

Planning and Assessment

IRF20/3780

Gateway determination report

LGA	Brewarrina
PPA	Brewarrina Shire Council
NAME	Rezoning and reduction of minimum lot size at Bourke and Wilson Streets, Brewarrina (0 homes, 0 jobs)
NUMBER	PP_2020_BREWA_001_00
LEP TO BE AMENDED	Brewarrina Local Environmental Plan 2012
ADDRESS	Bourke and Wilson Streets, Brewarrina
DESCRIPTION	Lots 1-2 and 9-16 Sec 27 DP 758161
RECEIVED	29 July 2020
FILE NO.	IRF20/3780
POLITICAL DONATIONS	There are no known donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no known meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

Brewarrina Shire Council are proposing an amendment to the Brewarrina Local Environmental Plan (LEP) 2012 for land at Lots 1-2 and 9-16 Sec 27 DP 758161, Bourke and Wilson Streets, Brewarrina to enable expansion and operation of an existing 'service station'. This will be achieved through the following amendments:

- Rezone the subject land from RU1 Primary Production to RU5 Village; and
- Reduce the Minimum Lot Size (MLS) from 200ha to 800m².

1.2 Site and surrounding area description

The 9,450m² subject land is within the eastern limits of the Brewarrina township (**Figure 1**), as detailed on page 1 of the planning proposal. The subject land consists of a block of subdivided lots, averaging 900m², which is vacant except for an existing fuel depot on Lots 1-2 Sec 27 DP 758161 (**Figure 2**). The subject land has been previously cleared and has no known environmental constraints or heritage values.

There are existing dwellings to the south of the subject land and land zoned for residential purposes to the east. Vacant land immediately west of the subject land supports an unused rail corridor. North of the subject land is vacant land with substantial remnant vegetation.

1.3 Existing planning controls

The subject land is zoned RU1 Primary Production with a MLS of 200ha.

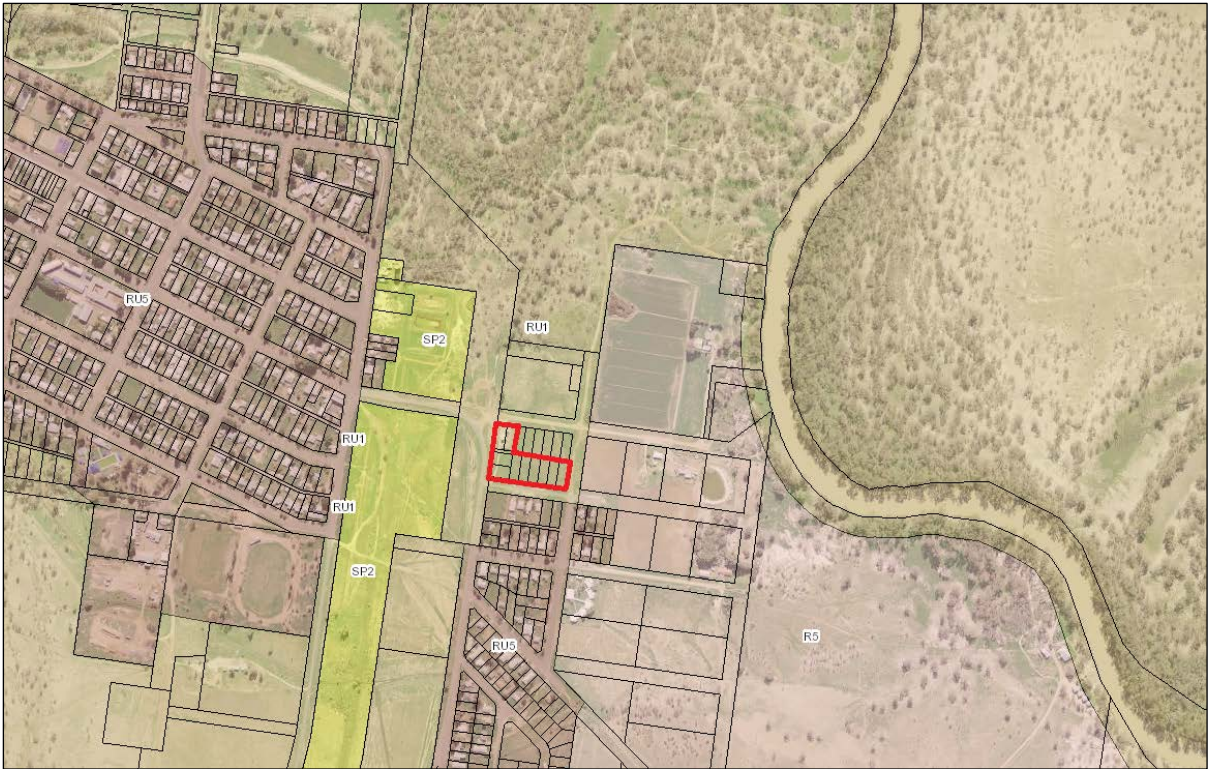


Figure 1: Zoning and proximity of the subject land (red boundary) to Brewarrina township



Figure 2: Aerial imagery of the subject land

2. PROPOSAL

2.1 Objectives or intended outcomes

The objectives of the proposal are adequately outlined on page 3 of the planning proposal. The proposal will enable expansion and operation of an existing 'service station', as well as all other land uses permissible within the RU5 Village zone. As this is an open zone any land use is permissible with consent, other than the industrial and agricultural land uses listed as prohibited in the Brewarrina LEP. Any future development would still be subjected to a merit assessment by Council to grant development approval and protect adjacent residential uses to the south. These amendments are supported as they will better reflect the existing and future commercial uses of the subject land and align with development controls on adjacent village zoned land.

2.2 Explanation of provisions

The proposed LEP Amendments are restricted to mapping changes, which are adequately outlined on page 3 of the planning proposal to:

- Rezone the subject land from RU1 Primary Production to RU5 Village; and
- Reduce the MLS from 200ha to 800m².

2.3 Mapping

Amendments to LEP maps sheets LZN_002A and LSZ_002A are required to enable the proposed rezoning and reduction of MLS. The planning proposal requires updating to visually show these changes before community consultation.

3. NEED FOR THE PLANNING PROPOSAL

As stated on page 4 of the planning proposal, the proposal is not the result of a strategic study, rather a response to a development opportunity. The proposal would allow the land to be developed for commercial and residential purposes with the same development controls of the surrounding area. The RU5 Village zone is the only zone which currently permits 'service station' in the Brewarrina LEP. Therefore, it is agreed that proposed rezoning and reduction of MLS is the best means for achieving the intended outcomes.

4. STRATEGIC ASSESSMENT

4.1 State

There is no known state strategic planning framework relevant to this proposal.

4.2 Regional / District

The Far West Regional Plan 2036 is relevant to the proposal. Page 4 of the proposal states there are no relevant Directions for this proposal, therefore it is consistent with the Regional Plan. However, the proposal is considered relevant and consistent with Direction 12: Enhance the productivity of employment lands. Specifically, Action 12.6 as the proposal will enable future commercial uses within the Brewarrina township.

4.3 Local

The Brewarrina Shire Local Strategic Planning Statement (LSPS) provides a high level, local planning direction relevant to all planning proposals. The minor nature of the proposal means there are no inconsistencies with the actions of the LSPS.

4.4 Section 9.1 Ministerial Directions

The proposal is consistent with the following section 9.1 Directions as demonstrated on page 5 of the planning proposal;

- 3.1 Residential Zones as the RU5 zone will increase housing choices and make more efficient use of the land within the city boundaries.
- 3.3 Home Occupations as the proposal will continue to permit home occupations to be carried out in dwellings without development consent.
- 3.4 Integrating Land Use and Transport as the land is already accessible to transport options.
- 5.10 Implementation of Regional Plans as the proposal is consistent with the Far West Regional Plan as previously discussed.
- 6.1 Approval and Referral Requirements as the proposal will not require any additional consultation, concurrence or referrals for development.
- 6.3 Site Specific Provisions as the proposed amendment permit the development occur through existing development controls without the need for site specific development controls.

Direction 1.2 Rural Zones

The proposal is inconsistent with this Direction as the proposal will rezone a rural lot to village zone. The inconsistency is considered justified, as the proposal is of minor significance due to the subject land being already used for commercial purposes only, is within a larger fragmented, residential study area and is unlikely to increase land use conflict with nearby rural zones.

Direction 1.3 Mining, Petroleum Production and Extractive Industries

The proposal is inconsistent with this Direction as the proposal will rezone the land to RU5, which prohibits mining and other extractive activities. It is agreed the inconsistency is of minor significance, as the study land is unlikely to be a viable extractive area given it is surrounded by residential land of Brewarrina and there are no known deposits or mining leases.

Direction 1.5 Rural Lands

This Direction applies as the planning proposal will reduce the MLS of an existing rural zone; however, it is agreed that this is of minor significance, as per page 5 of the planning proposal. The proposal is justified as it is consistent with the Far West Regional Plan, is unlikely to interfere with agricultural activities or right to farm, is unlikely to impact on environmental values and is in an existing fragmented, commercial and residential study area.

Direction 2.6 Remediation of Contaminated Land

This Direction applies as the proposal will rezone land to RU5 which permits increased residential uses and fuel storage is a type of potentially contaminating development which affects the land, as per Table 1 to the contaminated land planning guidelines. Despite the intent of the rezoning to permit an expansion of a service station, the rezoning must consider suitability of all potential land uses, including residential dwellings. To rectify this inconsistency, the proponent is to prepare an initial site contamination investigation report in accordance with the contaminated land planning guidelines, see Gateway condition 2.

4.5 State environmental planning policies (SEPPs)

The proposal is generally consistent with the relevant SEPPs as stated on page 4 of the planning proposal.

The *State Environmental Planning Policy (Primary Production and Rural Development) 2019* applies and its aim is to balance the needs of primary production, residential development and protection of biodiversity. Loss of 9,450m² of unused agricultural land for residential and commercial purposes is consistent with the aims of this SEPP. This is supported as the subject land is already used for commercial purposes only, is within a larger fragmented, residential study area and is unlikely to increase land use conflict with nearby agricultural practices.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social and economic

Discussion of social and economic impacts is adequately provided on page 6 of the planning proposal. Minor rezoning to facilitate increased commercial uses of land within Brewarrina township is agreed to have a localised, minor positive impact.

5.2 Environmental

Discussion of environmental impacts is adequately provided on page 6 of the planning proposal. In summary, the subject land has been previously cleared and has no known environmental constraints or heritage values to be impacted.

6. CONSULTATION

6.1 Community

☐ none, ☐ 14 days, ☒ 28 days – as suggested by council.

6.2 Agencies

Council has proposed agency consultation with Transport for NSW to comment on increased traffic caused by the proposal. This is supported and no other agency consultation is recommended.

7. TIME FRAME

Council has requested 12 months to make the LEP, as outlined on page 6. This is considered adequate, especially to complete the initial site contamination report.

8. LOCAL PLAN-MAKING AUTHORITY

☐ yes, ☒ no – Council has not requested to be the local plan-making authority, which is supported as Council has interests in the land.

9. CONCLUSION

Preparation of the planning proposal is supported to proceed with conditions as:

- The proposal would allow the land to be developed for commercial and residential purposes with the same development controls of the surrounding area.
- There are no inconsistencies with relevant local and regional strategies and SEPPs.

- Outstanding inconsistencies with section 9.1 Direction, 2.6 Remediation of Contaminated Land is likely to be resolved through additional studies.
- It's unlikely to cause any social, economic or environmental impacts.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions [1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands] are minor or justified; and
2. note that the consistency with section 9.1 Direction [2.6 Remediation of Contaminated Land] is unresolved and will require justification.

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

1. Update the planning proposal to show the proposed changes to zone and lot size maps before community consultation.
2. Prepare an initial site contamination report to determine suitability of rezoning the land for village purposes in accordance with the contaminated land planning guidelines.
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. Consultation of at least 21 days is required with Transport for NSW.
5. A public hearing is not required.
6. The final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2017.
7. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.



26.8.20

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