

Planning Services

Gateway Determination Report

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| LGA | Bathurst Regional Council |
| PPA | Bathurst Regional Council |
| NAME | Minor amendments to zone boundaries, 240 Limekilns Road, Kelso |
| NUMBER | PP_2018_BATHU_001_00 |
| LEP TO BE AMENDED | Bathurst Regional Local Environmental Plan 2014 |
| ADDRESS | 240 Limekilns Road, Kelso |
| DESCRIPTION | Lots 2 and 3, DP1233661, and Lot 1 DP176203 |
| RECEIVED | 29 March 2018 Deemed Adequate 24 April 2018 |
| FILE NO. | IRF18/13720 |
| 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. |

INTRODUCTION

Description of planning proposal

To update the Bathurst Regional Local Environmental Plan 2014 (LEP) with the proposed land zone boundary amendments at 240 Limekilns Road, Kelso.

Site description

The planning proposal relates to Lots 2 and 3, DP1233661, and Lot 1 DP176203 at 240 Limekilns Road, Kelso. See **Attachment F**.

Existing planning controls

The following land zones apply to the subject site:

- Lot 2 DP1233661: R1 General Residential and RE1 Public Recreation.
- Lot 3 DP1233661: RU1 Primary Production.
- Lot 1 DP176203: R1 General Residential and RE1 Public Recreation.

The subject site is also mapped in the LEP as being a part of the urban release area. Part 6 of the LEP relates to urban release areas to ensure the required public utility infrastructure is available prior to development consent being granted for developments. Due to the minor nature of the proposal no further work is required in relation to this matter. Satisfactory arrangements for the Kelso Urban Release Area have been certified by the Secretary.

Surrounding area

The site is located on the edge of the residential release area and agricultural boundary of Bathurst, within the suburb of Kelso.

Summary of recommendation

Proceed with Condition – The planning proposal sufficiently covers all requirements for a planning proposal and is recommended for approval with conditions. These conditions relate to community consultation, updating the LEP maps and completing a preliminary site investigation to assess for potential land contamination.

PROPOSAL

Objectives or intended outcomes

The minor amendments to zone boundaries, 240 Limekilns Road, Kelso are clear and do not need changing prior to community consultation.

Explanation of provisions

The planning proposal will require updating maps within the LEP and Council's Development Control Plan (DCP) to show the new land zone boundaries. The Section 94 Contributions Plan will also require updating to ensure that the future road within the RE1 zoned land can be funded on the 70/30 split, rather than a 100% developer contribution. This is a Council matter.

Mapping

The following LEP maps will require updating:

- Land Zoning Map.
- Height of Building Map.
- Lot Size Map.
- Land Reservation Acquisition Map.
- Minimum Lot Size – Dual Occupancy Map.
- Minimum Lot Size – Multi Dwelling Housing and Residential Flat Buildings Map.

In addition to this, Map No. 4 – Kelso of the DCP will require updating to:

- Show the relocation of the RE1 land (open space) and road.
- Change the Collector Road classification from “to be constructed by developer” to “to be partially constructed by developer & identified on Section 94 Contribution Plan”.

NEED FOR THE PLANNING PROPOSAL

The planning proposal was not a result of any strategic study or report. The desired outcome of the planning proposal is to improve the road alignment for the proposed road network and roundabout on Limekilns Road as a result of detailed subdivision layout design.

The planning proposal will involve minor zone boundary adjustment to better align with the proposed road network. This will also result in other beneficial outcomes:

- Ensuring future lots are facing the RE1 zoned land instead of rear fences from the proposed adjacent subdivision

- Slightly increasing the amount of land zoned as RE1 by 0.1ha.

No other alternative methods have been proposed to meet the needs of this planning proposal. The minor land zone boundary adjustment is believed to be the best method of achieving the outcome of the planning proposal.

STRATEGIC ASSESSMENT

State

No State strategies have been identified as being relevant to this proposal.

Regional / District

The planning proposal is generally consistent with urban design and residential development directions listed under Goal 4: Dynamic, vibrant and healthy communities of the Central West and Orana Regional Plan. It is consistent as it will improve the size of the open space, provide a better local road network and is impacting on rural land within the residential expansion area.

Local

The planning proposal will align the LEP, DCP and section 94 Contributions Plan.

The proposal will result in a slight increase in open space and residential land which does not conflict with the Bathurst Region Urban Strategy 2007 (Urban Strategy), which was endorsed by the Department in 2008. However, this comes at a loss of approximately 2.8ha of class 2 and 3 agricultural land (see Figure 15 of the urban strategy). This is inconsistent with the Urban Strategy as agricultural class 2 land should be protected from conversion to non-agricultural uses as much as possible. Given only the edge of agricultural land will be lost and benefits to the proposed road network, recreation and visual amenity, on balance the proposal is considered justified.

Section 9.1 Ministerial Directions

The planning proposal is inconsistent with the following relevant section 9.1 Ministerial Directions:

- 1.2 Rural Zones;
- 1.5 Rural Lands; and
- 1.3 Residential zones

The planning proposal is inconsistent with Directions 1.2 and 1.5 as it will slightly reduce the lot size of land within the rural protection zone. A planning proposal may be inconsistent with the terms of Direction 1.2 if the impact is of minor significance. As the zone boundary adjustment will only impact about 2.8ha of rural land, this is considered to be of minor significance. Section 7(d) of the Rural Lands SEPP relates when planning for rural lands, to balance the social, economic and environmental interests of the community. As the planning proposal will result in benefits to the proposed road network, recreation and visual amenity. On balance the Director Regions, Western can be satisfied that the inconsistency is of minor significance.

Ministerial Direction 3.1 Residential Zones also applies to this planning proposal and was identified in the planning proposal as being inconsistent with Direction 3.1. As the planning proposal will alter the zone boundary of residential land to provide for a

better road network design it is considered this is consistent with the Direction as it is of good design and will make more efficient use of existing infrastructure.

State environmental planning policies

Clause 6 of the State Environmental Planning Policy No. 55—Remediation of Land (SEPP 55) requires Council to consider the potential for contamination of land when rezoning land. The planning proposal identifies the site has been historically used for cropping. The *Managing Land Contamination 1998* guidelines list agricultural/horticultural activities as a potentially contaminating activity which requires a preliminary site investigation to identify the extent and nature of any site contamination, if it exists. If site contamination is found, a detailed site investigation is required before the planning proposal is approved.

The planning proposal states there are no physical signs of contamination present on the site and a detailed investigation is not necessary.

The State Environmental Planning Policy (Rural Lands) 2008 principles are the protection of rural land on the balance of environmental, social and economic outcomes. The planning proposal will result in the loss of approximately 2.8ha of rural land. This loss is considered acceptable as:

- The area to be impacted is at the edge of the rural-residential boundary and within the Kelso urban expansion area.
- The area to be impacted is not identified as having important biodiversity assets, or environmental hazards.
- The zone boundary adjustments will result in a 0.1ha increase of RE1 zoned land.

SITE-SPECIFIC ASSESSMENT

Social

The planning proposal will result in beneficial outcomes for the community:

- Ensuring future lots are facing the RE1 zoned land instead of rear fences from the proposed adjacent subdivision
- Slightly increasing the amount of land zoned as RE1 by 0.1ha.

Environmental

The site has been described as historically cropped, leaving little to no native vegetation present at the site. There are no known natural hazards (e.g. bushfire or flooding prone land) identified for the site.

The planning proposal will increase the amount of land zoned as RE1 by 0.1ha. This is not expected to adversely impact critical habitat, or threatened species or ecological communities.

Economic

The planning proposal will result in a loss of 2.8ha of land zoned for agricultural use. The planning proposal does not consider this minor loss to result in any negative economic outcomes as the planning proposal will improve access from the proposed road alignment.

Infrastructure

The planning proposal will involve minor zone boundary adjustment to better align with the proposed road network. No other infrastructure impacts have been identified.

CONSULTATION

Community

Council proposed to publicly exhibit the planning proposal for 28 days. As this is a low impact proposal, 28 days is considered sufficient.

Agencies

No agency consultation has been proposed by Council and no agencies are recommended by the Department given the minor nature of the boundary adjustments.

TIME FRAME

Council has proposed a timeframe of six months to complete the planning proposal. A timeframe of 12 months is recommended to provide time required to undertake relevant plan making process.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be authorised to exercise plan making delegations. Although the subject land will be dedicated to Council as public road and public recreation to facilitate urban development. It is considered given the minor nature of the proposal delegation can be authorised in this case.

CONCLUSION

Preparation of the planning proposal is supported to proceed with conditions. The condition is to undertake preliminary site investigation to identify the extent and nature of any site contamination, if it exists. If site contamination is found, a detailed site investigation is required before the planning proposal is approved.

RECOMMENDATION

It is recommended that the delegate of the Secretary agree that any inconsistencies with section 9.1 Directions (1.2 Rural Lands, 1.5 Rural Zones and 3.1 Residential Zones) are of minor significance and justified. Given the nature of the planning proposal, Council should be the local plan-making authority.

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

1. Community consultation is required under sections 2.22 and 3.34(2)(c) of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning & Environment August 2016).

No consultation is required with public authorities under section 3.34(2)(d) of the Act.

2. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
3. Prior to submission of the planning proposal under section 3.36 of the Act, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.
4. Prior to submission of the planning proposal under section 3.36 of the Act, Council is to ensure that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land to demonstrate that the land is suitable for rezoning the land to the proposed RE1 Public Recreation zone.
5. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.

 26.4.18

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26.4.18

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