

*Looking After
our Community*

PLANNING PROPOSAL GULGONG – HEIGHT OF BUILDINGS

1 FEBRUARY 2024

MID-WESTERN REGIONAL COUNCIL
STRATEGIC PLANNING

■ ■ ■ ■ ■ TOWARDS 2030



Version	Date	Notes
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Overview

Introduction

The Planning Proposal seeks to amend Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012) to increase the maximum height of buildings for development in the Gulgong locality from 5m to 5.5m. The Planning Proposal explains the intent of, and justification for, the proposed amendments to MWRLEP 2012.

The Planning Proposal is to implement the following changes to the MWRLEP 2012:

- Amend the building heights by amending the relevant Height of Building Maps (HOB_005B; HOB_005C; HOB_005E) from 5m to 5.5m.

The intent of the Planning Proposal is not to alter the built form or increase the intensity or density of development in the subject area, but to achieve a reasonable development outcome for infill development. The current 5m maximum building height is considered restrictive,

The proposal has been prepared in accordance with Section 3.32 and 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) and the relevant Department of Planning, Housing and Infrastructure (Department), *Local Environmental Plan Making Guideline*, August 2023.

Background

MWRLEP 2012 came into effect on 10 August 2012. MWRLEP 2012 is the consolidation of the previous planning controls into one local environmental plan. It is also a translation of those controls into the NSW Government's Standard Instrument Principal Local Environmental Plan.

The subject area chiefly falls within the Gulgong Heritage Conservation area. The subject area contains a mix of zones listed below:

- C3 Environmental Management
- SP2 Infrastructure
- R1 General Residential
- R2 Low Density Residential
- E1 Local Centre
- E3 Productivity Support
- E4 General Industrial
- MU1 Mixed Use
- RE1 Public Recreation
- RE2 Private Recreation

The subject area has a maximum building height of 5m, allowing low rise development that respects the heritage significance of the Gulgong Heritage Conservation area.

Council consistently receives a number of development applications that do not meet the 5m maximum height limit but propose acceptable development and are compliant with the provisions of *Clause 5.10 Heritage Conservation*. The development applications are accompanied by detailed justification as to why the development standard is unreasonable, consistent with the provisions of *Clause 4.6 Exception to development standards*. Any application that is accompanied by a Clause 4.6 variation cannot be determined under delegation by Council officers and is referred to Council.

With the number of development applications seeking a Clause 4.6 Variation, Council has taken the opportunity to review the 5m maximum height provision and has determined that the development control could be modestly increased to provide for a favourable built form outcome in an urban infill setting while still respecting the rich heritage fabric of the Gulgong locale. The subject area is the only locality within the LGA that has such a restrictive maximum height limit, including the other three conservation areas of Kandos, Mudgee and Rylstone that all have a maximum height limit of 8.5m. It is therefore considered that the subject area should be amended to increase the maximum height from 5m to 5.5m.

Part 1 – Objectives or Intended Outcome

Objectives

The objective of the Planning Proposal is to amend the MWRLEP 2012 to provide for a maximum increased building height to accommodate reasonable development outcomes for infill development in the subject area.

Intended Outcomes

The intended outcomes of the Planning Proposal are to:

- increase maximum building heights in the Gulgong locality to better reflect a reasonable outcome for infill development, whilst still respecting the heritage fabric of the Gulgong Heritage Conservation Area.
- amend the relevant Mid-Western Regional Local Environmental Plan 2012 Height of Building maps.

Land to which the Planning Proposal applies

The land to which the planning proposal applies (subject area) is highlighted light blue and demonstrated in Figure 1 below.

The subject area is generally contained within the Gulgong heritage conservation area.

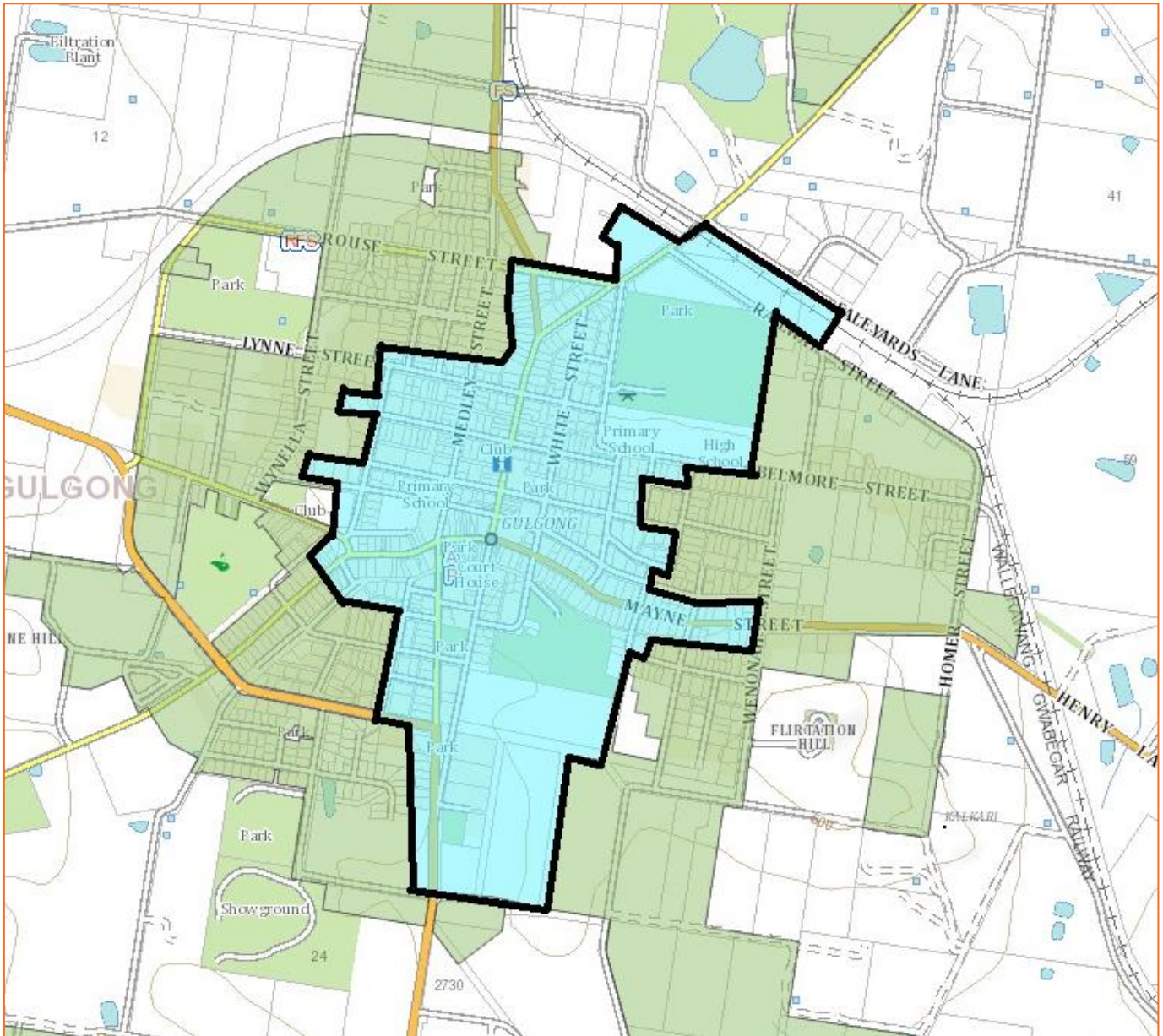


Figure 1: Planning Proposal subject area – highlighted blue and outlined in black (Source: adapted from the NSW Planning Portal)

Site context and setting

Gulgong is a vibrant, historic goldmining town located approximately 28km north of Mudgee.

The subject area is chiefly within the Gulgong Heritage Conservation area (Local significance). The proposed amendment to allow a maximum building height of 5.5m would still require compliance with *Clause 5.10 Heritage Conservation* (MWRLEP 2012) to ensure, amongst other things, the conservation of heritage items and heritage conservation areas, including associated heritage fabric, settings and views.

Part 2 – Explanation of Provisions

The objectives and intended outcomes as described in Part 1 will be achieved by amending the Mid-Western Regional Local Environmental Plan 2012 Height of Building (HOB) maps - HOB_005B; HOB_005C and HOB_005E - from 5m to a maximum building height of 5.5m.

The intent of increasing the maximum building height is not to intensify built form or increase densities but to provide a reasonable outcome for existing infill development. Figure 2 and Figure 3 below demonstrate the existing and proposed Height of Building maps.

The Planning Proposal is a map only amendment. No amendments to the written provisions are proposed.

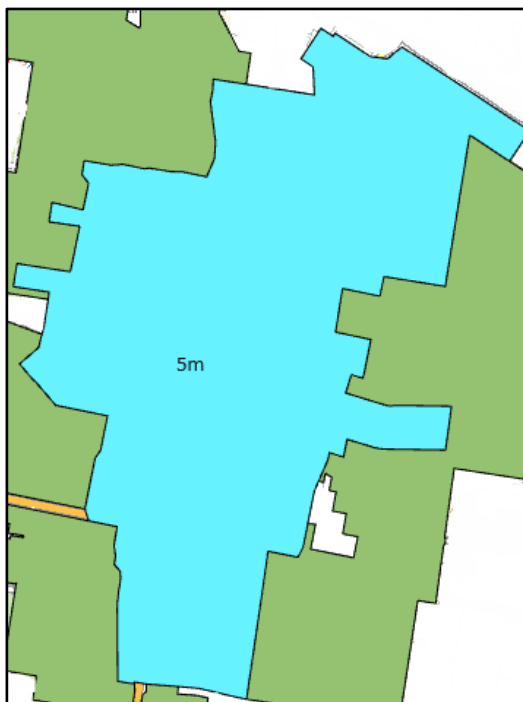


Figure 2: Existing – Height of Building

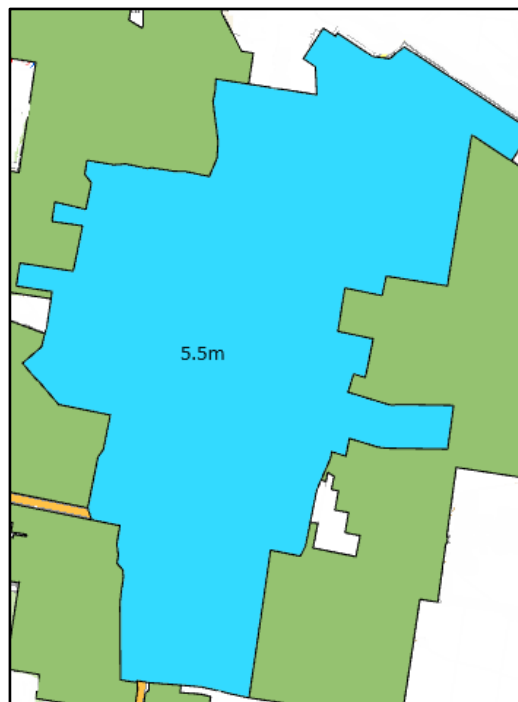


Figure 3: Proposed – Height of Building

Part 3 – Justification

Section A - Need for the Planning Proposal

Q1: Is the planning proposal the result of an endorsed LSPS, strategic study or report?

No. The Planning Proposal is not the result of an endorsed LSPS, strategic study or report however, it is consistent with the recommendations, goals and priorities of the Our Place 2040 – Mid-Western Regional LSPS. Specifically Planning Priority 2 *Making available diverse, sustainable, adaptable and affordable housing options through effective land use planning.*

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

The Planning Proposal is the best and only means of amending the Height of Building map within the MWRLEP 2012 and achieve the intended outcomes and objectives of the Planning Proposal.

The proposed amendment will be further supported by a review of the building height provision of Mid-Western Regional Development Control Plan 2013.

Section B - Relationship to Strategic Framework

Q3: Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy?

Yes, the Planning Proposal will give effect of the Central Western and Orana Regional Plan 2041.

STRATEGY	DIRECTION/ACTION/OBJECTIVE - COMMENT
Central West and Orana Regional Plan 2041	<i>Objective 14: Plan for diverse affordable, resilient and inclusive housing.</i> The Planning Proposal will assist in ensuring infill development in the subject area is an attractive option for the community. <i>Strategy 14.1 (part) improve certainty of development outcomes and streamline development processes.</i> The Planning Proposal will remove the need for inconsistencies with <i>Clause 4.6 Exception to development standards.</i>

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?

The Planning Proposal is consistent with Council's Toward's 2040 and Our Place 2040, Local Strategic Planning Statement. Specifically **Planning Priority 2** *Making available diverse, sustainable, adaptable and affordable housing options through effective land use planning.*

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

The Planning Proposal is minor in terms of broader State and regional strategies. Whilst no studies or strategies specifically relate to the Planning Proposal, there is nothing that the Planning Proposal is inconsistent with.

Q6: Is the planning proposal consistent with applicable SEPPs?

Yes. An analysis of the applicable State Environmental Planning Policies (SEPP's) is included in the following table.

SEPP TITLE	PLANNING PROPOSAL CONSISTENCY
SEPP (Biodiversity and Conservation) 2021	Yes - The Planning Proposal will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Sustainable Buildings) 2022	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
	Future development application would need to address the SEPP.
SEPP (Exempt & Complying Development Codes) 2008	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Housing) 2021	Yes – The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP
SEPP (Industry and Employment) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP No 65 – Design and Quality of Residential Apartment Development	Not applicable.
SEPP (Planning Systems) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Precincts – Central River City) 2021	Not applicable.
SEPP (Precincts – Eastern Harbour City) 2021	Not applicable.
SEPP (Precincts – Regional) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Precincts – Western Parkland City) 2021	Not applicable.
SEPP (Primary Production) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Resilience and Hazards) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
	Contamination and remediation to be considered at the

SEPP TITLE	PLANNING PROPOSAL CONSISTENCY
	development application stage with the consideration of specific sites.
SEPP (Resources and Energy) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Transport and Infrastructure) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.

Q7: Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

These directions apply to planning proposals lodged with the Department on or after the date the particular direction was issued and commenced.

Detailed in the table below are the directions issued by the Minister for Planning to relevant planning authorities under section 9.1(2) of the *Environmental Planning and Assessment Act 1979*.

DIRECTION	PLANNING PROPOSAL CONSISTENCY
Focus area 1: Planning Systems	
1.1 – Implementation of Regional Plan	Consistent with Regional Plan as detail above.
1.2 - Development of Aboriginal Land Council land	Not applicable.
1.3 - Approval and Referral Requirements	The proposed amendments do not include the requirements for approvals or referrals.
1.4 - Site Specific Provisions	Not applicable, as the proposed amendments are not site specific.
1.4A – Exclusion of Development Standards from Variation	Not applicable.
1.5 - Parramatta Road Corridor Urban Transformation Strategy	Not applicable.
1.6 - Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable.
1.7 - Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.
1.8 - Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.
1.9 - Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable.
1.10 - Implementation of the Western Sydney Aerotropolis Plan	Not applicable.
1.11 - Implementation of Bayside West Precincts 2036 Plan	Not applicable.
1.12 - Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable.
1.13 - Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable.
1.14 - Implementation of Greater Macarthur 2040	Not applicable.
1.15 - Implementation of the Pyrmont Peninsula Place Strategy	Not applicable.
1.16 - North West Rail Link Corridor Strategy	Not applicable.
1.17 - Implementation of the Bays West Place Strategy	Not applicable.
1.18 – Implementation of the Macquarie Park Innovation Precinct	Not applicable.
1.19 – Implementation of Westmead Place Strategy	Not applicable.

DIRECTION	PLANNING PROPOSAL CONSISTENCY
1.20 – Implementation of Camellia-Rosehill Place Strategy	Not applicable.
1.21 – Implementation of South West Growth Area Structure Plan	Not applicable.
1.22 - Implementation of Cherrybrook Station Place Strategy	Not applicable.
Focus area 2: Design and Place	
-	
Focus area 3: Biodiversity and Conservation	
3.1 - Conservation Zones	Consistent.
3.2 - Heritage Conservation	Consistent.
3.3 - Sydney Drinking Water Catchments	Not applicable.
3.4 - Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable.
3.5 - Recreation Vehicle Areas	Not applicable.
3.6 - Strategic Conservation Planning	Not applicable.
3.7 – Public Bushland	Not applicable.
3.8 – Willandra Lakes	Not applicable
3.9 – Sydney Harbour Foreshore and Waterways	Not applicable
3.10 – Water Catchment Protection	Not applicable
Focus area 4: Resilience and Hazards	
4.1 - Flooding	Consistent
4.2 - Coastal Management	Not applicable.
4.3 - Planning for Bushfire Protection	Consistent
4.4 - Remediation of Contaminated Land	Consistent
4.5 - Acid Sulfate Soils	Consistent
4.6 - Mine Subsidence and Unstable Land	Consistent
Focus area 5: Transport and Infrastructure	
5.1 - Integrating Land Use and Transport	Not applicable.
5.2 - Reserving Land for Public Purposes	Not applicable.
5.3 - Development Near Regulated Airports and Defence Airfields	Not applicable
5.4 - Shooting Ranges	Not applicable
Focus area 6: Housing	
6.1 - Residential Zones	Consistent
6.2 - Caravan Parks and Manufactured Home Estates	Not applicable
Focus area 7: Industry and Employment	
7.1 - Business and Industrial Zones	Consistent
7.2 - Reduction in non-hosted short-term rental accommodation period	Not applicable.
7.3 - Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.
Focus area 8: Resources and Energy	
8.1 - Mining, Petroleum Production and Extractive Industries	Consistent
Focus area 9: Primary Production	
9.1 - Rural Zones	Not applicable

DIRECTION	PLANNING PROPOSAL CONSISTENCY
9.2 - Rural Lands	Consistent
9.3 - Oyster Aquaculture	Not applicable.
9.4 - Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.

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 to increase maximum building heights will not have any direct adverse impacts on critical habitat or threatened species, populations or ecological communities, or their habitats. Site specific constraints will be considered during the assessment of any future development applications within the subject area.

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

As set out in Department's *Local Environmental Plan Making Guideline* (August 2023), the purpose of this question is to ascertain the likely environmental effects that may be relevant. The nature of the planning proposal is such that no technical information is required.

Q10: How has the planning proposal adequately addressed any social and economic effects?

The subject area is chiefly within the Gulgong Heritage Conservation area (Local significance). The proposed amendment to allow a maximum building height of 5.5m would still require compliance with *Clause 5.10 Heritage Conservation* (MWRLEP 2012) to ensure, amongst other things, the conservation of heritage items and heritage conservation areas, including associated heritage fabric, settings and views.

The subject area is the only area within the LGA that has such a restrictive maximum height limit, including the other three conservation areas of Kandos, Mudgee and Rylstone that all have a maximum height limit of 8.5m. No other areas within the LGA have such a restrictive maximum height limit. It is therefore considered that the modest increase to the maximum height to 5.5m is reasonable.

Council's Heritage adviser supports the Planning Proposal and offers the following comments:

In my opinion the proposed increase to 5.5m will achieve this purpose without adverse impacts on the heritage significance of the conservation area or of listed items within it. Indeed it could and enhance heritage outcomes. For example, number of listed and contributory items have steeply pitched roofs, the upper parts of which would be over 5 metres

high. The higher limit could facilitate more sympathetic extensions in certain circumstances.

It would probably be just possible to construct a flat roofed two-storey building on a level site within a 5.5 m height limit without resorting to excavation, and such a building could be quite unsympathetic. However, such a building could not be constructed as complying development in the conservation area, and would not comply with the heritage provisions of the local environmental plan and development control plan. It would therefore be most unlikely to be granted consent under delegation.

The provision of Clause 4.3 will remain unchanged.

4.3 Height of buildings

(1) *The objectives of this clause are as follows—*

- (a) to establish a maximum height limit to which buildings can be designed in particular locations,*
- (b) to enable infill development that is of similar height to existing buildings and that is consistent with the heritage character of the towns of Mudgee, Gulgong, Kandos and Rylstone.*

(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).*

Consistency with the heritage character of Gulgong will still need to be addressed at the Development Application stage as well as having sympathetic regard to existing buildings and the fabric of the locality.

Q11: Is there adequate public infrastructure for the planning proposal?

Not applicable as the Planning Proposal will not trigger an upgrade or reliance on public infrastructure as the intent is not to increase the intensity or density of development in the subject area.

Q12: What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

The views of state and federal public authorities and government agencies were not sought prior to Gateway determination due to the nature of the Planning Proposal.

Part 4 – Mapping

The Planning Proposal is a map only amendment. Maps submitted to the Department post Gateway determination will be consistent with the Department's *Standard Technical Requirements for Spatial Datasets and Maps*.

The following maps will be subject to amendments:

- HOB_005B – 5270_COM_HOB_005B_010_20120619
- HOB_005C - 5270_COM_HOB_005C_010_20130702
- HOB_005E - 5270_COM_HOB_005E_010_20120619

Part 5 – Community Consultation

Community consultation has not been carried out prior to the preparation of the Planning Proposal.

The Planning Proposal is considered 'standard' in accordance with the Department's *Local Environmental Plan Making Guideline* (August 2023) and requires a public exhibition period of 20 days.

Public exhibition will be undertaken in accordance with any issued Gateway Determination.

Part 6 – Project Timeline

The Planning Proposal is a minor amendment to the *Mid-Western Local Environmental Plan 2012* and should be able to be achieved within 6-9 months of the date of the Gateway Determination.

Proposed Timeline

MILESTONE	DATE
Gateway Determination	March 2024
Completion of Technical Information	N/A
Agency Consultation	April 2024
Public Exhibition	April 2024
Consideration of Submissions	May 2024
Legal Drafting & Opinion (incl Mapping)	May 2024
Finalisation	June 2024