not located within immediate commuting distance of these regional centres, the provision/encouragement of further residential housing within an established township is considered to be consistent with the aims of this objective.
Objective 7 – Provide for appropriate rural residential development.	Yes, as the Planning Proposal seeks to achieve rural residential/ low density residential development outcomes.	<p>The subject Planning Proposal seeks to rezone land for low density/rural residential purposes. Consideration of potential impacts of rezoning this land have been considered as part of the previous Hay Structure Plan.</p> <p>Specifically, the proposal achieves the outcomes of Strategy 7.1 as follows:</p> <ul style="list-style-type: none"> <li>• The land is located in proximity to existing urban development, which will utilise existing infrastructure and services.</li> </ul>

Part, Objective and Actions	Relevance to Planning Proposal	Consistency
		<ul style="list-style-type: none"> <li>• The proposal will not reduce future urban growth opportunities and seeks to achieve a lot size that is consistent with the general regional/township context of Hay.</li> <li>• The proposed rezoning of land will not adversely affect adjoining agricultural operations, which are limited to broadacre agriculture.</li> <li>• The subject land is not identified as being environmentally sensitive, nor will its development result in increased public safety risk – bushfire, flooding, contamination etc.</li> <li>• The rezoning of this land will not adversely affect waterfront areas as it is separated from this land; and</li> <li>• The subject land can be appropriately serviced with all relevant reticulated infrastructure and services.</li> </ul>
Objective 8 – Provide for short-term accommodation	Not applicable.	N/A
Objective 9 – Plan for resilient places that respect local character	The subject Planning Proposal relates to the main urban centre of Hay and the urban fringe.	<p>The provision of additional infill housing within the main urban areas of Hay is considered to have a generally positive social and economic impact.</p> <p>Notwithstanding, care does need to be taken to ensure that future infill development resulting from this change respects the existing preferred character of the area in terms of built form and heritage values.</p> <p>Specific consideration of the impacts of development will need to be assessed at the development application stage.</p>



Part, Objective and Actions	Relevance to Planning Proposal	Consistency
		Similarly, the rezoning of land at the urban fringe is not expected to adversely affect the local character of the area as the land is largely unimproved and comprises rural land. Furthermore, the proposed lot sizes sought by this Planning Proposal have been chosen to generally reflect the character and lot sizes of the area.
Objective 10 – Improve connections between Murray River communities	Not relevant, as the proposal doesn't relate to connections between Murray River Communities	N/A
Objective 11 – Plan for integrated and resilient utility infrastructure	Yes, as the Planning Proposal relates to urban zoned land.	<p>The Planning Proposal is consistent with this objective and specifically Strategy 11.1 as it seeks to focus development around existing infrastructure.</p> <p>To better utilisation of under-developed land will have a positive impact on infrastructure and services as it reduced pressures at the urban fringe and makes existing infrastructure more efficient.</p> <p>Similarly, the proposed rezoning of land to R2 Low Density Residential has been selected as it immediately adjoins urban development and can make efficient use of infrastructure. As required by the Planning Proposal guidelines, the development of this area will be staged commensurate with demand to ensure that the area can be adequately serviced.</p> <p>In addition, Council have confirmed that there is ample capacity within their existing infrastructure to accommodate any expected development that may be achieved as a result of this Planning Proposal.</p>

Part, Objective and Actions	Relevance to Planning Proposal	Consistency
<b>Part 3 - Economy</b>		
Objective 12 – Strategically plan for rural industries	Not relevant, as the proposal does not relate to rural industries	N/A
Objective 13 – Support the transition to net zero by 2050	Not relevant, as the proposal does not relate to energy use.	N/A
Objective 14 – Protecting and promoting industrial and manufacturing land	The proposal does not seek to achieve industrial or manufacturing outcomes and the site does not adjoin land zoned for these purposes.	N/A
Objective 15 – Support the economic vitality of CBDs and main streets	The subject proposal seeks to facilitate amongst other things, infill development within an established urban area.	<p>The proposed outcomes sought by this Planning Proposal, being the creation/encouragement of new infill residential lots, will have a positive impact on the vitality of the existing main commercial centre.</p> <p>By encouraging new housing within central locations with access to infrastructure and services, this will support the existing commercial businesses operating within this area.</p>
Objective 16 – Support the visitor economy	Not relevant, as the proposal does not relate to tourism.	N/A

Part, Objective and Actions	Relevance to Planning Proposal	Consistency
Objective 17 – Strategically plan for health and education precincts	Not relevant as the proposal does not relate to health and education precincts	N/A
Objective 18 – Integrate transport and land use planning	Yes, as the planning proposal will impact existing traffic networks.	<p>The Planning Proposal is consistent with this objective as it better utilises existing infrastructure including roads and will encourage walking, cycling and other forms of transport resulting from a compact urban form.</p> <p>In doing so, this will also reduce pressures on Council to maintain new roads and footpaths and will increase current use of these facilities.</p> <p>Similarly, the new greenfield release areas have been selected as they immediately adjoin urban development and can be appropriately connected to the existing road network.</p>

## Attachment C: Consistency with State Environmental Planning Policies

Table 4 – Consistency with State Environmental Planning Policies

Policy	Applicable to Planning Proposal	Consistency
<b>State Environmental Planning Policy (Biodiversity and Conservation) 2021</b>		
Chapter 2 – Vegetation in non-rural areas	Applies to part of the Hay Local Government Area	Not applicable to the current Planning Proposal.
Chapter 3 – Koala habitat protection 2020	Not applicable as the subject land is not identified as a prescribed zone.	Not applicable to the current Planning Proposal.
Chapter 4 – Koala habitat protection 2021	Not applicable to the Hay Local Government Area.	Not applicable to the current Planning Proposal.
Chapter 5 – River Murray lands	Not applicable to the Hay Local Government Area.	Not applicable to the current Planning Proposal.
Chapter 6 – Water Catchments	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 13 – Strategic Conservation Planning	Not applicable to the Hay Local Government Area.	Not applicable.



Policy	Applicable to Planning Proposal	Consistency
<b>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</b>	Applies to all land in the State.	The Planning Proposal does not conflict with the aims and functions of this SEPP with respect to exempt and complying development provisions.
<b>State Environmental Planning Policy (Housing) 2021</b>		
Chapter 2 – Affordable housing	Applies to all land in the State.	The subject Planning Proposal does not derogate from the aims and objectives of this State Environmental Planning Policy.
Chapter 3 – Diverse housing	Applies to all land in the State.	The subject Planning Proposal does not derogate from the aims and objectives of this State Environmental Planning Policy.
Chapter 4 – Design of residential apartment development	Applies to all land in the State.	The subject Planning Proposal does not derogate from the aims and objectives of this State Environmental Planning Policy.
<b>State Environmental Planning Policy (Industry and Employment) 2021</b>		
Chapter 2 – Western Sydney employment area	Not applicable to the Hay Local Government Area.	Not applicable.

Policy	Applicable to Planning Proposal	Consistency
Chapter 3 – Advertising and signage	Applies to all land in the State.	Not applicable to the current Planning Proposal.
<b>State Environmental Planning Policy (Planning Systems) 2021</b>		
Chapter 2 – State and Regional Development	Applies to all land in the State.	Not applicable to the current Planning Proposal.
Chapter 3 – Aboriginal land	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 4 – Concurrences and consents	Applies to all land in the State.	Not applicable to the current Planning Proposal.
<b>State Environmental Planning Policy (Precincts – Central River City) 2021</b>		
Chapter 2 – State significant precincts	Applies to all land in the State.	Not applicable to the current Planning Proposal.
Chapter 3 – Sydney region growth centres	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 4 – Homebush Bay area	Not applicable to the Hay Local Government Area.	Not applicable.

Policy	Applicable to Planning Proposal	Consistency
Chapter 5 – Kurnell Peninsula	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 6 – Urban renewal precincts	Not applicable to the Hay Local Government Area.	Not applicable.
<b>State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021</b>		
Chapter 2 – State significant precincts	Applies to all land in the State.	Not applicable to the current Planning Proposal.
Chapter 3 – Darling Harbour	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 4 – City West	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 5 – Walsh Bay	Not applicable to the Hay Local Government Area.	Not applicable.

Policy	Applicable to Planning Proposal	Consistency
Chapter 6 – Cooks Cove	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 7 – Moore Park Showground	Not applicable to the Hay Local Government Area.	Not applicable.
<b>State Environmental Planning Policy (Precincts – Regional) 2021</b>		
Chapter 2 – State significant precincts	Applies to all land in the State.	Not applicable to the current Planning Proposal.
Chapter 3 – Activation precincts	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 4 – Kosciuszko Alpine region	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 5 – Gosford city centre	Not applicable to the Hay Local Government Area.	Not applicable.
<b>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</b>		

Policy	Applicable to Planning Proposal	Consistency
Chapter 2 – State significant precincts	Applies to all land in the State.	Not applicable to the current Planning Proposal.
Chapter 3 – Sydney region growth centres	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 4 – Western Sydney Aerotropolis	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 5 – Penrith Lakes Scheme	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 6 – St Mary's	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 7 – Western Sydney Parklands	Not applicable to the Hay Local Government Area.	Not applicable.
<b>State Environmental Planning Policy (Primary Production) 2021</b>		
Chapter 2 – Primary production and rural development	Yes, as the area of land to be rezoned R2 Low Density	Although the subject Planning Proposal does not seek to achieve rural/agricultural outcomes, it does relate to land identified as state



Policy	Applicable to Planning Proposal	Consistency
	Residential is identified as state significant agricultural land on the draft SSAL Map prepared by NSW DPI.	<p>significant agricultural land on the draft SSAL Map prepared by NSW DPI.</p> <p>It is noted that at the time of preparing this Planning Proposal, Schedule 1 was blank.</p> <p>Notwithstanding the above, consideration has been given to the agricultural impacts of the proposed zone changes as part of the preparation of the previous Hay Structure Plan. As part of the preparation of this Plan, consultation was undertaken with the NSW Department of Primary Industries – Agriculture. Upon review this agency to not object to the recommended land use outcomes sought for this land.</p> <p>See response to Section 9.1 Ministerial Directions 9.1 and 9.2 for further details.</p>
Chapter 3 – Central Coast plateau areas	Not applicable to the Hay Local Government Area.	Not applicable.
<b>State Environmental Planning Policy (Resilience and Hazards) 2021</b>		
Chapter 2 – Coastal management	Not applicable to the Hay Local Government Area.	Not applicable.

Policy	Applicable to Planning Proposal	Consistency
Chapter 3 – Hazardous and offensive development	Applies to all land in the State.	Not applicable to the current Planning Proposal.
Chapter 4 – Remediation of land	Applies to all land in the State.	<p>Not applicable as clause 6 Contamination and remediation to be considered in zoning or rezoning proposal was repealed on 17 April 2020.</p> <p>Notwithstanding, matters regarding land contamination have been assessed and are considered appropriate in this instance as the main urban areas of Hay have already been developed and the Planning Proposal only seeks to allow for the intensification/redevelopment of this land.</p> <p>Furthermore, a Preliminary Site Investigation (PSI) Report and a Detailed Site Investigation (DSI) Report has been prepared in relation to the proposed R2 Low Density Residential zoned land. Whilst it is acknowledged that there are several portions of this land identified as containing potential sources of land contamination, subject to compliance with the recommendations of the DSI, this land is considered fit for purpose.</p> <p>See response to Section 9.1 Ministerial Direction 4.4 for further details.</p>

#### State Environmental Planning Policy (Resources and Energy) 2021

Policy	Applicable to Planning Proposal	Consistency
Chapter 2 – Mining, petroleum production and extractive industries	Applies to all land in the State.	The Planning Proposal does not conflict with the aims, permissibility, development assessment requirements relating to mining, petroleum production and extractive industries as provided for in the SEPP.
Chapter 3 – Extractive industries in Sydney area	Not applicable to the Hay Local Government Area.	Not applicable.
<b>State Environmental Planning Policy (Sustainable Buildings) 2022</b>		
Chapter 2 – Standards for residential development – BASIX	Not applicable, does not seek to construct any BASIX affected development.	Not applicable.
Chapter 3 – Standards for non-residential development	Not applicable, does not seek to construct any BASIX affected development.	Not applicable.
<b>State Environmental Planning Policy (Transport and Infrastructure) 2021</b>		
Chapter 2 – Infrastructure	Applies to all land in the State.	The Planning Proposal does not conflict with the aims, permissibility, development consent, assessment and consultation requirements,

Policy	Applicable to Planning Proposal	Consistency
		capacity to undertake additional uses, adjacent, exempt and complying development provisions as provided in the SEPP.
Chapter 3 – Educational establishments and child care facilities	Applies to all land in the State.	Not applicable to the current Planning Proposal.
Chapter 4 – Major infrastructure corridors	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 5 – Three ports – Port Botany, Port Kembla and Newcastle	Not applicable to the Hay Local Government Area.	Not applicable.
Chapter 6 – Moorebank Freight Intermodal Precinct	Not applicable to the Hay Local Government Area.	Not applicable.

## Attachment D: Consistency with Section 9.1 Ministerial Directions



Table 5 – Consistency with Ministerial Directions

No.	Title	Applicable to Planning Proposal	Consistency
<b>1. Planning Systems</b>			
1.1	Implementation of Regional Plans	Yes, as this Direction applies to all Planning Proposals that apply to land where a Regional Plan has been prepared.	The Planning Proposal is consistent with the goals, directions and actions as contained within the <i>Riverina Murray Regional Plan 2041</i> . A full response in relation to this Regional Plan has been provided as <b>Attachment B</b> .
1.2	Development of Aboriginal Land Council Land	Not applicable, as the subject land is not identified on the Land Application Map of <i>State Environmental Planning Policy (Aboriginal Land) 2019</i>	Not applicable.
1.3	Approval and Referral Requirements	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this direction as it does not propose any referral or concurrence requirements or nominate any development as 'designated development'.
1.4	Site Specific Provisions	Not applicable, as the Planning Proposal does not seek to create any site specific provisions.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
1.4A	Exclusion of Development Standards from Variation	Not applicable, as the Planning Proposal does not seek to include any additional exclusions to variations from development standards.	Not applicable.
<b>1. Planning Systems – Place Based</b>			
1.5	Parramatta Road Corridor Urban Transformation Strategy	Not applicable to the Hay Local Government Area.	Not applicable.
1.6	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable to the Hay Local Government Area.	Not applicable.
1.7	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable to the Hay Local Government Area.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
1.8	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable to the Hay Local Government Area.	Not applicable.
1.9	Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable to the Hay Local Government Area.	Not applicable.
1.10	Implementation of Western Sydney Aerotropolis Plan	Not applicable to the Hay Local Government Area.	Not applicable.
1.11	Implementation of Bayside West Precincts 2036 Plan	Not applicable to the Hay Local Government Area.	Not applicable.
1.12	Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable to the Hay Local Government Area.	Not applicable.
1.13	Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable to the Hay Local Government Area.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
1.14	Implementation of Greater Macarthur 2040	Not applicable to the Hay Local Government Area.	Not applicable.
1.15	Implementation of the Pyrmont Peninsula Place Strategy	Not applicable to the Hay Local Government Area.	Not applicable.
1.16	North West Rail Link Corridor Strategy	Not applicable to the Hay Local Government Area.	Not applicable.
1.17	Implementation of Bays West Place Strategy	Not applicable to the Hay Local Government Area.	Not applicable.
1.18	Implementation of the Macquarie Park Innovation Precinct	Not applicable to the Hay Local Government Area.	Not applicable.
1.19	Implementation of the Westmead Place Strategy	Not applicable to the Hay Local Government Area.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
1.20	Implementation of the Camellia-Rosehill Place Strategy	Not applicable to the Hay Local Government Area.	Not applicable.
1.21	Implementation of South West Growth Area Structure Plan	Not applicable to the Hay Local Government Area.	Not applicable.
1.22	Implementation of the Cherrybrook Station Place Strategy	Not applicable to the Hay Local Government Area.	Not applicable.
<b>Design and Place</b> [This Focus Area was blank when the Directions were made]			
Nil			
<b>Biodiversity and Conservation</b>			
3.1	Conservation Zones	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this Direction because it does not involve land identified as environmentally sensitive and does not seek to reduce the environmental protection standards that apply to the land.

No.	Title	Applicable to Planning Proposal	Consistency
			<p>As demonstrated within this Planning Proposal, the area of land proposed to be rezoned R2 Low Density Residential contains little to no overstorey vegetation with vegetation limited to planted vegetation surrounding the existing dwelling. Similarly, the existing groundcovers also comprise non-native grasslands.</p> <p>The rezoning of this land is consistent with a constraints and opportunities analysis completed as part of the previous Hay Structure Plan.</p>
3.2	Heritage Conservation	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this direction because it does not affect existing provisions within LEP relating to the protection of known European and Aboriginal heritage.
3.3	Sydney Drinking Water Catchment	Not applicable to the Hay Local Government Area.	Not applicable.
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs.	Not applicable to the Hay Local Government Area.	Not applicable.
3.5	Recreation Vehicle Areas	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this direction because it does not advocate the designation of the subject land as a recreation vehicle area pursuant to an order in force under section 11 (1) of the <i>Recreation Vehicles Act 1983</i> .



No.	Title	Applicable to Planning Proposal	Consistency
3.6	Strategic Conservation Planning	Not applicable, as the land is not identified as avoided land or a strategic conservation area under <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> .	Not applicable.
3.7	Public Bushland	Not applicable to the Hay Local Government Area.	Not applicable.
3.8	Willandra Lakes Region	Not applicable to the Hay Local Government Area.	Not applicable.
3.9	Sydney Harbour Foreshores and Waterways Area	Not applicable to the Hay Local Government Area.	Not applicable.
3.10	Water Catchment Protection	Not applicable to the Hay Local Government Area.	Not applicable.

#### Resilience and Hazards

4.1	Flooding	Yes, as portions of the main township of Hay are subject to flooding.	The subject Planning Proposal relates to land subject to inundation during the 1 in 100 Year ARI flood event. Notwithstanding, the Planning Proposal is consistent with
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No.	Title	Applicable to Planning Proposal	Consistency
			<p>the aims and objectives of this Ministerial Direction as it does not seek to permit development within a floodway or in a high hazard area.</p> <p>The land is already zoned residential (village) and despite the fact that the Planning Proposal seeks to increase the density of development, it is noted that urban infill development (both subdivision via community title and strata title, as well as dwellings) are already permitted in this zone. This land is also protected via an existing levee bank that encircles the main urban area.</p> <p>Furthermore, the land proposed to be rezoned R2 Low Density Residential is generally located on flood free land and immediately adjoins the main urban area. Sealed vehicular access away from potential flooding sources (Murrumbidgee River) is also available and the properties will be connected to reticulated services.</p> <p>It is further noted that the previous Hay Structure Plan (which included the subject recommendation) was previously referred to NSW DPE and BCD, who did not raise any objections.</p> <p>Consequently, the further development or increase in density of development as well as the rezoning of land sought by this Planning Proposal is considered appropriate in this instance.</p>
4.2	Coastal Management	Not applicable as the subject land is not located in a coastal management area.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
4.3	Planning for Bushfire Protection	Yes, as portions of the main township of Hay and land proposed to be rezoned to R2 are subject to bushfire.	<p>Similar to matters regarding flooding, a portion of the main urban area of Hay is subject to bushfire (namely Vegetation buffer). Furthermore, the area of land proposed to be rezoned R2 is as classified as bushfire prone.</p> <p>Notwithstanding, this is considered appropriate in this instance as the level of development expected in the infill urban areas is low and the land is urban zoned and already developed. Consequently, the further more intensive development of this land is not expected to create any adverse impacts in regards to bushfire protection measures.</p> <p>Similarly, in relation to the R2 zoned land, given the predominant bushfire risk is a Grassland hazard and the topography of the land is flat/upslope, this will require the provision of a 10 metre wide Asset Protection Zone (APZ).</p> <p>In accordance with the NSW Planning for Bushfire Protection Guidelines 2019, any subdivision with more than 3 lots will require the provision of a perimeter road, which will act as the relevant APZ. This will ensure that future lot owners are appropriately protected from a bushfire risk perspective.</p>
4.4	Remediation of Contaminated Land	Yes, as the subject Planning Proposal applies to the main urban area of Hay and seeks to rezone land.	<p>The provisions of this clause apply as the Planning Proposal seeks to rezone land. Matters regarding the existing urban area are considered appropriate as this land is already zoned and the subject Planning Proposal does not seek to rezone this land.</p> <p>Notwithstanding the above, matters regarding land contamination have been investigated in relation to the proposed R2 Low Density Residential site/s via the preparation of a Preliminary Site Investigation. This investigation was informed by both a desktop assessment and site inspection, which identified a number of</p>

No.	Title	Applicable to Planning Proposal	Consistency
			<p>potential sources of contamination that may materially affect future development of the site.</p> <p>Such sources included persistent use of agricultural chemicals across the site, chemical storage, fuel storage tanks, rubbish, asbestos materials, septic systems and unknown fill sources.</p> <p>Based on the findings of the PSI, a Detailed Site Investigation (DSI) is required as soil contamination is potentially present and the information available is insufficient to enable an appropriate level of risk assessment. The DSI should identify the nature of the potential contamination and delineate its lateral and vertical extent to a sufficient degree that appropriate site management strategies can be devised, if required.</p> <p>Consequently, a DSI will be prepared in accordance with the recommendations of this study prior to the rezoning of the land. This will ensure that matters regarding land contamination will be appropriately addressed and that the land will be suitable for its intended purpose.</p>
4.5	Acid Sulphate Soils	Not applicable, as the subject land is not identified as containing acid sulphate soils.	Not applicable.
4.6	Mine Subsidence & Unstable Land	Not applicable, as the subject land is not within a Mine Subsistence District.	Not applicable.

#### Transport and Infrastructure

No.	Title	Applicable to Planning Proposal	Consistency
5.1	Integrating Land Use and Transport	Yes, as the Planning Proposal relates to urban land.	<p>The Planning Proposal is consistent with this Direction despite seeking to rezoning land.</p> <p>Specifically, the existing RU5 zoned land is already urban zoned and developed and the further redevelopment/ intensification of this land is not expected to have an adverse impact on the established road network.</p> <p>Similarly, the proposed rezoning of land on the eastern fringe of the main township of Hay is considered appropriate as it immediately adjoins urban development and will result in a logical extension or services, including roads. The future development of this land will be master planned to ensure that it integrates with the surrounding development, which ensures that the Planning Proposal does not conflict with the aims or objectives of the two reference Transport studies outlined in this Direction.</p>
5.2	Reserving Land for Public Purposes	Yes, as this Direction applies to all Planning Proposals.	<p>The Planning Proposal is consistent with this Direction because it does not create, alter or reduce any provisions relating to land for public acquisition purposes.</p> <p>Lastly, matters regarding open space and pedestrian footpaths have also been considered in relation to the previous recommendations of the Hay Structure Plan.</p> <p>It is confirmed that the future subdivision of this land will require the provision of pedestrian footpaths throughout the estate, which will connect with the existing footpath network.</p>

No.	Title	Applicable to Planning Proposal	Consistency
			<p>Whilst is acknowledged that the subject Planning Proposal does not seek approval to rezone a portion of the subject land as RE1 Public Recreation, in the absence of completing a master plan for this site, the exact location of this facility is unknown.</p> <p>Consequently, it is recommended that the rezoning of this land for recreational purposes be deferred until after the completion of a site-specific master plan. This will likely form part of a future Council housekeeping/LEP Review amendment.</p>
5.3	Development Near Regulated Airports and Defence Airfields	Not applicable, the planning proposal does not seek to create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.	Not applicable.
5.4	Shooting Ranges	Not applicable, as the subject land is not located in the vicinity of a shooting range.	Not applicable.
<b>Housing</b>			
6.1	Residential Zones	Yes, as the Planning Proposal relates to land zoned RU5 Village and seeks to rezone land R2 Low Density Residential, which is seeking to achieve residential objectives.	<p>The Planning Proposal is consistent with the objectives of this Direction, which are outlined as follows:</p> <p><i>(a) encourage a variety and choice of housing types to provide for existing and future housing needs,</i></p>


No.	Title	Applicable to Planning Proposal	Consistency
			<p><i>(b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</i></p> <p><i>(c) minimise the impact of residential development on the environment and resource lands</i></p> <p>The Planning Proposal directly achieves these objectives as it will facilitate and support a range of residential densities and housing types, creating choice, which will suit the current and future needs of homeowners.</p> <p>The promotion and establishment of additional infill housing will make more efficient use of existing infrastructure and services and will reduce pressures on these services resulting from development at the urban fringe. Council have also confirmed that the existing infrastructure network has adequate capacity to service the expected infill development.</p> <p>Similarly, the Planning Proposal seeks to rezone additional land at the eastern fringe of the main township for R2 Low Density Residential purposes, which will also increase the range and type of housing available within the township.</p> <p>This land avoids impacts on sensitive environmental and resource lands. Therefore the Planning Proposal is consistent with the aims of this Direction and Sections 5.1 and 5.2 of the previously endorsed Hay Structure Plan.</p>
6.2	Caravan Parks & Manufactured Home Estates	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this Direction as it does not reduce the opportunities for caravan parks and manufactured homes estates on the subject land.



No.	Title	Applicable to Planning Proposal	Consistency
<b>Industry and Employment</b>			
7.1	Business and Industrial Zones	Not applicable, as the development does relate to a commercial or industrial zone.	Not applicable.
7.2	Reduction in non-hosted short term rental accommodation period	Not applicable, does not apply to the Hay Local Government Area.	Not applicable.
7.3	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable, as the subject land is not located within proximity to the Pacific Highway.	Not applicable.
<b>Resources and Energy</b>			
8.1	Mining, Petroleum Production and Extractive Industries	Not applicable as the Planning Proposal does not impact on mining, petroleum or extractive industries.	The subject Planning Proposal is consistent with this Direction as it will not:  <i>(a) prohibit the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</i>

No.	Title	Applicable to Planning Proposal	Consistency
			<i>(b) restrict the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.</i>

### Primary Production

9.1	Rural Zones	Yes, as the Planning Proposal seeks to rezone land currently zoned RU1 Primary Production	<p>The provisions of this Ministerial Direction apply as the Planning Proposal seeks to rezone land currently zoned RU1 Primary Production. This land is also identified on the NSW Department of Primary Industries – Agriculture's Draft State Significant Agricultural Land (SSAL) Map.</p>  <p><b>Figure 23 – Draft State Significant Agricultural Land Map</b> (Source: NSW Department of Primary Industries, 2024)</p>
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No.	Title	Applicable to Planning Proposal	Consistency
			<p>The objective of this Direction is to protect the agricultural production value of rural land. Specifically, the Direction states that a Planning Proposal must:</p> <p>(a) <i>not rezone land from a rural zone to a residential, employment, mixed use, SP4 Enterprise, SP5 Metropolitan Centre, W4 Working Waterfront, village or tourist zone.</i></p> <p>(b) <i>not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).</i></p> <p>Whilst it is acknowledged that the subject Planning Proposal seeks to rezone rural zoned land, this is considered justifiably inconsistent in this instance as it is consistent with the land use planning recommendations of the previously endorsed Hay Structure Plan.</p> <p>Specifically, Section 5.2 of the Structure Plan seek to rezone land on the eastern fringe of the township from rural to R2 Low Density Residential. This was in recognition of the following factors:</p> <ul style="list-style-type: none"> <li>• The land is largely unconstrained from biodiversity values (threatened species habitats) and natural hazards, or can be appropriately developed to mitigate these impacts.</li> <li>• The land immediately abuts urban development that has been developed for the purposes of residential housing. Similarly, land to the north has been developed for light industrial purposes, whilst the Hay Cemetery and the Murrumbidgee River adjoin the site to the south.</li> <li>• The land is highly fragmented and only has a combined total area of approximately 25ha.</li> </ul>

No.	Title	Applicable to Planning Proposal	Consistency
			<ul style="list-style-type: none"> <li>• The land only adjoins other land, which is used for low-scale broadacre agricultural purposes (grazing, cropping) and can be appropriately developed without limiting the ongoing operations of this land. This has been confirmed via the preparation of a Land Use Conflict Risk Assessment (LUCRA).</li> <li>• It is noted that the SSAL is only in draft format and has yet to be adopted. Upon review of this map, it is noted that a number of errors currently exist in relation to this existing mapping.</li> </ul> <p>Importantly, as part of the preparation and finalisation of this Structure Plan, consultation was undertaken with a number of government agencies, including NSW Department of Primary Industries – Agriculture.</p> <p>Below is an extract of their response.</p> <p><i>The NSW Department of Primary Industries Agriculture (DPI Ag) is committed to the protection and growth of agricultural industries, and the land, resources and infrastructure upon which these industries depend. One of the mechanisms we are exploring is identification of high quality agricultural land in the Draft State Significant Agricultural Land mapping as a basis for regional strategic land use planning...</i></p> <p><i>Although much of the land around Hay is mapped as Land and Soil Capability Class 5 and 6 it has been identified as draft State Significant Agricultural Land due to the irrigation infrastructure. See <a href="https://nswdpi.mysocialpinpoint.com/ssal/map#/">https://nswdpi.mysocialpinpoint.com/ssal/map#/</a></i></p>

No.	Title	Applicable to Planning Proposal	Consistency
			<p><i>DPI Ag considers the proposed rezonings consistent with strategic planning principles where they have been located in close proximity to the existing settlement and similar zones...</i></p> <p><i>The LUCRA should be used to identify where incompatible land uses, ie residential/rural residential, are encroaching on agricultural operations, not just for land uses that may impact residential areas. Further consideration should be given to land use conflict and cumulative impacts from successive development on adjacent farming operations.</i></p> <p>A full copy of NSW DPE Agriculture advice is included with this Planning Proposal.</p> <p>A LUCRA has also been prepared consistent with the recommendations of this government agency advice.</p>
9.2	Rural Lands	Yes, as the Planning Proposal seeks to rezone rural land.	<p>Although the subject Planning Proposal seeks to rezone rural land, the Planning Proposal is considered to be consistent with the objectives of this Direction as follows:</p> <ul style="list-style-type: none"> <li>• The proposed changes sought by the Planning Proposal are not expected to reduce the productive value of agricultural land as the land will continue to be used for low-scale broadacre agricultural activities in the interim and only relates to a very small portion of the total rural land in the Hay LGA.</li> <li>• The Planning Proposal seeks to rezone land consistent with the recommendations of the Hay Structure Plan, which will have positive social and economic impacts.</li> <li>• The land is already highly fragmented and immediately adjoins urban development.</li> </ul>

No.	Title	Applicable to Planning Proposal	Consistency
			<ul style="list-style-type: none"> <li>The future development of this land is not expected to inhibit or restrict the ongoing operation of adjoining agricultural land under the NSW Right to Farm Policy given the context and setting of the area and following the completion of a LUCRA.</li> </ul> <p>Similarly, the Planning Proposal is consistent with the directions of this policy as follows:</p> <ul style="list-style-type: none"> <li>The changes sought by this Planning Proposal are consistent with the land use planning recommendations of Section 5.1 and 5.2 of the previously endorsed Hay Structure Plan.</li> <li>The proposed rezonings have previously been reviewed and supported by NSW DPE – Agriculture during the preparation of the Structure Plan.</li> <li>The land, whilst identified on the Draft SSAL Map, does not represent agricultural land that is significant to the state.</li> <li>The land is largely unconstrained from a biodiversity and natural hazards perspective following the completion of a previous opportunities and constraints analysis.</li> <li>The development of this land will not fragment rural land beyond what has already been fragmented.</li> <li>The outcomes sought by the Planning Proposal will have an overall positive social and economic impact as it will encourage housing diversity and will increase the supply of residential zoned land.</li> <li>The land immediately abuts urban development and can be serviced with all relevant infrastructure and services including water, sewerage and roads.</li> </ul> <p>See response to Ministerial Direction 9.1 above for further details.</p>

No.	Title	Applicable to Planning Proposal	Consistency
9.3	Oyster Aquaculture	Not applicable as the subject site is not identified as a 'Priority Oyster Aquaculture Area' and is not identified in the <i>NSW Oyster Industry Sustainable Aquaculture Strategy</i> (2006)	Not applicable.
9.4	Farmland of State & Regional Significance on the NSW Far North Coast	Not applicable, does not apply to the Hay Local Government Area.	Not applicable.



## Attachment E: Preliminary Site Investigation (PSI)

## Attachment F: Land Use Conflict Risk Assessment Report (LUCRA)

## Attachment G: Hay Structure Plan

## Attachment H: Government Agency Responses to Hay Structure Plan