

**DIRECTOR - ENVIRONMENTAL SERVICES REPORT TO THE
GENERAL COMMITTEE MEETING TO BE HELD ON MONDAY 11
AUGUST 2014**

Author: Director – Environmental Services

Item No: 1.

Subject: Amendment to Cowra Local Environmental Plan 2012

Precis: Environmental Services is proposing to amend Cowra Local Environmental Plan 2012 in order to address a planning anomaly associated with land in Ranken Street, Cowra. This report seeks endorsement from Council to proceed with the preparation of the Planning Proposal (LEP Amendment) in accordance with requirements of Section 55 of the Environmental Planning & Assessment Act 1979.

Budget: Nil.

Recommendation:

- 1. That Council's Environmental Services Department prepares a Planning Proposal that seeks to amend Cowra Local Environmental Plan 2012 to enable the use of land at 25 Ranken Street, Cowra (and other similar land in the IN2 Light Industrial zone) for dwelling-house purposes.**
- 2. That the Planning Proposal be submitted to the NSW Department of Planning & Environment seeking a Gateway Determination in accordance with Section 56 of the Environmental Planning & Assessment 1979.**
- 3. That the Planning Proposal be reported to Council following the Gateway Determination by the NSW Department of Planning & Environment.**

1. Amendments to Cowra Local Environmental Plan 2012

Introduction

This report briefs Council on a planning anomaly that has been identified in Cowra Local Environmental Plan 2012 that affects a number of land holdings in the Ranken Street area of West Cowra.

The anomaly lies with the current light industrial zoning of the land which does not properly reflect the residential nature of existing land-use in the area. The anomaly has been highlighted following an enquiry by the owners of 25 Ranken Street, Cowra proposing to construct a dwelling on the land.

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Council is unable to consent to a dwelling on the land at 25 Ranken Street, Cowra because the current zoning of the land (IN2 Light Industrial) prohibits all forms of residential development. The construction of a dwelling at 25 Ranken Street, Cowra would be consistent with use of adjoining land for residential purposes and would be capable of being supported by Council on planning merit. A map showing the location of 25 Ranken Street, Cowra, including the location of existing dwellings in the area has been included in Attachment 'A'.

The land is unsuited to any form of light industrial development due to the size of the property, its serviceability, and constraints posted by adjoining residential land-use. The use of the land for light industrial purposes is also against the wishes of the owners, who purchased the land approximately 12 years ago with the intention of constructing a dwelling in the future. At the time of purchase the use of the land for residential purposes was a permissible land use under Cowra Local Environmental Plan 1990.

Preliminary investigation indicates there would be other land holdings in the Ranken Street area, and possibly other areas zoned IN2 Light Industrial, with similar circumstances.

The most appropriate course of action would be to amend Cowra Local Environmental Plan 2012. This would require the preparation of a planning proposal by Council's Environmental Services Department.

Background

Ranken Street is located in West Cowra and runs in an east-west direction between Hartley Street and the Young Road.

The zoning of this area under the (former) Cowra Local Environmental Plan 1990 was 4(c) Special Industrial. Despite the light industrial zoning of the land, development for residential purposes was permissible with the consent of Council at the time. This has allowed Ranken Street to develop into an area that is used primarily for residential purposes, creating a planning anomaly whereby the zoning of the land does not properly reflect the predominant use of land in the area.

This anomaly was given consideration as part of the Cowra Shire Land-use Strategy and Local Environmental Plan review process. At the time, it was considered that the most suitable planning option was to retain the land in an equivalent zone under the new Local Environmental Plan, being the IN2 Light Industrial zone.

This was considered the most suitable planning option for the following reasons:

- Retaining the land in a light industrial zone would protect surrounding industrial lands from further residential encroachment.
- Existing use right provisions in the Environmental Planning & Assessment Act 1979 would enable the continued use of the existing dwellings, despite residential development being prohibited in the IN2 Light Industrial zone.

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The proposal (by the owners) to construct a dwelling at 25 Ranken Street has highlighted the inadequacy of the IN2 Light Industrial zone for this area of Cowra.

The zoning of the land is unnecessarily sterilising the development potential of some vacant land holding, and is preventing Council from granting consent to development applications which would ordinarily have been able to be supported by Council.

Proposal

There is a need to review the land-use planning controls applying to 25 Ranken Street, Cowra to ensure that the land is not prevented from being developed to its highest and best use.

The recommended course of action is to undertake a Planning Proposal that seeks to amend Cowra Local Environmental Plan 2012 by allowing the erection of a dwelling at 25 Ranken Street, Cowra. The role of the Planning Proposal is to explain the intended effect of the LEP Amendment and provide appropriate planning justification.

The Planning Proposal would seek to amend Cowra Local Environmental Plan 2012 by listing the property at 25 Ranken Street in Schedule 1 of the plan. Schedule 1 can be used to nominate 'dwelling purposes' as an Additional Permitted Use for 25 Ranken Street, despite this use being prohibited in the IN2 Light Industrial zone.

The Planning Proposal would also provide Council with an opportunity to investigate the merits of listing other IN2 Light Industrial zoned properties in Schedule 1, including other vacant allotments in Ranken Street. There may also be merit in listing properties in the IN2 Light Industrial zone that have existing dwellings. This would remove the need to rely on existing use right provisions for standard development proposals including dwelling alterations and additions.

The preparation of the Planning Proposal would be undertaken by Council planning staff and could be completed without assistance from an external consultant.

Process

The process for preparing a Planning Proposal is summarised below:

1. Council resolves to prepare the Planning Proposal. This report seeks a resolution from the Council to proceed with the preparation of the Planning Proposal.
2. Council prepares the Planning Proposal in accordance with the requirements of Section 55 of the Environmental Planning & Assessment Act 1979.
3. Council submits the Planning Proposal to the NSW Department of Planning & Environment (the Department) seeking a Gateway Determination.

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4. A Gateway Determination is issued by the Department, specifying whether the Planning Proposal is to proceed and if so, in what circumstances. The purpose of a Gateway Determination is to ensure there is sufficient justification early in the process to proceed with a Planning Proposal.
5. If the Department specifies in the Gateway Determination that the Planning Proposal can proceed, Council must then address any specified conditions before proceeding to place the Planning Proposal on public exhibition in accordance with Section 57 of the Environmental Planning & Assessment Act 1979.
6. After considering any submissions received as a result of public exhibition and making any necessary alterations, Council must submit the Planning Proposal to the Department. The Director-General will make arrangements for drafting of the amendment to Cowra Local Environmental Plan 2012, and subsequent making of the plan.

Conclusion

Environmental Services is proposing to undertake a Planning Proposal that seeks to amend Cowra Local Environmental Plan 2012 by allowing the erection of a dwelling at 25 Ranken Street Cowra, and on other land in the IN2 Light Industrial zone with similar characteristics.

The preparation of the Planning Proposal would be undertaken by Council planning staff and could be completed without assistance from an external consultant.

This report seeks an endorsement from the Council for Environmental Services to proceed with the preparation of a Planning Proposal for submission to the NSW Department of Planning & Environment.

Attachments

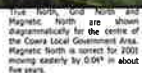
Attachment A Location Map and Aerial View

Kate Alberry
Director – Environmental Services
5 August 2014



Important Notice:
This map is not a precise survey document. Accurate locations
can only be determined by a survey on the ground.

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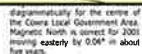
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Map Zoom: 277.6 m

Map Scale: 1:1,461 at A4
Map Zoom: 277.6 m



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Contour
Internally

Cost:

MGA94 Zone 55

Wednesday, 30 July 2014

Drawn By: exponare

Map Zoom: 277.6 m

Map Scale: 1:1,461 at A4
Map Zoom: 277.6 m