



IRD24/6570

Gateway determination report – PP -2024-121

Rezone land from RU4 Primary Production Small Lot zone to RU5 Village zone and amend the Minimum Lot size at 18 Boureong Drive, Gunning

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans

[Minutes Council Meeting 14 December 2023](#)

[Biodiversity Assessment by Macrozamia Environmental Consulting](#)

[Odour Amenity Impact Assessment SLR Consulting May 2022, May 2023](#)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Upper Lachlan Shire Council
PPA	Upper Lachlan Shire Council
NAME	Rezone land at Gunning from RU4 Primary Production Small Lots to RU5 Village and reduce minimum lot size creating 51 dwellings
NUMBER	PP-2024-121
LEP TO BE AMENDED	Upper Lachlan LEP 2010
ADDRESS	18 Boureong Drive, Gunning
DESCRIPTION	Lot 4 DP 1198749
RECEIVED	29/02/2024
FILE NO.	IRD24/6570
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

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

The objective of this Planning Proposal is to rezone and amend the lot size for land at Lot 4 DP 1198749 from RU4 Primary Production Small Lot zone to RU5 Village zone and to reduce the minimum lot size from 10ha to 1,000m² to enable the development of 51 dwelling houses.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Upper Lachlan LEP 2010 by rezoning the subject site and reducing the Minimum Lot Size as indicated in Table 3.

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	RU4 Primary Production Small Lots	RU5 Village
Minimum lot size	10ha	1,000m2
Number of dwellings	0	51
Number of jobs	N/A	N/A

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

1.4 Site description and surrounding area

The subject site is adjacent to the village of Gunning and is approximately 10 hectares in area and irregular in shape. It is located immediately north of the town and rises quickly away from the village. There is an intermittent watercourse running through the south-east corner of the site (see Figure 1).

The site is 160 metres away from Council's sewerage treatment works. Council in March 2023 as part of the scoping proposal, consulted with the Environmental Protection Authority (EPA) on the potential for amenity issues associated with odour and noise coming from the Sewage Treatment plant and Gunning Landfill (Figure 4) which is 3 kms south east of the subject site.

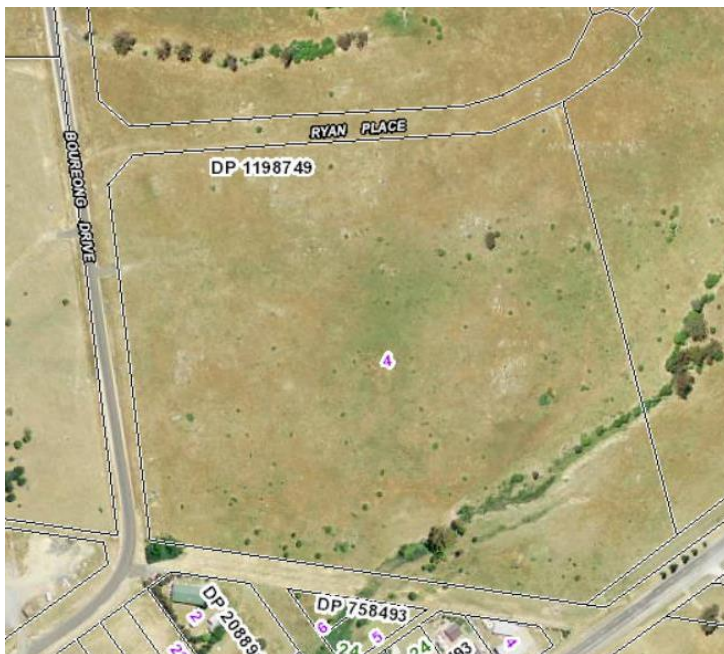


Figure 1- subject site. (Source Six Maps)



Lot 4 DP 1198749 and Gunning STP
(Map Source: Six Maps)

Figure 2 Site context with Sewerage Treatment works

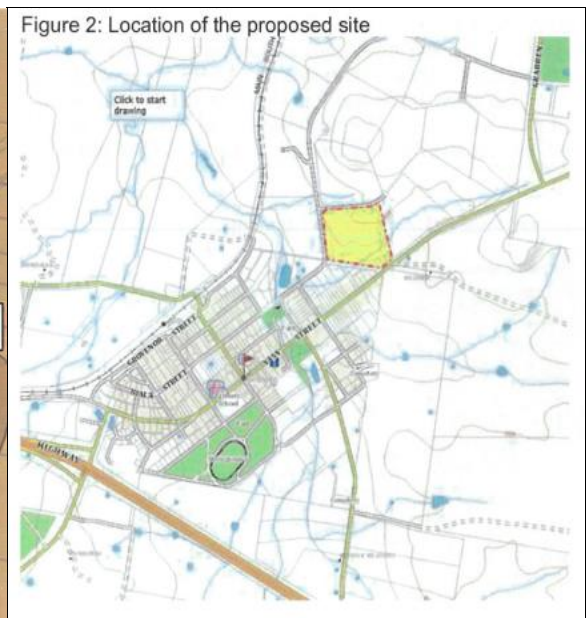
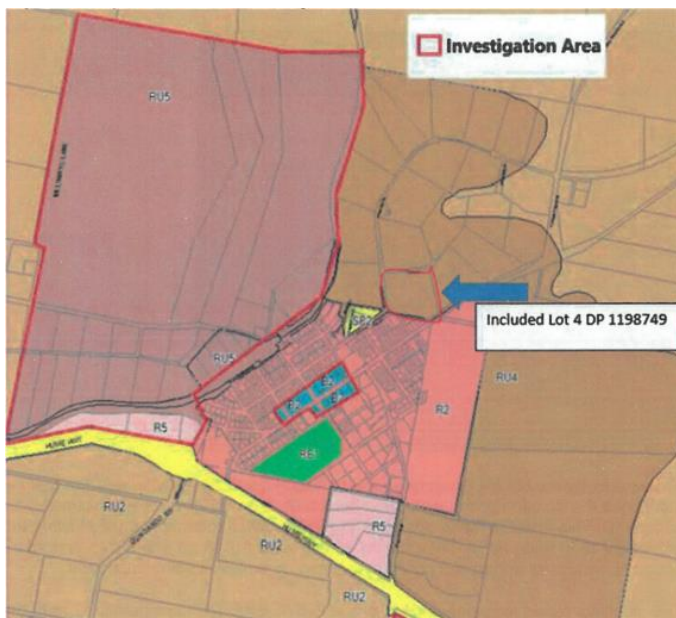


Figure 3- Site in context with Gunning. (Source Six Maps)

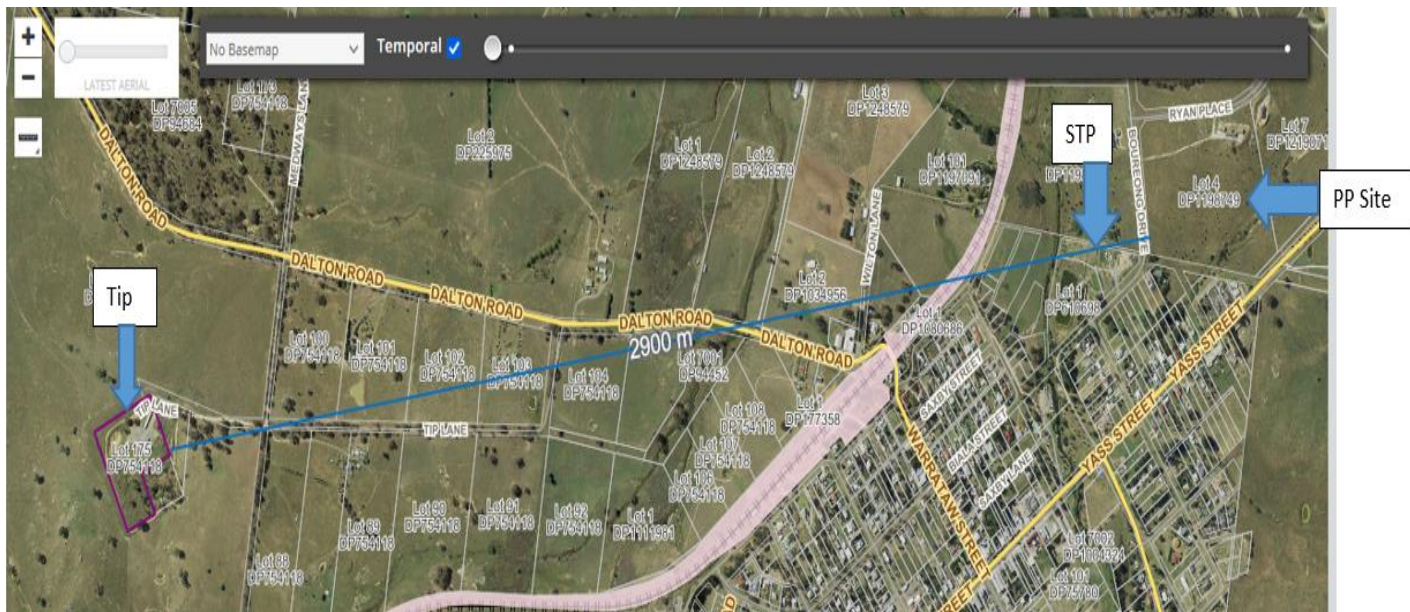


Figure 4- Distance from Subject site to the Gunning Landfill

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Zone and Minimum Lot size maps which are suitable for community consultation.

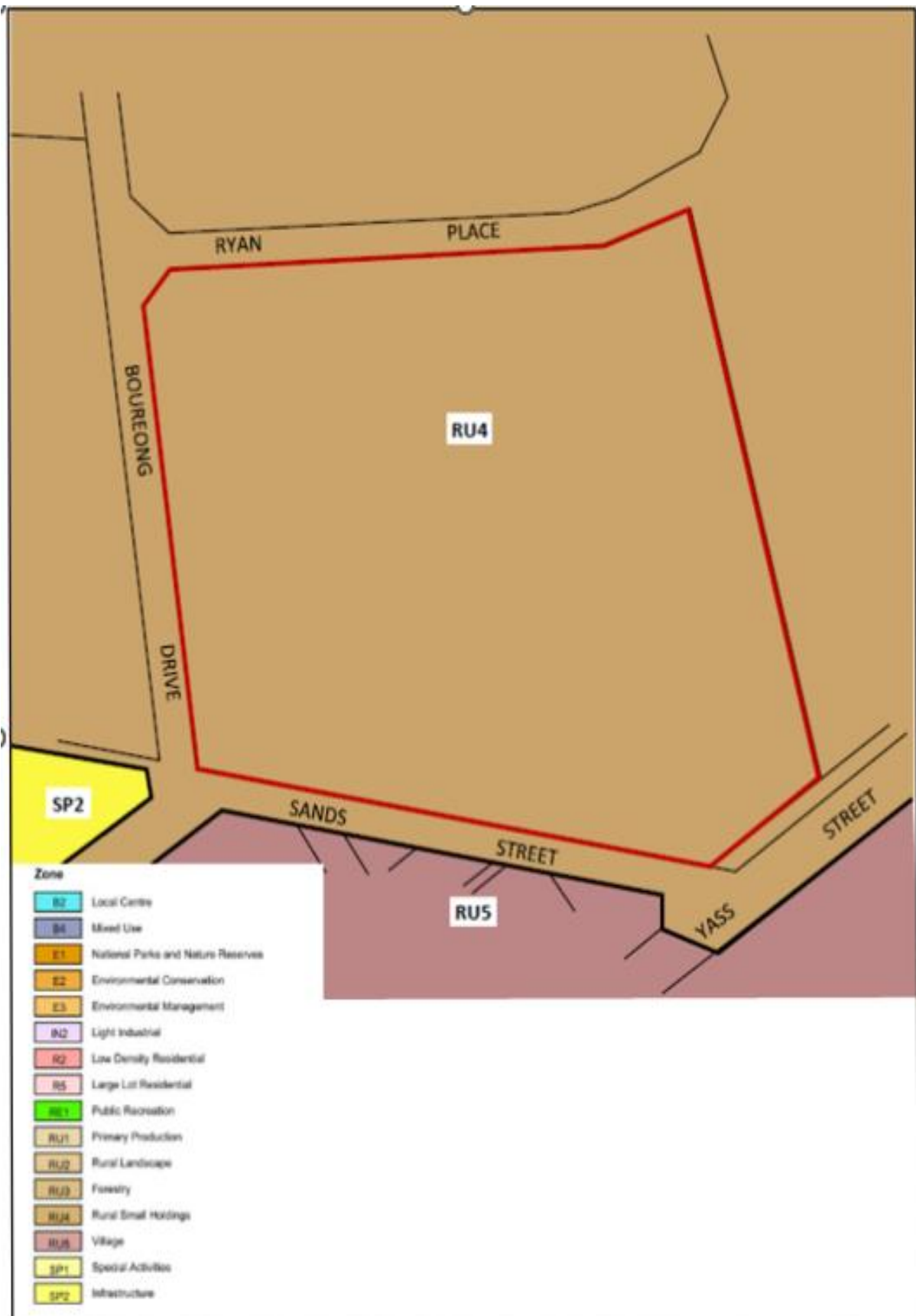


Figure 4- Current zoning map

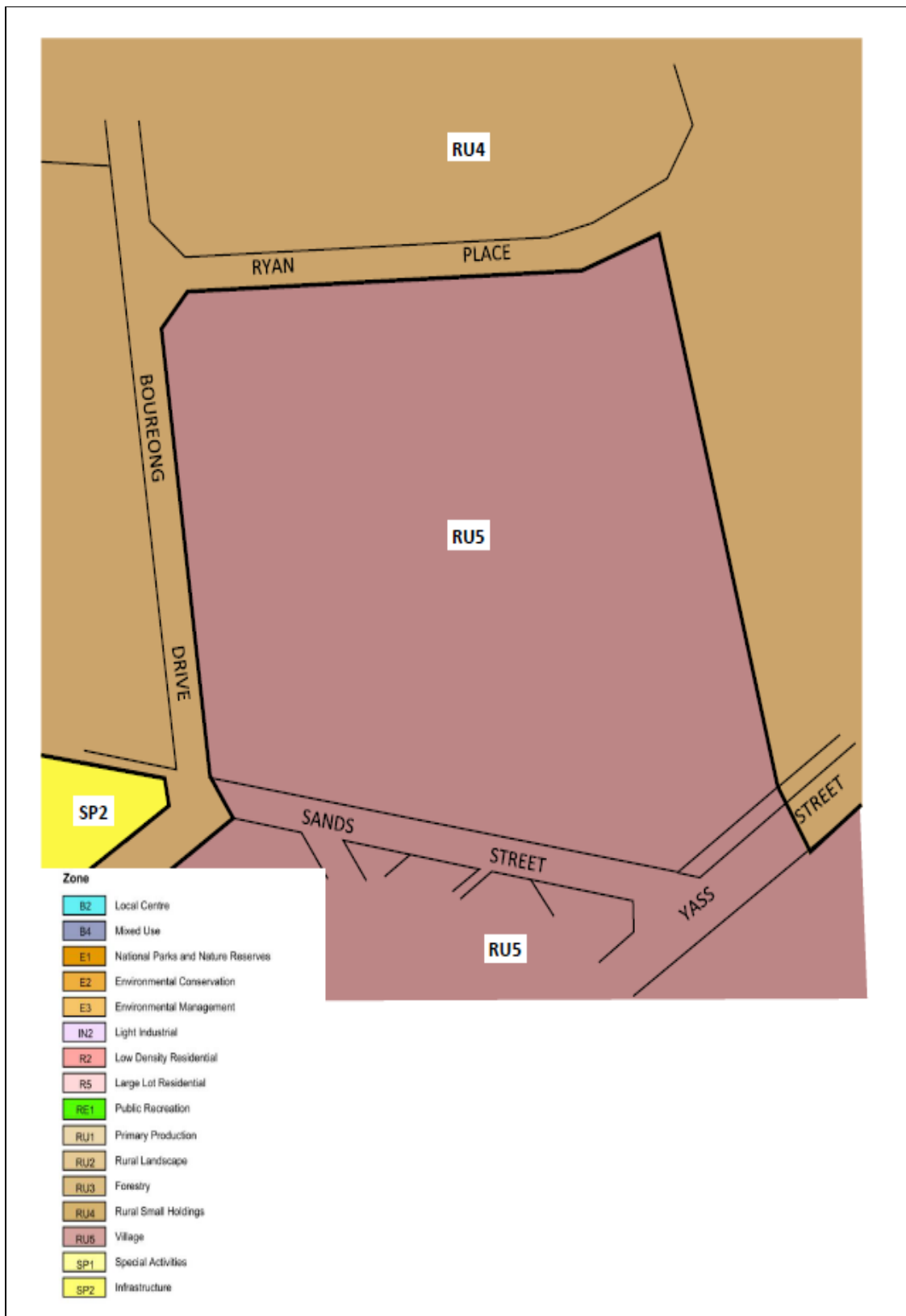


Figure 5- Proposed zoning map.

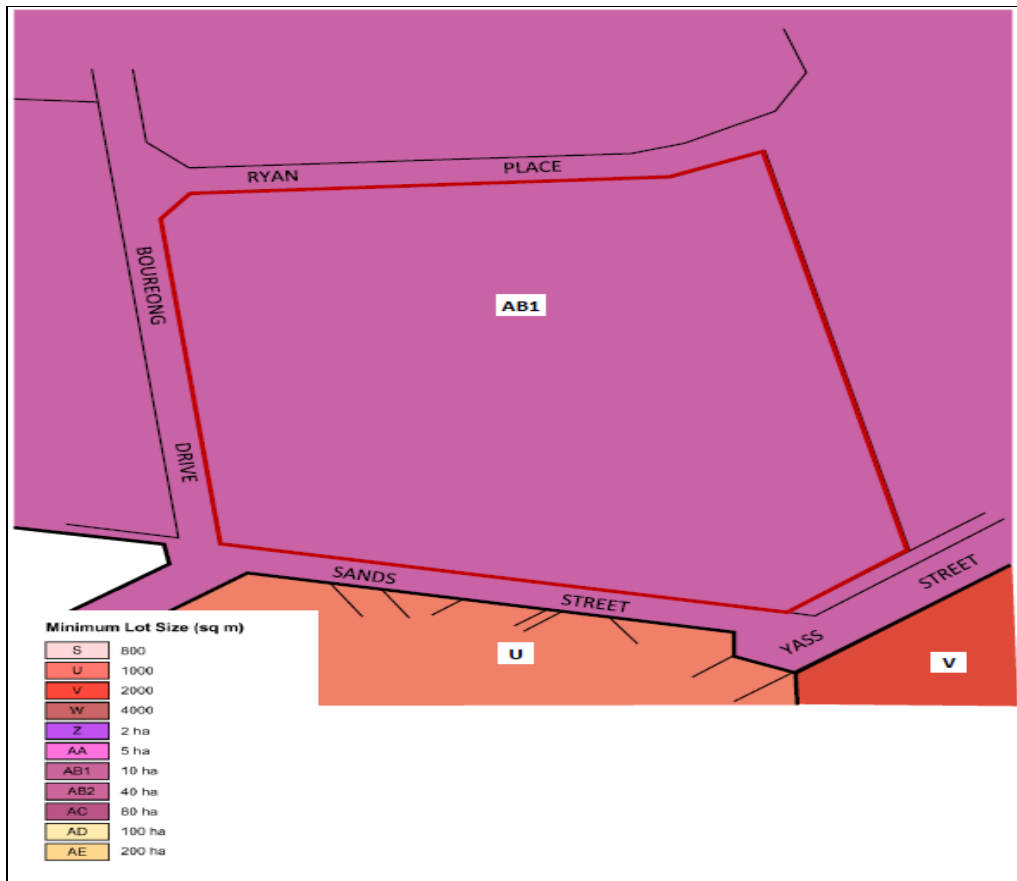


Figure 6- Current Minimum Lot Size (Source NSW Legislation website)

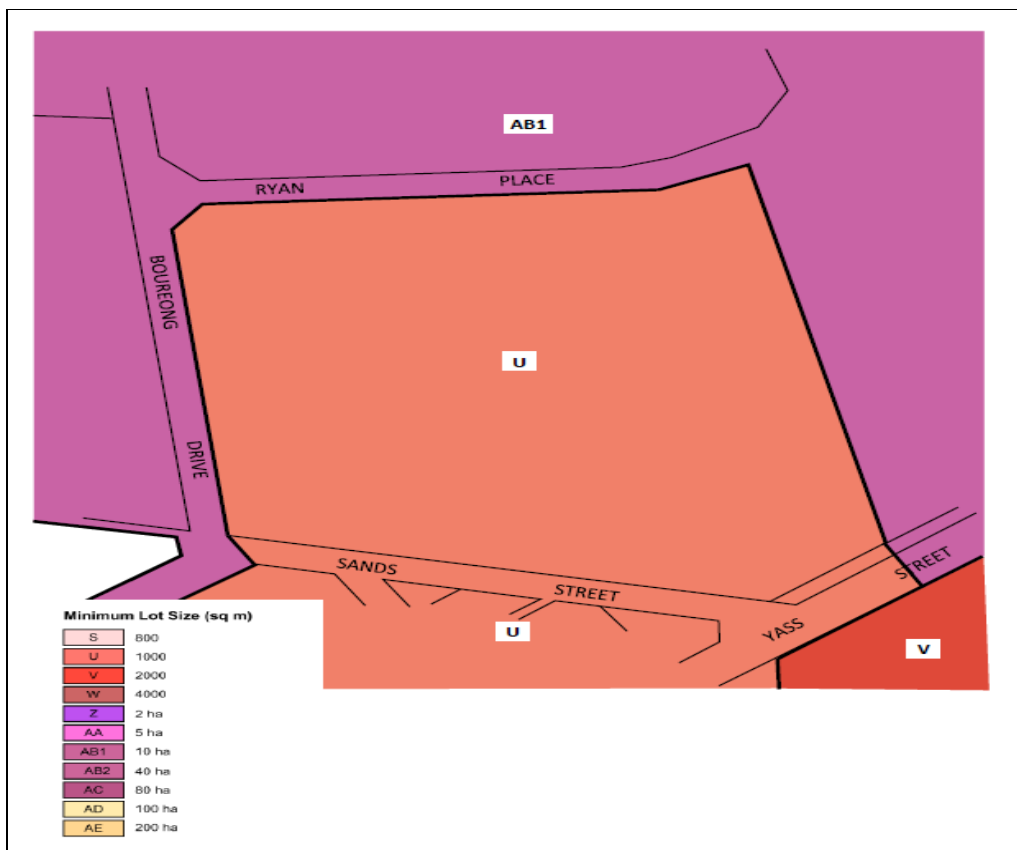
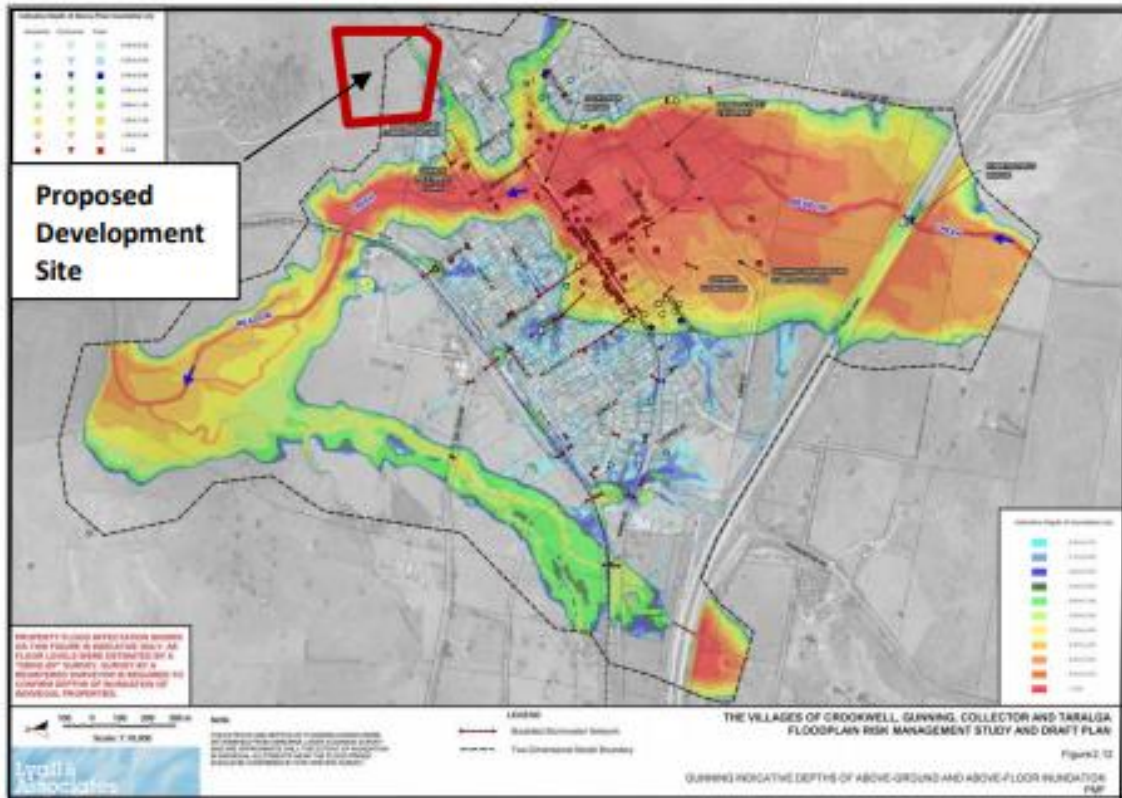


Figure 7 Proposed minimum lot size map from 10000m2 to 1,000m2 (Source NSW Legislation website)

1.5 Background

The Upper Lachlan Shire has received a number of planning proposals over the last three years that provide for the future housing needs of the Shire as demand in this area increases. Gunning, while well located to attract new residential development from Goulburn and the ACT, has flooding constraints which limit the areas suitable for housing growth as identified in Figure 8 below.



Gunning Indicative Depths of Above Ground and Above Floor Inundation - PMF

(Map Source: Lyall and Associates Floodplain Risk Management Study and Plan June 2017)

Figure 8- Flood affected land in and around Gunning.

Council sought further information on the planning proposal for the subject site in March 2021 due to concerns around the proximity of the development area to the town's sewage treatment works which is 160 metres to the north east of the site. The issue was raised by the Environmental Protection Authority (EPA) at the Planning Scoping stage of the planning proposal process. The EPA raised concerns about the ability of the STP to accommodate the additional catchment and reinforced that the plant must comply with relevant statutory obligations. An Odour Impact Amenity Assessment was subsequently undertaken in June 2021 by *SLR Consulting Australia*. In response to the Assessment, the EPA concluded that :

'In the absence of separation guidelines issued by NSW EPA, a conservative separation distance of 160 m has been adopted for the Gunning Sewerage Treatment Plant (GSTP) using guidelines set by other regulatory agencies in Australia. The Site predominantly lies outside this separation distance, suggesting that there is a low risk of potential adverse amenity impacts on the Site from the GSTP. In addition, prevailing wind conditions suggest that the Site would be downwind of the GSTP very infrequently, and therefore the likelihood of any odour plume from the GSTP intersecting the Site could be considered

unlikely. Based on the above, the risk of odour impacts at the Site is considered low and therefore suitable for sensitive land use as proposed.”

The EPA responded on the 27 October 2023 that the initial concerns raised by the agency during the Scoping Study have been adequately addressed. This provided Council with confidence that the proposed rezoning of the subject site would not present odour or other amenity impacts if approved for future housing. A copy of the letter to Council is attached at Annexure 6 to the planning proposal.

2 Need for the planning proposal

The planning proposal seeks to provide for an additional 51 dwellings in an area of Gunning not significantly impacted by flooding and is the most appropriate means of providing for the rezoning and amendment of the minimum lot size of the subject site. The planning proposal is the only means by which the rezoning can be achieved.

The planning proposal is consistent with the 2020 Upper Lachlan Local Strategic Planning Statement, it is also consistent with the Community Strategic Plan, and the South East and Tablelands Regional Plan 2036 and draft South East and Tablelands Regional Plan 2041. The rezoning if it proceeds will provide for additional housing close to the village of Gunning, encouraging housing diversity while achieving the modest growth of Gunning and its local businesses and services.

3 Strategic assessment

3.1 Regional Plan.

The following table provides an assessment of the planning proposal against relevant aspects of the South East and Tablelands Regional Plan 2036.

Table 4 Regional Plan assessment

Regional Plan Objectives	Consistency	Justification
Direction 8- Protect Important Agricultural Land.	Inconsistent, planning proposal seeks to rezone agricultural land	Justified by the Local Strategic Plan Statement which identifies the subject site for future residential development. It is also considered that the proposal is of minor significance as the site has an area of 10 ha which is insignificant when considered against the total amount of land zoned for rural purposes. Additionally the classification of the soil in this location is of relatively poor quality for agriculture.
Direction 12- Promote Business Opportunities the town	Consistent.	It is proposed to be zoned RU5 Village which permits a range of employment opportunities in addition to additional housing.

Direction 15 Enhance Biodiversity connections.	Consistent	The site has no identified biodiversity and has been extensively grazed. There will be a need to ensure that the areas that are adjacent to the sewerage treatment works are appropriately landscaped to reduce the potential for visual impacts on future residential dwellings on the subject site.
Direction 22- Build socially inclusive, safe and healthy communities	Consistent	The proposal will provide for additional dwellings in an area adjacent to the village of Gunning.
Direction 24- Deliver greater Housing supply and choice	Consistent.	Provides for an additional 51 dwellings adjacent to the north eastern boundary of Gunning

3.2 Local Strategic Plans, including the LSPS 2040

The planning proposal is consistent with the Planning Principles and Priority 2 of the 2020 Upper Lachlan Local Strategic Planning Statement, (LSPS) and the LSPS since amended in 2023 to ensure the proposal on the subject site was consistent with the LSPS in respect to the need to increase the availability and diversity of new housing in the Upper Lachlan Shire.

The proposal is consistent with the Community Strategic Plan. It is also consistent with a Housing Strategy drafted in 2021, although this was never exhibited or adopted by Council. The Draft Housing Strategy is currently being reviewed by Council.

3.3 Section 9.1 Ministerial Directions

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

Table 5 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Applies, Consistent.	Consistent with applicable Directions from regional plan – most notably Direction 24 – Deliver greater housing supply and choice.
1.3 Approval and Referral Requirements	Applies, Consistent.	Does not require additional approval or concurrence of the Minister or another Minister or Public Authority
6.1 Residential Zones	Does not apply.	While the Direction does not apply as the RU5 Village zone is not a residential zone, the proposal provides additional dwellings close to town and has access to water and close to sewer connections, which is generally consistent with the intent of the Direction.

9.1 Rural Zones.	Applies- Inconsistent	<p>Justifiably inconsistent as the rezoning of rural land in this instance is supported by the LSPS 2022, and 2023 (as amended) which identified the site as suitable for residential development.</p> <p>It is also considered that the proposal is of minor significance as the site has an area of 10 ha which is insignificant when considered against the total amount of land zoned for rural purposes. Additionally the classification of the soil in this location is of a poor quality for agriculture.</p>
9.2 Rural Lands.	Applies- Inconsistent.	<p>Justifiably inconsistent, justified by the LSPS 2022 and 2023 (as amended) which identified the site as suitable for residential development. It is also considered that the proposal is of minor significance as the site has an area of 10 ha which is insignificant when considered against the total amount of land zoned for rural purposes. Additionally, the classification of the soil in this location is of a poor quality.</p>

3.3 State environmental planning policies (SEPPs)

With exception of SEPP Primary Production, which is identified as justifiably inconsistent, the planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 6 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Biodiversity and Conservation SEPP	Chapter 3- Koala Habitation. Chapter 6- water catchments	Consistent	There are no known Koala habitats on the site. The site is not part of a Water Catchment area.
SEPP (Primary Production) 2021	Chapter 2- Primary Production and rural development.	Justifiably inconsistent	The site is 10 hectares which is insignificant against the total area of available and production rural zoned land. The inconsistency to the SEPP is justified by the LSPS 2020 and the South East and Tablelands Regional Plan, which provide for future housing on areas adjacent to existing towns in the Upper Lachlan Shire.
SEPP (Transport and Infrastructure)	Chapter 2 Infrastructure	Consistent	The SEPP applies to all local government areas and requires consultation with Council and relevant state agencies (None in this case) with the provision of appropriate infrastructure, as it affects services and

			flooding. The site is not flood affected and has adequate local services.
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4 Site-specific assessment

4.1 Environmental

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

Table 7 Environmental impact assessment

Environmental Impact	Assessment
Noise and Odour from adjacent sewerage treatment works on the southern boundary of the site.	Council is satisfied that the issues that have been raised by the Environmental Protection Authority in relation to the potential negative impact of odour and noise have been adequately addressed. Correspondence on the consideration of the subject site in its location in respect to the Sewerage Treatment Plant is at Attachment 6 to the Planning Proposal.
Flood impacts	The location of the subject site is elevated land to the north east of the Gunning Village, which is not likely to be significantly affected by flooding. Consultation with DEECCW and SES is recommended in relation to flooding.

4.2 Social and economic

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

Table 8 Social and Economic impact.

Social and Economic Impact	Assessment
Social outcomes, including new housing adjacent to the existing village of Gunning	New dwellings adjacent to the eastern town boundary and potential employment opportunities will provide for positive social outcomes. New housing adjacent to the existing Gunning township will also ensure a more diverse housing mix while new families moving to the area will help support local schools and other community, sporting and cultural services.
Economic impact	The potential for 51 new dwellings and the uses permitted within the RU5 Village zone will encourage job growth in a range of industries including the building and trade sectors, along with more residents supporting local businesses and services and the local economy. More residents will support local retail, schools and other community facilities and provide Council with additional resources via developer contributions for improved local road and transport infrastructure and rates. The RU5 zone also permits a range of businesses.

4.3 Infrastructure

The site has access to existing services, including water and sewerage infrastructure. Council will negotiate with Transport for NSW and the proponent to ensure appropriate traffic management in and around the site. Gunning also has a local primary school, a childcare centre, shops, and some recreation and sporting facilities. There are existing good road connections between Crookwell, Yass, Goulburn and the ACT.

Consultation

4.4 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and forms one of the conditions of the Gateway determination.

4.5 Agencies

The proposal does not specifically raise which agencies will be consulted.

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

- Department of Climate Change, Energy, the Environment and Water
- State Emergency Services
- Transport for NSW

4.6 Timeframe

Council proposes a 9 month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard proposal.

The Department recommends an LEP completion date of 28 February 2025 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

5 Local plan-making authority

As the planning proposal is consistent, or justifiably inconsistent with local, regional and state planning policies and strategies, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

6 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The planning proposal provides for 51 additional dwellings in an area close to the township of Gunning;

- The proximity to the sewerage treatment works is outside the recommended buffer zone, and the subject site can be rezoned for the future dwellings without compromising the quality of life of future residents;
- The subject site is well located in respect to the ACT and Goulburn and may be attractive to those who wish to live in a rural community close to employment centres.

7 Recommendation

It is recommended the delegate of the Secretary:

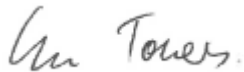
- Agree that any inconsistencies with section 9.1 Directions 9.1 Rural Zones, and 9.2 Rural Lands are justified by the Local Strategic Planning Statement

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

The following conditions are recommended to be included on the Gateway determination:

1. Consultation is required with the following public authorities:
 - Department of Climate Change, Energy, the Environment and Water
 - NSW SES
 - Transport for NSW
2. The planning proposal should be made available for community consultation for a minimum of 28 working days.

Given the nature of the planning proposal, it is recommended that the Gateway authorise Council to be the local plan-making authority and that an LEP completion date of 28 February 2025 be included on the Gateway.



27/3/24

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28/3/2024

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