



Gateway determination report – PP-2025-140

Amend Schedule 5 Environmental Heritage of the Oberon Local
Environmental Plan 2013 to insert an avenue of trees along O'Connell
Road, O'Connell.

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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

Attachment 1. Planning proposal – Oberon Regional Council – January 2025

Attachment 2. Council Resolution – 11 June 2024

Attachment 3. Draft Heritage Assessment – January 2025

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

| | |
|---------------------------------|--|
| LGA | Oberon Council |
| PPA | Oberon Council |
| NAME | Insert heritage item to Schedule 5 Environmental Heritage |
| NUMBER | PP-2025-140 |
| LEP TO BE AMENDED | Oberon Local Environmental Plan 2013 |
| ADDRESS | Transport Corridor – O’Connell Road, O’Connell. |
| DESCRIPTION | Bathurst-Oberon Road MR253 Road Reserve between the Fish River and Box Flat Road. |
| RECEIVED | 28/01/2025 |
| FILE NO. | IRF21/ 248 |
| 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 identify an Avenue of Trees on O’Connell Road, O’Connell as a local Heritage Listing under Part 1 of Schedule 5 Environmental Heritage of the Oberon Local Environmental Plan (OLEP) 2013.

A Conservation Management Plan, prepared in December 1998, notes that the Avenue (i) has rare historical significance at state level (ii) is one of the few surviving examples of such planting in NSW (iii) has aesthetic significance at least at regional level and (iv) is a rare example of WWI memorial planning in a state context.

The identification of the Avenue of Trees as a heritage item has three intended outcomes:

- (a) Protection from minor works permitted as exempt under any State Environmental Planning Policies where there could be a significant impact on the health of this vegetation,
- (b) A greater level of scrutiny to any development application lodged that would have the potential to impact on the item.
- (c) A greater level of assessment of any development application on the subject land.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The Planning Proposal is to be updated to reflect the intent to list the item as an item of local heritage significance, consistent with the resolution of Council at its meet 11 June 2024 as follows:

‘That Council,

- 1. Update the draft State Heritage Inventory Sheet for the Avenue of Trees at O’Connell (ref 2210207).*
- 2. Prepare a Planning Proposal for the individual listing of the Avenue of Trees at O’Connell as a local item for inclusion in Schedule 5 of the Oberon LEP 2013*
- 3. Advise the local community in O’Connell to consider liaising with Heritage NSW, based on the State level assessment of the 1998 CMP, with a longer-term view of nominating the Avenue of Trees for inclusion separately on the State Heritage Register.’*

The planning proposal seeks to amend Schedule 5 of the OLEP 2013 by listing the following item:

Table 3 Planning proposal details

| Locality | Item Name | Address | Property Description | Significance | Proposed Item No. |
|-----------|-----------------|----------------|----------------------|--------------|-------------------|
| O’Connell | Avenue of Trees | O’Connell Road | Road Reserve | Local | |

The site is currently zoned RU1 Primary Production. No changes are proposed to the current zoning. It is also noted that the site is also located within the O’Connell Heritage Conservation Area (HCA). It is recommended that Heritage NSW is consulted prior to public exhibition to consider the suitability of a local heritage listing for the site.

1.4 Site description and surrounding area

The proposal site is applicable to a linear arboretum of desert ash trees along O’Connell Road, O’Connell and is located within the O’Connell HCA. The site is on a State Classified Road and owned by Transport for NSW. Consultation with TfNSW will form a condition of the Gateway determination.

The planning proposal (**Attachment 1**) states the site would extend from the northern boundary of the Oberon Council at the Fish River adjacent to 2519 O’Connell Road and the Hassall reserve and Rest Area to the southern boundary of the O’Connell Hotel at 2408 O’Connell Road (adjacent to the intersection with Box Flat Road and Mutton Falls Road), see Figure 1.

The Preliminary Heritage Assessment that forms part of the Council report considers the site area as bounded by the section of Bathurst-Oberon Road MR253 between Beaconsfield Road in the west and Box Flat Road in the east, see Figures 1 & 2. The Draft Heritage Assessment (**Attachment 3**) describes this as the focus of the study; however it also considers the section of road north-west of Beaconsfield Rad to the Fish River as the original intent of the avenue in 1925 extended from the village to the river.

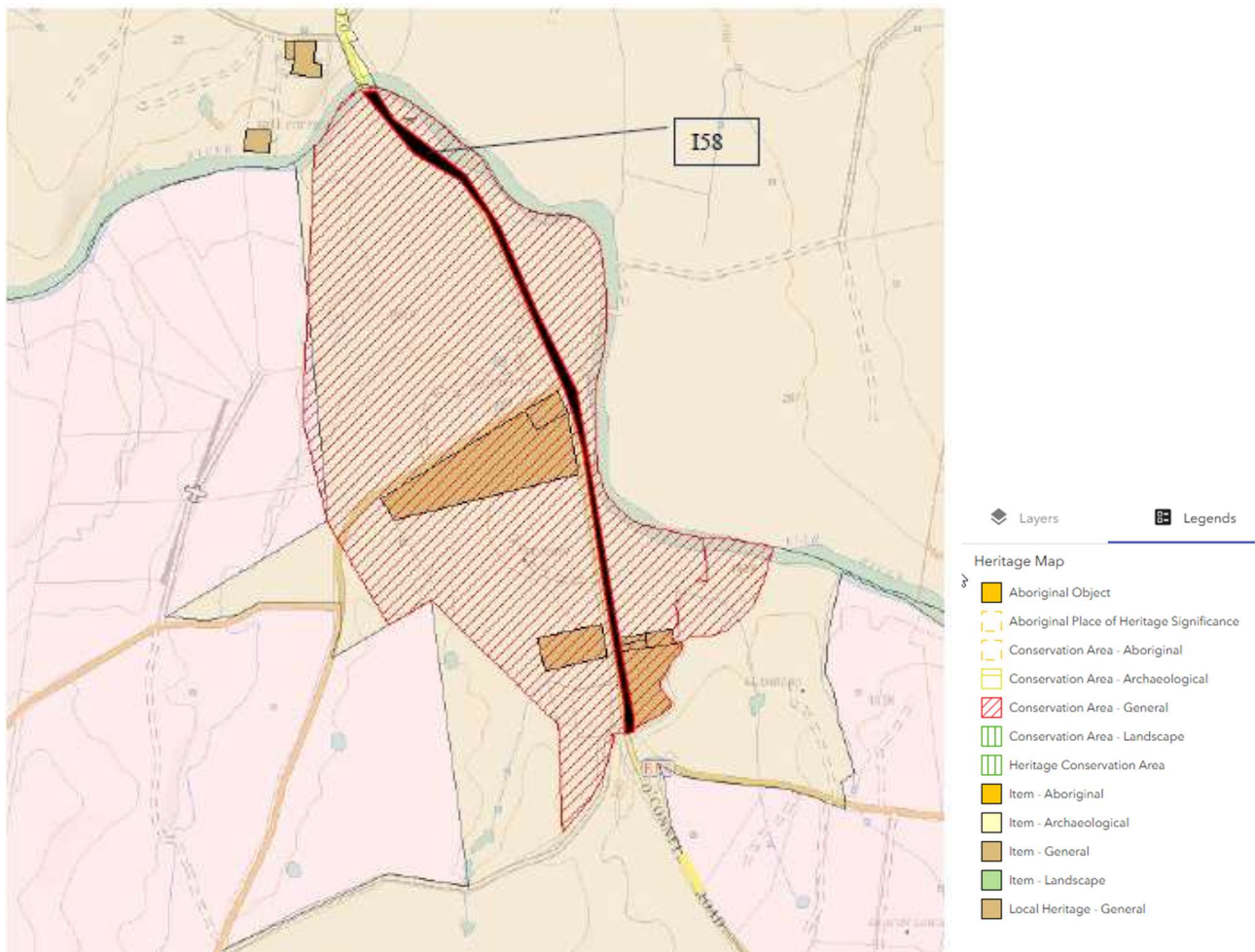


Figure 1. Site description, Avenue of Trees within O'Connell HCA. Site bounded by Fish River in the north and Box Flat Road in the south. (source: Planning Proposal)



Figure 2 Site bounded by Beaconsfield Road in the north and Box Flat Road in the south. source: Preliminary Heritage Assessment included in the Report to Council June 2011)

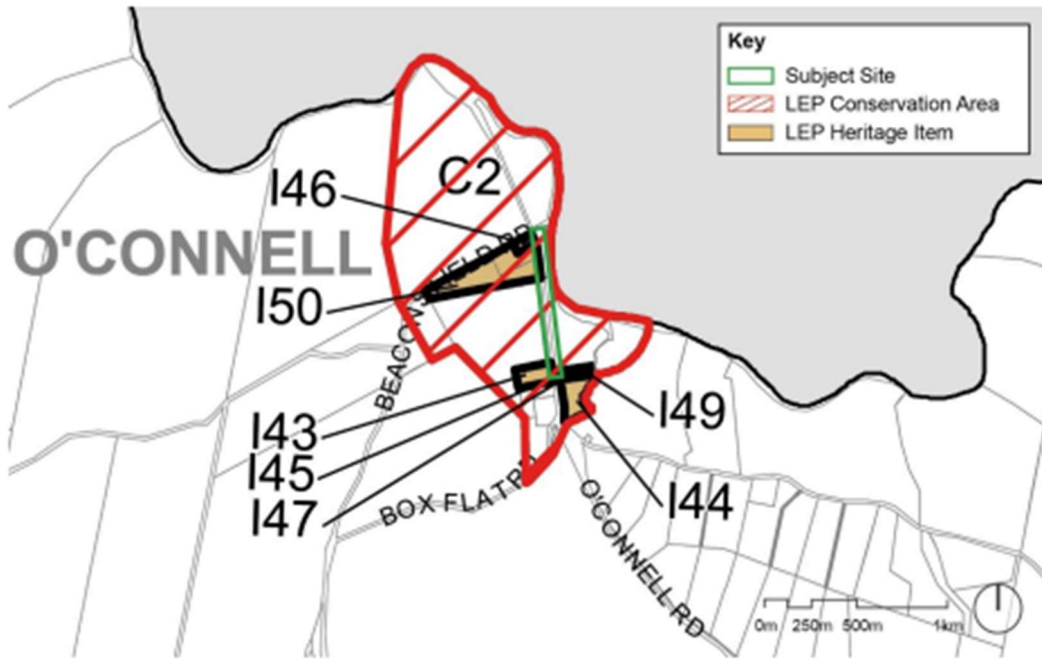


Figure 3. Site bounded by Beaconsfield Road in the north and Box Flat Road in the south. (source: Preliminary Heritage Assessment included in the Report to Council June 2011)



Figure 4 Street view of the Avenue of Trees (source: Planning Proposal)

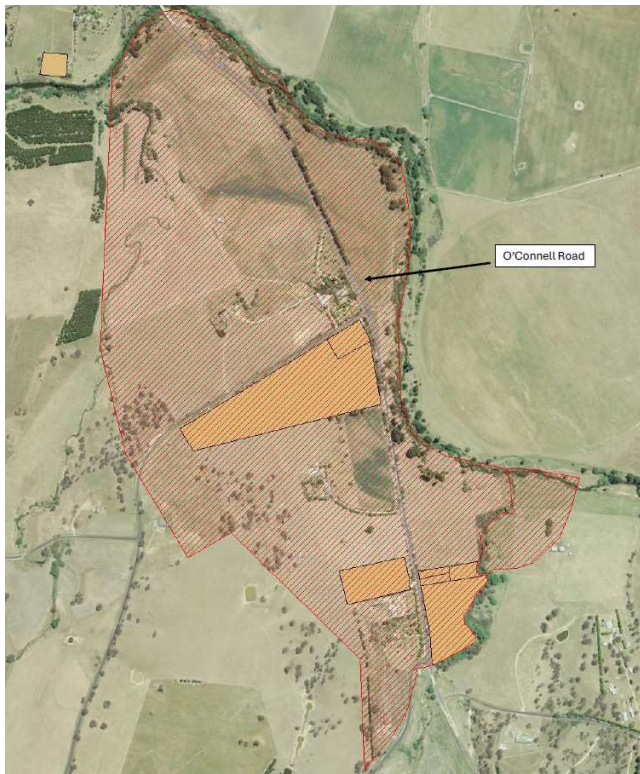


Figure 5 Site locality (source: NSW Spatial Viewer)

1.5 Mapping

The planning proposal includes a map showing the proposed changes to Heritage Map (6100_COM_HER_001_160_20150415). The map is suitable for community consultation.

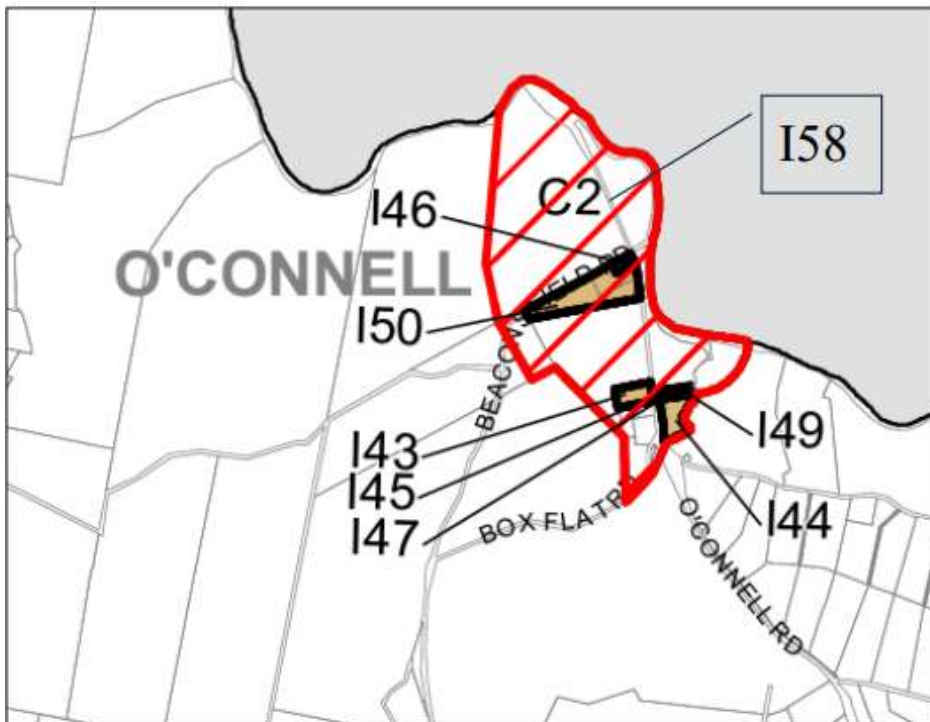


Figure 6. Current Heritage Map (source: Planning Proposal)

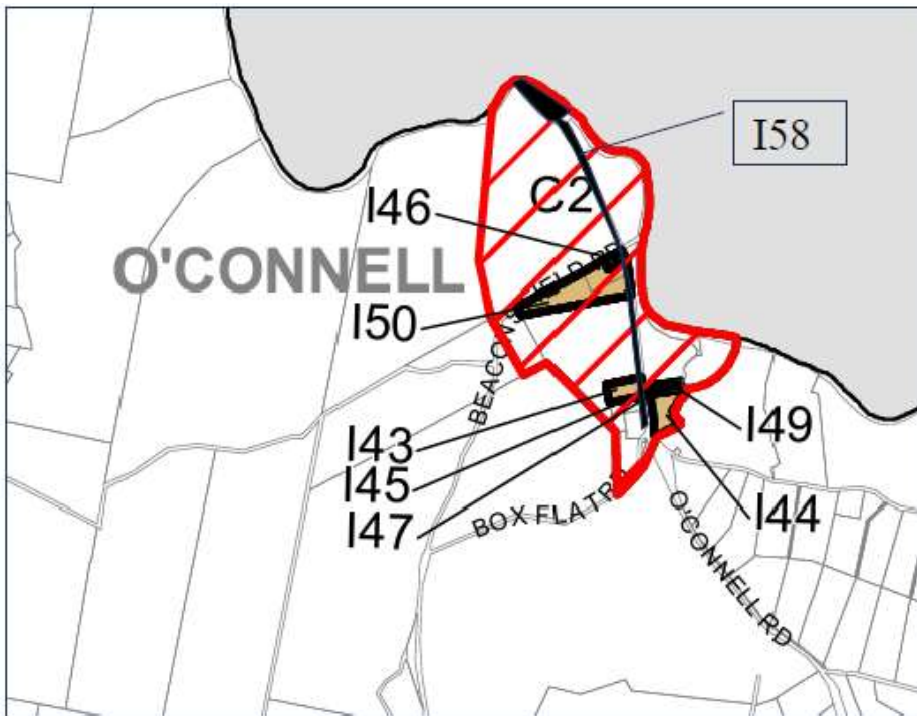


Figure 7. Proposed Heritage Map (source: Planning Proposal)

1.6 Background

A report was commissioned in 2024 by Oberon Against Wind Towers to prepare a preliminary heritage assessment for the site. This action is associated with the Oberon local community concerns about the Paling Yards Wind Farm State Significant Development project and the potential impacts on the existing trees; several tree branches overhang the road carriageway along O'Connell Road. There is concern that the size of the wind farm components and transport may necessitate removal or significant tree pruning along the Memorial Avenue. The report finds that the Memorial Avenue meets the threshold for heritage listing at a local level and recommends a comprehensive Heritage Assessment be carried out to include the Memorial Avenue as a heritage item of local significance under Schedule 5 of the Oberon LEP 2013. The comprehensive report is provided as **Attachment 3**.

Council resolved on 11 June 2024 to prepare a planning proposal for the individual listing of the Avenue of Trees at O'Connell as a local item for inclusion in Schedule 5 of the Oberon LEP 2013.

2 Need for the planning proposal

Q1. Is the planning proposal a result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?

The planning proposal is the result of considerable interest from the Council's Heritage Committee and a Draft Heritage Assessment prepared by Christo Aitken and Associates on Council's behalf. The Avenue of Trees is not currently listed individually on Schedule 5 Part 1 of the OLEP 2013 however, the Avenue is located within the O'Connell Urban Conservation area which is listed on Schedule 5 Part 2 of the OLEP 2013 as a Heritage Conservation Area.

The Avenue Trees is considered a landmark element within the O'Connell Heritage Conservation area as detailed in the heritage datasheet that accompanied the listing of the Heritage Conservation Area in 2013.

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

An amendment to the OLEP 2013 as a submission of a planning proposal is the best means to elevate and identify the Avenue of Trees for heritage listing to enable protection and conservation while preserving works that can be Exempt and Complying Development.

3 Strategic assessment

3.1 Regional Plan

The planning proposal was assessed by Council against the Central West and Orana Regional Plan 2036 which has been superseded. The Departments assessment considers the latest Central West and Orana Regional Plan 2041. It should be noted that the outdated Central West and Orana Regional Plan 2036 aligns closely with Objective 9 and subsequent Urban strategies for Regional NSW as identified in the Central West and Orana Regional Plan 2041. An updated analysis against the Central West Orana Regional Plan 2041 forms Condition 1 of the Gateway Determination.

The following table provides an assessment of the planning proposal against relevant aspects of the Central west and Orana Regional Plan 2041.

Table 4 Regional Plan assessment

| Regional Plan Objectives | Justification |
|---|--|
| <p>OBJECTIVE 9: Ensure site selection and design embraces and respects the region's landscapes, character and cultural heritage.</p> <p><u>Urban design strategies for regional NSW.</u></p> <ul style="list-style-type: none"> Engage with the history and culture of places Revitalise main streets and town centres Integrate with the natural environment and landscape Prioritise connectivity, walkability, and cycling opportunities | <p>The proposal is consistent with Objective 9 and the relevant urban design strategies for regional NSW identified in the Central West and Orana Regional Plan 2041. The planning proposal highlights the heritage significance of the Avenue of trees as justified in the draft heritage assessment and provides appropriate statutory planning protection within Schedule 5 of the OLEP 2013.</p> |

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 5 Local strategic planning assessment

| Local Strategies | Justification |
|------------------------------------|--|
| Local Strategic Planning Statement | <p>The proposal is consistent with:</p> <p>Priority 2: Community wellbeing by achieving action 10 which utilises a SWOT analysis as the basis for delivering improvements for the O'Connell locality.</p> <p>Priority 4: Environment, by achieving Action 17 which seeks to maximise opportunities and protect sensitive areas through OLEP 2013 reviews and amendments.</p> |

Oberon 2040
Community
Strategic Plan

The proposal is consistent with:

Theme 1: Community wellbeing and aims to achieve Action 1.2, meet the social, cultural and physical activity needs of the community.

Theme 4: Infrastructure and services, and will aim to provide accessible, safe and well-maintained community spaces and facilities.

3.3 Section 9.1 Ministerial Directions

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

Table 6 Ministerial Direction assessment

| Directions | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|--|----------------------------------|---|
| 1.1 Implementation of Regional Plans | Consistent | The planning proposal is consistent with this direction. Further assessment against the relevant Regional Plans can be found in section 3.1 of this report. As noted above, a condition to ensure Council update the planning proposal against the current Central West and Orana Regional Plan 2041 prior to exhibition will form part of the Gateway determination. |
| 1.3 Approval and Referral Requirements | Consistent | The proposed amendments are considered consistent with this direction as it does not propose referral or concurrence requirements. |
| 3.2 Heritage Conservation | Consistent | The planning proposal is directly consistent with this direction. The proposal aims to provide adequate statutory protection to one heritage item within the OLEP 2013, in accordance with a heritage study. Preliminary comments from Transport for NSW have also suggested a Conservation Management Plan inclusive of a list of exemptions that permit road maintenance, road improvement and landscaping works by the road authority or nominated person/s, and/or equivalent exemptions are captured within the OLEP 2013. |
| 4.1 Flooding | Not Applicable | Council have advised that the proposal is located on flood prone land, but it is reasonable to suggest this direction does not apply as the amendment is not considered a development provision. Additionally, the nature of the proposal will not impact flood behaviour in the location. |

3.4 State environmental planning policies (SEPPs)

| SEPPS | Reasons for consistency or inconsistency |
|---|---|
| Exempt and Complying development Codes 2008 | The planning proposal is consistent with the provisions of the SEPP as detailed under division 2 Exempt and complying development. |
| Transport and Infrastructure 2021 | The planning proposal requires consideration of the SEPP as the site is on a State Classified Road. It is considered that provisions under Division 17 of the SEPP allow for minimal impact works without requiring development |

consent, while any major development would continue to be assessed under this SEPP. Therefore, it is reasonable to suggest that the planning proposal can be consistent with this SEPP.

4 Site-specific assessment

4.1 Environmental, social and economic

It is considered that there are no negative social, environmental or economic impacts resulting from this planning proposal. There is a general social benefit resulting from the preservation of local heritage. The predominant species, desert ash are exotic and the location within the road reserve has no environment for habitat.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

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

5.2 Agencies

It is recommended that the above NSW agencies be consulted prior to public exhibition and given 30 working days to comment on the planning proposal:

- Heritage NSW
- Transport for NSW

6 Timeframe

Council proposes a 7 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 basic.

The Department recommends an LEP completion date of 12 December 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.

7 Local plan-making authority

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

As the site/planning proposal is seeking to list a site as State heritage item then Council should not be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions as follows:

- The proposal is considered consistent with the relevant objectives, actions and priorities of the Central West and Orana Regional Plan 2041 and the Oberon Local Strategic Planning Statement, as well as the applicable State Environmental Planning Policies and Section 9.1 Ministerial Directions.
- Amending Schedule 5 of the OLEP 2013 will provide appropriate statutory protection to the site.

9 Recommendation

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 public exhibition, the planning proposal is to be updated to clearly detail the intent to include the item as a local heritage item and include an assessment against the Central West and Orana Regional Plan 2041.
2. Prior to public exhibition, consultation is required with the Heritage NSW and Transport for NSW to confirm the proposed listing as a Local heritage item is appropriate and the requirements for a Conservation Management Plan.
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 not authorise council to be the local plan-making authority.

The timeframe for the LEP to be completed is on or before 12 December 2025.



30/5/2025

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