



IRF24/920

# Gateway determination report PP-2024-673

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Housekeeping Amendments 2024 – Phase 1

May 24



Published by NSW Department of Planning, Housing and Infrastructure

[dpie.nsw.gov.au](https://dpie.nsw.gov.au)

Title: Gateway determination report PP-2024-673

Subtitle: Housekeeping Amendments 2024 – Phase 1

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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
Planning Proposal March 2024
Council Report and Minutes February 2024
Tamworth Activity Centre Review 2023
Various Reports supporting changes at 171-175 Manilla Road, Oxley Vale

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Tamworth</b>
<b>PPA</b>	<b>Tamworth Regional Council</b>
<b>NAME</b>	<b>Housekeeping amendments 2024 – Phase 1</b>
<b>NUMBER</b>	<b>PP-2024-673</b>
<b>LEP TO BE AMENDED</b>	<b>Tamworth Regional LEP 2010</b>
<b>ADDRESS</b>	<b>Various sites</b>
<b>DESCRIPTION</b>	<b>Various Lots</b>
<b>RECEIVED</b>	<b>28/03/2024</b>
<b>FILE NO.</b>	<b>IRF24/920</b>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>

## 1.2 Objectives of planning proposal

The planning proposal is the first of four phases that Council is undertaking in reviewing the Tamworth Regional LEP 2010 (TRLEP 2010).

The proposal has 12 distinct components that have the following objectives:

1. make corrections to heritage item descriptions in Schedule 5 and associated heritage mapping of the TRLEP 2010 to ensure Tamworth's heritage places are properly identified, documented and managed;
2. introduce new Heritage Conservation Areas under Schedule 5 of the TRLEP 2010 to identify areas in East Tamworth, West Tamworth and the Darling Street Civil Precinct;
3. amend floor space ratio and minimum lot size provisions and apply design excellence controls in the Bridge Street Precinct of Tamworth;
4. amend the permissibility of various land uses in certain zones;
5. amend and update various clauses of the TRLEP 2010;
6. adopt Standard Instrument LEP Clause 5.9 Dwelling house or secondary dwelling affected by natural disaster;
7. adopt Standard Instrument LEP Clause 5.13 Eco-tourist facilities;
8. insert a new 'Essential Services' clause for development in relation to water supply, sewage, electricity, stormwater drainage and vehicle access;

9. insert a new clause that requires a minimum building street frontage for residential apartment development within the Tamworth CBD to encourage lot consolidation and facilitate larger developments inclusive of shop top housing;
10. insert a new “Scenic Protection Area” clause to identify scenic protection areas within the Tamworth Regional LGA and ensure any development within these areas is compatible with the surrounding natural environmental and scenic landscape;
11. undertake various minor corrections to zonings, minimum lot size and floor space ratio including the removal of certain split zonings and split minimum lot size from properties;
12. implement various minor amendments to the LEP for certain properties in consideration of their current and likely future use and to enable orderly development.

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

## 1.3 Explanation of provisions

The planning proposal contains an explanation of provisions for each of the 12 components that adequately explains how the objectives of the proposal will be achieved as follows:

### 1.3.1 *Item 1 - Review of Heritage Items (Schedule 5) and Mapping*

Undertake various amendments, including the addition of two new State Heritage items, to Schedule 5 of TRLEP 2010 as detailed in Appendix 3 of the planning proposal.

In summary:

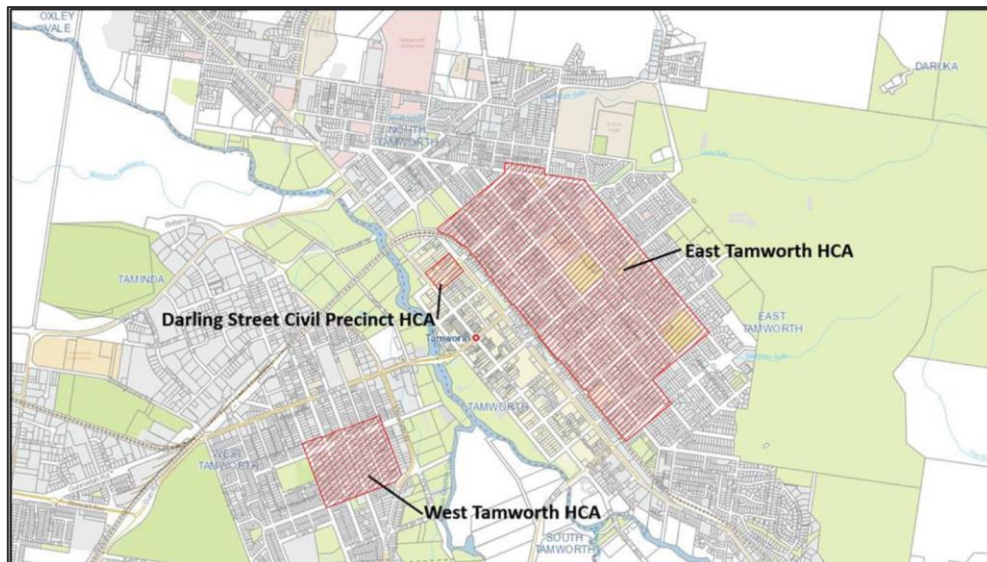
- 309 items will have changes made to their locality, item name, address and/or property descriptions to ensure there is a consistent naming convention and accurate identification of the heritage items:
- 56 items will have mapping changes to correct anomalies between Schedule 5 and the LEP’s Heritage Maps: and
- 2 new State Heritage Items will be included in Schedule 5 (King George V Avenue Memorial English Oaks and the Manilla railway underbridge at Upper Manilla over Borah Creek).

It is noted the planning proposal makes reference to the Manilla Viaduct as a potential additional State heritage item. This item was not however identified or considered by Councillors in the report or resolution for the proposal and should therefore be removed prior to consultation.

### 1.3.2 *Item 2 - Heritage Conservation Areas*

Identify parts of the East and West Tamworth, and the Darling Street Civil Precinct (**Figure 1**) as Heritage Conservation Areas in Schedule 5 of the TRLEP 2010 and the associated heritage mapping.



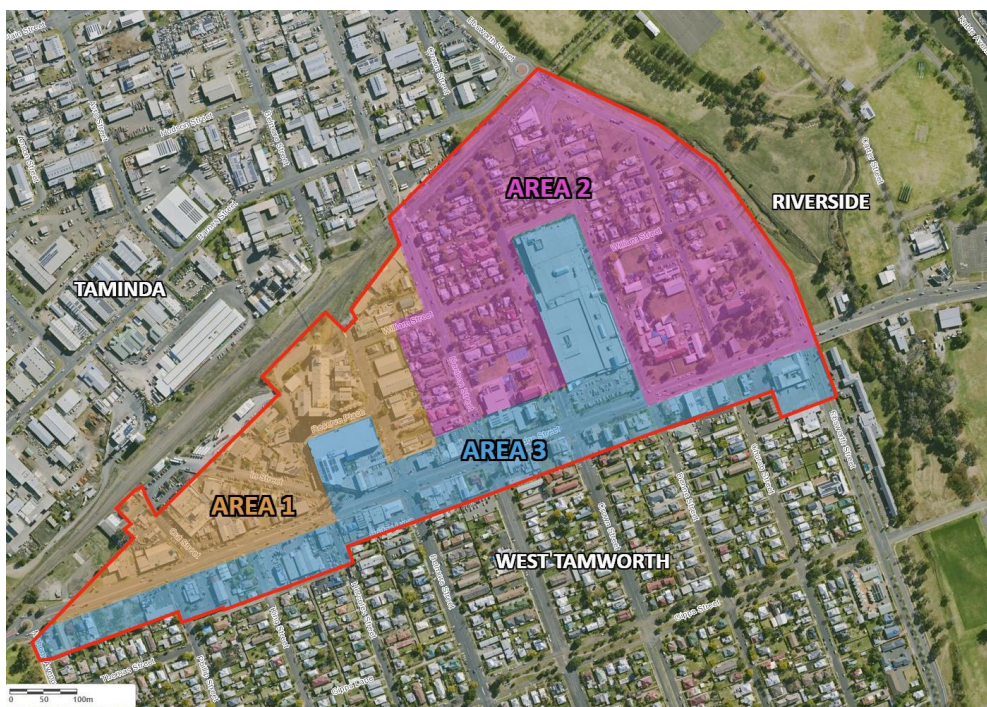


**Figure 1 Proposed Heritage Conservation Areas in East Tamworth, West Tamworth and Darling Street Civic Precinct (Source: Planning Proposal)**

### 1.3.3 Item 3 - Bridge Street Precinct

Apply to the Bridge Street Precinct (**Figure 2**):

- a consistent floor space ratio of 2:1 to the MU1 Mixed Use Zone (Area 1 and 3). Area 1 currently has no FSR controls while Area 3 has predominately a 1:1 FSR except for the Shopping World complex which has a 1.5:1 FSR;
- Clause 7.11 Design Excellence of the TRLEP 2010 to Area 1 and 3; and
- a new clause to allow subdivision less than the minimum lot size for existing and/or approved residential accommodation in Area 2 which is zoned R1 General Residential.



**Figure 2 Bridge Street Precinct (Source: Planning Proposal)**

### 1.3.4 Item 4 - Review of Land Use Permissibility within Existing Land Use Zones

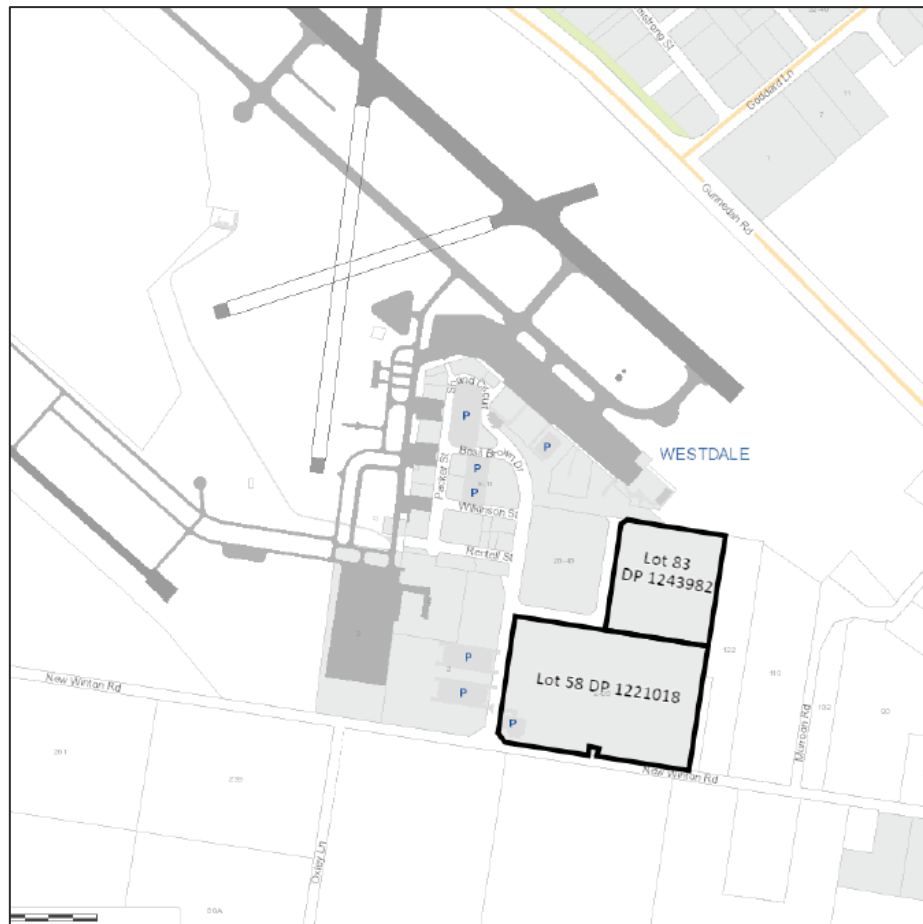
Make the following minor amendments to the land use tables:

- permit secondary dwellings with consent in the RU1 Primary Production and RU4 Primary Production Small Lots Zones;
- permit backpackers' accommodation with consent in the RU4 Primary Production Small Lots Zone;
- permit eco tourist facilities with consent in the RU1 Primary Production, RU4 Primary Production Small Lots and C3 Environmental Management Zones;
- permit roadside stalls with consent in the R5 Large Lot Residential Zone;
- permit cemeteries with consent in the RU1 Primary Production and RU4 Primary Production Small Lots Zones;
- prohibit warehouse or distribution centres in the R1 General Residential and R2 Low Density Residential Zones;
- prohibit truck depots in the R1 General Residential and R2 Low Density Residential Zones;
- prohibit exhibition homes in the RU4 Primary Production Small Lots zone.

### 1.3.5 Item 5 - Amend Existing Clauses

Make minor changes to the following clauses of TRLEP 2010:

- amend Clause 4.2C Minimum subdivision lot size for strata subdivision of residential or tourist accommodation in certain zones to replace references to Zone E2 Environmental Conservation and Zone E3 Environmental Management with Zone C2 Environmental Conservation and Zone C3 Environmental Management;
- amend Clause 7.4 Development in Zones E1, E3 and MU1 which aims to direct major commercial developments to the Tamworth CBD by:
  - removing the reference to 'cellar door premises' (which are prohibited in these zones);
  - increasing the maximum permitted gross floor area for business premises, office premises, food and drink premises, and markets within the E1 Local Centre, E3 Productivity Support and MU1 Mixed Use Zones from 2,500m<sup>2</sup> to 3,500m<sup>2</sup>;
  - identifying Lot 1 DP 817048 (existing Northgate Shopping Centre) as a site to which the clause does not apply;
- amend Clause 7.6 Development in Flight Path by:
  - removing the reference to the "flight path of the Tamworth Airport";
  - requiring referrals to the relevant Commonwealth body only where a development penetrates the Obstacle Limitation Surface or the Procedures for Air Navigation Services Operations Surface around the Tamworth Airport in the consent authority's opinion;
  - removing the Obstacle Limitation Surface Map as an LEP Map;
- amend Clause 7.7 Development in areas subject to aircraft noise to update the reference to the current Australian Standard governing buildings in areas of aircraft noise and remove the Australian Noise Exposure Forecast (ANEF) Map from the LEP;
- Amend Clause 7.10 Temporary workers' accommodation by adding Lot 83 DP 1243982 at the Tamworth airport (**Figure 3**) to extend the current area that can be utilised to provide temporary workers accommodation for people employed on a short term, periodic, fixed term or seasonal basis in industrial activities or construction (at present only Lot 58 to the south can be utilised for this purpose).



**Figure 3 Location of Lot 83 DP 1243982 (and Lot 58 DP 1221018 to which clause 7.10 Temporary workers' accommodation already applies) (Source: Planning Proposal)**

It is noted the proposed change to Clause 4.2C is no longer required as the replacement of zone names was completed by State Environmental Planning Policy Amendment (Land Use Zones) (No 2) 2024 on 23 February 2024 and this issue should be removed prior to consultation.

### **1.3.6 Item 6 - Adopt Clause 5.9 Dwelling house or secondary dwelling affected by natural disaster of the Standard Instrument**

Include Standard Instrument LEP Clause 5.9 Dwelling house or secondary dwelling affected by natural disaster to facilitate the reconstruction of lawfully erected dwelling-houses or secondary dwellings after a natural disaster on land zoned RU1 Primary Production, Zone RU4 Primary Production Small Lots and Zone RU6 Transition.

### **1.3.7 Item 7 - Adopt Clause 5.13 Eco-tourist Facilities of the Standard Instrument**

Include Standard Instrument LEP Clause 5.13 Eco-tourist Facilities as a result of permitting eco-tourist facilities with consent in the RU1 Primary Production, RU4 Primary Production Small Lots and C3 Environmental Management Zones (as discussed above in Item 4).

### **1.3.8 Item 8 - Insert a new 'Essential Services' Clause**

Include a new local essential services clause that requires adequate water supply, electricity, disposal of sewage, stormwater drainage and vehicle be available (or arrangements have been made for the services when required) for development.



### 1.3.9 **Item 9 - Minimum building street frontage for residential apartment development within the Tamworth CBD.**

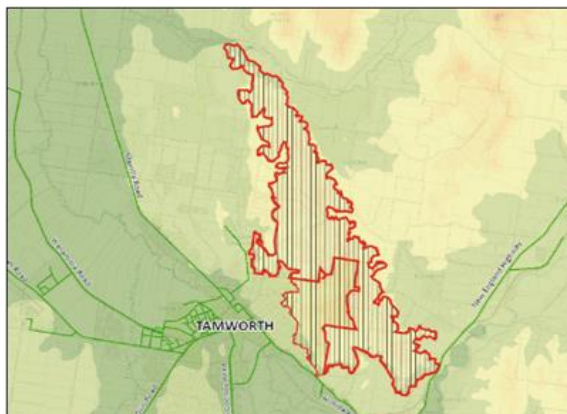
Include a new local clause that requires a minimum building street frontage of 25m for residential apartment development within the Tamworth CBD to encourage larger development of commercial office, business, residential and mixed-use buildings and help ensure:

- that residential apartment buildings within the Tamworth CBD have an appropriate overall horizontal proportion compared to their vertical proportions;
- there are appropriate dimensions and spacing to provide adequate privacy between any residential component and the adjoining land use;
- there are appropriate dimensions for the design of car parks levels and ensure access is reasonably spaced along roads and lanes;

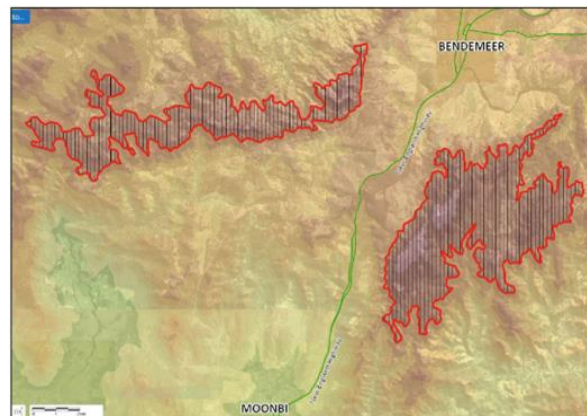
### 1.3.10 **Item 10 - Scenic Protection Areas Clause**

Include a new local clause that applies to the Tamworth Lookout and surrounding hills, the Moonbi Hills either side of the New England Highway, Mt Borah and the Baldwins Range (west of Manilla), and the Liverpool Range and Mount Royal Range around Nundle and Hanging Rock (**Figures 4, 5, 6 and 7**) that:

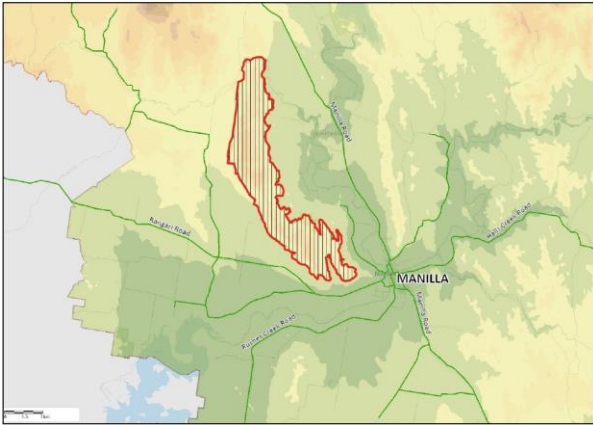
- identifies scenic protection areas through a Scenic Protection Area LEP Map;
- identifies these scenic protection areas as “protected area” for the purposes of Clause 1.19 of SEPP (Exempt and Complying Development Codes) 2008 preventing complying development to occur in these areas;
- requires a consent authority to consider the following when determining a development application:
  - the proposed measures to be taken to minimise the visual impact of the development on the natural environment and scenic amenity of the land;
  - conservation and rehabilitation measures to preserve the scenic amenity of the land; and
  - the visual impacts of the proposed development as viewed from urban centres, villages and roads.



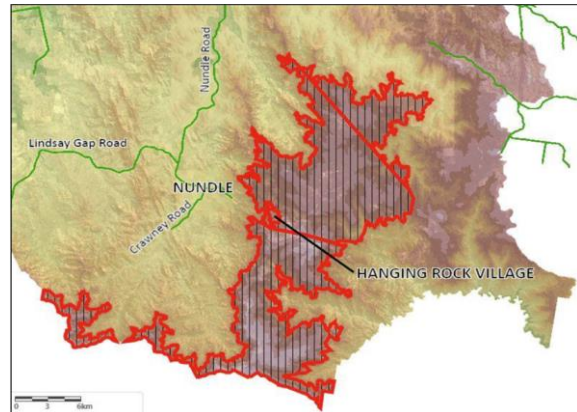
**Figure 4 Tamworth Lookout and surrounding hills**



**Figure 5 Moonbi Hills either side of the New England Hwy**



**Figure 6 Mt Borah and the Baldwins Range, west of Manilla**

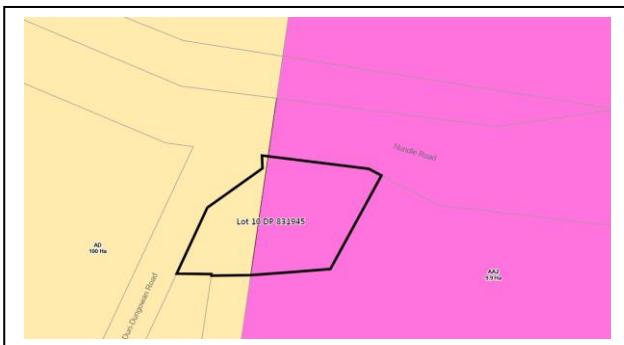


**Figure 7 Liverpool Range and Mount Royal Range around Nundle and Hanging Rock**

The inclusion of this clause is not supported at the present time and should be removed prior to consultation for the reasons discussed in further detail below regarding the background of the proposal.

### **1.3.11 Item 11 - Housekeeping amendments**

Amend the TRLEP 2010 maps to correct 45 anomalies and errors (**Figures 8-21**) that have been identified within the zoning, minimum lot size and floor space ratio maps.



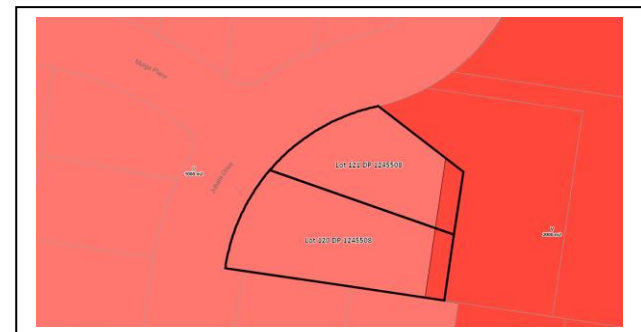
**Figure 8 Split MLS Nundle Rd, Dungowan**



**Figure 9 Zoning and MLS 252 Manilla St, Manilla**



**Figure 10 Zoning and MLS 252 Manilla St, Manilla**



**Figure 11 Split MLS Jubata Drive, Moore Creek**

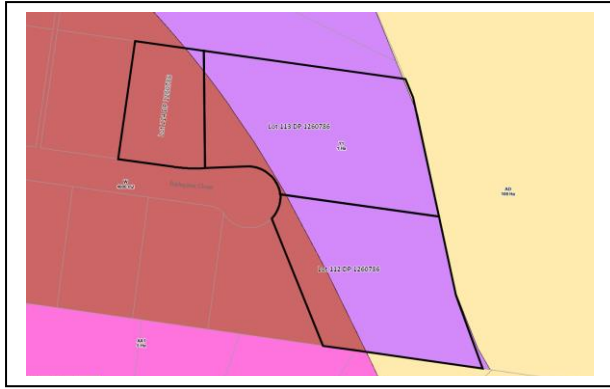


Figure 12 Split MLS Baileyana Close, Moore Creek

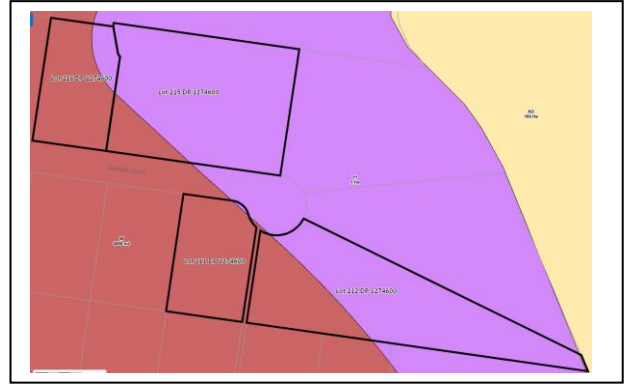


Figure 13 Split MLS Daniella Close, Moore Creek

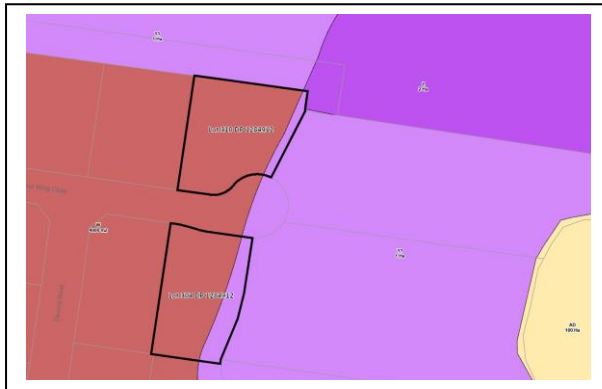


Figure 14 Split MLS Spur Wing Close, Moore Creek



Figure 15 Split Zoning and MLS Lake Place and Swan Street, North Tamworth

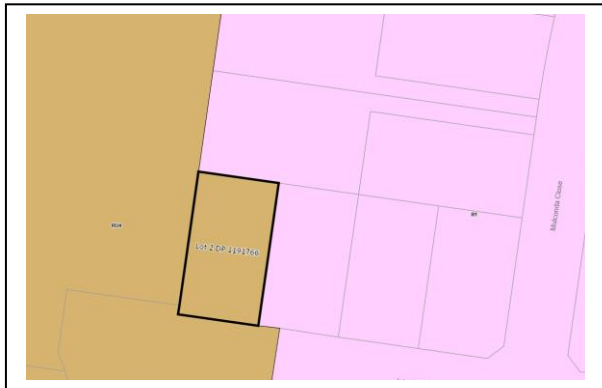


Figure 16 Zoning 38 Johnstone St, North Tamworth

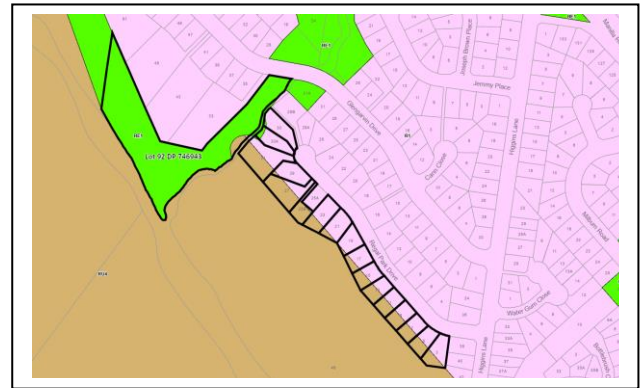


Figure 17 Split Zoning and MLS Regal Park Drive, Oxley Vale

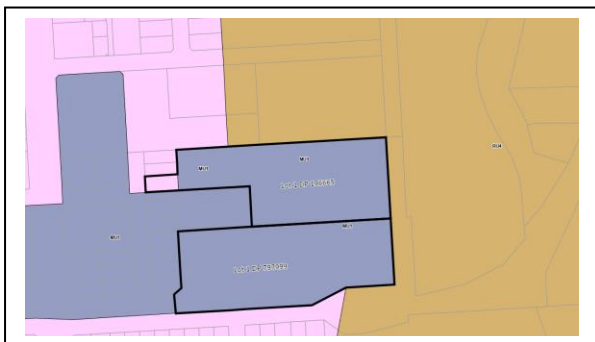


Figure 18 Zone & FSR Scott Rd, Tamworth

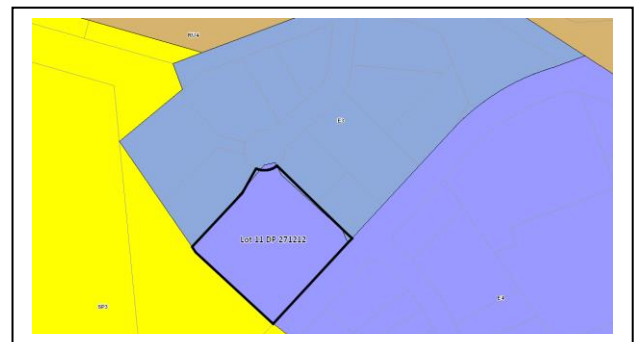
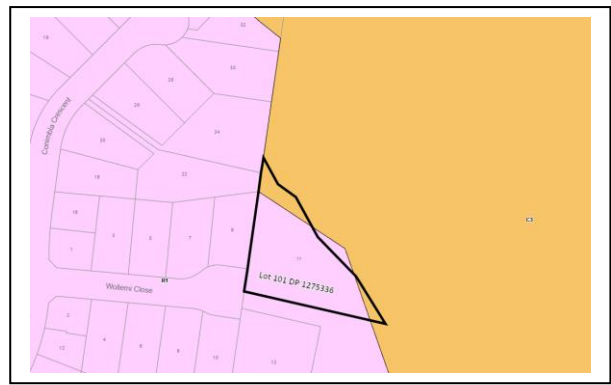


Figure 19 Split Zone & FSR Curtiss Close, Taminda



**Figure 20 Split Zone & MLS, Coldedale Community Centre**

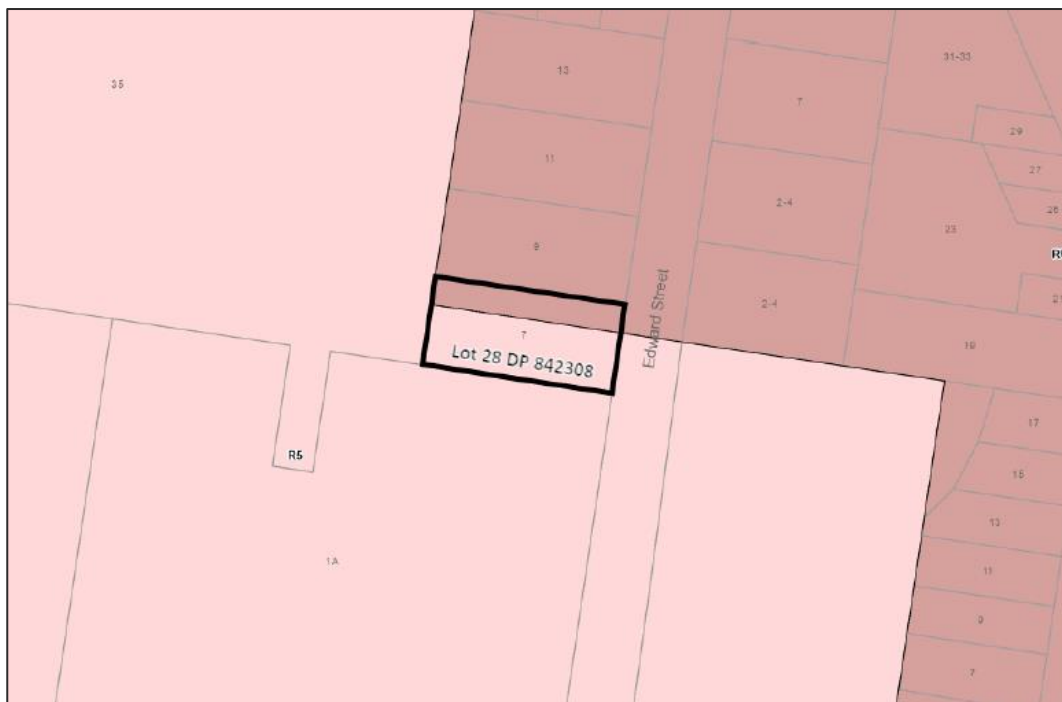


**Figure 21 Split Zone & MLS Wollemi Close, North Tamworth**

### 1.3.12 Item 12 – Various amendments

Undertake various amendments identified through a community expression of interest process:

- Amend the zoning and minimum lot size at 7 Edward Street, Moonbi (**Figure 22**) to resolve a split zoning and minimum lot size issue by zoning the whole of the site to R5 Large Lot Residential with a minimum lot size of 2ha;



**Figure 22 Lot 28 DP 842308, 7 Edward Street, Moonbi.**

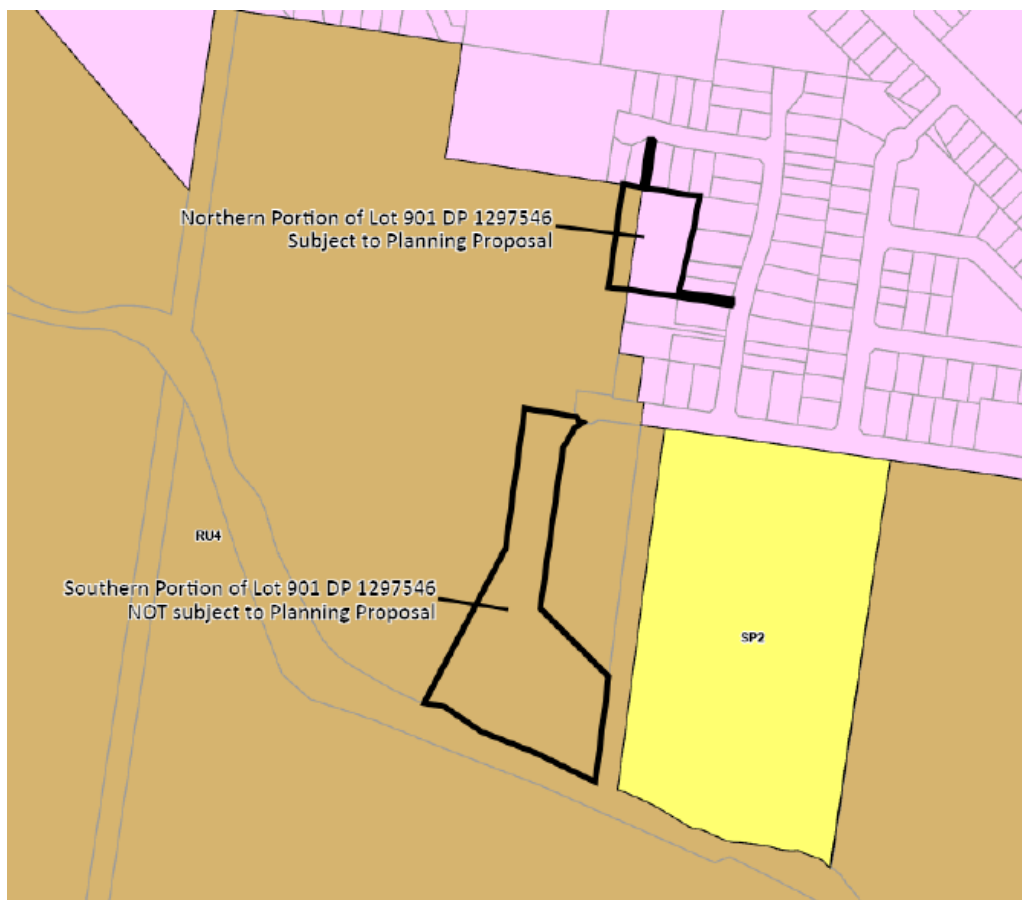
- Amend the zoning the existing Oxley Vale Superette on Lots A and B DP 161758, 171-175 Manilla Road, Oxley Vale (**Figure 23**) from R1 General Residential to E1 Local Centre, remove the minimum lot size provisions and apply a floor space ratio of 0.5:1 (consistent with other local centres) to support the development for a neighbourhood supermarket;





**Figure 23 Lots A and B DP 161758, 171-175 Manilla Road, Oxley Vale**

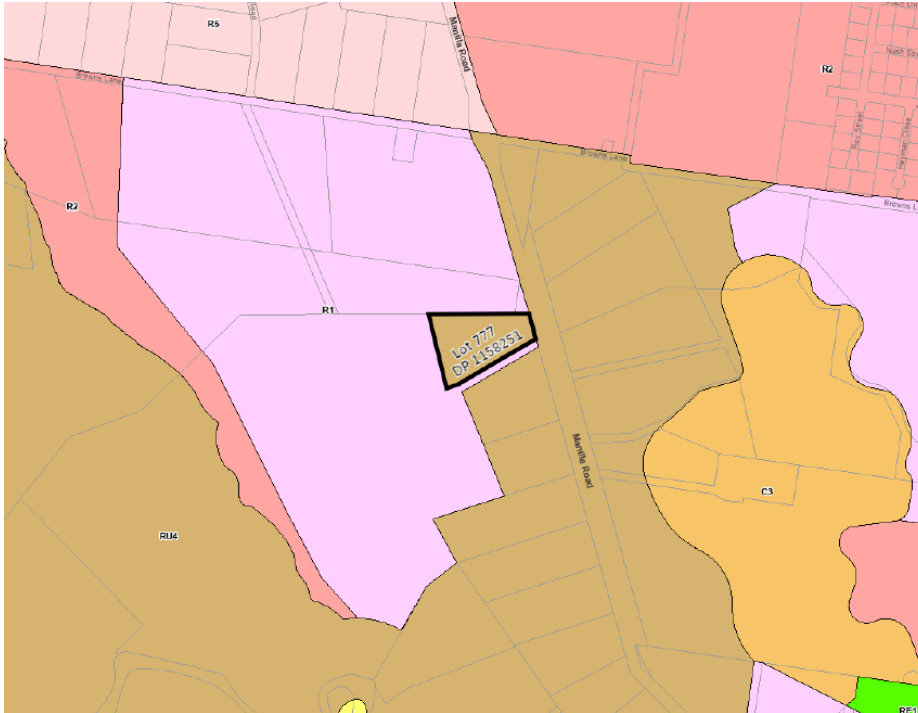
- Amend the zoning and minimum lot size on part of the northern portion of Lot 901 DP 1297546, Mulconda Close, Oxley Vale (**Figure 24**) from RU4 Primary Production Small Lots to R1 General Residential to resolve a split zoning and minimum lot size issue by zoning the whole of the site to R1 General Residential with a minimum lot size of 600m<sup>2</sup>.



**Figure 24 Part Lot 901 DP 1297546, Mulconda Close, Oxley Vale (Northern Section)**

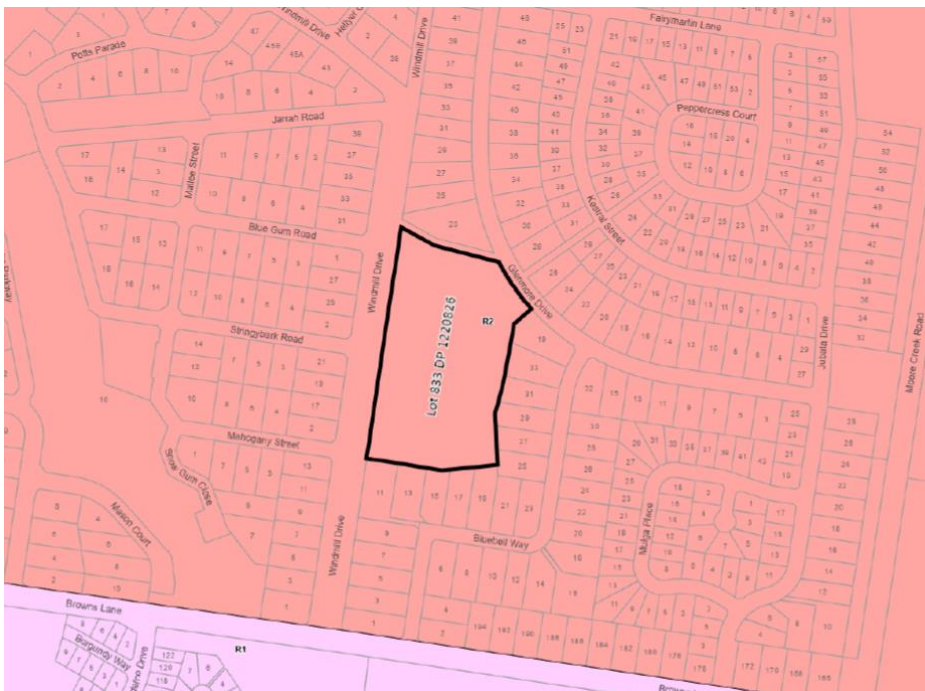


- Amend the zoning of Lot 777 DP 1158251, 783 Manilla Road, Oxley Vale (**Figure 25**) from RU4 Primary Production Small Lots to R1 General Residential, the minimum lot size to 450m<sup>2</sup> and add to the site to the Dwelling Density Map in the TRLEP 2010 to facilitate additional housing supply and provide an improved access location to the adjoining Stratheden residential estate.



**Figure 25 Lot 777 DP 1158251, 783 Manilla Road, Oxley Vale**

- Rezone the dedicated public reserve at Lot 833 DP 1220826, Glenmore Drive, Moore Creek (**Figure 26**) from R2 Low Density Residential to C2 Environmental Conservation in recognition of its environmental significance as a critically endangered ecological community of White Box - Yellow Box - Blakely's Red Gum Grassy Woodland.



**Figure 26 Lot 833 DP 1220826, Glenmore Drive, Moore Creek**

## 1.4 Site descriptions

The planning proposal applies to all land in the Tamworth Regional LGA. The locations for site specific items are as follows:

### 1.4.1 Item 2 - Heritage Conservation Areas

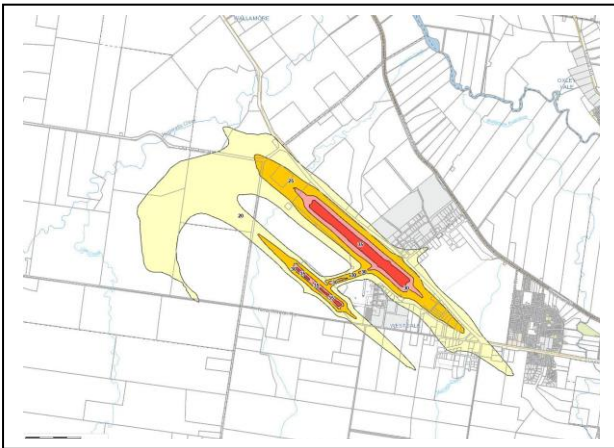
The proposed heritage conservation areas are shown in **Figure 1**.

### 1.4.2 Item 3 - Bridge Street Precinct

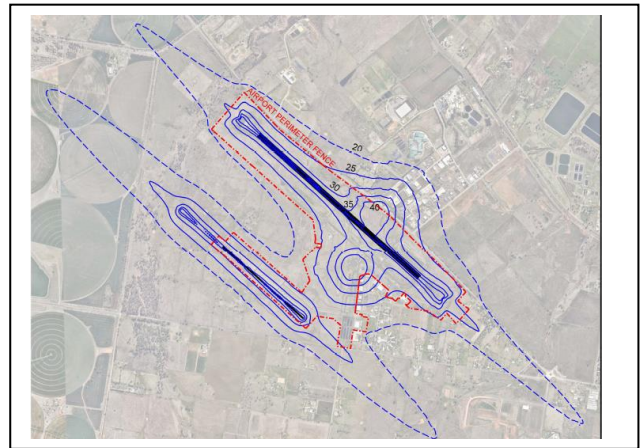
The Bridge Street Precinct is shown in **Figure 2** and is located within Tamworth's inner west urban area. The precinct is bordered to the north by the Main Northern Railway and the Taminda industrial area, the residential area of West Tamworth to the south and the Tamworth Riverside Sports Complex to the east. Bridge Street is a service corridor that provides a variety of retail services to local residents and customers from the wider region.

### 1.4.3 Item 5 - Existing Clauses

Clauses 7.6 and 7.7 apply to the land around the Tamworth airport located west of Tamworth on the Gunnedah Road (**Figures 26 and 27**).



**Figure 27 Tamworth Airport OLS**



**Figure 28 Tamworth Airport ANEF**

Clause 7.10 Temporary workers' accommodation of the TRLEP 2010 currently applies to Lot 58 DP 1221018, 2–26 Basil Brown Drive, Westdale, and will be expanded onto the adjoining Lot 83 DP 1243982 within the Tamworth Airport precinct (**Figure 3**).

### 1.4.4 Item 10 - Scenic Protection Areas Clause

The proposed scenic protection areas are shown in **Figures 4 - 7** and includes land at the Tamworth Lookout and surrounding hills, the Moonbi Hills either side of the New England Highway, Mt Borah and the Baldwins Range, west of Manilla, the Liverpool Range and Mount Royal Range around Nundle and Hanging Rock.

### 1.4.5 Item 11 - Housekeeping amendments

The proposed housekeeping amendments occur across the Tamworth LGA as shown in **Figures 8-21** and involves both urban and rural lands.

### 1.4.6 Item 12 – Minor amendments

The proposed housekeeping amendments occur across primarily in and around the Tamworth City urban area and also at Moonbi as shown in **Figures 22-26**.

## 1.5 Mapping

The planning proposal includes tables within each chapter detailing the proposed changes to the TRLEP 2010 map sheets. This is supported by mapping showing the location of each proposed change.

No map changes are required for Items 4, 6, 7, 8 and 9.

Where development controls such as land zoning, minimum lot size or floor space ratio are being changed, there is mapping showing the current controls on the site and a description of what changes are proposed. It is recommended that the planning proposal be amended before public exhibition to include maps showing not only the current controls but also the proposed controls.

The style and content of the current mapping is suitable for community consultation.

## 1.6 Background

Council has undertaken a comprehensive review of the TRLEP 2010 in accordance with Council's Blueprint 100: Part 2: LSPS 2020 and the NENW Regional Plan 2041. This review included consultation with property owners and a community wide expression of interest (EOI) process in 2022 to identify potential amendments to the TRLEP 2010.

The review identified a large number of potential amendments to the TRLEP 2010, some of which require further planning studies, either by Council or a proponent.

This planning proposal is the first of four planned TRLEP 2010 review phases and seeks to undertake various minor amendments that make planning control changes to reflect existing situations and policies, rectify anomalies and errors and updates various other matters to ensure the effective and efficient operation of the LEP.

The other phases (Phases 2-4) require the completion of additional strategy work including a Rural Land Strategy, Local Housing Strategy, Heritage Review, review of buffer zones, development controls in villages and the Tamworth CBD and the reclassification of Council owned land. In this regard, it is considered that Item 10 Scenic Protection Areas, which seeks to introduce a major new policy position, is not a minor housekeeping matter and should be removed and revisited in a later phase of Council's LEP review cycle.

Whilst the importance of these areas for scenic amenity reasons is acknowledged, the justification for their extent and the potential impact would be more appropriately considered through further detailed investigation and community consultation as:

- the delineation of the proposed protection areas by the use of contour levels often fails to accurately reflect the scenic importance of the areas. This approach has previously been used by Gunnedah Shire Council to rezone land for environmental management purposes with the intent of protecting rural vistas. Gunnedah Shire Council is now going through a process to amend these areas due to the unintended consequences it has had upon rural land holders and the limitation of certain rural land uses. Gunnedah Shire Council now acknowledges that its original contour approach resulted in lands being identified and rezoned that have limited environmental or scenic values. A more accurate and strategic approach to where proposed scenic protection areas are located should be undertaken prior to including this component in a later phase of the LEP review cycle; and
- the inclusion of the scenic protection areas may have unintended consequences including creating expectation within the community that these areas cannot be developed.

## 2 Need for the planning proposal

The proposal is the result of a comprehensive review of the current operation of the TRLEP 2010 and is needed to undertake various minor amendments to planning controls that better reflect existing situations and policies, rectify anomalies and errors and update various other matters to ensure the effective and efficient operation of the LEP. In this regard it is noted that:

- Item 1 - a number of anomalies or errors that need correction have been identified in the LEP heritage schedule and maps;
- Item 2 - the heritage significance of the East and West Tamworth areas has been identified and implemented within Council's DCP since the 1980s, while the Darling Street Precinct includes 6 Heritage listed buildings and contains a generally consistent built form and character. The application of HCAs will ensure heritage significance is a consideration for a broad range of developments and activities and is consistent with Council's LSPS Action to investigate appropriate LEP provisions to provide further recognition and protection of established character areas located in East and West Tamworth;
- Item 3 - Council's LSPS and Blueprint identify the Bridge Street Precinct as a key area and corridor for future growth and urban renewal that needs planning control amendments to facilitate the delivery of more housing choice and diversity and employment opportunities;
- Item 4 – a number of anomalies in the land use tables have been identified that need correction to increase housing diversity, support small-scale agricultural pursuits and agritourism and minimise the likelihood of land use conflict in residential and rural zones;
- Item 5 – a number of changes to existing local clauses have been identified to ensure they:
  - are consistent with best practice (ie. not including OLS and ANEF as LEP maps but rather relying on the versions certified by the appropriate agency);
  - provide a small increase in the existing area available for temporary worker accommodation at the Tamworth Airport to provide greater flexibility and development options to manage the fluctuations in the workforce labour market; and
  - help address a forecast shortfall in retail floor space in Tamworth identified through the 'Tamworth Activity Centre Review 2023' (Appendix 6 of the planning proposal) by allowing the expansion of existing activity centres and increasing the maximum permitted gross floor area for business premises, office premises, food and drink premises, and markets within the E1 Local Centre, E3 Productivity Support and MU1 Mixed Use Zones from 2,500m<sup>2</sup> to 3,500m<sup>2</sup>;
- Item 6 – inclusion of an additional provision has been identified as needed to help clarify and facilitate landowners rebuilding a lawful dwelling house or secondary dwelling affected by natural disaster;
- Item 7 – inclusion of a heads of consideration clause for the future assessment of proposals is needed as eco-tourist facilities are to become permitted with consent in the RU1 Primary Production, RU4 Primary Production Small Lots and C3 Environmental Management Zones;
- Item 8 – inclusion of an essential services clause has been identified to provide greater certainty for developers and the community that infrastructure will be provided, or can be provided, at a suitable time to serve future development.
- Item 9 – inclusion of a minimum building street frontage for residential apartment development within the Tamworth CBD has been identified to help activate the CBD and ensure development is at an appropriate scale and of good design.
- Item 10 – as noted above previously, while the importance of identifying and managing scenic protection areas is acknowledged, it is recommended that this matter be considered further in the later phases of Council's LEP review;



- Item 11 - the ongoing monitoring and maintenance of an LEP is important to ensure accurate and appropriate planning decisions can be made. Over time, any anomalies or errors or inconsistencies in mapping should be resolved. This item will rectify a number of planning control issues identified by Council such as rectifying the minor non-alignment of zoning and minimum lot sizes with the cadastre.
- Item 12 – a number of minor LEP changes where identified by Council through a community expression of interest process and include:
  - rectifying a split zoning and minimum lot size that does not align with the cadastre at 7 Edward Street, Moonbi;
  - applying an E1 Local Centre at the existing Oxley Vale Superette to allow for its redevelopment as a neighbourhood supermarket to serve a growing residential area of Tamworth;
  - rectify a split zoning and minimum lot size that does not align with the cadastre at the northern portion of Lot 901 DP 1297546, Mulconda Close, Oxley Vale;
  - apply a R1 General Residential Zone to 3.2ha of land at 783 Manilla Road, Oxley Vale adjoining the Stratheden Estate to provide an opportunity for an improved road access to the estate and additional housing; and
  - zoning a dedicated public reserve at Glenmore Drive, Moore Creek to C2 Environmental Conservation to better reflect the critically endangered ecological community of White Box - Yellow Box - Blakely's Red Gum Grassy Woodland located on the land.

The planning proposal is needed and the appropriate mechanism to undertake the LEP amendments.

## 3 Strategic assessment

### 3.1 Regional Plan

It is considered that none of the items of the planning proposal are inconsistent with the vision, objectives or requirements of the New England North West Plan 2041.

### 3.2 Local

The proposal is consistent with, and an outcome of, Council's Local Strategic Planning Statement – Blueprint 100 Part 2 which has superseded Council's former Department approved Tamworth Regional Development Strategy 2008.

### 3.3 Section 9.1 Ministerial Directions

The planning proposal is consistent with all relevant section 9.1 Directions except for the following as discussed below.



Table 7 9.1 Ministerial Direction assessment

Directions	Consistent	Reasons for Consistency or Inconsistency
3.2 Heritage Conservation	Unresolved	<p>The proposal is potentially inconsistent with this direction as it seeks to rezone land at Lot 777 Manilla Rd, Oxley Vale, and it is not supported by an Aboriginal Cultural Heritage Report despite two Aboriginal sites including a tree scar being identified on adjoining land at the time of rezoning the Stratheden Estate.</p> <p>The planning proposal confirms that an Aboriginal Due Diligence Assessment and/or Cultural Heritage Assessment will be completed prior to consultation. Until this assessment has been completed and consultation undertaken with the local Aboriginal people and Heritage NSW, any potential inconsistency with this direction remains unresolved.</p>
4.1 Flooding	Justified	<p>The planning proposal is inconsistent with this direction as Item 4 permits a range of new land uses such as secondary dwellings, backpackers' accommodation, ecotourist facilities and road side stalls in various zones that include flood prone land.</p> <p>This inconsistency is considered to be of minor significance as a broad range of land uses are already permitted on these lands and any future development application for any of the proposed uses can appropriately consider and address flood matters.</p>
4.3 Planning for Bushfire Protection	Unresolved	<p>The planning proposal is inconsistent with this direction as a number of the items affect land that is bushfire prone. Until consultation with the NSW Rural Fire Service has been undertaken, this direction remains unresolved.</p>
4.4 Remediation of Contaminated Land	Unresolved	<p>The proposal is potentially inconsistent with this direction as it seeks to rezone land at Lot 777 Manilla Rd, Oxley Vale for residential purposes and it is not supported by a preliminary site investigation for potential contamination (due to its past agricultural use) confirming the site is suitable for its future intended use.</p> <p>The planning proposal however confirms that a preliminary site investigation will be completed prior to consultation. Until this assessment has been completed, any potential inconsistency with this direction remains unresolved.</p>
5.4 Shooting Ranges	Justified	<p>The planning proposal is inconsistent with this direction as Item 4 permits a range of new land uses such as secondary dwellings, backpackers' accommodation, ecotourist facilities and road side stalls in various zones that include land adjacent to shooting ranges.</p> <p>This inconsistency is considered to be of minor significance as a broad range of land uses is already permitted on these lands and any future development application for any of the proposed uses can appropriately consider and address potential impacts on any nearby shooting ranges.</p>

Directions	Consistent	Reasons for Consistency or Inconsistency
6.1 Residential Zones	Justified	<p>The planning proposal is inconsistent with this direction as Items 11 and 12 rezone land and/or amends the minimum and reduces the permissible residential density.</p> <p>The inconsistency is considered to be of minor significance as the changes generally reflect only a re-alignment of the planning controls to match the cadastre or the existing and likely future land use.</p>
7.1 Employment Zones	Justified	<p>The planning proposal is inconsistent with this direction as Item 3 applies a FSR to areas of the Bridge Street precinct that will reduce the theoretical potential floor space available, and as Item 12 rezones land at 171 Manilla Road for employment purposes that it not in accordance with a Department approved strategy.</p> <p>This inconsistency is considered to be of minor significance as:</p> <ul style="list-style-type: none"> <li>the application of a FSR to Area 3 of the Bridge Street Precinct (which currently has no FSR) is needed due to the change in zoning from IN1 General Industrial to MU1 Mixed use though the Department's Employment Zone Reforms. FSR controls now need to be applied consistent with the other MU1 Zoned land in the precinct; and</li> <li>the land at 171 Manilla Road is already occupied by the Oxley Vale Superette and involves changes to allow for only a minor redevelopment and expansion to serve a growing residential of Tamworth.</li> </ul>
9.1 Rural Zones	Justified	<p>The planning proposal is inconsistent with this direction as Items 11 and 12 rezone rural land to residential land.</p> <p>The inconsistency is considered to be of minor significance as the changes reflect only a re-alignment of the planning controls to match the cadastre or the existing and likely future land use.</p>
9.2 Rural Lands	Justified	<p>The planning proposal is inconsistent with this direction as a number of items affect land that is within a rural zone and is unable to satisfy all the requirements of the direction such as supporting farmers in exercising their right to farm.</p> <p>The inconsistency is considered to be of minor significance as the changes reflect either a re-alignment of the planning controls to match the cadastre, the existing and likely future land use or the inclusion of additional uses that are considered not to be consistent with the overall objectives and aims of the rural zones.</p>

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is considered consistent with all relevant SEPPs.

It is noted that the proposed heritage conservation areas will no longer permit complying within the identified precincts under the SEPP (Exempt and Complying Development Codes) 2021. This is not inconsistent with the SEPP in situations where it can be confirmed that the areas have a special character and significance to warrant inclusion within a heritage conservation area. In this

regard, it is recommended that Council consult with Heritage NSW to confirm the heritage character and significance of the proposed conservation areas.

## 4 Site-specific assessment

### 4.1 Environmental

It is considered that the planning proposal will have a minimal environmental impact and no adverse impacts are anticipated. Most of the proposed changes to the TRLEP 2010 are administrative and will not have a significant effect on the environment. Merit based assessments of any future development that will become permissible can also be undertaken at the development application stage to assess and mitigate appropriately any specific impacts as they arise. This assessment will include matters of biodiversity, flooding, bushfire, potential contamination and the wider environment.

While no significant impact is anticipated noting the relatively cleared nature and agricultural use of Lot 777 Manilla Road, the proposal notes that a flora and fauna report will be completed prior to consultation confirming that development of the land is appropriate. This is considered satisfactory.

The only sites identified as having a potential contamination risk were the existing Oxley Vale Superette at 171 Manilla Road (due to its existing fuel tank and bowser) and the small extension of the Stratheden Estate at Lot 777 Manilla Road, Oxley Vale. Appendix 8 of the planning proposal contains a due diligence environmental assessment for 171 Manilla Rd. The assessment includes a preliminary site investigation that confirms the site is free of any notable contamination and suitable for continued commercial land use and the proposed zoning to E1 Local Centre. The planning proposal also confirms that a preliminary site investigation for Lot 777 will be completed prior to consultation to confirm the site is satisfactory for its intended future use.

In regard to flooding, Items 3, 4, 9, 11 and 12 apply changes to flood prone land. Other than Item 4 (as discussed above in regard to s9.1 Ministerial Direction 4.1), these changes are generally minor re-alignments of planning controls with the cadastre or provisions to regulate existing permitted development. No adverse flood impacts associated with the changes have been identified and it is considered this issue can be considered and addressed appropriately at the development application stage if required. While the proposal identifies Items 3 (Bridge St Precinct) and 12 (rezoning 7 Edward St, Moonbi) as being inconsistent with s9.1 Direction Flooding, it is noted that these Items do not increase development potential on the land and it is not considered that an inconsistency is created (Bridge St precinct only allows subdivision of already permissible residential development in a very small area and 7 Edward Street down zones part of the land from RU5 Village to R5 Large Lot Residential).



Figure 28 Bridge Street Precinct Flooding

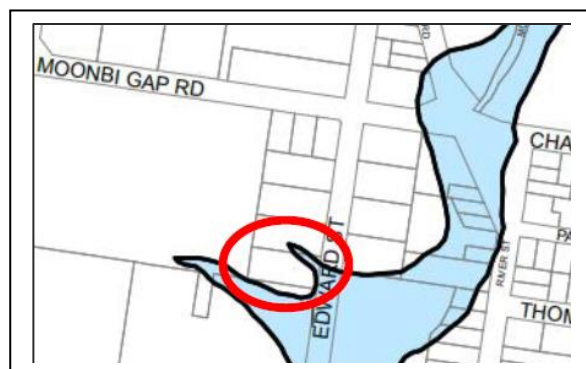


Figure 29 7 Edward Street, Moonbi FPL

## 4.2 Social and economic

It is considered that the proposal by correcting various errors and anomalies in the LEP along with implementing various minor changes to ensure the effective and efficient operation of the LEP will have a positive social and economic impact for the local community.

While various items such as the introduction of heritage conservation areas, the introduction of floor space ratio and design excellence provisions to parts of the Bridge Street precinct, minimum street frontage requirements for residential accommodation in the CBD, or the prohibition of certain land uses in some zones could be seen by some as potentially negative for affected landowners, overall it is considered that the introduction of the controls will provide greater guidance and certainty on Council's and the local community's desires and expectations for these areas and will be of benefit to landowners and in shaping positive outcomes for the broader community.

## 4.3 Infrastructure

It is considered that the planning proposal will have minimal impact on existing State or local infrastructure. Areas of proposed development uplift are, or can be, adequately serviced by reticulated water and sewer, stormwater, roads, and electricity supply as they are located with existing urban areas.

It is noted that Items 4, 5 and 7 of the proposal affect land within the proximity of Tamworth Regional Airport. As the Tamworth Regional airport is a regulated airport, Council has considered the proposal in accordance s9.1 Ministerial Direction 5.3 Development Near Regulated Airports and Defence Airfields and consulted with the lessee/operator. It is considered that none of the changes will have any likely adverse impact on airport operations and that future developments around the airport can be effectively managed through the development application process.

A traffic impact assessment (Appendix 7 of the planning proposal) also confirms that the existing road network has sufficient capacity to cater for peak traffic generation associated with the proposed redevelopment of the Oxley Vale Superette at 171 Manilla Road. An updated traffic study for the Stratheden Estate to include Lot 777 Manilla Rd is also being prepared and will be included in the proposal prior to consultation to confirm that development of the land is appropriate. This is considered satisfactory. It is recommended that TfNSW be consulted to confirm that the proposal is satisfactory.

# 5 Consultation

## 5.1 Community

Council proposes a community consultation period of 28 days.

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

## 5.2 Agencies

Council has nominated the public agencies to be consulted about the planning proposal.

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

- Heritage NSW
- Airservices Australia
- Civil Aviation Safety Authority

- Transport for NSW
- DPI Agriculture
- NSW Rural Fire Service
- Nungaroo Local Aboriginal Land Council
- Tamworth Local Aboriginal Land Council
- NSW Biodiversity Conservation and Science Group
- NSW Environment Protection Authority

## 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 proposed 9-month LEP completion date is considered appropriate and in line with the Department's commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

As the planning proposal only addresses matters of local significance and is identified as not being inconsistent in the New England North West Regional Plan 2041 or the Tamworth LSPS, it is recommended that Council be authorised to be the local plan-making authority for this proposal.

## 8 Assessment summary

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

- The proposal is not inconsistent with the New England North West Regional Plan 2041;
- The proposal will deliver a number of key planning priorities in Council's LSPS;
- The components of the planning proposal will variously deliver:
  - a more accurate and effective LEP;
  - additional housing supply, diversity and choice;
  - economic development through the expansion of key sites;
  - high-quality urban design, including active street frontages, pedestrian linkages and improve the quality and amenity of the public domain;
  - reduction in land use conflict; and
  - recognition of the importance of heritage to the community

Based on the assessment outlined in this report, it is recommended that the proposal be updated before consultation to:

- remove the proposed change to clause 4.2C in Chapter 6;
- Remove Chapter 11 "Insert a new "Scenic Protection Area" Clause;
- Update the proposed land zoning, minimum lot size and floor space ratio maps to show both the current planning controls and the proposed future planning controls for each site;
- remove the reference to the Manilla Viaduct in Table 4; and
- include the outcomes of the contamination, traffic, biodiversity and Aboriginal heritage studies supporting the rezoning of Lot 777 DP 1158251, 783 Manilla Road, Oxley Vale.



## 9 Recommendation

It is recommended the Director, as delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 4.1 Flooding, 5.4 Shooting Ranges, 6.1 Residential Zones, 7.1 Employment Zones, 9.1 Rural Zones and 9.2 Rural Lands are minor or justified; and
- Note that the consistency with section 9.1 Directions 3.2 Heritage Conservation, 4.3 Planning for Bushfire Protection and 4.4 Remediation of Contaminated Land is unresolved and will require justification.

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. Prior to agency and community consultation the proposal be amended to:
  - remove the proposed change to clause 4.2C in Chapter 6;
  - remove Chapter 11 Insert a new “Scenic Protection Area” clause from the planning proposal;
  - update the proposed land zoning, minimum lot size and floor space ratio maps to show both the current planning controls and the proposed future planning controls for each site;
  - remove the reference to the Manilla Viaduct in Table 4; and
  - include discussion on the outcomes of the contamination, traffic, biodiversity and Aboriginal heritage studies supporting the rezoning of Lot 777 DP 1158251, 783 Manilla Road, Oxley Vale.
2. Consultation is required with the following public authorities:
  - Heritage NSW
  - Airservices Australia
  - Civil Aviation Safety Authority
  - Transport for NSW
  - DPI Agriculture
  - NSW Rural Fire Service
  - Nungaroo Local Aboriginal Land Council
  - Tamworth Local Aboriginal Land Council
  - NSW Biodiversity Conservation and Science Group
  - NSW Environment Protection Authority
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority.

The timeframe for the LEP to be completed is on or before 9 months of the Gateway determination date.



26 May 2024

\_\_\_\_\_ (Signature)

\_\_\_\_\_ (Date)

Craig Diss

Manager, Hunter and Northern Region



27/05/2024

\_\_\_\_\_ (Signature)

\_\_\_\_\_ (Date)

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