

ATTACHMENTS UNDER SEPARATE
COVER

ORDINARY COUNCIL MEETING
12 JULY 2016

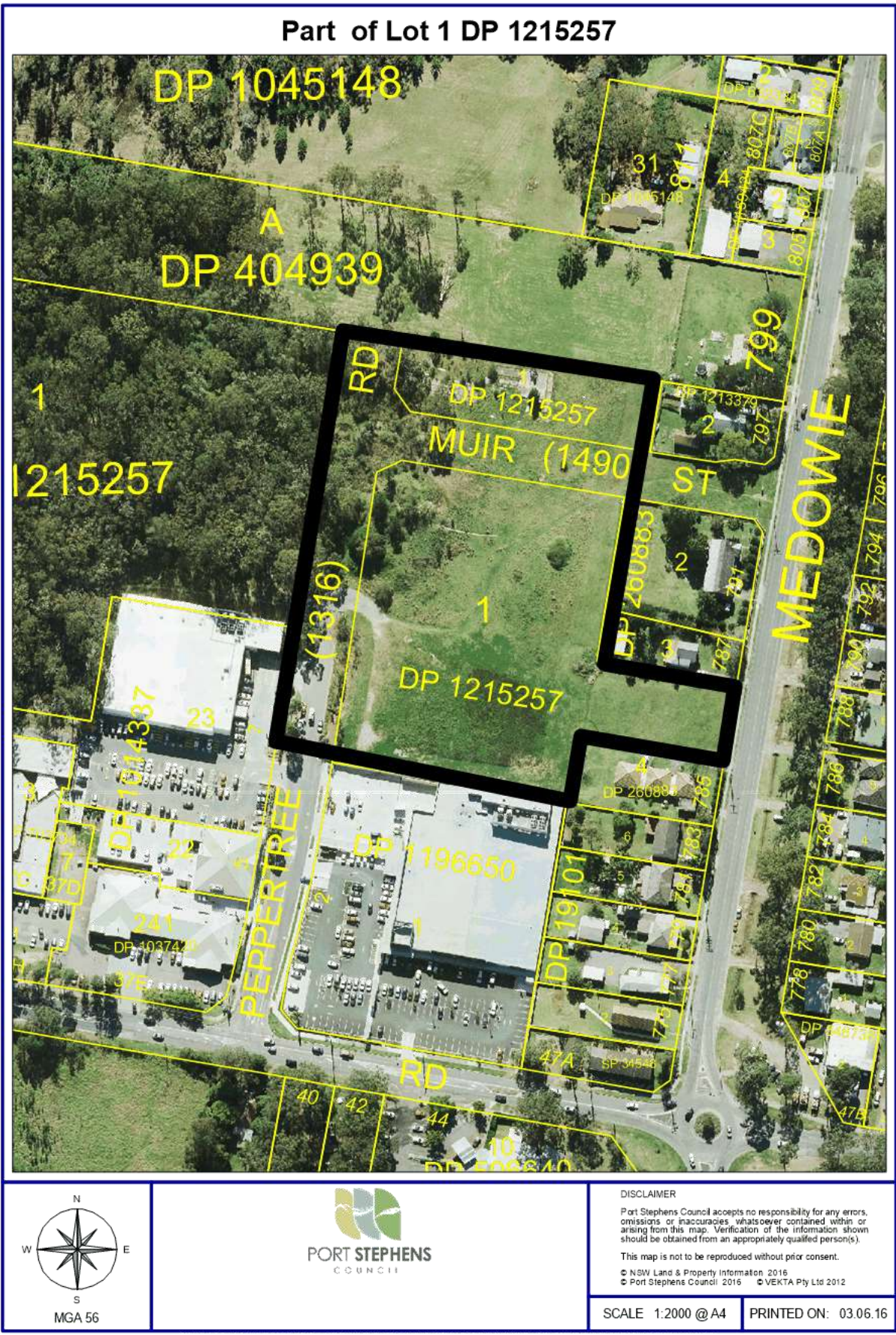


PORT STEPHENS
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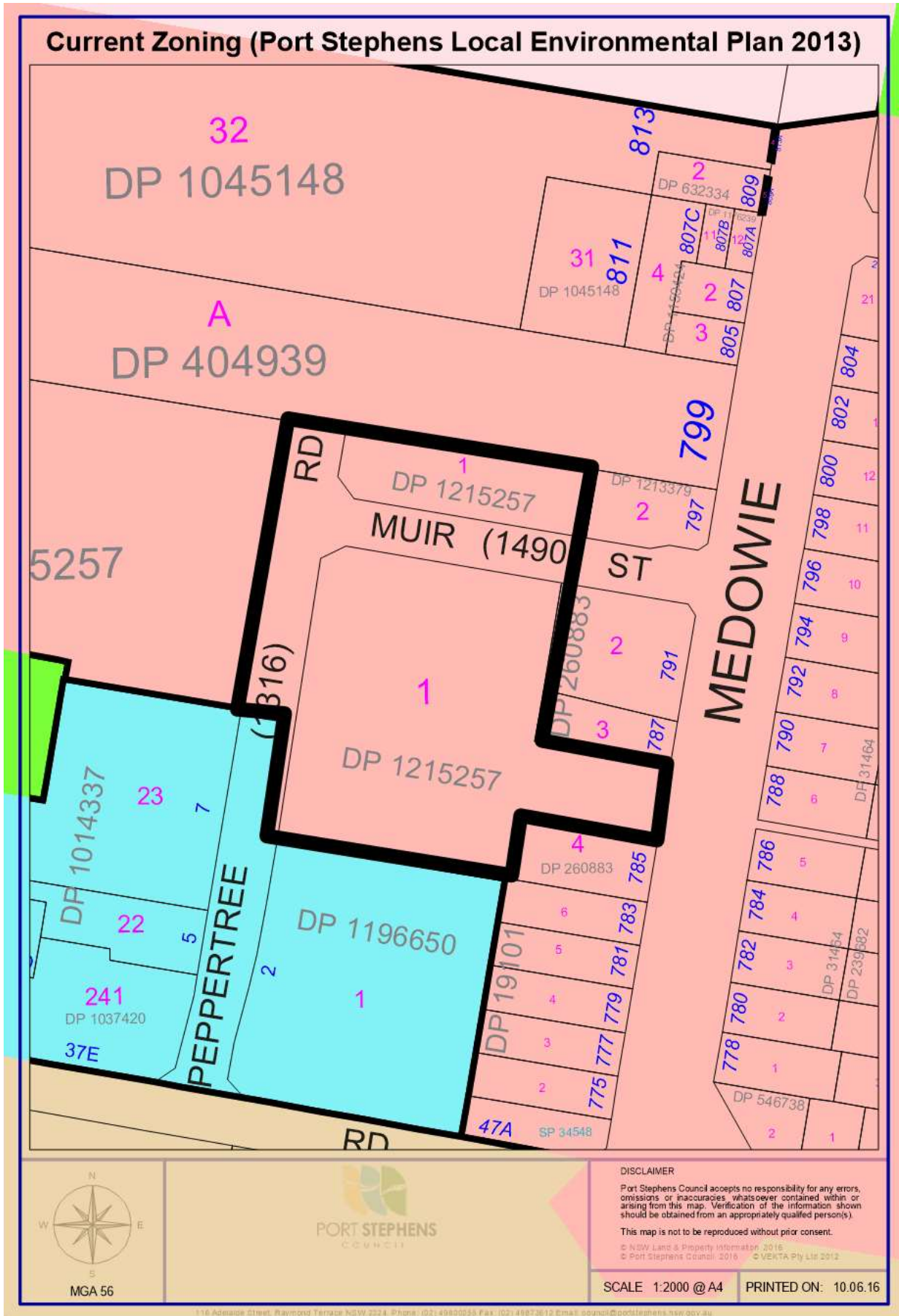
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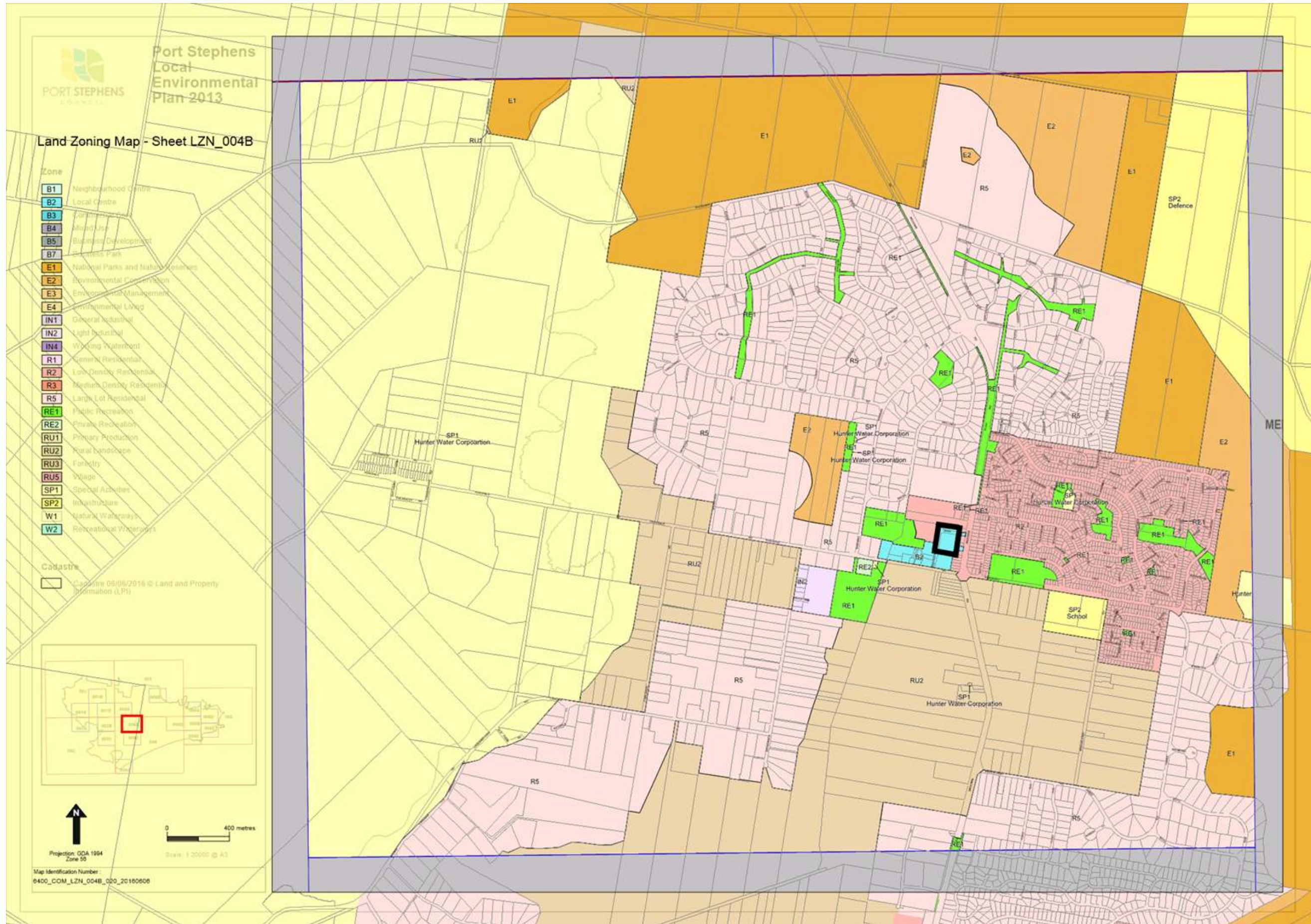
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ITEM 1 - ATTACHMENT 1 SITE LOCATION.



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SUMMARY

Subject land:	Part of Lot 1 DP 1215257
Subject land area:	1.7 hectares (approximate and excludes Peppertree Road and Muir Street road reserves)
Current zoning:	R2 Low Density Residential
Proposed zoning:	B2 Local Centre
Classification:	'Operational'

The site is located in the Medowie town centre and adjacent to existing commercial and residential development. It refers only to the flood-free and cleared part east of Peppertree Road (only).

The Planning Proposal seeks to rezone approximately 1.7 hectares from R2 Low Density Residential to B2 Local Centre. It includes a large central area bound by Peppertree Road, Muir Street and Medowie Road and a smaller strip of land north of Muir Street. The purpose is to facilitate its potential development for commercial use consistent with local strategic planning for Medowie.

Figure 1 – Subject site



PART 1 – Objective of the Planning Proposal

The objective of the Planning Proposal is to facilitate the potential commercial development of the land consistent with local strategic planning for Medowie.

PART 2 – Explanation of the provisions to be included in proposed LEP

The objective of the Planning Proposal will be achieved by amending the *Port Stephens Local Environmental Plan 2013* as follows:

- Amending the Land Zoning Map (LZN_004B) by rezoning the site from R2 Low Density Residential to B2 Local Centre (in accordance with the attached Draft Land Zoning Map).
- Amending the Lot Size Map (LSZ_004B) to remove the minimum lot size provisions on that part of the site to be zoned B2 Local Centre (in accordance with the attached Draft Lot Size Map).
- Amending the Height of Building Map (HOB_004B) to show the maximum height of building as 8m on that part of the site to be zoned B2 Local Centre (in accordance with the attached Draft Height of Buildings Map).

PART 3 – Justification for the Planning Proposal

SECTION A – Need for the Planning Proposal

Is the planning proposal a result of any strategic study or report?

The Planning Proposal is the result of the identification of Medowie as a proposed urban area in various local and State planning strategies. It seeks to facilitate potential additional commercial development within the town centre.

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

The objective of the Planning Proposal is best achieved by an amendment to the zoning and associated provisions for the site under the *Port Stephens Local Environmental Plan 2013*. The amendments will permit the use of part of the site for a range of commercial purposes and continue to permit multi-dwelling housing. It is proposed to proceed with the Planning Proposal now to enable its consideration in a timely manner and facilitate potential development of the site in accordance with strategic planning for Medowie.

SECTION B – Relationship to Strategic Planning Framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Lower Hunter Regional Strategy

Medowie is identified in the *Lower Hunter Regional Strategy* as a town including a proposed urban area with boundaries to be defined through local planning. The Planning Proposal will help Medowie maintain its role within the hierarchy identified in the *Lower Hunter Regional Strategy*. It is consistent with the relevant Action for employment and the economy to facilitate localised employment in towns.

Draft Hunter Regional Plan

The Planning Proposal is consistent with Goal 1 *Grow Australia's next major city* and Direction 1.1 to grow and sustainably manage Hunter City. It builds on the existing Hunter City Urban Area. It is consistent with the relevant action to deliver a plan for growing Hunter City including the principles that development will contribute to connected communities and that investment will support a sustainable and diverse economy.

The Planning Proposal is consistent with Goal 4 *Support Robust Regional Communities*. It is consistent with Direction 4.1 to focus housing and service growth towards the region's existing towns and the relevant actions to develop local strategies to create flexible employment, housing and service delivery that respond to changing markets and to support retail growth in centres to promote vibrant, liveable communities.

Draft Plan for Growing Hunter City

Medowie is located in the Northern Gateway District. The Planning Proposal is consistent with the relevant Direction 7.2 manage growth to protect strategic assets and the related action to investigate long term opportunities for housing growth including to identify opportunities for sustainable development in Medowie that do not affect water quality. It sets out a process to address drinking water quality given the site's location within the Grahamstown Dam drinking water catchment. The land is already zoned for residential development.

5. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

Port Stephens Community Strategic Plan

The Planning Proposal is consistent with the *Port Stephens Community Strategic Plan* strategic direction to balance the environmental, social and

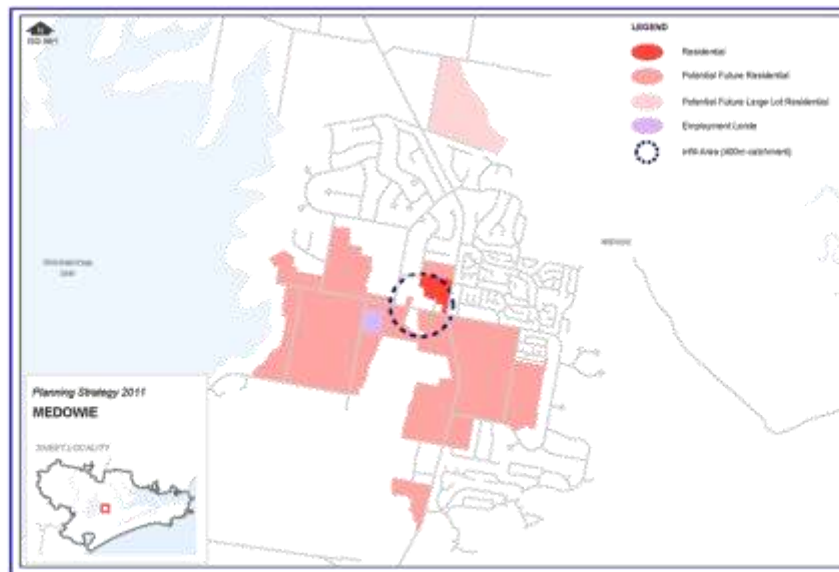
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economic needs of Port Stephens for the benefit of present and future generations. It is also consistent with the delivery program to provide strategic land use planning services, through the preparation of a planning proposal for the site that is consistent with local strategic planning.

Port Stephens Planning Strategy

The *Port Stephens Planning Strategy* identifies Medowie for future growth as a Priority 1 Infill and New Release Area. The site is identified as residential and within an infill area (400m). The Planning Proposal will reinforce the current role of Medowie as a local centre.

Figure 4 – Port Stephens Planning Strategy – Medowie Future Growth Area



Medowie Strategy

Council adopted the *Medowie Strategy* in 2009 to manage urban growth at a local level. It identifies the part of the site along Peppertree Road and Muir Street for commercial use. The Planning Proposal for rezoning is consistent with the identification of the site in *Medowie Strategy* with the exception of the small area north of Muir Street which is shown as 'residential'. This inconsistency is minor because the proposed zoning will continue to permit multi-dwelling housing.

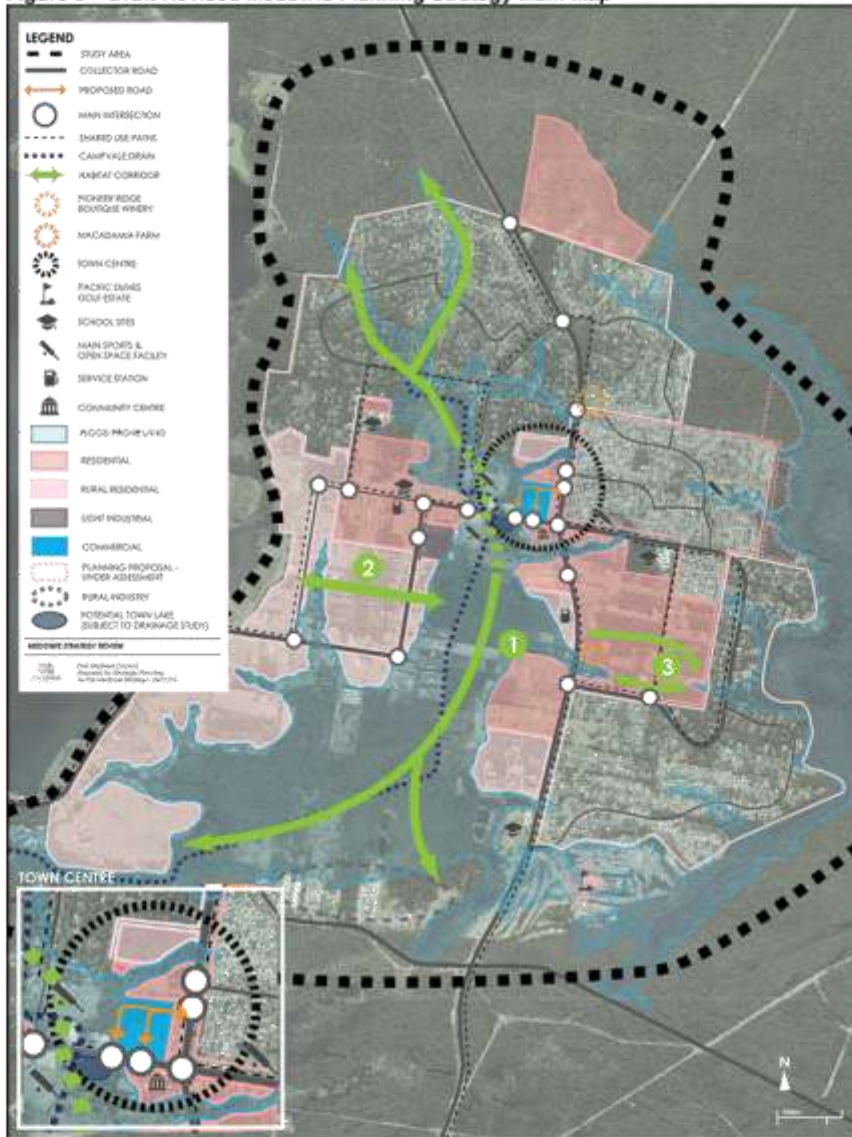


Draft Revised Medowie Planning Strategy & Town Centre Master Plan

The *Draft Revised Medowie Planning Strategy* was endorsed for exhibition by Council in November 2015 and exhibited was from February to April 2016. It maintains the identification of the site for commercial use. Implementation of the *Draft Medowie Town Centre Master Plan* is facilitated by the Planning Proposal by facilitating commercial development and continuing to permit multi dwelling housing.



Figure 6 – Draft Revised Medowie Planning Strategy Main Map



6. Is the planning proposal consistent with applicable State environmental planning policies?

Relevant State Environmental Planning Policies

SEPP 44 Koala Habitat Protection

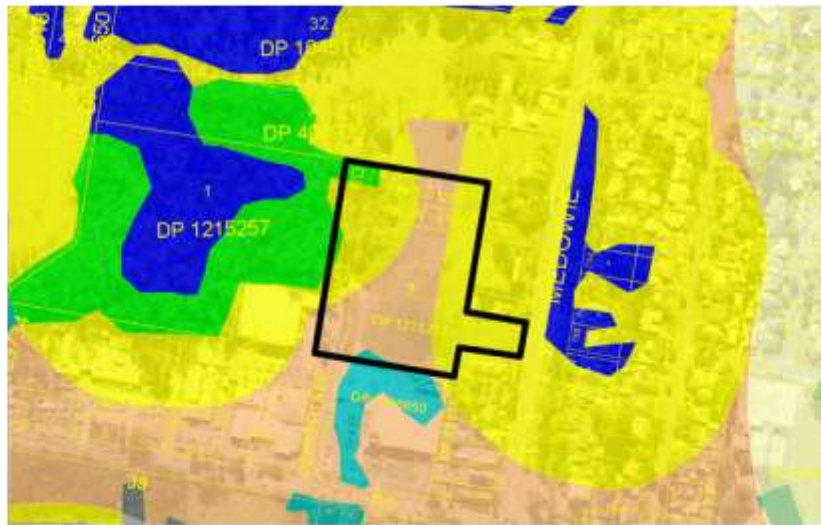
The *Port Stephens Comprehensive Koala Plan of Management (CKPOM)* is applied in Port Stephens LGA for the purposes of implementing SEPP 44.

The relevant objectives of the CKPOM are to:

- Evaluate and rank habitat throughout the LGA;
- Identify priority conservation areas and strategies to protect significant habitat and populations;
- Identify threats;
- Provide for the long-term survival of populations by addressing conservation strategies to effectively address each of the threats;
- Provide for the restoration of degraded areas;
- Ensure that adequate detail is provided with development applications in order to assess, minimise and ameliorate likely impacts;
- Provide guidelines and development standards to protect koalas and habitat; Provide for the effective implementation and monitoring of the CKPOM.

Mapping

Council koala habitat mapping primarily indicates "link over cleared land" (shown light brown) and "100m buffer over cleared land" (shown yellow).



Assessment against the CKPOM Rezoning Performance Criteria is provided below.

a) Not result in development within areas of Preferred Koala Habitat

The site is not shown as Preferred Koala Habitat.

b) Allow for only low impact development within areas of Supplementary Koala Habitat.

The site is not shown as Supplementary Koala Habitat.

c) Minimise the removal of any individuals of PKH food trees, wherever they occur on the site.

The site is cleared of vegetation.

d) Not result in development which would sever koala movement across the site. This should include consideration of the need for maximising tree retention on the site generally and for minimising the likelihood of impediments to safe/unrestricted koala movement.

The site is cleared of native vegetation and Peppertree Road and Muir Street recently located through the site to Meadowie Road. There is an indicative area of Preferred Koala Habitat along Meadowie Road surrounded by residential development.

The consistency of the Planning Proposal with the CKPOM Performance Criteria with particular reference to criteria d) is to be confirmed following a Gateway Determination.

SEPP 55 Remediation of Land

This SEPP aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Assessment

The site is currently zoned R2 Low Density Residential which already permits residential development. The proposed B2 Local Centre Zone also permits residential development in the form of multi-dwelling housing. There is no effective change from the current zoning in terms of any increased risk from any possible contamination because residential development is already permitted. In any case, it is recommended that a preliminary contamination report is undertaken to address the provisions of the SEPP and confirm any potential contamination of the land from previous uses.

The consistency of the Planning Proposal with this SEPP is subject to confirmation following a Gateway Determination.

7. Is the planning proposal consistent with applicable Ministerial Directions?

Relevant Section 117 Ministerial Directions

Direction 1.1 Business and Industrial Zones

Objectives

The objectives of this Direction are to: encourage employment growth in suitable locations; protect employment land in business and industrial zones; and support the viability of identified strategic centres.

When this direction applies

This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).

What a relevant planning authority must do if this direction applies

A planning proposal must:

- give effect to the objectives of this direction,
- retain the areas and locations of existing business and industrial zones,
- not reduce the total potential floor space area for employment uses and related public services in business zones,
- not reduce the total potential floor space area for industrial uses in industrial zones, and
- ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

justified by a strategy which:

- gives consideration to the objective of this direction, and
- identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
- is approved by the Director-General of the Department of Planning, or
- justified by a study (prepared in support of the planning proposal) which gives consideration to the objective of this direction, or
- in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives

consideration to the objective of this direction, or

- of minor significance.

Assessment

This Direction applies because the Planning Proposal seeks to rezone additional land for commercial use. The Planning Proposal is consistent with this Direction because it gives effect to its objectives by encouraging employment growth in the town centre, adding to existing business employment land and supporting the viability of strategic centres. It will create opportunity for additional commercial development within the existing town centre consistent with local strategic planning.

The Planning Proposal is consistent with this Direction.

Direction 1.3 Mining, Petroleum Production and Extractive Industries

Objective

The objective of this Direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

When this direction applies

This direction applies when a relevant planning authority prepares a planning proposal that would have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.

What a relevant planning authority must do if this direction applies

In the preparation of a planning proposal affected by this direction, the relevant planning authority must:

- consult the Director-General of the Department of Primary Industries (DPI) to identify any:
- resources of coal, other minerals, petroleum or extractive material that are of either State or regional significance, and
- existing mines, petroleum production operations or extractive industries occurring in the area subject to the planning proposal, and
- seek advice from the Director-General of DPI on the development potential of resources identified, and
- identify and take into consideration issues likely to lead to land use conflict between other land uses and the development of identified resources.

Where a planning proposal prohibits or restricts development of identified resources or proposes land uses that may create land use conflicts, the

relevant planning authority must:

- provide the Director-General of DPI with a copy of the planning proposal and notification of the relevant provisions,
- allow the Director-General of DPI a period of 40 days from the date of notification to provide in writing any objections to the terms of the planning proposal, and
- include a copy of any objection and supporting information received from the Director-General of DPI with the statement to the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) before undertaking community consultation in satisfaction of section 57 of the Act.

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), that the provisions of the planning proposal that are inconsistent are of minor significance.

Assessment

This Direction applies because the planning proposal will have the effect of restricting the potential development of coal, minerals, petroleum or extractive materials because of future subdivision for rural residential development. Its relevance is limited, however, because the site is already zoned for residential development; is located within an existing town centre; and is surrounded by residential development.

Any inconsistency of the Planning Proposal with this Direction is of minor significance.

Direction 2.1 Environment Protection Zones

Objective

The objective of this Direction is to protect and conserve environmentally sensitive areas.

When this direction applies

This Direction applies when a relevant planning authority prepares a planning proposal.

What a relevant planning authority must do if this direction applies

A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- justified by a strategy which:
 - gives consideration to the objectives of this direction,
 - identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
 - is approved by the Director-General of the Department of Planning, or
- justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or
- in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
- is of minor significance.

Assessment

The land proposed for rezoning is cleared and is not identified for environmental protection purposes. The Planning Proposal excludes the vegetated land on the western side of Peppertree Road.

The Planning Proposal is consistent with this Direction.

Direction 2.3 Heritage Conservation

The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

When this direction applies

This direction applies when a relevant planning authority prepares a planning proposal.

What a relevant planning authority must do if this direction applies

A planning proposal must contain provisions that facilitate the conservation of:

- items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,
- Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and
- Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an

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<p>Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.</p> <p>Consistency</p> <p>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that:</p> <ul style="list-style-type: none"> • the environmental or indigenous heritage significance of the item, area, object or place is conserved by existing or draft environmental planning instruments, legislation, or regulations that apply to the land, or • the provisions of the planning proposal that are inconsistent are of minor significance. <p>Assessment</p> <p>There are no items of European heritage significance on the site or listed in the <i>Port Stephens Local Environmental Plan 2013</i>.</p> <p>The Proponent has not undertaken investigations into Aboriginal heritage at this stage.</p> <p>Referral to the relevant local Aboriginal land council for advice on Aboriginal heritage has not been yet been undertaken. This could be addressed following a Gateway Determination. Future development on the site will be subject to the existing heritage provisions of the <i>Port Stephens Local Environmental Plan 2013</i> and the <i>National Parks and Wildlife Act 1974 (NSW)</i> to manage potential for heritage impacts. Any inconsistency with this Direction may be of minor significance in the planning proposal process under this circumstance.</p> <p>Consistency of the Planning Proposal with this Direction can be confirmed by referral to the NSW Office of Environment and Heritage and Worimi Local Aboriginal Land Council.</p> <p>Consistency of the Planning Proposal with this Direction will be confirmed following a Gateway Determination.</p>
<p>Direction 3.1 Residential Zones</p>
<p>Objectives</p> <p>The objectives of this Direction are: to encourage a variety and choice of housing types to provide for existing and future housing needs; To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services; To minimise the impact of residential development on the environment and resource lands.</p> <p>When this direction applies</p> <p>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p>

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- an existing or proposed residential zone (including the alteration of any existing residential zone boundary),
- any other zone in which significant residential development is permitted or proposed to be permitted.

What a relevant planning authority must do if this direction applies

A planning proposal must include provisions that encourage the provision of housing that will:

- broaden the choice of building types and locations available in the housing market, and
- make more efficient use of existing infrastructure and services, and
- reduce the consumption of land for housing and associated urban development on the urban fringe, and
- be of good design.

A planning proposal must, in relation to land to which this direction applies:

- contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and
- not contain provisions which will reduce the permissible residential density of land.

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- justified by a strategy which:
 - gives consideration to the objective of this direction, and
 - identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
 - is approved by the Director-General of the Department of Planning, or
- justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or
- in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
- of minor significance.

Assessment

This Direction applies because the Planning Proposal seeks to rezone land from R2 Low Density Residential to B2 Local Centre. The Planning Proposal is consistent with the Direction because the proposed B2 Local Centre zone retains the permissibility of multi-dwelling housing on the site.

The Planning Proposal is consistent with this Direction**Direction 3.4 Integrating Land Use and Transport****Objectives**

The objective of this Direction is to ensure that development achieves the following objectives: Improving access to housing, jobs and services by walking, cycling and public transport; Increasing the choice of available transport and reduce dependence on cars; Reducing travel demand including the number of trips generated by the development and the distances travelled, especially by car; Supporting the efficient and viable operation of public transport services; Providing for the efficient movement of freight.

When this direction applies

This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

What a relevant planning authority must do if this direction applies

A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of *Improving Transport Choice – Guidelines for planning and development* (DUAP 2001), and *The Right Place for Business and Services – Planning Policy* (DUAP 2001).

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- justified by a strategy which:
 - gives consideration to the objective of this direction, and
 - identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
 - is approved by the Director-General of the Department of Planning, or
- justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or
- in accordance with the relevant Regional Strategy, Regional Plan or Sub-

Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or

- of minor significance.

Assessment

This Direction applies because the Planning Proposal relates to urban land. The Planning Proposal facilitates the use of alternative modes of transport and gives effect to, and is consistent with, the aims, objectives and principles of *Improving Transport Choice – Guidelines for planning and development* (DUAP 2001) and *The Right Place for Business and Services – Planning Policy* (DUAP 2001) because the site is located within an existing town centre. Its development will reinforce the town centre as a centrally located destination, and encourage and reinforce greater use of alternative means of transport (e.g. walking, cycling, public transport).

The Planning Proposal is consistent with this Direction.

Direction 3.5 Development Near Licensed Aerodromes

Objectives

The objectives of this Direction are: to ensure the effective and safe operation of aerodromes; to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and to ensure development for residential purposes of human occupation, if situated within ANEF contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

When this direction applies

This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.

What a relevant planning authority must do if this direction applies

In the preparation of a planning proposal that sets controls for the development of land in the vicinity of a licensed aerodrome, the relevant planning authority must:

- consult with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome,
- take into consideration the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth,

for land affected by the OLS:

- prepare appropriate development standards, such as height, and
- allow as permissible with consent development types that are compatible with the operation of an aerodrome
- obtain permission from that Department of the Commonwealth, or their delegate, where a planning proposal proposes to allow, as permissible

with consent, development that encroaches above the OLS. This permission must be obtained prior to undertaking community consultation in satisfaction of section 57 of the Act.

A planning proposal must not relevantly rezone land for commercial or industrial purposes where the ANEF is above 30 and must include a provision to ensure that development meets AS 2021 regarding interior noise levels.

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- justified by a strategy which:
 - gives consideration to the objectives of this direction, and
 - identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
 - is approved by the Director-General of the Department of Planning, or
- justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or
- in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
- of minor significance.

Assessment

The application of this Direction to the Planning Proposal is limited. Medowie is located in the general vicinity of RAAF Base Williamstown and the Salt Ash Air Weapons Range. There are no aircraft noise attenuation requirements to meet AS 2021 regarding aircraft noise attenuation. The site is located outside of ANEF contours and within an existing town centre.

The proposed land use change is commercial which is less sensitive to aircraft noise than residential development. The site is not located within an area mapped as requiring affected by requirements for extraneous lighting. Any development of the site would be able to address any potential concern regarding airspace and height triggers or bird strike.

The Planning Proposal is consistent with this Direction.

Direction 4.1 Acid Sulfate Soils

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.

When this direction applies

This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.

What a relevant planning authority must do if this direction applies

The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.

A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director-General prior to undertaking community consultation in satisfaction of section 57 of the Act.

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or
- of minor significance.

Assessment

Acid sulfate soils planning maps identify the site as 'Class 5' requiring consent for works within 500m of adjacent soil classes. This is the lowest risk classification and the application of this Direction is of limited relevance. The Planning Proposal does not propose any intensification of land use because it is already zoned for urban development. This issue can be managed through the existing provisions of the *Port Stephens Local Environmental Plan 2013* and at development application stage (if required).

The Planning Proposal is consistent with this Direction.

Direction 4.4 Planning for Bushfire Protection**Objectives**

The objectives of this Direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.

When this direction applies

This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.

What a relevant planning authority must do if this direction applies

In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.

A planning proposal must:

- have regard to Planning for Bushfire Protection 2006,
- introduce controls that avoid placing inappropriate developments in hazardous areas, and
- ensure that bushfire hazard reduction is not prohibited within the APZ.

A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:

- provide an Asset Protection Zone (APZ) incorporating at a minimum:
- an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and
- an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,
- for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,
- contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,
- contain provisions for adequate water supply for firefighting purposes,
- minimise the perimeter of the area of land interfacing the hazard which

may be developed,

- introduce controls on the placement of combustible materials in the Inner Protection Area.

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the planning proposal.

Assessment

This Direction applies because part of the site is mapped as bushfire prone. Consistency of the Planning Proposal with this Direction can be confirmed by referral to the NSW Rural Fire Service following a Gateway Determination.

Consistency of the Planning Proposal with this Direction is to be confirmed following a Gateway Determination.

Direction 5.1 Implementation of Regional Strategies

The objective of this Direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.

When this direction applies

This direction applies when a relevant planning authority prepares a planning proposal.

What a relevant planning authority must do if this direction applies

Planning proposals must be consistent with a regional strategy released by the Minister for Planning.

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), that the extent of inconsistency with the regional strategy:

is of minor significance, and

the planning proposal achieves the overall intent of the regional strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.

Assessment

Medowie is identified in the *Lower Hunter Regional Strategy* as a proposed urban area with boundaries to be identified through local planning. The site is identified for commercial use in the current *Medowie Strategy*.

The Planning Proposal is consistent with this Direction.

SECTION C – Environmental, Social and Economic Impact

8. 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?

No. The site is cleared of vegetation.

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

Water Management

Improving or maintaining water quality is an important concern for rezoning and development in a large area of Medowie including the site because it is within the drinking water catchment for Grahamstown Dam. Water quality modelling demonstrating neutral or beneficial effect on water quality is proposed post-Gateway Determination. Existing general water quality controls in the *Port Stephens Development Control Plan 2014 Chapter B4 Drainage and Water Quality* will apply to future development. There is also additional surety that future development under the Planning Proposal will meet water quality management requirements at development application stage through the provisions of clause 7.8 *Drinking water catchments* of the *Port Stephens Local Environmental Plan 2013*. The objective of the clause is "...to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering water storages".

The *Medowie Flood Risk Management Study and Plan* (2016) indicates that the critical storm duration for the Campvale Swamp area is 72hr and for Ferodale Road culvert is 9hrs. Any on-site detention basin must consider these two critical durations for designing a future on-site detention system. The design must consider not only the post and predevelopment discharges, but also consider the volume increase due to the proposed development. Further investigations will be undertaken post-Gateway Determination to ensure consistency with the *Medowie Flood Risk Management Study and Plan*.

Traffic and Transport

The site is in a good location to encourage the use of alternative means of transportation. The *Medowie Traffic and Transport Study* (URAP, 2012) and the *Port Stephens Section 94 Development Contributions Plan 2007* identify and make provision for the future intersection upgrade works in the town centre that will become more pressing if the land is rezoned and developed for commercial purposes.

10. Has the planning proposal adequately addressed any social and economic effects?

ITEM 1 - ATTACHMENT 4 RECOMMENDED PLANNING PROPOSAL.

An economic assessment was undertaken for the proposal (refer to *Economic Considerations* RPS December 2015). It concludes that projected population growth in the Medowie Catchment over the next 15 – 20 years is expected to support increased demand for local retail floor space in non-grocery and supermarket related floor space, such as specialty shops, retail service and food service. The proposed B2 Zone will help meet this demand. Further economic analysis is recommended through the preparation of a retail needs assessment for the catchment. This includes an updated retail floor space demand and supply estimate for Medowie utilising expenditure based approach to retail modelling. The proposed B2 Local Centre Zone provides flexibility to cater for both commercial and residential development by continuing to permit multi-dwelling housing.

SECTION D – State and Commonwealth interests**11. Is there adequate public infrastructure for the planning proposal?**

It is proposed to refer the planning proposal to the Hunter Water Corporation for comment on the provision of adequate sewer and water infrastructure. The *Draft Revised Medowie Planning Strategy* provides that future urban development in the Grahamstown Dam Drinking Water Catchment should be connected to the reticulated sewer and water system.

12. What are the views of the State and Commonwealth public authorities consulted in accordance with the gateway determination?

It is proposed to consult with the following government agencies:

- Hunter Water Corporation
- NSW Roads and Maritime Services
- NSW Office of Environment and Heritage
- NSW Rural Fire Service
- Relevant Local Aboriginal Land Council

Part 4 - Mapping

The following mapping amendments are proposed and are included with this Planning Proposal:

- Amending the *Port Stephens Local Environmental Plan 2013* Land Zoning Map (LZN_004B) in accordance with the Draft Land Zoning Map from R2 Low Density Residential to B2 Local Centre.
- Amending the *Port Stephens Local Environmental Plan 2013* Lot Size Map (LSZ_004B) in accordance with the Draft Lot Size Map to remove the minimum lot size provisions on that part of the site to be zoned B2 Local Centre.
- Amending the *Port Stephens Local Environmental Plan 2013* Height of Building Map (HOB_004B) in accordance with the Draft Height of Buildings Map to show the maximum height of building as 8m.

Part 5 - Details of Community Consultation

Community consultation will be undertaken in accordance with a Gateway Determination. It is proposed to exhibit the Planning Proposal for 14 days and to notify adjoining landowners in writing. Notice of the exhibition will be placed in the local newspaper and exhibition material will be available on Council's website and during normal business hours at Council's Administration Building.

Part 6 – Project timeline

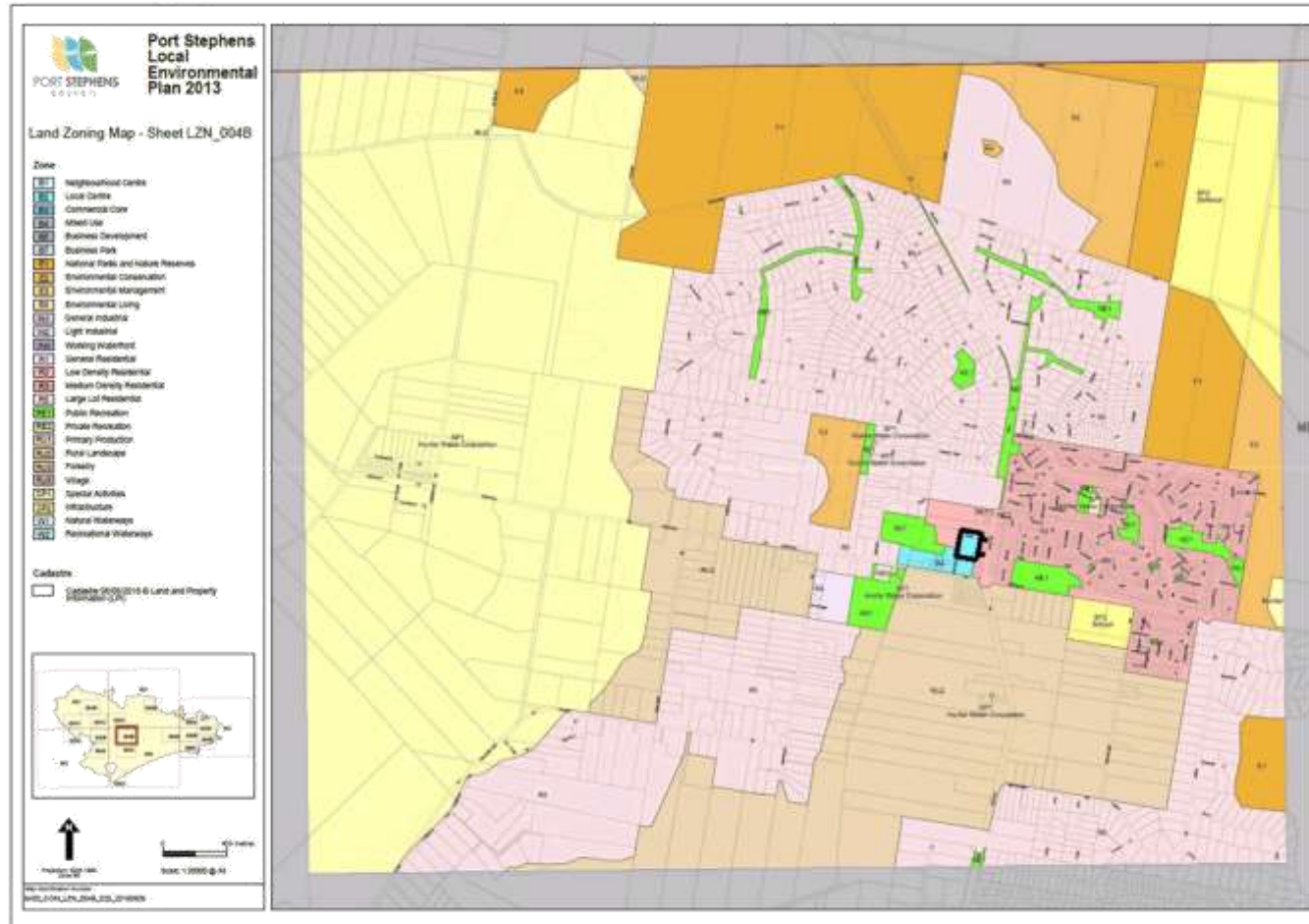
The following timetable is proposed from June to December 2016:

	July	Aug	Sept	Oct	Nov	Dec
<i>Gateway Determination</i>	■					
<i>Additional Information</i>		■				
<i>Consultation & Exhibition</i>			■			
<i>Address Submissions</i>				■		
<i>Council Report</i>					■	
<i>Parliamentary Counsel</i>						■

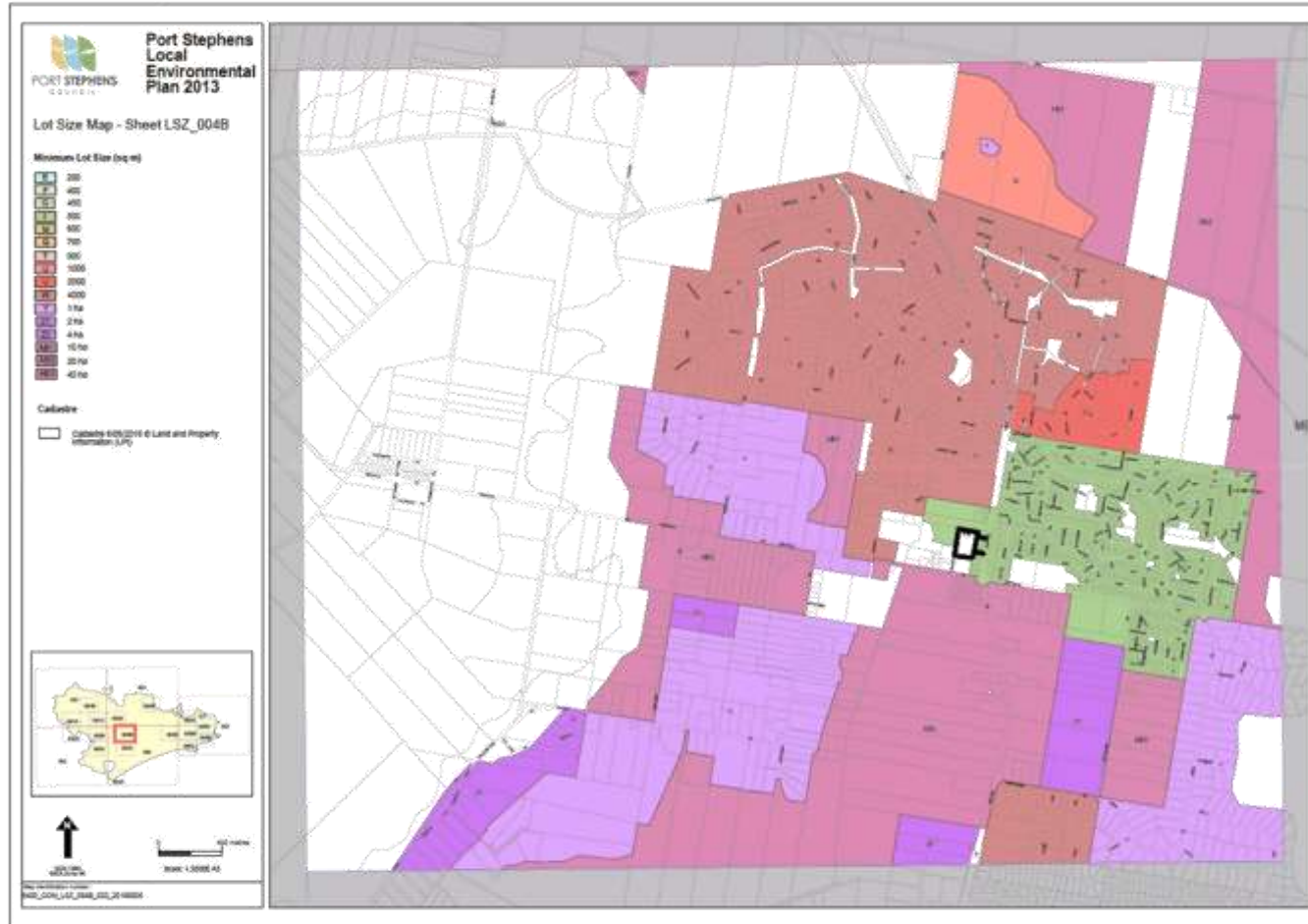
Site Identification Map



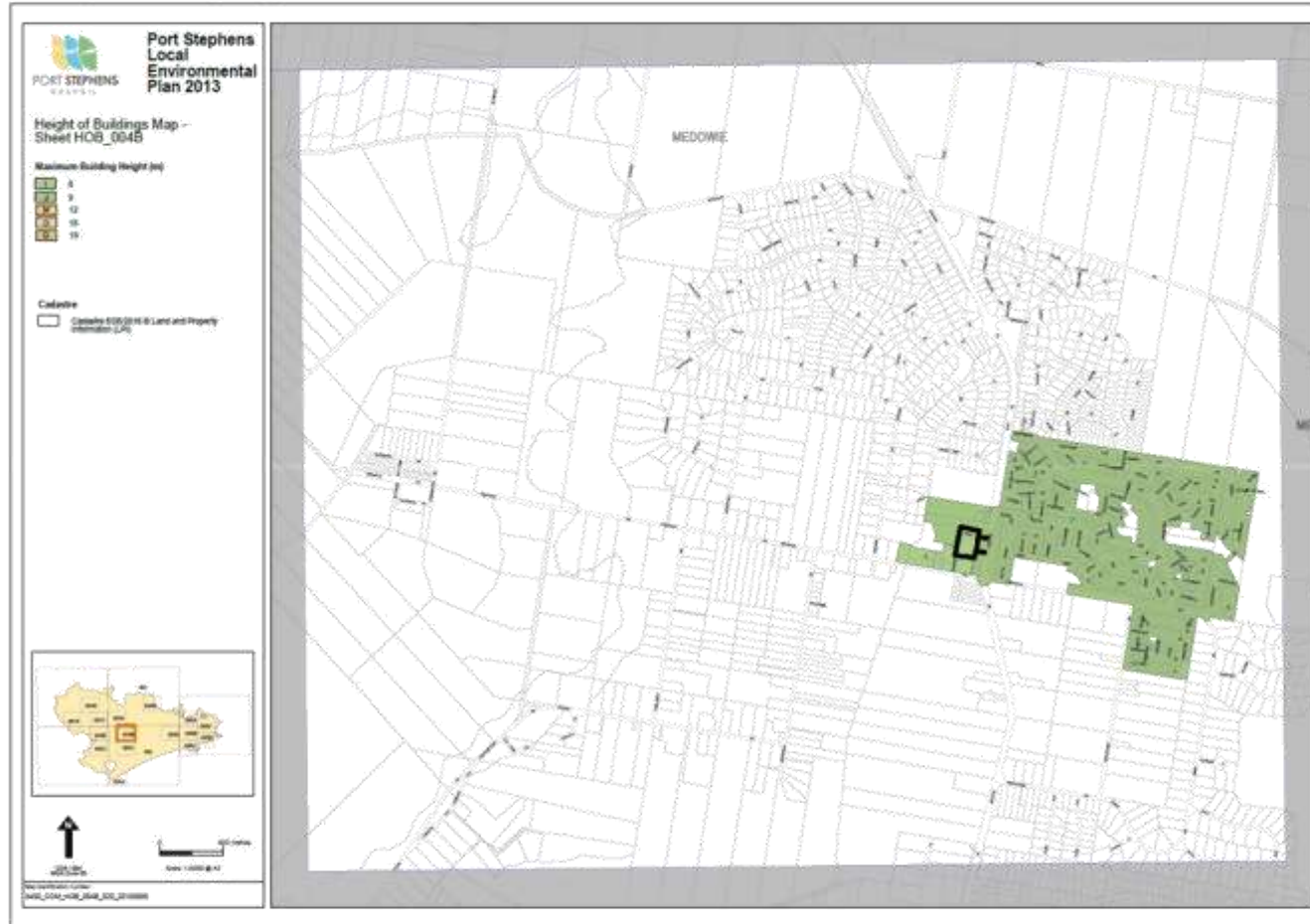
Draft Land Zoning Map



Draft Lot Size Map



Draft Height of Buildings Map





Planning Proposal

Proposed amendment to Port Stephens LEP 2013

Land at Lot 240 DP 1027965, 795 Medowie Road, Medowie

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1	Lodgement with PSC	JP	RD	16-12-2015

Approval for Issue

Name	Signature	Date
Rob Dwyer		16-12-2015



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1.0 Introduction

RPS acts on behalf of the Corporate Services Group of Port Stephens Council in preparing this Planning Proposal for rezoning of land at Medowie Road, Medowie.

The Planning Proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Environment (DP&E) Guidelines, including "A Guide to Preparing Local Environmental Plans" and "A Guide to Preparing Planning Proposals".

The site is within the local government area (LGA) of Port Stephens. The address of the site is 795 Medowie Road, Medowie (Lot 240 DP 1027965) as shown in **Figure 1**. The site has an approximate area of 6 hectares (ha).

This Planning Proposal provides justification to commence rezoning of part of the land (the eastern portion of the site with an approximate area of 4 ha) from R2 Low Density Residential to B2 Local Centre under *Port Stephens Local Environmental Plan 2013* (PS LEP 2013). When approved, the Planning Proposal will enable development (buildings and subdivision), subject to later development consent, for a range of local centre purposes including residential uses. Under the provisions of PS LEP 2013 local centre uses such as commercial premises are not permitted within the R2 Low Density Residential zone. Rezoning the eastern portion of the site to B2 Local Centre will enable a wider variety of local centre uses including commercial, retail as well as residential. The Planning Proposal will also rationalise the remaining R2 Low Density zoned land on the site located immediately to the west of the proposed B2 Local Centre zone. This land is approximately 0.25 ha in size and contains vegetation that is more suitable for incorporation into the area of land within the site currently zoned RE1 Public Recreation.

This Planning Proposal will require updating once Council resolve to support the rezoning subject of this Planning Proposal and once a "gateway" determination is provided by the DP&E.

This Planning Proposal has been prepared using the following information:

- Appendix 1 Preliminary Economic Report (RPS);
- Appendix 2 Biodiversity Report (RPS);
- Appendix 3 Preliminary Flooding and Stormwater Review (GCA Consulting Engineers); and
- Appendix 4 Preliminary Traffic Assessment (SECA Solution).

ITEM 1 - ATTACHMENT 5 PROPONENT PLANNING PROPOSAL.



FILE: FIGURE 1: SITE LOCATION	LOCATION: MEDOWIE	DATUM: GDA 94	DATE: 26/06/2015	LAYOUT REF: 150 - Drafting\MapInfo\Worlds Eco\Report\Figures
		PROJECTION: MGA ZONE 56	PURPOSE: ECOLOGY	VERSION (PLAN BY): A4 (JS)
RPS AUSTRALIA EAST PTY LTD (ABN 44 140 292 762)				

2.0 Part 1 and Part 2 – Objectives, Intended Outcomes and Explanation of Provisions

Part 1: Objective of the proposed Local Environmental Plan amendment

The Planning Proposal aims to amend PS LEP 2013 pursuant to Section 55 of the EP&A Act. The amendments are as follows:

- Amend the land zoning map relating to Lot 240 DP 1027965, 795 Medowie Road, Medowie. The Proposal seeks to rezone part of the lot from R2 Low Density Residential to B2 Local Centre and part of the lot from R2 Low Density Residential to RE1 Public Recreation.
- Amend the lot size map relating to Lot 240 DP 1027965 795 Medowie Road, Medowie. The Proposal seeks to remove minimum lot size requirements from that part of the lot that will be zoned B2 Local Centre.
- Amend the height of building map relating to Lot 240 DP 1027965 795 Medowie Road, Medowie. The Proposal seeks to amend the height of building map to reflect a height of 8 metres for that part of the lot that will be zoned B2 Local Centre.

Part 2: Explanation of the provisions

The Proposal will be implemented by the amendment of the PS LEP 2013 and the provisions are explained in **Table 1**.

Table 1 Explanation of provisions

Amendment Applies to	Explanation of Provision
Land Zoning Map (LZN_004B)	Part Lot 240 DP 1027965 will be zoned to B2 Local Centre and another part Lot 240 DP 1027965 will be zoned to RE1 Public Recreation.
Height of Buildings Map (HOB_004B)	Part Lot 240 DP 1027965 will show a maximum building height of 8 metres.
Lot Size Map (LSZ_004B)	Lot 240 DP 1027965 will show no minimum lot size.

Map layers reflecting the above are contained in Part 4 of the Planning Proposal – refer to **Figure 2**, **Figure 3** and **Figure 4** on pages 13, 14 and 15 respectively.

3.0 Part 3 – Justification for the Planning Proposal

In accordance with the Department of Planning *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*, this section provides a response to the following issues:

- Section A: Need for the Planning Proposal;
- Section B: Relationship to strategic planning frameworks;
- Section C: Environmental, social and economic impact; and
- Section D: State and Commonwealth interests.

3.1 Section A – Need for the Planning Proposal

Is the Planning Proposal a result of any strategic study or report?

The land subject to this Planning Proposal is identified within the Medowie Strategy (2009) adopted by Port Stephens Council. The Strategy guides the management of future population growth and the building of neighbourhoods in Medowie. It establishes a context and policy direction for future rezoning requests and development controls in the Medowie area. It also integrates the location, timing and funding for community facilities and infrastructure.

Within the Medowie Strategy (2009) Lot 240 DP 1027965 is identified as being within the Medowie Town Centre – North area. The Strategy notes that the use of Peppertree road, which abuts the subject site, provides an opportunity for the commercial centre to expand to the north, north-east, east or south-east.

In addition Port Stephens Council has prepared the Draft Medowie Planning Strategy (2015) and Draft Medowie Town Centre Strategy (2015). Both documents encourage residential and commercial uses over the site. The Planning Proposal is considered to be consistent with the objectives of the current and draft documents.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes or is there a better way?

The current zoning of the subject site does not permit commercial development. Amending the zoning of the subject site via this Planning Proposal is the most appropriate way to achieve commercial and other town centre uses consistent with the Medowie Strategy (2009), the Draft Medowie Planning Strategy (2015) and Draft Town Centre Master Plan (2015). Amending the zoning will make available to the market commercial land to meet anticipated growth for commercial activities as Medowie continues its population growth.

3.2 Section B – Relationship to Strategic Planning Framework

Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies?)

Lower Hunter Regional Strategy 2006

The Lower Hunter Regional Strategy is a strategic planning framework to guide the sustainable growth of the lower Hunter over the next 25 years. The Lower Hunter Regional Strategy identifies the Medowie Town Centre and surrounding proposed urban areas, with boundaries of the proposed urban area to be defined through local planning. Whilst the site is not clearly distinguishable in the Lower Hunter Regional Strategy mapping due to the scale used within the maps it is considered that the site because of its location

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Planning Proposal, 795 Medowie Road, Medowie

immediately adjacent to the existing town centre and its current R2 Low Density Residential zoning is within the Lower Hunter Strategy for town centre and urban area expansion.

The future services, housing and employment role of the Medowie Town Centre is not specifically addressed in the Lower Hunter Regional Strategy but is addressed in the Medowie Strategy (2009) and Draft Medowie Planning Strategy (2015).

The Planning Proposal is not contrary to the Lower Hunter Conservation Plan.

Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?Council's Integrated Strategic Plan (Port Stephens 2024)

The Planning Proposal is consistent with Council's Integrated Strategic Plan (2014-2024) which outlines the organisations' aim to manage Council's commercial property portfolio in order to contribute to non-rate revenue. The site is identified within various planning strategies as an opportunity for the expansion of the Medowie Town Centre. The Planning Proposal will allow this opportunity to be explored and prepare the site for sale or development, as determined by market conditions, in order to increase Council's revenue from non-rates sources.

Port Stephens Planning Strategy 2011-2036

The Proposal is consistent with the Port Stephens Planning Strategy. The Strategy states there will be insufficient capacity under current controls to accommodate forecast demand for commercial / retail floor space.

Medowie is identified as a town centre that contains, or should contain shopping and business for the surrounding district, including health and professional services mixed with medium density housing.

Population projections for the sub region indicate population will increase from 8,858 people in 2009 to 15,167 people in 2031, an increase of 6,309 people. Commercial/retail floor space demand is forecast to increase by around 2,000 m² to reach almost 9,500 square metres by 2031. The Strategy identifies insufficient capacity under current controls to accommodate this demand and notes that the Medowie Strategy proposes 12ha of commercial land.

Port Stephens Commercial and Industrial Lands Strategy (2009)

A Preliminary Economic Report by RPS has been prepared for the Planning Proposal and is contained in **Appendix 1**. The Preliminary Economic Report examined the methodology utilised in the Port Stephens Commercial and Industrial Lands Strategy (SGS, 2009) and states that the methodology used within the Strategy as inappropriate for assessing future retail demand for the catchment in the broader Port Stephens area. The use of an employment-based approach by SGS for projecting retail floor space, coupled with the age of the Strategy, means the retail floor space scenarios within the Strategy cannot be relied upon to determine the size of the current and future retail market in the catchment.

Instead, further analysis is recommended through the preparation of a full retail needs assessment for the catchment. This would include updated retail floor space demand and supply estimates for Medowie utilising an industry best practice, expenditure-based approach to retail modelling.

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Medowie Strategy (2009), Draft Medowie Planning Strategy (2015) and Draft Medowie Town Centre Strategy (2015)

The site is identified in the current Medowie Strategy 2009 for commercial use and mixed use. On 24 November 2015 Council resolved to place a revised Draft Medowie Planning Strategy and Draft Town Centre Master Plan on public exhibition for 60 days beginning February 2016.

The Draft Medowie Planning Strategy identifies the flood free part of the site as 'commercial'. The Draft Town Centre Master Plan includes both a residential and additional commercial floor space option.

It is considered that the Planning Proposal is consistent with the Medowie Strategy (2009) as well as being consistent with the Draft Medowie Planning Strategy and Draft Town Centre Master Plan.

Is the Planning Proposal consistent with applicable state environmental planning policies?

There are a number of existing State Environmental Planning Policies (SEPP) that are relevant to the Planning Proposal and an assessment of the criteria of the relevant SEPP's against the Planning Proposal is provided in **Table 2**.

Table 2 Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP 44	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	The Port Stephens Comprehensive Koala Plan of Management (CKPoM) is applied in Port Stephens LGA for the purpose of implementing SEPP 44. A Biodiversity Report is contained in Appendix 2 . The Biodiversity Report notes future actions arising from the proposed rezoning would result in the removal of preferred Koala habitat. The CKPoM recommends the avoidance of such habitat loss to minimise impacts on the Koala. The Biodiversity Report recommends that connectivity to the west be maintained with a minimum width of 100m, thus having the dual benefit of maximising the retention of supplementary habitat. Barrier fencing on the western and possibly northern boundaries is recommended to limit the likelihood of Koala misadventure in the developed landscape (e.g. vehicle strike). The planting of preferred feed tree species, specifically Swamp Mahogany, along the western and northern boundaries is also recommended. The Planning Proposal is considered to be generally consistent with the objectives of the CKPoM.
SEPP 55	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination.	Preliminary investigations of the eastern portion of the site have been undertaken into past use of the site. No contamination was identified on the site. It is suggested that further preliminary contamination investigations be undertaken prior to finalisation of the Planning Proposal.
SEPP Affordable Rental Housing 2009	Provides for a consistent planning regime for the provision of affordable rental housing to facilitate the effective delivery and retention of new affordable rental housing.	The Planning Proposal will not reduce the ability of the land owner to provide land for affordable housing if so desired.
SEPP Housing for Seniors or people with a Disability 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	The Planning Proposal will not reduce the ability of the land owner to provide land for seniors or people with a disability.

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SEPP	Relevance	Consistency and Implications
SEPP Infrastructure	Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	The Planning Proposal will not be inconsistent with this policy.

Is the Planning Proposal consistent with applicable Ministerial Directions (s117 directions)?

The Minister for Planning, under section 117(2) of the EP&A Act, issues directions that relevant planning authorities such as local councils must follow when preparing Planning Proposals for new LEPs. **Table 3** contains a response to each of the directions in relation to the Planning Proposal.

Table 3 Listing of Section 117 Directions

Ministerial Direction	Aim of Direction	Consistency and Implications
1.1 Business and Industrial Zones	The objectives of this direction is to encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	The Planning Proposal is consistent with the Draft Medowie Planning Strategy (2015) and Draft Medowie Town Centre Strategy (2015) which are both scheduled for public exhibition in early 2016. The Planning Proposal will create opportunity for new employment areas adjacent to the existing town centre. It is considered that the Planning Proposal will be consistent with the Draft Strategies once finalised and approved by the Director-General of the Department of Planning.
2.1 Environment Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	The Planning Proposal will rezone approximately 0.25 ha of land to RE 1 Public Recreation consistent with the zone of other environmentally sensitive land within the site. It is considered that future development made permissible by the Planning Proposal (ie the area to be zoned B2 Local Centre) is not likely to have a significant impact on threatened species, populations, ecological communities and their habitats listed under the Threatened Species Conservation Act 1995 (TSC Act) and/or EPBC Act. This statement is based upon the findings of the Biodiversity Report prepared by RPS and contained in Appendix 2 Port Stephens Council has access to a land portfolio that contains Biobanking credits that can be retired in accordance with the NSW Biobanking Scheme.
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The suburb of Medowie does not contain any Federal, State or Local listed heritage (non-indigenous) items or places. An Aboriginal Due Diligence Assessment will be conducted in accordance OEH <i>Due Diligence Guidelines</i> post Gateway Determination.
3.1 Residential Zones	Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and	The Planning Proposal will, by the implementation of the B2 Local Centre zone, broaden the choice of building types and locations available in the area and make more efficient use of existing infrastructure and services. Examples of potential housing

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Ministerial Direction	Aim of Direction	Consistency and Implications
	services, and minimise the impact of residential development on the environment and resource lands.	options on the site are contained within the Draft Town Centre Master Plan and illustrate the potential for more compact housing and quality design.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	The Planning Proposal will not prevent the use of future dwellings for home occupation.
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.	Indicative street locations and intersection designs have been explored through the preparation of the Draft Medowie Planning Strategy and Draft Medowie Town Centre. Nothing within the Planning Proposal will prohibit the integrating of land use and transport.
4.3 Flood Prone Land	The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	A Preliminary Flooding and Stormwater Review was undertaken and is contained in Appendix 3 . The area subject of rezoning is not affected by the 1% AEP flood envelope predicted in the most recent flood study for the area. Flooding is therefore not expected to form a significant constraint on future development within the proposed zone.
4.4 Planning for Bushfire Protection	The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.	The site is identified as Bushfire Prone Land. Specific safe guards and design requirements for future development will be developed once the nature of land uses, street location and street design have progressed.
5.1 Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The proposal is consistent with the objectives contained within the Lower Hunter Regional Strategy.
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	This Planning Proposal seeks a gateway Determination from the DP&E.
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	No site specific planning controls are proposed within this Planning Proposal. The amendments being sought are consistent with existing standard clauses under PS LEP 2013.

3.3 Section C – Environmental, social & economic impact

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?

It is considered that future development made permissible by the Planning Proposal is not likely to have a significant impact on threatened species, populations, ecological communities and their habitats listed under the *Threatened Species Conservation Act 1995* (TSC Act) and/or EPBC Act. This statement is based upon the findings of the Biodiversity Report prepared by RPS and contained in **Appendix 2**.

Key ecological features identified within the Biodiversity Report that may represent constraints for the Planning Proposal include:

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RPS

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- Approximately 1.73 hectares of Swamp Sclerophyll Forest on Coastal Floodplains EEC; and
- Primary Koala Habitat as defined under the Port Stephens Council CKPoM (2002) and The Koala Habitat Atlas Project No 6: Port Stephens LGA. It is noted that an adult Koala was observed within the site.

Section 5A of the EP&A Act lists seven factors to be considered when projects are deemed to have an impact on the habitat for threatened biodiversity listed on the TSC Act. The Assessment of Significance, or Seven Part Test, sets the criteria for determining whether a project is likely to have a significant impact on threatened biodiversity that, if identified, would necessitate the preparation of a Species Impact Statement (SIS). Based upon the findings of the seven part test the Biodiversity Report concludes that a Species Impact Statement prepared under the TSC Act is not required as the proposal is not likely to have a significant impact on listed threatened species, populations, ecological communities and their habitats.

Nevertheless the Biodiversity Report also contains an assessment under the NSW Biodiversity Banking and Offsets Scheme (BioBanking), established under Part 7A of the TSC Act. This assessment has quantified the impacts of the Planning Proposal in terms of ecosystem and species credits. The proposal will generate a total of 118 ecosystem credits for the loss of vegetation zones contained within the site. The proposal will also generate 45 species credits that would be required to meet the offsetting requirements for the Koala.

Port Stephens Council has access to a land portfolio that contains corresponding Biobanking credits that can be retired in accordance with the Biobanking Scheme.

In relation to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), future actions arising from the Planning Proposal would result in the loss of habitat for "Matters of National Environmental Significance" (MNES), notably for Koala habitat. It is considered that these impacts are not likely to have a significant impact on MNES as:

- The area of habitat loss is small;
- Connectivity will be maintained; and
- Habitat availability within the locality will remain relatively unaffected.

However, the EPBC Act Referral guidelines for the vulnerable Koala (DoE 2014) indicate an uncertain impact outcome. In determining if the proposed action should be referred under the EPBC Act, it is recommended that due consideration be given to Section 68(2) of the EPBC Act in light of the conclusion reached in the Significance Assessment (i.e. not likely to have a significant impact on MNES).

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

Stormwater, Flooding and Drainage

A Preliminary Flooding and Stormwater Review has been undertaken by GCA Consulting Engineers and is contained in **Appendix 3**.

The Preliminary Flooding and Stormwater Review states that the area subject of rezoning is not affected by the 1% AEP flood envelope predicted in the most recent flood study for the area. Flooding is therefore not expected to form a significant constraint on future development within the proposed zone.

The area downstream of the site could be considered to have existing stormwater runoff conveyance capacity limitations. It is likely that on-site stormwater detention measures will be required to address any increase in stormwater discharge flow rates from future development. These measures may take a variety of formats and should be integrated with the overall layout and engineering design of the particular development proposals, with a detailed analysis being included with the stormwater management plan to be

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prepared at development application stage. The Preliminary Flooding and Stormwater Review states that provided the on-site detention assessment and design is prepared correctly, development in the proposed zone will not further exacerbate existing downstream stormwater conveyance capacity. The matter is one of a technical / design and financial nature and should not be considered a significant factor when determining if the proposed B2 local centre zone is appropriate for the site.

The site is located within a 'drinking water catchment' area. Future development proposals will need to demonstrate that stormwater runoff will be of equivalent quality (or better than) currently occurs. Hunter Water Corporation will also be provided with the opportunity to comment on development proposals at the Gateway Determination stage of the Planning Proposal and the development application stage. There are many water quality treatment approaches available for consideration as part of future development planning and design. These include custom designed- and constructed measures in addition to a wide range of proprietary treatment solutions.

Provided the water quality treatment measures are designed and selected appropriately, and maintained diligently and in perpetuity, development in the proposed B2 local centre zone will be able to achieve the required water quality treatment targets. Stormwater quality is also a technical / design and financial matter and should not be considered a significant factor when determining if the proposed B2 local centre zone is appropriate for the site.

Access and Traffic

A Preliminary Traffic Assessment has been prepared by SECA Solutions and is contained in **Appendix 4**.

The Preliminary Traffic Assessment reviewed the Traffic and Transport Study for Medowie (2012) and assessed the impact on the road network in Medowie associated with land use changes proposed by the Planning Proposal.

The Traffic and Transport Study for Medowie (2012) study identified road improvements required to facilitate the land use changes. The intersection improvements result in an acceptable Level of Service at the proposed roundabouts and traffic signals.

Although the assumptions of this Planning Proposal were not known for the Traffic and Transport Study for Medowie (2012), it is evident that the subject site has been assessed as a mix of commercial and residential land uses. As such, the following observations are made:

- If a rezoning option to create a predominantly residential land use is made, this would generate lower traffic volumes than what has been assessed in the Traffic and Transport Study for Medowie (2012) and as such the network improvements identified would be sufficient;
- If a rezoning option to create a mixed of commercial and residential land is made (as envisaged by the Planning Proposal), this would generate similar traffic volumes to what has been assessed in the Traffic and Transport Study for Medowie (2012) and as such the network improvements identified would be sufficient; and
- If a rezoning option to create a predominantly commercial land use is made, this would generate higher traffic volumes than what has been assessed in the Traffic and Transport Study for Medowie (2012). The abovementioned study has recommended network improvements that will have considerable spare capacity to cater for the increase in traffic volumes from the two differing land uses and as such the network improvements would be sufficient.

ITEM 1 - ATTACHMENT 5 PROPONENT PLANNING PROPOSAL.

RPS

Planning Proposal, 795 Medowie Road, Medowie

Services

All services will be available to future development on the subject site.

European Heritage

The suburb of Medowie does not contain any Federal, State or Local listed heritage (non-indigenous) items or places.

Aboriginal Archaeology

An Aboriginal Due Diligence Assessment will be conducted in accordance OEH *Due Diligence Guidelines* post Gateway Determination of the Planning Proposal. The Aboriginal Due Diligence Assessment will identify if further investigations are required and if so such investigations will be carried out in accordance with OEH Guidelines.

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

The social impacts of the Planning Proposal include:

- A potential increase in the variety of house types and supply on the site; and
- Possible community reaction to the rezoning during the public exhibition process.

The Planning Proposal will increase the potential for additional housing types thus allowing for a greater mix of household types and age cohorts. Medowie has been the subject of recent strategic planning initiatives, including the Draft Medowie Planning Strategy and the Draft Medowie Town Centre Master Plan. These documents have highlighted the need for greater flexibility in the provision of housing to enable a greater range of household types to be accommodated within Medowie. The Planning Proposal is considered to be consistent with this objective.

The Draft Medowie Planning Strategy and the Draft Medowie Town Centre Master Plan will be placed on public exhibition in February 2016 and will provide an insight to the level of community reaction to the future exhibition of the Planning Proposal.

The economic impacts of the Planning Proposal have been considered in the Preliminary Economic Report contained in **Appendix 1**. Overall it is considered that further commercial and retail development will have a positive impact on the local economy however further analysis is recommended through the preparation of a full retail needs assessment for the catchment. This would include updated retail floor space demand and supply estimates for Medowie utilising an industry best practice, expenditure-based approach to retail modelling.

3.4 Section D – State and Commonwealth Interests**What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

No advice has formally been sought from government agencies or public authorities in relation to the Planning Proposal. However it is anticipated that post "gateway" determination, Council will consult with state public authorities to seek their views.

Is there adequate public infrastructure for the Planning Proposal?

There is adequate public infrastructure within the area to accommodate for the commercial and residential uses envisaged by the Planning Proposal.



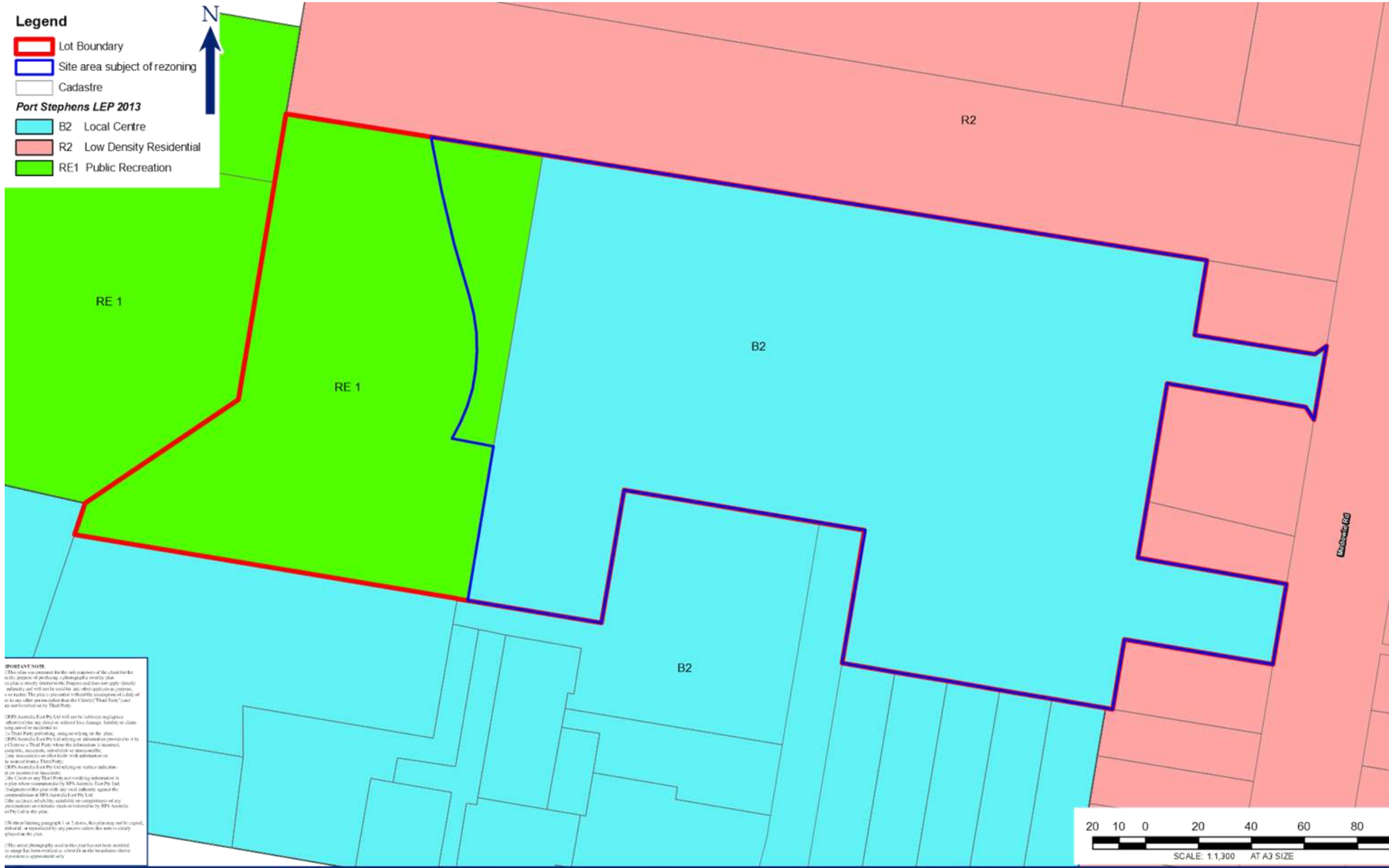
4.0 Part 4 – Mapping

The Planning Proposal will rezone part of the site from R2 Low Density Residential to B2 Local Centre and rezone another part of the site from R2 Low Density Residential to RE1 Public Recreation. As a result the Planning Proposal will necessitate changes to the map layers within PS LEP 2013, specifically the following:

- Land Zoning Map (LZN_004B);
- Height of Buildings Map (HOB_004B); and
- Lot Size Map (LSZ_004B).

Map layers reflecting the proposed changes are provided as **Figure 2**, **Figure 3** and **Figure 4** on the following pages.

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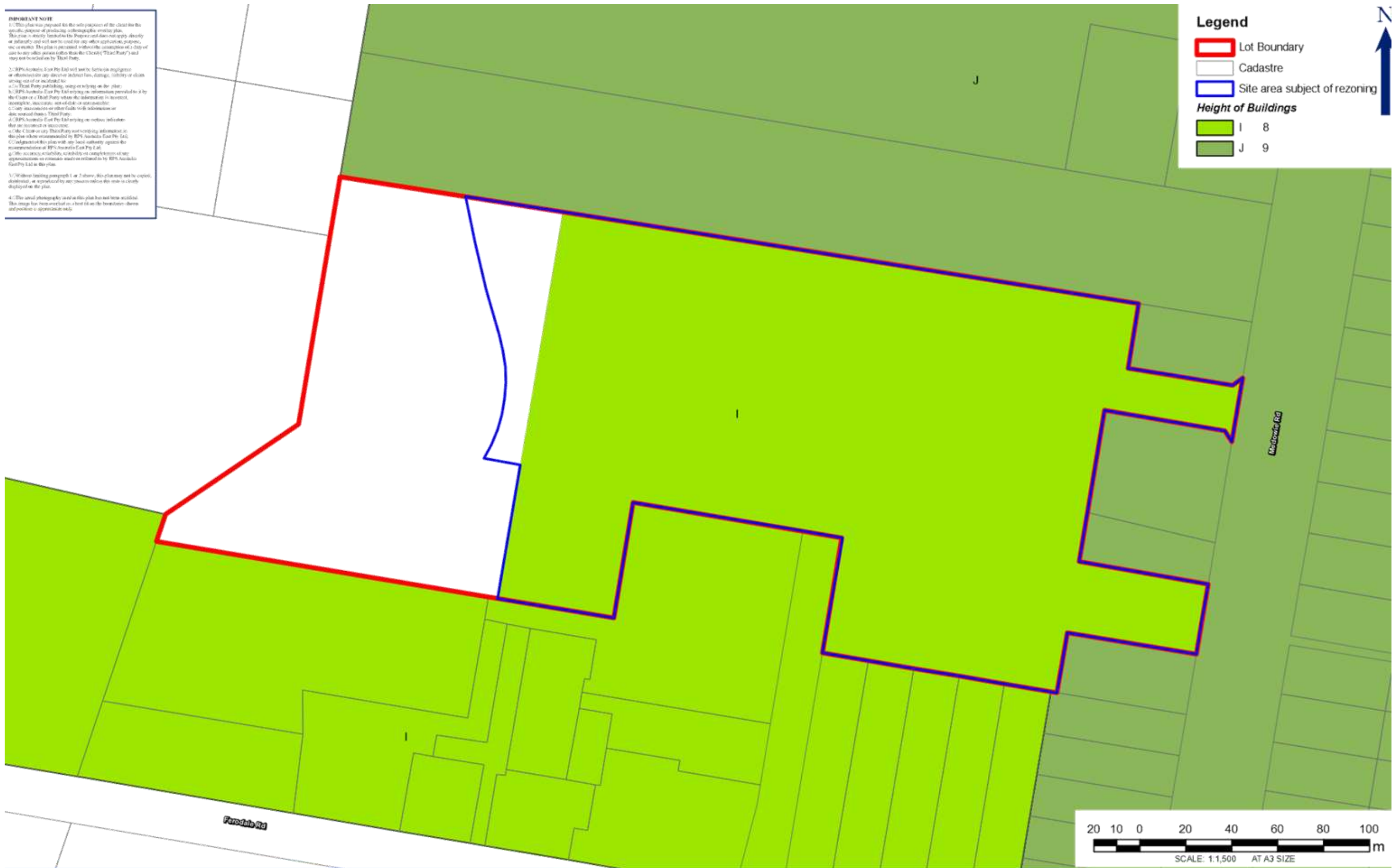
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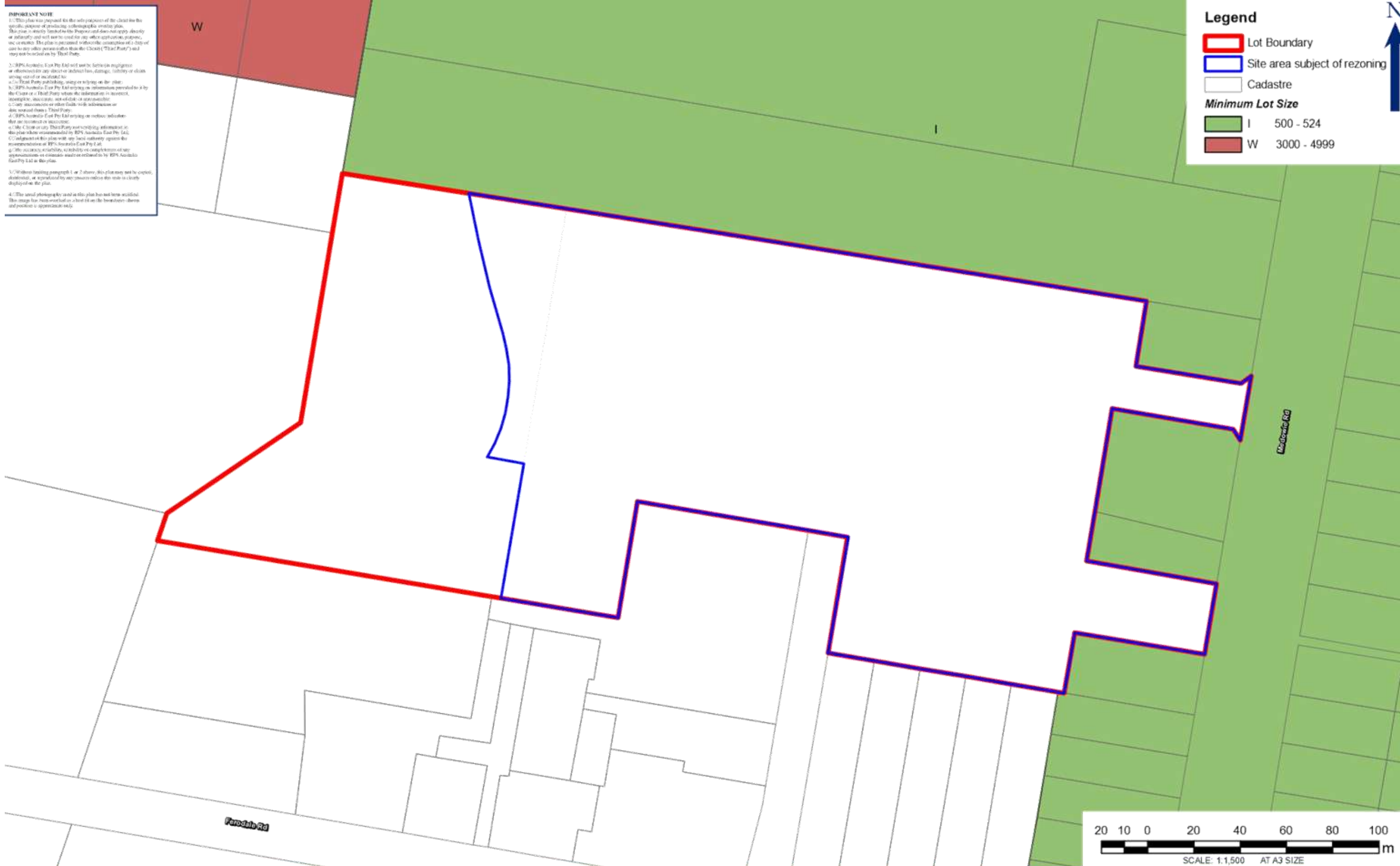
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TITLE : FIGURE 4: PROPOSED MINIMUM LOT SIZE | LOCATION : MEDOWIE | DATUM: GDA 1994 | DATE : 21/12/2015 | VERSION (PLAN BY): AA3 (Natalie.Wood)
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5.0 Part 5 - Community Consultation

The Planning Proposal will likely be exhibited for a minimum of 28 days, in accordance with the requirements of the EP&A Act and in accordance with Sections 5.5.2 and 5.5.3 of the DP&E *"A Guide to Preparing Local Environmental Plans"* and *"A Guide to Preparing Planning Proposals"*.

To engage the local community it is likely the following would be undertaken during public exhibition:

- Notice in the local newspaper;
- Exhibition material and relevant consultation documents to be made available at Council's Administration Building and libraries;
- Consultation documents made available on Council's website; and
- Letters, advising of the Planning Proposal and how to submit comments, will be sent to adjoining landowners and other stakeholders that Council deem relevant to the matter.

At the close of the consultation process, Council officers will consider all submissions received and present a report to Council for their endorsement before proceeding to finalise the Planning Proposal.

The consultation process as outlined above does not prevent any additional consultation measures that may be determined appropriate as part of the "gateway" determination process.



6.0 Part 6 - Project Timeline

The Planning Proposal is intended to follow the timeline set out below:

- Gateway Determination – April 2016
- Completion of required technical information – June 2016
- Government agency consultation – March to June 2016
- Community consultation period – July 2016
- Consideration of submissions and finalise the draft plan - August 2016
- Submission to Department with request to make the plan - October 2016
- Legal drafting and making of the Plan June – November – December 2016

7.0 Conclusion

This Planning Proposal has been prepared to enable the part rezoning of land on Lot 240 DP 1027965 (795) Medowie Road, Medowie. When approved, the Planning Proposal will enable development (buildings and subdivision), subject to later development consent, for a range of local centre purposes including commercial, retail and residential uses.

Specifically the Planning Proposal will rezone 4ha of the 6ha site to B2 Local Centre thus enabling commercial and retail premises that are not permitted within the current R2 Low Density Residential zone. The Planning Proposal will also rationalise the remaining R2 Low Density zoned land on the site located immediately to the west of the proposed B2 Local Centre zone. This land is approximately 0.25 ha in size and contains vegetation that is more suitable for incorporation into the area of land within the site currently zoned RE1 Public Recreation.

The Planning Proposal is consistent with recently prepared Draft Medowie Planning Strategy (2015) and Draft Medowie Town Centre Strategy (2015). Both documents encourage commercial and residential uses over the site.

The site has a number of environmental considerations which will need to be addressed further as the Planning Proposal progresses, but nonetheless, the strategic merit of the site for the proposed uses warrants initial Council resolution of support and a positive "gateway" determination by DP&E. Further information may be required during the Planning Proposal process including:

- A Preliminary contamination assessment covering the entire area identified for rezoning;
- Further retail needs assessment for the Medowie catchment;
- Consideration and finalisation of works under the NSW Biodiversity Banking and Offsets Scheme; and
- The conducting of an Aboriginal Due Diligence Assessment in accordance with the OEH *Due Diligence Guidelines*.

In conclusion the Planning Proposal is consistent with the Draft Medowie Planning Strategy and will require updating once Council resolve to support the Planning Proposal and once a "gateway" determination is provided by the DP&E.



Appendix I
Preliminary Economic Report



Appendix 2

Biodiversity Report



Appendix 3

Preliminary Flooding and Stormwater Review



Appendix 4

Preliminary Traffic Assessment

Fit for the Future



BACKGROUND PAPER Joint Organisations

Towards a new model for regional collaboration

June 2016



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A new model for regional collaboration

Joint Organisations are a vital part of the NSW Government's plan to revitalise and strengthen regional NSW. They will change the way that councils and State Government work together on regional planning and help to provide better services and infrastructure for regional communities through sharing resources, lowering costs and reducing red tape.

This paper outlines our model for Joint Organisations and how we are establishing a network of Joint Organisations to help provide the jobs, housing, transport and infrastructure that regional NSW needs



This initiative is the result of a collaborative partnership during 2015 between the State Government and councils in five pilot regions - Central NSW, Illawarra, Hunter, Namoi and Riverina.

Participants in these Pilot Joint Organisations have worked hard to help us test and shape the Joint Organisations model.

We have learnt from some of the best at regional strategic planning and collaboration and had valuable input from peak sector organisations through the Ministerial Advisory Group's ongoing interest and support for this project. I thank all involved for their hard work and commitment.

Feedback on our *Joint Organisations Emerging Directions Paper* released during the pilot process has also helped refine and enhance the model.

The network of robust, connected Joint Organisations across regional and rural NSW will be strong enough to support consistent regional planning and collaboration but flexible enough to recognise the unique differences of each region.

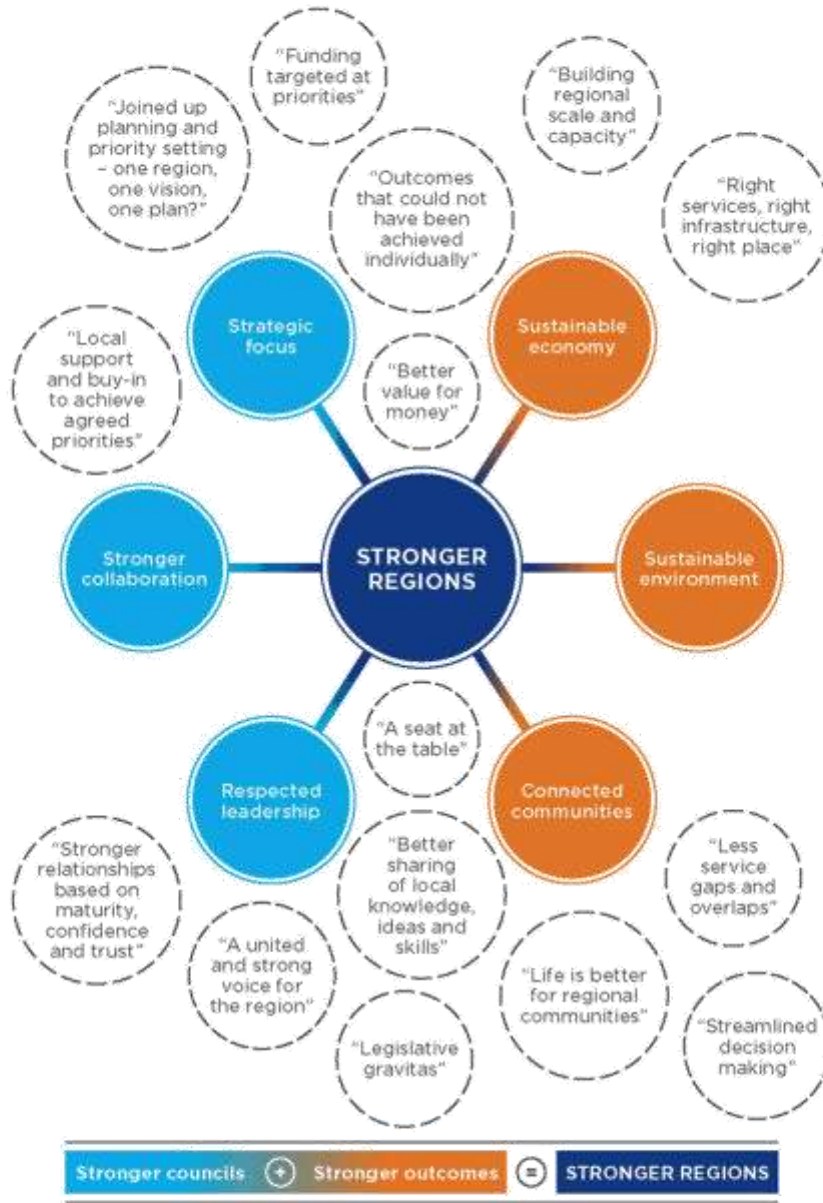
Joint Organisations will play a key role in achieving our vision for every council in NSW to be *Fit for the Future* and will support stronger councils and stronger communities.

I welcome your views to help us to finalise the Joint Organisation model.

A handwritten signature in black ink that reads "Paul Toole".

The Hon Paul Toole MP
Minister for Local Government

Joint Organisations: What will success look like in 10 years?



Summary of proposed Joint Organisation (JO) model

Principles

JOs should:

- have legal status
- be enabled through the Local Government Act and recognised in other relevant laws
- be owned by, and accountable to, member councils rather than be a 'fourth tier' of government
- not impose significant red tape, cost or risks and ensure benefits outweigh costs and risks
- embed collaborative relationships between local government and the State Government, as well as a wide range of other stakeholders and partners
- have a consistent core model with flexible elements
- protect entitlements for council staff through the Local Government (State) Award
- enable significant projects and initiatives, and associated funding and assets, to be managed regionally
- ensure good governance
- serve the best interests of the region and its communities.

Core functions

- Regional strategic planning and priority setting
- Intergovernmental collaboration
- Regional leadership and advocacy.

Optional functions

Optional functions will be enabled, but not defined, by the legislation. These may include regional service delivery or capacity building activities. JOs should determine the best vehicle to undertake optional functions.

A new entity

JOs will be bodies corporate established by proclamation under the Local Government Act. The proclamations will designate JO regions. All general purpose councils within each designated region must be a member of the JO.

The State Government will be an associate member of each JO Board. The legislation will also provide the option for other associate, non-voting members to be on the JO Board such as councils from other JO areas, cross border partners or county councils, where appropriate.

The JO Board must appoint an Executive Officer with appropriate skills based on a flexible standard contract. The JO may also employ additional staff under the Local Government (State) Award.

Representation and operation of the Board

There will be core requirements for a number of key governance aspects to ensure robust, transparent and effective decision making and operation of the Board.

The requirements for membership and operation of the JO Board will be that:

- the Mayor will be the legislated member council representative on the JO, with the JO enabled to appoint additional elected representatives as long as representation remains equal. General Managers will participate in JO Board meetings in an advisory capacity
- an alternate representative, preferably the Deputy Mayor where there is one, may be appointed in certain circumstances where the Mayor cannot be represented, for example, due to illness or leave
- remote or proxy voting may occur in circumstances where it is impractical for the representative to attend in person
- the relevant Department of Premier and Cabinet (DPC) Regional Coordinator will represent the State Government on the Board in an associate, non-voting capacity
- the Board members will be appointed for a two year term, with the Chair chosen by voting representatives of the Board
- the role of Board members and Chair will be modelled on relevant roles of a councillor and mayor in the Local Government Act, plus the need to act in the best interests of the region as a whole.
- all member councils will have equal voting rights
- a simple majority at a meeting at which a quorum is present will be required for a decision to be made. The Chair of the JO will not have a casting vote
- Board members will not be paid sitting fees. However, a one-off increase to the Mayoral fee will be considered as part of the councillor remuneration review to commence in the coming months.

Planning and reporting

JOs will be required to prepare succinct strategic priorities and work plans and produce succinct annual performance reports.

Financial resourcing

The State Government will provide seed funding of \$300,000 per JO. Member councils will fund the ongoing functions of the JO. These contributions will be worked out by each JO using a regionally negotiated formula.

JOs will have a range of other funding opportunities, including the ability to apply for grants and generate income from activities they undertake.

JO formed corporations and other entities

JOs will be enabled to undertake optional functions directly, through member councils and through corporations and/or other entities.

An emerging direction to inform an appropriate model for JOs to form corporations and other entities has been developed and is included for feedback.

Acronyms

DPC – Department of Premier and Cabinet

DPE – Department of Planning and Environment

IP&R – Integrated Planning and Reporting

JO – Joint Organisation

KPIs – Key Performance Indicators

LG Professionals, NSW – Local Government Professionals Australia, NSW Branch

LGNSW – Local Government Association of NSW

MoU – Memorandum of Understanding

OLG – Office of Local Government

PSC – Public Service Commission

RDA – Regional Development Australia

RLG – Regional Leadership Group

ROC – Regional Organisation of Councils

USU – United Services Union



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1. Introduction

Enabling stronger collaboration

Joint Organisations (JOs) are a key part of the State Government’s local government reform program to support regional and rural councils to become *Fit for the Future*.

JOs will enable councils to play a more active role in regional planning and work in new ways with each other, the State Government and others to achieve better progress against community priorities such as better access to jobs, housing and transport.

Building Joint Organisations

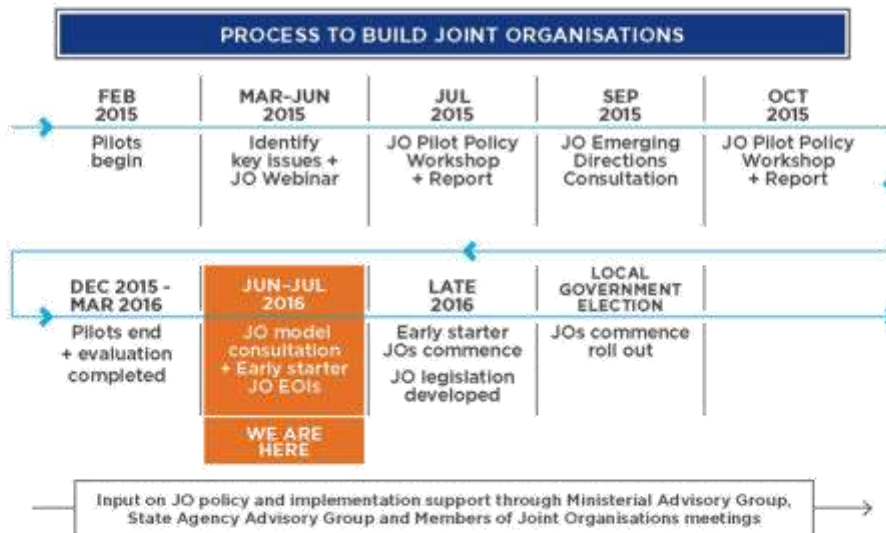


Throughout 2015 JOs have been piloted in different ways in five separate regions: Central NSW, Hunter, Illawarra, Namoi and Riverina. Each region has piloted a slightly different model to test and reflect the different working relationships and priorities of their region.

Case studies highlighting the achievements of the Pilot regions are included throughout the document.

The process for building the JO model is shown in Figure 1.

Figure 1 - Process to build the JO model



Stakeholder input was provided regularly during the pilot period through:

- **Ministerial Advisory Group** – provided expert input from key stakeholders including Local Government NSW (LGNSW), Local Government Professionals Australia, NSW Branch (LG Professionals, NSW) and the United Services Union (USU)
- **Members of JOs** – members of JO pilot regions shared experiences, models and good practice
- **State Agency Advisory Group** – guided State government input and ensured agency readiness to work with and support JOs
- **Key stakeholder policy workshops** – focused input to guide development of the JO model from representatives from Pilot JOs, State agencies, LGNSW, LG Professionals NSW and USU
- **Regular pilot teleconferences** – between Pilot JO Executive Officers and Office of Local Government (the OLG) staff to discuss pilot progress, issues and policy matters.

This paper consolidates the experiences of the pilot conducted in 2015, consultation feedback and early evaluation findings to confirm and further define key elements of the core JO model.

Acknowledgements

As the pilot process draws to a close, the Minister and the OLG acknowledge the considerable work undertaken by the Pilot JOs. The OLG would particularly like to thank Mayors, Councillors and General Managers from all member councils, Executive Officers of the Pilot JOs and Regional Coordinators from the Department of Premier and Cabinet (DPC) for their significant contribution to the development of the JO model. The OLG also thanks members of the State Agency Advisory Group for their guidance and input. Finally, the OLG acknowledges the professional work and expertise provided by Elton Consulting in facilitating a series of key stakeholder workshops to initiate the Pilot JOs and to discuss and refine the JO model.



Have your say

The NSW Government would like to hear what you think about the ideas outlined in this paper.

This paper provides detail about key elements of the JO model to supplement an overview paper, *Joint Organisations: Towards a new model for regional collaboration*. It also contains information about how implementation will be supported, including tools to support collaboration and build councils' capacity to participate as regional partners in a JO.

Finally, the paper proposes how JOs might establish corporations or other 'JO-formed entities', to carry out optional functions, such as service delivery, should member councils want this option.

How to give your feedback

Submissions can be made using an online feedback form by 5pm on **Friday 15 July 2016**

Go to www.fitforthefuture.nsw.gov.au and follow the link to the Joint Organisations webpage. The JO webpage also contains the short overview paper and other information about JOs and the JO Pilots.

Alternatively go to the NSW Government's Have Your Say website at www.haveyoursay.nsw.gov.au and follow the link to the JO documents.

Written submissions containing additional information can be attached to the online feedback form.



Next steps

Feedback on this paper and the outcomes of an independent evaluation of the effectiveness of the pilots will inform the JO model to be finalised in 2016. We will then develop legislation, guidance and tools to support implementation from the next local government elections.

Further information

For further information please contact the Joint Organisations Team in the Office of Local Government on 02 4428 4100 or via email to jointorganisations@olg.nsw.gov.au.

Consultation feedback

A *Joint Organisations Emerging Directions Paper* was released in September 2015 seeking stakeholder views on emerging directions for core elements of the JO model.

Who did we hear from?

The Office received 56 submissions on the paper. Most (75%) were from a diverse mix of councils, Pilot JOs and Regional Organisations of Councils (ROCs) across all regions anticipated to form a JO.

Submissions were also received from industry peak bodies, metropolitan councils and others.

Organisations providing a submission are listed in Appendix 1. These submissions are available on the JO webpage at www.fitforthefuture.nsw.gov.au.

What did we hear?

There was general support for the purpose of JOs and the emerging directions for core elements of the model expressed in three quarters (75%) of submissions. These identified the potential for JOs to significantly improve the way the three different levels of government and others work together on shared priorities to achieve better community outcomes. While supportive, some asked for more detail or had concerns about timeframes or a few specific governance or resourcing directions.

"LGNSW sees JOs as a positive collaborative model to assist councils to achieve strategic capacity, to improve relations between State and Local Government and to increase planning and advocacy for issues which cross council boundaries".
Local Government NSW

Of the rest, most sought clarification or asked questions about the proposed model, such as more detail about the core functions or about the nature of the relationship between the JOs and member councils.

Only five submissions did not support either the reason for establishing JOs or key emerging directions. These submissions expressed concerns about the potential impact on local council functions, creating unnecessary red tape or a 'fourth tier' of government, or the emerging

"In the short amount of time that the pilot regions have been in operation and the unknown recommendations yet to be considered from the local government reform process, it is difficult to offer a carefully considered and comprehensive response to this entire discussion paper." ORANA ROC

direction for how the entity will be enabled by legislation.

Consultation and evaluation feedback to date has helped to shape key elements of the JO model.

Specific feedback on each of the elements of the JO model is in the sections below, together with a proposed way forward. This includes further detail or, where required, a suggested modification to the JO model.

2. Purpose of Joint Organisations

Stronger councils, stronger communities

JOs are a key component of the State Government's commitment to achieve strong, modern local government in NSW. JOs will provide a forum for local councils, the State and others to work together on regional strategic priorities.

JOs will make it easier to initiate and manage projects across council boundaries – projects in important areas such as jobs, education, housing, roads, infrastructure and other facilities and services that regional and rural communities need.

The Government recognises that one size does not fit all for regional communities, so JOs are being built with a core model to foster consistent collaboration, with flexible elements to meet individual community needs. Importantly, they will operate with minimal cost and red tape.

"JOs have a strong ability to assist the State, Federal and Local government to truly align priorities, funding and responsibilities to achieve far more strategic outcomes."
Urana Shire Council

JOs will build on the successes of the past, including the valuable role played by a number of ROCs over many years. While the main focus for JOs is on regional collaboration, strategic planning and advocacy, councils in a region may decide that JOs are also the best vehicle to build member councils' organisational capacity and deliver shared services.

The key enabling features of JOs in comparison to ROCs are shown in Table 1.

Case study

Regional growth planning

To guide NSW regions to sustainable growth over the next 20 years, the Department of Planning and Environment (DPE) has been leading work to develop Regional Plans across regional NSW. The Plans provide a strong framework for sustainable growth across the regions over the next 20 years, including delivery of housing, jobs, transport and infrastructure needed to support investment in the regions.

Most Pilot JOs worked with DPE during the pilot process on developing these plans as a strategic priority for their JO and region.

Work has included setting KPIs for collaboration, establishing working groups and technical committees in the JO, identifying and agreeing key priorities, as well as developing actions and lead responsibilities to deliver on these.

The Regional Plans are at various stages of development. The process has provided valuable insights and lessons to inform process design, approaches to collaboration, negotiation of shared priorities, actions and delegations.

An example of the important role played by JOs in this process is found in the Illawarra Shoalhaven region. The Illawarra Shoalhaven Regional Plan has recently been released, with delivery of the plans to be overseen by a Coordination Monitoring Committee including representatives of key State agencies and JOs. This joint committee approach is being made possible by the establishment of JOs.

Table 1 Key enabling features of JOs in comparison to ROCs

	ROCs	JOs
Legal status	<ul style="list-style-type: none"> • Lack legal status and recognition • Legal impediments to working regionally • Variable entity types and operating environments 	<ul style="list-style-type: none"> • Have legal status and strong credibility to partner with State/others • Legislative powers to undertake functions on behalf of member councils regionally, where decided • Consistent body corporate entity and operating environment through <i>Local Government Act 1993</i>
Functions	<ul style="list-style-type: none"> • Variable, can change over time • Based on local and regional priorities 	<ul style="list-style-type: none"> • Consistent core functions • Flexible optional functions • Based on shared regional priorities
Inter-governmental collaboration	<ul style="list-style-type: none"> • Occurs on an ad hoc basis • Varies between regions 	<ul style="list-style-type: none"> • Structured and consistent across regions • Strong commitment from both local and State Government to collaborate • Embedded in legislation
Boundaries	<ul style="list-style-type: none"> • Fluid • Based on council interest in membership over time 	<ul style="list-style-type: none"> • Defined • Align with/nest within State Government strategic planning boundaries
Membership	<ul style="list-style-type: none"> • Councils may opt in and out based on interest and need 	<ul style="list-style-type: none"> • All councils are members of one JO for core functions • Flexibility for associate membership for important partners and/or to facilitate optional functions that occur across boundaries
Finance and assets	<ul style="list-style-type: none"> • May be unable to tender, employ staff or apply for grants regionally • May have limits on income, expenditure, staffing and asset ownership 	<ul style="list-style-type: none"> • Enabled to tender, employ staff and apply for grants regionally • Enabled to manage income, expenditure, staff and assets, potentially through JO-formed corporations or other entities
Planning, priority setting and reporting	<ul style="list-style-type: none"> • Variable, depending on legal status • May include separate corporate reporting requirements 	<ul style="list-style-type: none"> • Streamlined planning, priority setting and reporting integrated within local government IP&R framework

Integrating regional strategic planning

Local and State Government both have a vital role to play in regional strategic planning.

JOs will provide a new opportunity to establish a shared regional governance and planning framework effectively joining up State and local government priorities, as shown in **Figure 2** on the following page.

This figure demonstrates how the State Government will continue to progress State and Premier's Priorities regionally and how other State planning and priority setting strategies will be coordinated and driven through Regional Leadership Groups (RLGs).

It also shows how JOs will strengthen the regional platform for local government by elevating shared local priorities - identified in the Community Strategic Plans (CSPs) of member councils - into a regional vision and core strategic priorities shared by all member councils of a JO.

To better connect the two levels of Government, the JO model provides for DPC Regional Coordinators to attend JO Board meetings in a non-voting capacity and help JOs identify which top regional priorities for the JO align with those of the State Government. JO Executive Officers, as members of RLGs, will also attend and be part of important RLG discussions.

Beyond this, the pilot process and consultation feedback identified a need to more fundamentally transform the way that all levels of government work together regionally.

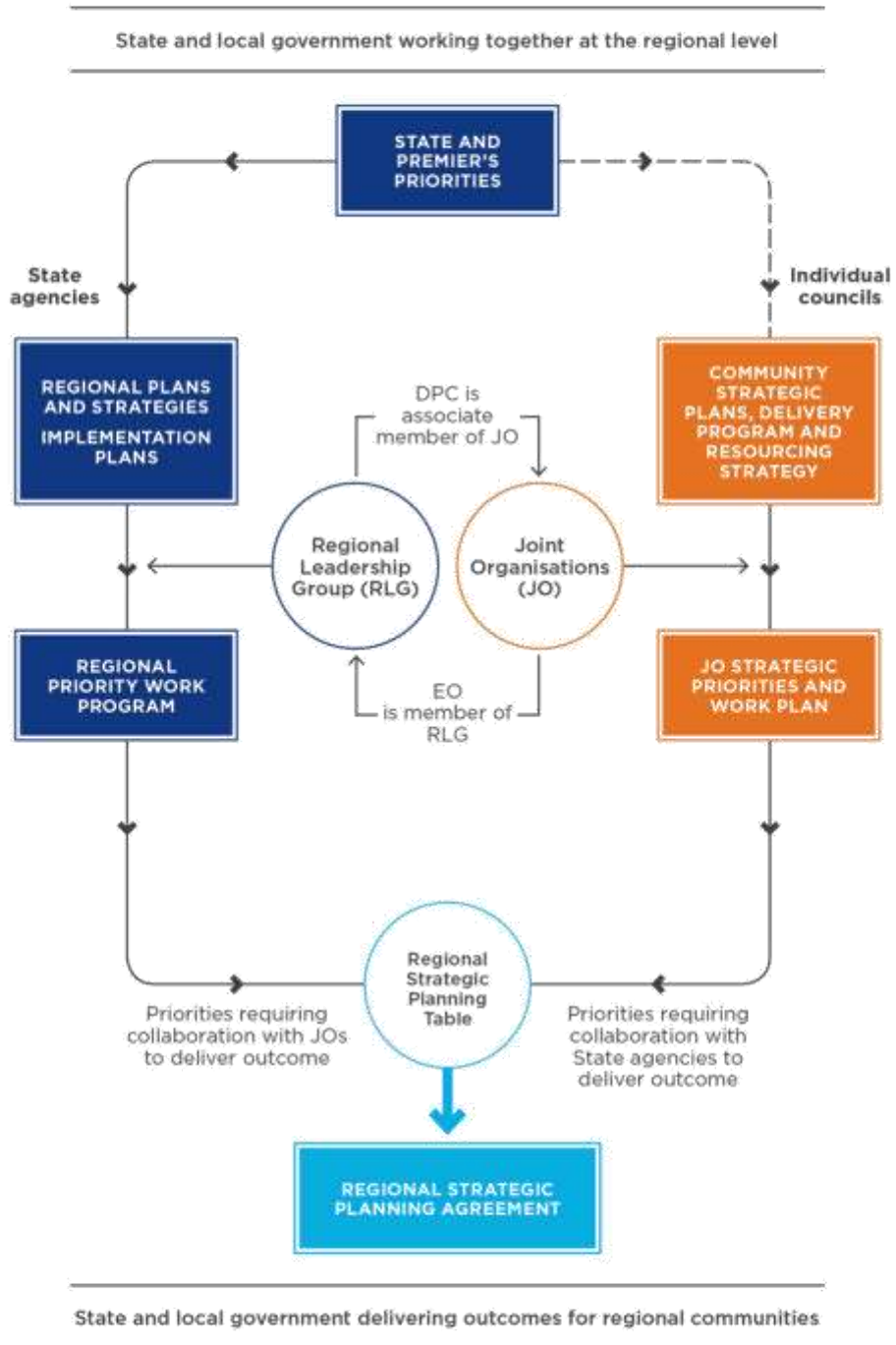
Figure 2 also shows an option for a new, facilitated 'Regional Strategic Planning Table' at which local government, the State Government and others come together as equals to identify common priorities and discuss how these shared priorities may best be achieved. The State Government regional forum and plans are shown to the left of the figure (dark blue), local government to the right (orange) and the proposed joint forum and plan to the bottom (aqua).

While further development work is required, outcomes could be a Regional Strategic Planning Agreement, which could be jointly signed by a senior representative of the State Government and the Chair of the JO, committing agencies and the JO to action on agreed regional priorities within specified timeframes.

Further information about the way in which State Government representatives will work closely with JOs is contained in Sections 4 and 7 of this paper.

Key questions	<p>This is the first time that a consistent, formal process for integrating regional strategic planning across levels of government has been proposed.</p> <p>What benefits can you see from a Regional Strategic Planning Agreement signed jointly by the NSW Government and the Chair of the JO?</p>
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Figure 2 Shared regional governance and planning framework for State and local government



3. Guiding principles

What did the Emerging Directions Paper say?

The Emerging Directions Paper proposed some principles to guide the establishment and operation of JOs. These principles had been refined through discussions with Pilot JOs.

What was the feedback?

Most (90%) responses strongly supported the proposed principles. Most strongly supported were principles to ensure a flexible model, ensure accountability to member councils and ensure JOs are not a 'fourth tier' of government.

Most also agreed that member councils need to maintain independent status and control of their JOs, and that councils should still be able to deal directly with agencies. Further, councils felt strongly that JOs should not simply become vehicles for State service delivery.

What is the proposed way forward?

The proposed principles have been refined to capture the key ideas expressed in feedback.

The model reflects the feedback from councils that JOs need to be directed by, and accountable to, their member councils, and makes explicit the concept of 'ownership'. A change from the original proposal has also been made to reflect feedback that the principles should include the need to manage risks potentially arising from JOs, such as major cost overruns, loss of council sovereignty or focussing on optional service functions at the expense of core strategic functions.

A number of councils emphasised the principle that the benefits of JOs need to be over and above those provided by existing collaboration but noted that this could be difficult to measure. Some responses also suggested changes to original wording or clarify issues of importance, such as protecting staff entitlements.

The refined principles clarify these matters, with refined elements in bold. These principles are that JOs should:

- have legal status
- be enabled through the Local Government Act and recognised in other relevant laws
- be **owned by, and accountable to, member councils** rather than a 'fourth tier' of government
- not impose significant red tape, cost **or risks** and ensure benefits outweigh costs **and risks**
- embed collaborative relationships between local government and the State Government, as well as a wide range of other stakeholders and partners
- have a consistent core with flexible elements
- protect entitlements for council staff **through the Local Government (State) Award**
- enable significant projects and initiatives, and associated funding and assets, to be managed regionally
- ensure good governance
- serve the best interests of the region **and its communities**.

The principles will be reflected in the new Local Government Act provisions on JOs.

4. Core Functions

What did the Emerging Directions Paper say?

The Emerging Directions Paper proposed three core functions for JOs:

- regional strategic planning and priority setting
- intergovernmental collaboration
- regional leadership and advocacy.

These functions are consistent with relevant recommendations of the Independent Local Government Review Panel (the Panel).

They have also been sufficiently tested through the pilot process to ensure appropriate scope and flexibility for the JOs to partner effectively with the State.

What was the feedback?

There was strong support for the emerging directions for core functions in most (80%) submissions, including from all regions in which JOs are to be implemented.

A number of submissions asked for more information on core functions, including:

- defining core functions
- how councils refer an issue to a JO
- tools to support core functions
- tools to assist State agency work with JOs.

Several councils were concerned that the core functions may not necessarily build member councils' capacity for financial sustainability or service delivery.

What is the proposed way forward?

The core functions of JOs will remain:

- regional strategic planning and priority setting
- intergovernmental collaboration
- regional leadership and advocacy.

To underpin their importance, the core functions will be embedded in the Local Government Act. This will ensure all JOs have clear responsibility for the core functions. Optional functions will be enabled so that JOs may build member council capacity to help address financial sustainability issues (see Section 5 of this paper).

"JOs should be enabled to undertake regional water and sewerage planning where tangible benefits can be demonstrated"
Water Directorate

Member councils will still undertake local strategic planning, collaboration, leadership and advocacy and may have individual relationships with the State on all of these matters.

Further information on each core function is in the following sub-sections. Definitions and guidance materials will be further developed, in consultation with the sector, during the implementation planning in 2016.

"[The core functions] ... are not only consistent with the recommendations of the ILGRP, but have also been sufficiently tested through the pilot process to possess both appropriate scope and flexibility for the JOs to partner effectively with the State."
Albury City Council

"The overwhelming issue for Mid North Coast councils is financial sustainability. The JO model's nominated core functions do not directly respond to this priority."

Case Study

Namoi Councils Pilot JO – Namoi Regional Investment Prospectus

Attracting job growth and private investment into the Namoi region is a critical issue but research was lacking about which industries and markets to target and the potential economic growth that could be achieved.

To address this issue, Namoi Councils JO, in partnership with RDA Northern Inland, began work on developing an Investment Prospectus, with input from DPC and the Department of Industry.

As a first step, a case study on *Shaping the Future in the Namoi* was undertaken by the Regional Australia Institute using JO Pilot seed funding provided by the NSW Government. The case study:

- identified six key 'future factors' that will have the greatest influence on the region
- provided scenario modelling results to help the JO articulate the importance of these factors to the future of the region, and
- concluded that direct intervention will expand the regional economy by an additional \$900 million by 2030 on top of potential likely economic growth of approximately \$2 billion, and provided a strategy for the JO to lead a response on factors the JO and others can proactively influence.

Based on this groundwork the Investment Prospectus, due for completion by mid-2016, will highlight the competitive advantages of the region, primarily in agriculture, as well as business strengths and opportunities in the supply chain for future investors.

The Prospectus will focus on new markets in China to improve Namoi's competitive advantage in primary production and lead to new global trade. It will also engage beef, lamb and grain primary producers directly with nominated Chinese provinces to direct supply these products.

This work has real potential to boost the economy of the Namoi region to the benefit of the entire community.



Regional strategic planning and priority setting

What did the Emerging Directions Paper say?

Regional strategic planning was identified as one of the core functions of a JO from the beginning of the pilot process. The Emerging Directions Paper explicitly added 'priority setting' to this core function.

What was the feedback?

The pilot process and feedback to date has highlighted that planning and priority setting for JOs needs to focus on issues of the highest strategic importance for a region. Examples include stimulating jobs growth, securing a safe and sustainable drinking water supply or improving freight transport routes.

It must also provide a stronger link between the work of councils and State agencies without 'reinventing the wheel' or creating red tape.

"Need more information on regional planning and priority setting around how a council's decision making is impacted by JOs"
Port-Macquarie Hastings Council

What do we mean by regional strategic planning and priority setting?

Definition Regional strategic planning and priority setting for JOs is about developing a regional vision and the top regional priorities to achieve that vision, supported by a clear set of strategies to deliver the vision in collaboration with others.

This function is *not* about developing a new and detailed regional strategic plan. Regional priorities are likely to already exist in various strategic planning documents. Nor is it about developing a regional land use plan or a list of regional infrastructure projects, as some have suggested.

"To optimise regional planning and priority setting, structures need to be put in place that seat both Local and State Government at the same table"
Central NSW Pilot JO

This function *is* about JOs drawing their top regional priorities together, for the first time, into one place and providing a consistent way to work with key partners across levels of government to achieve them.

Agreed priorities are likely to be those elevated from existing plans already based on significant planning, consultation and a deep knowledge of the region. These may include CSPs of member councils and other key documents such as Regional Plans and

Regional Transport Plans.

Why is this an important function for Joint Organisations?

Regional planning and priority setting will support member councils' planning and help connect local plans with those undertaken by other levels of government, which usually occurs regionally. Many Commonwealth Government projects are delivered regionally through Regional Development Australia (RDA) Boards.

The State Government has 30 State Priorities, including 12 Premier's Priorities, which replace the State Plan NSW 2021 based on five key areas: strong economy and budget; infrastructure; protecting the vulnerable; better service delivery; and community safety. Work is also progressing in DPC to link regional targets to the State and Premier's Priorities, where appropriate.

Planning regionally will provide earlier intergovernmental engagement and help to identify important service and infrastructure gaps and overlaps, align priorities and better coordinate effort to achieve better community outcomes. It will also provide member councils with a stronger platform from which to secure partnerships and funding to deliver their top priorities.

What tools will support regional strategic planning and priority setting?

The pilot JOs trialled a simple planning and priority setting tool, a 'Statement of Regional Strategic Priorities'. The Statements were based on an audit of CSPs, other plans for the region and targeted stakeholder workshops. They draw top JO priorities together in one place in a succinct and clear way. They are published at: <http://www.fitforthefuture.nsw.gov.au/joint-organisations>.

Pilot JO feedback is that preparing the Statements was useful in developing and talking to others about their strategic work plan and program but their format should be flexible to suit regional needs.

Figure 3 - Regional strategic planning and priority setting cycle



Pilot JOs also found the following regional strategic planning tools useful:

- **Scenario planning tools** – forecast and prepare responses to impacts of growth and change
- **Multi criteria analysis tools** – enable evidence based prioritisation of regional infrastructure
- **Cost-benefit analyses** –support business cases for projects.

What is the way proposed forward?

JOs will be prepare a **strategic priorities and work plan**, based on a modified Statement of Regional Strategic Priorities, with consistent elements but flexible enough to suit the needs of each JO. These will provide a snapshot of the JO's vision for the region and how the JO plans to achieve it. The planning process will integrate with existing council IP&R processes following a four year cycle. Documentation requirements will be minimal. JOs may develop other plans and strategies to support the strategic priorities and work plans.

JOs will not usually be responsible for delivering priorities alone. While the strategic priorities and work plan will belong to the JO, it should be based on consultation. This will provide a strong foundation for agreement on a priority-by-priority basis about how priorities will be resourced and achieved together.

Further development of useful tools that build an evidence base to support effective regional strategic planning and prioritisation will be undertaken during the JO implementation planning phase.

Key questions	Do you have any comments on the definition of regional strategic planning and priority setting for JOs?
	What guidance and tools will be helpful for JOs when preparing strategic priorities and work plans?

Case study

Central NSW Pilot JO - Prioritising infrastructure in Central NSW

How to prioritise important infrastructure projects and where best to target limited funds is a key concern for all NSW regions and one that the Central NSW Pilot JO decided to address during the pilot.

The aim was to develop a structured, evidence based way to prioritise transport, water, community, energy and telecommunications infrastructure projects across local government areas in the Central NSW region.

A key benefit was to be able to clearly align infrastructure priorities to the economic needs of the region. This also enables Central NSW councils to more proactively participate in State and Commonwealth infrastructure planning and funding processes in a strategic and targeted manner to attract government funding to the region.

The Central NSW Pilot JO and RDA Central West developed a Multi-Criteria Analysis (MCA) tool that ranked priority for the five key infrastructure tranches using consultation support and pilot JO seed funding from the NSW Government to fast track the process.

Each council provides advice on local and regional priority infrastructure projects which is fed into a spreadsheet that ranks the projects in a priority order informed by criteria from State and Commonwealth funding programs.

State agencies involved in developing the MCA tool included DPC, Roads and Maritime Services, Office of Environment and Heritage, Department of Planning and the NSW Treasury. The criteria being used to assess infrastructure priority is closely aligned with the Infrastructure NSW assessment criteria.

This important work should lead to improved outcomes for investment in infrastructure and delivery of the highest priority projects for the region that drive economic growth to the benefit of the community.

The methodology has been gifted to all NSW councils. For further information contact jenny.bennett@centroc.com.au or to view an output visit www.centroc.com.au/wp-content/uploads/MATRIX_MWH.pdf.



Intergovernmental collaboration

What did the Emerging Directions Paper say?

"The Pilot JOs have improved collaboration and engagement between councils and State agencies"
Evaluation survey feedback

Intergovernmental collaboration has been consistently identified as a core JO function throughout the pilot process and was a key issue raised in feedback.

What was the feedback?

Emerging Directions Paper and evaluation feedback to date has identified that including State Government associate membership on each JO in the legislative model is a good first step to support stronger intergovernmental collaboration. However, a legislative

model, by itself, was not seen as a guarantee of good collaboration.

Submissions asked for more information on how a shared understanding of collaboration would be developed, what the role of the State Government in JOs would be and how key relationships would work in practice.

Submissions suggested the development of tools to support key relationships such as a collaboration toolkit, memoranda of understanding (MoU) templates, guidance to State agency representatives and KPIs for collaboration.

"Emerging Directions hasn't taken cross-jurisdiction collaboration into account."
Canberra Regional Joint Organisation (CBRJO)

What do we mean by intergovernmental collaboration?

Definition Intergovernmental collaboration in its broadest sense is about all levels of government working together on policy development, service design or service delivery, including infrastructure priority setting, to benefit the community.

Successful collaboration will require a fundamental cultural shift in how relationships are approached by both State Government and local government. It will need mature relationships based on shared information and a culture of collaboration, negotiation and trust.

At a key stakeholder policy workshop in October 2015, participants understood collaboration to be on a spectrum from low intensity approaches, such as the provision of information, through to high intensity approaches, such as partnerships. This was seen to vary depending on the purpose, relationships and timeframes for collaboration.

Why is this an important function for Joint Organisations?

"JOs must not preclude individual council interaction with the State and Federal Government and other investment partners." Bathurst Regional Council

Important strategic priorities for communities such as roads, jobs and planning for growth cross council and sometimes state boundaries. Achieving these priorities requires collaboration and a cooperative effort from all levels of government, as well as other partners.

Good collaboration enhances understanding of each other's roles and functions, provides a basis for sharing information and expertise and creates opportunities to work better together.

What is the proposed way forward?

Intergovernmental collaboration will remain a core function of a JO as embedded in legislation.

ITEM 5 - ATTACHMENT 2 JOINT ORGANISATIONS BACKGROUND PAPER.

As indicated in Section 2 and discussed further in Section 7, the State Government will be an associate member of each JO. The relevant Regional Coordinator from the DPC will be the representative attending JO Board meetings in a non-voting capacity as they have the appropriate skills, experience and relationships. Regional Coordinators will support JOs as they identify and refine strategic regional priorities and ensure the right State agencies engage with JOs to progress and deliver supported priorities.

To further support intergovernmental collaboration, the Executive Officer of the JO will also be a member of the relevant Regional Leadership Group (RLG), facilitated by DPC. The Executive Officer should bring a deep knowledge of the region and council priorities to the RLG table.

As indicated in Section 2, work will also progress to develop a shared regional governance and planning framework based on the work of the JO and the RLG.

These and other actions for State agencies are being progressed through a State Agency Advisory Group that is considering how best to support and work with JOs in future.

While the local and State Government partnership is important and JOs are local government bodies, JOs will also provide a new platform for councils to partner with others, including the Commonwealth Government, business, tertiary institutions and cross border partners. Joint projects with a number of RDAs and a university have already commenced in some pilot JO regions.



What tools will support intergovernmental collaboration?

While some regions already benefit from successful relationships, feedback from the pilot process identified the need for the development of tools to help build collaborative working relationships more quickly. Tools suggested by feedback to date include:

- a collaboration toolkit based on the Public Service Commission's (PSC) Collaboration Blueprint, available at www.psc.nsw.gov.au
- guidance for recruiting Executive Officers
- guidance and training to support all JO participants, including State Government representatives, Executive Officers and Board representatives
- KPIs for collaborative participation for senior staff of both JOs and State agencies
- portals and networks to share information, data and advice
- new technology to connect and work together virtually
- Model MoUs or agreements.

Some pilot JO regions have expressed interest in the development of a high level MoU between the JO and the State Government. This may include a shared vision for the region and how the JO and State Government would work together to support positive outcomes.

The need for MoUs or agreements for specific projects would be up to each JO and relevant agency to determine and negotiate, as currently occurs. These may include roles, responsibilities, actions, resource commitments, timelines, monitoring, reporting and KPIs to measure success.

The OLG will develop a collaboration toolkit, in consultation with the sector, during the JO implementation planning phase. It will draw on feedback and be based on the PSC's Collaboration Blueprint. The toolkit will aim to build capacity to collaborate in State agencies (both at central and regional offices) and local government.

Key

questions

Do you have any comments on the definition of intergovernmental collaboration?

Are there any additional tools which would help support intergovernmental collaboration?

Case study

Illawarra Pilot JO - Illawarra Youth Employment Action Plan

The Illawarra and Shoalhaven region has for a long time had a higher than average youth unemployment rate.

The Illawarra Pilot JO is partnering with the NSW and Commonwealth Governments to deliver a Youth Employment Action Plan. This is a critical issue for the region which has significantly higher than average youth unemployment.

This was identified as a shared priority early in the pilot process through matching a key strategic priorities in member councils' Community Strategic Plans, the (then) Southern Council Group (SCG) strategies and the (then) draft Illawarra Regional Growth and Infrastructure Plan.

A strategic approach to address the issue was collaboratively developed by the JO and DPC and a joint tender process was undertaken to develop the Youth Employment Action Plan to develop and deliver the plan.

The University of Technology Sydney Centre for Local Government Excellence was appointed to work with key stakeholders in the region to develop an action plan and broker commitments to address youth unemployment across region.

The project is developing and delivering a collaborative, regional approach of coordinated activity that will result in skills qualifications and jobs for youth to benefit the entire Illawarra and Shoalhaven region.

Leadership and advocacy

What did the Emerging Directions Paper say?

Leadership and advocacy has consistently been identified as one of the core functions of a JO throughout the pilot process. The term 'leadership' was added to the concept of 'advocacy' early in the process. Feedback on this function was sought in the Emerging Directions Paper.

What was the feedback?

Feedback on the paper suggested there may be challenges for JOs where there are different and potentially conflicting advocacy priorities at the local and regional level.

Other submissions noted that leadership and advocacy is a traditional role of ROCs and a critical role for JOs. Leadership and advocacy will occur in different regions in different ways.

"Leadership and Advocacy may be a challenge at regional scale - need more opportunities for action planning as per initiation workshops."
Local Government NSW

What do we mean by leadership and advocacy?

Definition Leadership and advocacy for a JO is about being a 'voice for the region' on behalf of member councils. It is about understanding current and future regional and operational environments, identifying emerging opportunities and challenges and developing priorities that align with the regional vision of the JO and needs of member councils.

What is the proposed way forward?

Leadership and advocacy will remain an important function for JOs. It will ensure that the vision and long term strategic plans for the region are promoted, as well as the needs of member councils. Leadership and advocacy will provide a strong, collective, regional voice for member councils to the State and Commonwealth Governments about their regional priorities.

What does leadership and advocacy look like in practice?

Some Pilot JOs identified priorities related to leadership and advocacy in their Statements of Regional Strategic Priorities. These included roads they consider to be crucial to support economic growth in their region that are not currently identified as priorities in relevant State Government strategic plans.

"Advocacy is not effective with compulsion and where all members don't agree."
Moree Shire

While there is no guarantee State Government agencies can address all regional priorities, it is important for JOs to continue to work with partners to build strong business cases and be strong advocates for their region.

Key questions Do you have any comments on the definition of leadership and advocacy?
Are there any additional tools which would help support regional leadership and advocacy?

Case study

Namoi Pilot JO – Advocacy to fund Manilla to Boggabri Rangari Road

Funding of the Main Road 357 Manilla to Boggabri Rangari Road, which passes through three of the seven member council areas, was identified as a priority for the Namoi Pilot JO to link better access to employment, services and markets in the region and beyond.

As this road was not identified as a funding priority in State Government strategic plans for the region, it was included as a 'Leadership and Advocacy' priority in the JO's Statement of Strategic Regional Priorities.

Namoi Pilot JO worked during 2015 with the RDA Northern Inland to undertake a cost benefit analysis that would inform a business case for the Pilot JO to advocate for funding for the road.

The results to date appear to indicate that the cost of the upgrade will exceed the benefit.

While not the anticipated result, this work highlights the importance of building an evidence base to support the work of the JO. This work will be useful in informing further decision making by the Pilot JO on progression of this priority.



Case study

Hunter Pilot JO - Intergovernmental collaboration in emergency management

The Hunter Pilot JO is founded on the depth of experience of Hunter Councils, formed after the 1955 floods and has a long history of cooperation between member councils, and working collaboratively with the State Government to manage emergency events.

This collaboration was tested and strengthened during the April 2015 storm event in the Hunter when the Pilot JO facilitated cooperation and support among member councils, and collaborated seamlessly with state agencies in both the emergency response and recovery phases of the storm event. The Pilot JO accommodated the regional Recovery Coordinator and other Ministry of Police and Emergency Services staff during the event and hosted emergency management and disaster recovery meetings.

5. Optional functions

Providing regional flexibility

What did the Emerging Directions Paper say?

The Paper emphasised that JOs must be enabled under legislation to undertake a range of 'regionally defined' or optional functions. JOs will have choices about how they undertake regionally defined functions, including through the 'core' JO or a JO-formed entity.

What was the feedback?

Most (89%) respondents strongly supported JOs being able to undertake optional, 'regionally defined' functions as resolved by member councils, particularly in rural areas.

Many submissions emphasised the need for flexibility, so that JOs can choose the best vehicle to deliver optional functions.

"JO-formed entities [need to] include any entity appropriate for the task being undertaken, including council formed entities."
Cootamundra Shire

"It is important that the core strategic functions are effectively enabled and these are the first priority."
LG Professionals

Some submissions expressed concern that the optional functions may overshadow the effective implementation of core functions. Some proposed a cap on optional functions undertaken directly by a JO.

The need to prevent potential conflict with member councils over functions was also raised in submissions.

What is the proposed way forward?

It is proposed that JOs have flexibility to undertake a range of optional functions on behalf of member councils. Optional functions will need to reflect regional priorities and existing relationships and help put into practice strategic decisions of the JO.

Optional functions would be enabled, but not defined by the legislation. They could include:

- building capacity and supporting councils
- shared service delivery
- other functions that meet the needs of member councils or the region.

JOs would be free to determine the best vehicle to undertake optional functions. They could be delivered:

- directly through the JO
- through 'lead' member council/s
- through other regional service delivery bodies such as county councils or other entities formed by JOs under the Local Government Act (see section 9).

Should optional functions be delivered directly through the JO, it is proposed that operational decisions would be delegated by the Board, potentially to the Executive Officer or a subcommittee, such as a General Managers Advisory Committee.

Further information on optional functions is in the following sub-sections. Guidance materials will be developed further, in consultation with the sector, during the implementation planning phase in 2016.

Building capacity and supporting councils

What was the feedback?

Emerging Directions Paper feedback indicated that the core functions of JOs should build capacity and support member councils **strategically** to achieve beneficial community outcomes.

Feedback indicated that optional functions are vital in supporting member councils **operationally**. Benefits discussed included creating efficiencies and supporting financial sustainability for members.

What do we mean by building capacity and supporting councils?

Definition Capacity building and supporting councils through **optional functions** means JOs providing and/or facilitating shared data, systems, staff, services, tools and other expertise on behalf of member councils.

When deciding to undertake these functions, consideration should be given to:

- capacity and resources of the JO
- member council need
- a sound business case
- how best to undertake or facilitate this function.

The State Government is committed to working with councils to build their strategic capacity. The Office and key partners, such as LG NSW and LG Professionals, are undertaking a range of sector-wide and targeted activities to support councils.

How will JOs build capacity and support councils, including rural councils?

Feedback suggests that councils will look to JOs to support them to become and remain *Fit for the Future*. As a regional body with a line of sight over member councils, JOs will be in a strong position to identify where strength and capacity lie, and where gaps and needs exist.

Further, as separate legal entities, JOs will be able to carry out functions such as tendering, entering into contracts, applying for grants, employing staff and undertaking regulatory functions on behalf of member councils.

"The challenge will be to ensure we get this balance right: [to] not conflict with existing functions already being provided by member councils."
Queanbeyan City Council

Each JO will work with its member councils to determine the most appropriate approach for building member council capacity.

"Many councils based FTFE proposals on the expectation that JOs will assist in providing the scale and capacity that they require to stand alone... [including] shared services, staffing and procurement."
Local Government NSW

In considering the relationship between JOs and rural councils, participants at the key stakeholder policy workshop in October 2015 overwhelmingly expressed the view that rural councils do not require a different approach to capacity building. Rural councils were seen as innovative and able to contribute to capacity building across the region, including for much larger councils.

Some suggested JO functions to enhance member council capacity identified through the *Fit for the Future* submissions and JO consultation are outlined below.

JOs could do:	JOs could facilitate:
<ul style="list-style-type: none"> • Analyse skills and infrastructure gaps • Employ or contract professional services (eg. financial services) • Employ or contract 'back office' functions (eg. IT and HR) • Undertake group purchasing and procurement • Manage projects and grants • Undertake regional planning and reporting (eg. IP&R) • Add regional value to existing council services (eg. illegal dumping programs) • Develop a 'Centre of Excellence' or data hub to share best practice • Promote robust standard operational policies and templates (eg. probity, asset management, skills development) • Undertake or foster research 	<ul style="list-style-type: none"> • Benchmarking • Shared professional staff and services (eg. engineering, environment, accounting, arts, tourism, economic development) • Shared 'back office' administration (eg. WHS, payroll, IT, HR) • Joint procurement (eg. waste management contracts) • Shared asset management and inter-council hire (eg. plant and equipment) • Shared service delivery (eg. library) • Professional networks, development and peer review • Emergency management coordination • Common governance policies

How will shared services be delivered?

It is proposed that, optional functions, including shared service delivery, may occur through a JO, a member council, a JO-formed entity or in other ways.

Where shared services are provided directly by a JO, it is expected that this be done in a limited way so that delivery of core strategic functions is not adversely affected and so that there is adequate separation of strategic and operational functions. This applies particularly to commercial services.

As shared service delivery catchments do not necessarily align with JO boundaries, associate membership will allow flexibility for councils within and outside the JO to opt in and out of shared services on a negotiated basis.

Shared services delivery should be based on a business case that considers need, level of service and how the service can be best delivered.

It is proposed that the Local Government (State) Award would apply. Beyond this, governance and resourcing for shared services should be negotiated. Arrangements should be subject to monitoring and review, as determined by the JO and participating members, to ensure value for money.

Work on developing JO-formed corporations and other entities under the Local Government Act is discussed in Section 9.

Key questions

- Do you have any comments on the definition of capacity building in relation to optional functions?**
- What optional functions do you think should be undertaken by JOs?**
- What tools will be helpful to support JOs in building capacity and supporting councils to undertake optional functions?**

6. A new entity

What did the Emerging Directions Paper say?

The paper explored four options for the legislative model for JOs:

1. Do nothing
2. Body Corporate in the Local Government Act (Prescriptive)
3. Hybrid Statutory Corporation
4. Body Corporate in the Local Government Act (Enabling).

"The preferred option is embedded in the Local Government Act, protected from changes outside the Act, less 'messy' than the hybrid, most enabling and flexible, able to define core functions; protects staff under award; facilitates secondments from councils to JO; attracts staff from industry; less expensive to manage administratively; less onerous in terms of reporting; less likely to result in liability issues such as for company directors under the Corporations Act; consistent with philosophy, paradigm and framework of JOs." **Local Government Professionals**

The preferred option from feedback on the paper was that JOs be bodies corporate, established by proclamation under the Local Government Act with enabling provisions and the flexibility to carry out regionally defined, optional functions.

This option creates separate legal status enabling JOs to directly enter contracts, employ staff and hold assets, where necessary.

What was the feedback?

The majority (84%) of responses to Emerging Directions Paper preferred that JOs be created as entities under the Local Government Act with the status of bodies corporate. This aligned with strong feedback from the pilot process.

Councils and peak bodies supporting this option considered it to be the simplest, most flexible model with the least administrative and resource burden. It was thought that this will ensure JOs do not become a 'fourth tier of government' - a key principle for the model.

Some councils and ROCs which preferred this option recommended that legal provisions be drafted carefully to ensure

the JO model achieves these objectives and – in particular – allows member councils to form a 'lean' structure with minimal cost and liability.

Several responses emphasised that the structure of the JO entity should not be overly formal and should be a matter for member councils to determine. Further discussion on the governance of JOs is contained later in this paper.

Several responses favoured a hybrid statutory corporation to enable a fuller partnership with other entities.

What is the proposed way forward?

Figure 4 shows the proposed entity model. It is proposed that JOs be bodies corporate established by proclamation under the Local Government Act. It is important that JOs as legal structures are comprised of full members who have the same status and are subject to the same legislation.

"Due to the proximity of the ACT we are in a unique situation and we strongly support Option 3, the 'Hybrid Statutory Corporation' as the governance model to create a company limited by guarantee, that allows the ACT Government to be a full partner with us as a member of the JO." **CBRJO**

Figure 4 - Proposed entity model for JOs



Proclamations would declare JO regions. All general purpose councils within each designated region would be a member of the JO. Councils would be full members of one JO only. This creates a focused commitment to achieving outcomes regionally.

The State Government would be an associate member of the JO Board to promote intergovernmental collaboration and alignment between JO and State Government priorities.

The legislation would also provide for other associate, non-voting members to be on the JO. This would recognise cross border relationships, relationships with surrounding councils and other strategic partnerships. This model has been trialled successfully during the pilot.

While the JO could remain fairly 'lean' to minimise cost and red tape, the JO Board would need to appoint an Executive Officer with appropriate skills to administer Board meetings and implement Board decisions. If appropriate, the JO may employ staff under the Local Government (State) Award.

The JO may also form sub committees, such as advisory committees comprised of General Managers, working groups or expert panels to advise or implement the decisions of the Board.

Importantly, this approach will not limit important partnerships, such as cross-border relationships. It enables associate memberships, advisory groups and/or joint establishment of JO-formed entities.

Benefit of preferred option	
✓ protection from changes to other legislation	✓ maximises regional flexibility
✓ simpler and clearer than other options	✓ lower cost and red tape
✓ consistent with agreed principles	✓ fewer liability and other risks
✓ remains within local government industry	✓ able to attract and retain staff

Key question How can sub committees and working groups be used to support the JO Board, including in delivering optional functions?

7. Governance and accountability

Representation and operation of the Board

What did the Emerging Directions Paper say?

The Emerging Direction Paper suggested a range of requirements for a number of key aspects of the JO Board in relation to representation of the JO Board, the Chair of the JO Board, the role of JO Board members, voting and decision making on the JO Board and sitting fees.

What was the feedback?

Overwhelmingly, Emerging Directions Paper feedback supported low level prescription for governance matters and, where necessary, for a core or 'minimum' set of standards to apply.

There was **generally strong support** for the following proposals:

- the **Mayor to be the representative** of the member council on the JO Board (over 70% of responses supported this) as the most appropriate representative to make decisions on behalf of the council. There was minimal support for General Managers to be voting representatives on the Board. The Board role was seen to align better with that of a councillor in setting strategy and policy. Others were concerned about the potential for conflict between Mayors and General Managers if both voted on regional issues
- member councils to have **one representative** on the Board (56% support). Others supported an additional representative where this would promote more robust decision making, for example, in JOs with fewer members
- the **State Government to be an associate**, non-voting membership of the Board (80% support), with some calling for this to be enshrined in legislation
- **two-year appointment** to the Board (79% support)
- the **Chair** of the JO to be chosen by the Board (86% support)
- The **role** of voting Board representatives and the Chair should generally be modelled on the relevant respective roles of a councillor and the Mayor (over 75% support). Concern was raised about the potential for conflict in the roles as a representative on the JO Board and the role as a councillor
- Equal **voting rights** on the Board (69% support). This was seen as fundamental to the success of JOs for member councils to be equal partners
- The Chair should *not* have a **casting vote** (71% support) as this would undermine equal voting on issues of regional strategic importance and may result in decisions that were not strongly supported
- Appropriate authority for core regional functions should be delegated to the JO (71% support). Responses qualified that the representative to the JO Board will automatically be **authorised** by their councils to make appropriate decisions on their behalf about the legislated core functions.

"There is no clear explanation as to how a Councillor who is voted in by the people of a particular local government area is supposed to now automatically represent a region as opposed to working towards the best benefit for the specific community that elected them."
Port Macquarie Hastings Council

There was **mixed support** for:

- the proposed **75% majority vote** to make a decision. While the need for a strongly supported decision was recognised, a fixed percentage was not seen as appropriate due to regional variation. Other common feedback was that ROCs have typically operated by consensus basis. However, it was acknowledged that this does not guarantee clear decisions. A simple majority was preferred by approximately half (49%) of responses.

"We agree that the proposal for an absolute majority rather than a simple majority should be used to determine decisions. [It is a] matter for JO members to determine what figure to use to determine absolute majority"
REROC

A proposal that was **generally not supported** was:

- the payment of **sitting fees** to Board representatives was *not* supported in over half (56%) of responses. This was mostly because a one-off increase to the Mayoral fee was seen as a better alternative to pay representatives. Others were of the view that participation on a JO was part of the normal role of a Mayor and/or payment could create inappropriate incentives to participate.

Other matters raised in submissions related to support for voting by proxy, remote voting and the need for a defined quorum. Some also suggested the option for an independent, non-voting Chair to act in the regional interest. The independent Chair would be a Mayor, with the member council then able to appoint a second, voting representative to the Board, potentially the Deputy Mayor where there is one.

What is the proposed way forward?

In response to submissions and other policy work in stakeholder workshops, it is proposed that:

Representation

- the Mayor be the legislated member council representative on the JO. This recognises the authority of the Mayor to lead and make decisions that reflect the council's policies
- the Deputy Mayor, or another councillor where there is no Deputy Mayor, be the alternative representative at a Board meeting in certain instances, such as illness or leave
- additional elected representatives may be appointed to the Board, so long as representation remains equal and supports effective decision making
- General Managers participate in JO meetings in an advisory capacity and may form a General Managers Advisory Committees to the Board. This recognises the valuable contribution that General Managers make to debate and in providing advice on implementing a JO's decision
- the State Government is represented on each JO Board as an associate (non-voting) member
- other associate, non-voting members may be represented on the JO to recognise cross border and other important relationships, such as with county councils (see Section 10).

Board Term

- JO Board members will be appointed for a two year term which aligns with the proposed Mayoral term. Popularly elected Mayors will sit on JO Boards for the term of their office.

Chair

- the Chair of the JO will be a Mayor chosen by the Board for a period of two years. It is not proposed that there be a limit on the number of consecutive terms a Chair can hold
- JOs will be enabled, but not required, to have an independent, non-voting Chair who is the Mayor of one of the member councils. The relevant council would then appoint an additional voting representative to make decisions on behalf of that member council.

Role

- the role of voting Board members and the Chair will be generally modelled on the respective roles of a councillor (in their capacity as a member of the governing body, not in their elected capacity) and the Mayor in the Local Government
- the role will additionally require representatives to act in the interests of the region as a whole. While concerns about potential conflict between a councillor's local and regional roles are recognised, this is not new for councillors balancing their governing and elected role.

Voting and decision making

- there be equal voting rights for all full member councils within a JO on legislated core functions recognising feedback that it is fundamental for the success of JOs for member councils to be equal partners. As the legislated representative to the JO, the Mayor will be authorised to vote on behalf of the council

- that a simple majority at which a quorum is present at a meeting will be needed for a decision to be made. This aligns with council voting requirements.
- where the JO deems it appropriate, a matter may be referred to member councils for consideration. For instance, it would most likely be appropriate to put decisions relating to funding commitments back to member councils
- that the quorum for councils partially applies to JOs. That is, a quorum applies where the majority of the councillors who hold office for the time being are present at the meeting. However, where a representative to the JO is suspended or the position is otherwise vacant, an alternative representative to the JO must be appointed by the member council
- proxy and remote voting should be enabled for JOs to counteract the impact of travel to attend meetings in regional areas. This could occur potentially via videoconferencing and in circumstances that make it impractical for the representative to attend in person. Whether these options are taken up it would be a matter for individual JOs to determine
- voting structures for optional functions, such as shared service delivery, be determined by the JO recognising that different resourcing, governance arrangements and membership arrangements may apply.

Sitting fees

- JO Board members will not be paid sitting fees. Instead, to recognise the important role of Mayors on JO Boards, it is proposed that a one-off increase to the Mayoral fee be considered as part of the councillor remuneration review. This also enables Deputy Mayors attending on behalf of a Mayor unable to attend to potentially be paid a portion of the Mayoral fee.

How will governance on JOs be supported?

Guidelines on core governance standards will be developed by the Office, in consultation with the sector, during the implementation planning phase. This will draw on mechanisms in place for councils under the Local Government Act. For example, the Model Code of Conduct.

Other guidance materials and training to support better practice governance beyond the standards set will also be developed during this time.

Key questions	Are there any other tools which will help support good governance? How should the governance tools be developed and who should participate in their development?
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Planning and reporting

What did the Emerging Directions Paper say?

The Emerging Directions Paper proposed that JOs be required to develop succinct work plans, drawn from existing local and regional plans, in collaboration with the State Government and other partners, supported by KPIs. As discussed in Section 4, Pilot JOs prepared succinct Statements of Regional Strategic Priorities which they found useful in maintaining guidance and focus.

It was also proposed that JOs be required to produce succinct annual performance statements, including reporting on KPIs.

Requirements in the Local Government Act for financial reporting and accounting for councils were also expected to apply to JOs.

What was the feedback?

There was strong (93%) support from responses that JOs must develop succinct strategic work plans, identify KPIs and report against the indicators in an annual performance statement or report. Feedback emphasised the need to minimise red tape, recognise regional differences and link JO planning and reporting to existing IP&R frameworks. Mandatory financial reporting by JOs was also strongly (92%) supported.

What is the proposed way forward?

In response to submissions and other policy work in key stakeholder workshops, it is proposed to keep planning and reporting requirements minimal and aligned to IP&R. It is proposed that:

- JOs prepare succinct **strategic priorities and work plans**, based on a refined version of the Statements of Regional Strategic Priorities prepared by the pilot JOs and aligned with IP&R, as discussed in Section 4
- JOs produce succinct **annual performance reports** to show how the JO has delivered against its priorities according to the KPIs identified in the strategic priorities and work plans
- JO **financial reporting** complies with the Australian Accounting Standards and the Local Government Code of Accounting Practice and Financial Reporting Guidelines.

How will JO planning and reporting be supported?

Guidelines on core planning and reporting requirements will be developed, in consultation with the sector, during the implementation planning phase. It is not currently proposed that JOs be required to use standard templates. Guidance materials will, however, be developed.

Key question	What tools or guidance will be most helpful in supporting JOs to develop strategic priorities and work plans and annual performance reports?
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8. Resourcing

Financial resourcing

What did the Emerging Directions Paper say?

The State Government has committed to providing seed funding of \$300,000 per JO to assist with establishment when they are implemented following the next local government elections.

The paper proposed that member councils fund ongoing administration and regional priorities from available sources, based on contributions from member councils using a locally negotiated formula.

What was the feedback?

The pilot process and Emerging Directions feedback indicated mixed views and concern about resourcing for JOs.

Over half (54%) of responses supported member councils funding the ongoing costs of JOs. Just over a third (36%) supported ongoing State Government funding for core JO functions based on the view that the State receives a mutual

benefit and is an equal partner in a JO.

"Some level of State funding appropriately negotiated on a region by region basis... [This] would cement the concept that State and Local Government are equal partners in delivering regional outcomes"
Queanbeyan City Council

A number of submissions opposed ongoing State funding on the basis that JOs should maintain their independence and autonomy and not be accountable to the State Government.

Some feedback indicated that the costs of running a lean JO will be minimal or no more than for a ROC. Others raised concerns that JOs will substantially increase costs to member councils.

There was strong support for JOs to be able to receive grants and derive income streams to contribute to JO running costs.

"Being at the behest of State Government for funding does not encourage greater regional strategic responsibility"
Lake Macquarie City Council

What is the proposed way forward?

Based on the principle that JOs are owned by the voting member councils and support a core leadership and advocacy function, it is proposed that member councils fund the ongoing core functions of the JO with contributions based on a formula negotiated by each JO.

JOs must also have a range of other funding options available, including the ability to apply for grants and generate income.

While many see the potential significant benefits of JOs in building strategic capacity of member councils, these benefits are hard to quantify. Potential costs are a concern for some regions.

Future resourcing of JOs beyond the seed funding provided by the State Government is something that will require further consideration during implementation planning, particularly to support JO regions with member councils with financial sustainability issues.

"The final legislation needs to facilitate a range of options for funding of the Joint Organisation's activities. State funding is not supported"
Hunter Councils

Key question

What tools could support JOs to understand the costs and benefits to support resourcing decisions?

Staffing

What did the Emerging Directions Paper say?

The Paper proposed that JO staff be employed under the Local Government (State) Award. The paper also proposed that JOs employ an Executive Officer with the equivalent capabilities - and at an equivalent level to - a General Manager, senior staff member in a council or Regional Coordinator.

What was the feedback?

Most (74%) responses supported JO staff and the staff of JO-formed corporations or other entities being employed under the Local Government (State) Award.

However, many (71%) responses opposed a requirement for JOs to employ an Executive Officer at an equivalent level to a General Manager, senior staff member or Regional Coordinator. However, opposition was largely due to concerns about cost and prescribing a 'level'. There was still support to require JOs to appoint an Executive Officer *based on skills and capacity rather than at a certain level.*

What is the way forward?

JOs will employ staff exclusively under the Local Government (State) Award as will any JO-formed corporations or other entity established by a JO. This will protect entitlements for staff and facilitate staff transfers between member councils and the JO.

It is proposed that JOs be required to appoint an Executive Officer with appropriate skills and capabilities to undertake this crucial role based on a standard contract. This will ensure consistency and certainty for the JO Board and the Executive Officer, as well as transparency and accountability. It will also allow flexibility around duration of appointment, structure and level of the remuneration package and performance-based requirements.

While experience from the pilot process suggests that the Executive Officer role will need to be full time - and this is strongly preferred to support the JO to effectively carry out core functions - JOs will be able to determine and set resourcing requirements beyond this core standard.

Discussions with the Pilot JO Executive Officers and DPC Regional Coordinators has helped to identify skills and capabilities for an Executive Officer. These include some similarities to the capabilities required for Regional Coordinators in the NSW Public Sector Capability Framework.

"While the Union supports Council's desire to maintain flexibility through enabling legislation in the *Local Government Act 1993 (NSW)*, it is imperative that any entity created by Council under the Act, or by any other mechanism, remains a non-national system employer and continues to operate under the Local Government (State) Award 2014.
USU

Essential skills for Executive Officers	Desirable skills and knowledge
<ul style="list-style-type: none"> ✓ communication and collaboration ✓ strategic planning ✓ leadership and advocacy ✓ project management and procurement, including financial/contract management. 	<ul style="list-style-type: none"> ✓ media, marketing and promotion ✓ research ✓ knowledge of government processes and of the region.

Key

questions

What are your views on the use of a standard contract for JO Executive Officers?

Are there any additional or alternate skills or capabilities which would be desirable for Executive Officers to have?

Case study**Riverina Pilot JO – Enhancing freight transport planning and industrial land development****Regional Freight Transport Plan**

This project built on earlier work by REROC in response to a critical need for a mapping solution to help the region cope with the 41 million tonnes of freight passing through on its roads each year.

The Riverina JO Pilot enhanced its comprehensive Regional Freight Transport Plan, underpinned by an interactive mapping platform.

The Plan identifies major freight transport road and rail routes in the region as well as modal points and obstacles that impact on efficient and effective freight transport.

The work aimed to:

- increase the volume and value of data in the Plan in relation to grain, livestock and timber freight
- make the Multi-criteria Assessment Matrix used to prioritise more robust and to include the Roads and Maritime Services (RMS) benefit-cost ratio process; and
- upgrade the interactive mapping that supports the project and make it accessible to the public.

REROC worked with RMS, Department of Industry and DPC on the project. The interactive mapping for the project, prepared by Coolamon Shire Council, can be viewed at www.reroc.giscloud.com by clicking on the REROC transport map from the drop down menu. The project was presented at the ALGA National Transport and Roads Congress in November 2015.

Regional Industrial Land Mapping Project

Building on the success of the Transport Plan, and responding to a need for better, centralised information about industrial land across the region identified by the NSW Department of Industry, a regional industrial land mapping project was also started. The project uses the data gathered for the Freight Transport Plan and combines it with information from each member council on their industrial land.

The industrial land has been mapped and includes information on the street location, lot and DP, services available, size of the land and whether or not the land has been developed. Users are able to choose the land they are interested in and the information on each parcel appears once the land is highlighted.

Users are also able to access all the data held in the Regional Transport Plan and overlay this information on the Industrial Map to show all the transport routes and modal points accessible to the chosen land parcel.

Riverina JO Pilot worked with the Department of Industry and the DPC on the project. It can be viewed at www.reroc.giscloud.com by clicking on the Industrial Land Map from the drop down menu.

Member councils believe that these projects to provide centralised mapping information provide the Riverina region with a significant edge in harnessing economic development opportunities.

9. Regional flexibility for corporations and other JO-formed entities

What did the Emerging Directions Paper say?

Enabling JOs to form corporations and other entities to carry out optional functions to suit different needs of member councils across the region, such as service delivery, is an important supplement to the JO model.

The Emerging Directions Paper indicated that JO-formed entities would be explored in this JO Draft Model Paper.

What was the feedback?

A quarter of submissions provided early comment on the formation

"Cost of major regional waste infrastructure or major regional contract for managing waste would trigger the need for a JO formed or Council formed entity or contracted council arrangement." **Illawarra Pilot JO**

of corporations and other entities. Most reiterated that JOs and member councils should choose the best vehicle to provide services to suit their needs.

"Need to consider whether councils can opt in and out of these subsidiary JO formed entities. If wrapped into the role of the JO body corporate, this would considerably limit the flexibility required to respond." **IPWEA**

Some noted that high cost, complex or commercial services are better delivered through corporations and other entities.

Others commented that care is needed to ensure governance and accountability frameworks adequately manage higher risk activities, such as companies over which control is limited.

Some stakeholders emphasised the importance of protecting employment rights under the Local Government (State) Award.

JO-formed entity issues were explored with stakeholders at the October key stakeholder policy workshop. Risks and benefits discussed are below.

Benefits of JO-formed entities	Risks of JO-formed entities
<ul style="list-style-type: none"> • JO Board may focus on core strategic functions rather than operational services which occur separately • JO can remain lean • Greater flexibility for different membership, governance and resourcing from within or beyond the JO • Minimises liability and financial risk to JO and members as services and assets are managed at 'arm's length' • Greater innovation may result from JO-formed entities formed in partnership with private or not-for-profit sectors. 	<ul style="list-style-type: none"> • Loss of appropriate control; JO-formed entity could be become too independent and not responsive to needs • Could engender parochialism about a fear of loss of existing contracts • Length of time to set up if requiring Ministerial consent • Cost of operation and reporting burden, particularly for smaller JOs • Flexible membership may dilute the sense of JO ownership.

What is a way forward?

The development of a robust model for JOs to form corporations and other entities should integrate with the existing framework for councils to do so under section 358 of the Local Government Act and consider other local government entities such as county councils.

It also needs to consider what other types of entities may be formed and how they interact with the Act. Some examples may include joint ventures, partnerships, public private partnerships and corporations under the Corporations Act 2001 (Cth).

The Local Government Acts Taskforce noted council concerns about requiring ministerial consent to form corporations. The Taskforce also saw that provisions in the Act to establish corporations or other entities should continue to ensure adequate scrutiny and accountability. However, the Taskforce acknowledged that the provisions should be reviewed based on structural reforms (such as JOs) arising from the work of the Panel.

Feedback and policy work to date in key stakeholder workshops has informed an emerging direction to inform the development of a robust model that could apply to both councils and JOs. This is contained in **Table 2** on the following page.

This will require further consultation and may result in the framework for JOs to establish corporations or other entities being enabled after the core JO model is established.

"Legislation should simply provide JO with flexibility to determine the most appropriate manner in which specific functions will be carried out"
RAMROC

Key question **Do you have any comments on the emerging direction for JO-formed entities shown in Table 2 or issues you would like to raise?**

Case study
Hunter Pilot JO – Regional tourism

Tourism is a vital industry for the Hunter region. The Hunter Pilot JO has recognised this and agreed to develop a sustainable regional tourism model as one of its key strategic priorities during the pilot.

DPC, the Hunter Pilot JO and Tourism Hunter as the Regional Tourism Organisation for the Hunter collaborated on the issues and factors challenging the sustainability of the current regional tourism model in the Hunter and NSW. They drew on the experiences of the Hunter in having developed the Visitor Economy Hunter model for regional tourism as an alternative to the current model.

The Hunter's experiences were reviewed and relied on by the agencies and the Pilot JO to inform and provide an agreed regional position, and submissions, to the Regional Tourism Review of the structures and operations of Regional Tourism Organisations in NSW conducted by Destination NSW in 2015.

Further work will continue on this initiative to grow the Hunter's visitor economy and deliver greater economic benefit to the region.

Table 2 Emerging direction for JO-formed entities, including corporations

<p>JOs should:</p> <ul style="list-style-type: none"> • be enabled to undertake optional functions directly, through member councils and through corporations and other entities • have appropriate controls, including possibly a financial cap, on undertaking optional functions directly • choose the most appropriate vehicle to deliver optional functions • delegate the operation of optional functions to the Executive Officer or General Managers • not own significant assets • be subject to the same regulatory controls as councils and relevant partners, where applicable, for delivering commercial activities. <p>Corporations and other entities formed by JOs should:</p> <ul style="list-style-type: none"> • only be approved based on clear oversight and criteria, as for corporations and other entities set up by councils • be at least 50% owned by councils, allowing sufficient control and flexibility for partnership with the private sector and others • not be subject to competitive tendering to deliver projects for the JO to and on behalf of member councils • be able to establish membership, resourcing and governance based on need and appropriate core regulatory standards • be able to own assets. <p>The process to set up corporations and other entities formed by JOs should:</p> <ul style="list-style-type: none"> • be developed in tandem with a review of the process for councils to form corporations and other entities under the Local Government Act • vary for the type of entity being formed in terms of requirements or allowable functions • be based on clear criteria to be developed, potentially including that the entity: <ul style="list-style-type: none"> - employs staff under the Local Government (State) Award - demonstrates member interest and public interest tests - limits activities to not-for-profit or require profits to be spent on public services - demonstrates a sound business case and financial viability - provides legal, financial and governance separation to address liability risk and manage stakeholder expectations - undertakes community consultation in certain circumstances, if appropriate. <p>Options to control JO-formed entities, once established, may include:</p> <ul style="list-style-type: none"> • requiring approval to change the activities of the JO-formed entity • suspending JO-formed entity activities, board members and/or to wind up JO-formed entities in certain circumstances, such as maladministration, corruption or inappropriate activity. <p>Agreements between the JO and the JO-formed entity and participating councils may include:</p> <ul style="list-style-type: none"> • annual agreement with the JO governing body to ensure activities and priorities align and monitor performance • commitment from councils to participate for a period of time, to ensure stability.
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10. Other considerations

JO boundaries

What did the Emerging Directions Paper say?

When JOs were first contemplated by the Independent Local Government Review Panel, it developed a map suggesting future JO boundaries.

While many councils have previously said they support these boundaries, others have proposed changes.

JO boundary modifications may be needed to accommodate new councils.

There has been consultation through the pilot process about the criteria which should be applied to determine final JO boundaries.

"JOs should be of sufficient size to enable resourcing and fit with other JOs. Determined by local government where possible and concurrent with other boundaries, eg. planning Central NSW"

The Emerging Directions Paper proposed boundary criteria that a JO:

- align with/nest within strategic growth planning boundaries
- demonstrate a clear community of interest between member councils
- not adversely impact on other councils or JOs
- be based around a strong regional centre, where possible
- be of appropriate scale and capacity to partner with the State and Commonwealth Government and other investment partners.

What was the feedback?

Councils had strong views about optimal JO boundaries. About two-thirds (69%) of Emerging Directions responses supported the above proposed criteria. The remaining responses either did not support the criteria or did not support the Panel's map for JO boundaries.

Key issues raised were:

- whether JO boundaries should align to State regional growth planning boundaries or on existing cooperative groupings, noting that these overlap
- whether proposed JOs are large enough to be viable but still workable
- whether an optimal solution for some areas might lie in sub regions or having a number of regional centres within the same JO.

What is the proposed way forward?

The NSW Government will consult on proposed JO boundaries in the coming months. JO boundaries will be based on feedback on the above criteria and reflect changes to council boundaries.

Key question

Do you have any comments about the JO boundary criteria?

Regional service delivery and county councils

What did the Emerging Directions Paper say?

Regional organisations, including county councils, play an important service delivery role in regional, rural and remote communities across NSW and may have catchments and assets that cross JO boundaries. It is therefore important that there is a clear understanding of the current and future relationship between JOs, county councils and other regional service delivery bodies in relation to managing important issues such as water security, weeds and flooding.

The Emerging Directions Paper noted that the relationship between JOs and county councils would be explored in this JO Draft Model Paper.

What was the feedback?

There were seven submissions to the Emerging Directions Paper commenting on the relationship between JOs and county councils. Some councils expressed support for county councils continuing in their current form. Others felt that county councils should become part of a JO, potentially as an associate member. One ROC suggested JOs could provide strategic direction for county councils.

What is the proposed way forward?

The NSW Government plans to review the current regional service delivery models, including the relationship of JOs to county councils, as flagged in the Government's response to the Panel. This will help to determine the most appropriate means to undertake regional service delivery in the future.

Meanwhile, the current proposal is that existing county councils be associate (non-voting) members of JO Board/s relevant to their catchments, which may nest within a JO or cross JO boundaries. This recognises the valuable contribution county councils make to strategic discussions relevant to their scope of operation and their potential interest in more than one JO region. It also preserves the balance of equal voting rights of JO member councils.

"[It is] imperative that existing CCs and LWUs can continue to serve needs of their local communities. CCs may be able to be incorporated under the JO model of RDFs [regionally defined functions] or, alternatively, continue in current form."
Local Government NSW

What role should JOs play in regional service delivery?

Key questions How could the service delivery functions provided by county councils link to the regional strategic planning and priority setting function of JOs?

Regulatory functions under other legislation

What did the Emerging Directions Paper say?

The Emerging Directions Paper indicated that JOs will open up new opportunities and ways of working together. It did not explicitly discuss regulatory functions.

What was the feedback?

Some submissions supported JOs removing barriers to working together, including enabling them to undertake regulatory functions on behalf of member councils.

Councils, ROCs and agencies have already begun turning their minds to changes that could be made to other NSW legislation to ensure JOs are a success and expand the opportunities available to them in future.

What is the proposed way forward?

Consultation is currently occurring on proposed Phase 1 Local Government Act amendments that include a proposal for councils to be able to delegate regulatory functions to a JO, if deemed appropriate to do so by the member councils. JOs may then choose to undertake these functions directly or potentially through JO-formed entities, once an appropriate framework is established.

To enable JOs to carry out regulatory functions, other legislation would also need to be amended, for example, environmental management under the *Environmental Planning and Assessment Act 1979* to enable authorised officers of JOs to be delegated regulatory functions by member councils.

Given the specialist skills required to undertake regulatory functions, delegation of regulatory functions to a JO would need to be supported through adequate guidance and training provided by the delegating member councils and others. Importantly, member councils will retain responsibility to ensure those regulatory functions are carried out effectively by the JO.

The Office would like all councils and State agencies to consider what changes might be made. State agencies have begun doing this, including through the work of the State Agency Advisory Group. Any important changes will need to be enabled during the drafting process next year.

Key questions

Do you think JOs should be enabled to undertake regulatory functions on behalf of member councils?

What legislation will need to be amended to enable this?

Should there be any limits placed on the regulatory functions which JOs can undertake?

What tools and guidance are needed to support JOs wishing to undertake regulatory functions?

Liability and oversight

What did the Emerging Directions Paper say?

Liability and oversight were not explicitly discussed in the Emerging Directions Paper.

What was the feedback?

Several submissions noted the need for liability and oversight issues to be addressed in the JO model.

What is the proposed way forward?

As for councils and other organisations spending public funds, local communities expect accountability through transparent reporting and oversight. At the same time, JO member councils and staff should be protected from liability where they have carried out functions properly and in good faith.

It is proposed that appropriate protections from **liability** are provided for JOs, members and individuals acting for JOs. Drawing on the existing liability regime in the Act would protect JOs, JO members, Board representatives and staff for functions and duties carried out or omitted honestly, in good faith and with due care and diligence.

Duties of individual Board members and officers that could expose them to liability risk will also be limited, and separately governed JO-formed entities may quarantine members from the potential additional liabilities and risks of optional functions.

JOs as public local government bodies should meet the standards of conduct and good governance expected of councils and councillors to protect the public interest.

"The roll out of JOs needs to consider degree to which any future legislation can impact on influence or manage risk activities such as companies over which OLG has little control."
Maitland City Council

It is proposed that independent **oversight** be provided for JOs, drawing on oversight mechanisms in place for councils under the Local Government Act and other laws. This would apply to JO representatives and staff as individuals acting on behalf of JOs. These may include a Ministerial power to issue directions and take other actions through inquiries, investigations, performance improvement orders and suspensions.

An oversight framework for JOs would also draw on frameworks for corruption (Independent Commission Against Corruption), administrative processes (eg. the NSW Ombudsman) privacy and access to public information. Safeguards would also apply to individuals for conduct, dispute resolution and public interest disclosures to make sure community members have confidence in their JOs.

Representatives of member councils (councillors) will have obligations under their council's Code of Conduct as they represent their council on the JO. A separate Code of Conduct would be adopted by the JO based on the Model Code to deal with staff conduct matters managed by the Executive Officer.

The outcomes of any misconduct investigation of a councillor who is a representative on a JO Board would affect their role on the JO and on the council. A suspended councillor would no longer represent their council on a JO. They would be replaced by the alternate representative to ensure member input.

This oversight framework will act as a 'safety net' to deal with governance issues, conduct issues, corruption and maladministration.

Key question Do you have any comments on the liability and oversight frameworks proposed for JOs?

Appendix: Submissions received

<p>Central NSW</p> <p>CENTROC (Central NSW Pilot JO) Bathurst Regional Council Blayney Shire Council Cowra Shire Council Orange City Council</p> <p>Hunter</p> <p>Hunter Councils Pilot JO Cessnock City Council Lake Macquarie City Council Maitland City Council Port Stephens Council Singleton Council Upper Hunter County Council</p> <p>Illawarra</p> <p>Illawarra Pilot JO Kiama Municipal Council Shellharbour City Council Shoalhaven City Council Wollongong City Council</p> <p>New England</p> <p>Inverell Shire Council New England Group of Councils Tenterfield Shire Council</p> <p>North Coast</p> <p>Bellingen Shire Council Nambucca Shire Council Port Macquarie-Hastings Council</p> <p>Murray and Murrumbidgee</p> <p>Albury City Council Leeton Shire Council Riverina and Murray Regional Organisation of Councils (RAMROC) Urana Shire Council (Riverina Pilot JO)</p> <p>Namoi</p> <p>Moree Plains Shire Council Namoi Councils Pilot JO</p>	<p>Northern Rivers</p> <p>Lismore City Council Northern Rivers Regional Organisation of Councils (NOROC)</p> <p>Orana</p> <p>Orana Regional Organisation of Councils (OROC)</p> <p>Riverina</p> <p>Riverina Eastern Regional Organisation of Councils (REROC/Riverina Pilot JO) Bland Shire Council Coolamon Shire Council Cootamundra Shire Council Tumut Shire Council</p> <p>South East</p> <p>Bega Valley Shire Council Eurobodalla Shire Council Queanbeyan City Council</p> <p>Tablelands</p> <p>Canberra Region JO (CBRJO) Goulburn Mulwaree Council Wingecarribee Shire Council</p> <p>Metropolitan Sydney</p> <p>Marrickville Council Mosman Municipal Council Warringah Council Western Sydney Regional Organisation of Councils (WSROC)</p> <p>Industry peak bodies</p> <p>Institute of Public Works Engineering Australasia (IPWEA) Local Government NSW (LGNSW) Local Government Professionals, NSW Branch (LG Professionals, NSW) Regional Networks for effective Waste Management (RENEW NSW) United Services Union (USU) Urban Taskforce Water Directorate</p> <p>State agency</p> <p>Food Authority</p>
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