

Amend Wagga Wagga LEP 2010 - Deferred Matters (Cartwrights Hill and Estella)

Proposal Title : Amend Wagga Wagga LEP 2010 - Deferred Matters (Cartwrights Hill and Estella)

Proposal Summary : Council (Wagga Wagga Interim Joint Planning Panel) has submitted a Planning Proposal (PP) to rezone two sites that were deferred from the Wagga Wagga LEP 2010.

SITE 1 - CARTWRIGHTS HILL

Located north of Wagga Wagga and west of the Bomen industrial area. The land is bounded by the Olympic Highway to the north west.

The PP seeks to rezone the land to R5 Large Lot Residential Zone with a 1ha minimum lot size (MLS), RU6 Transition Zone with a 200 ha MLS, SP2 Infrastructure Zone and IN1 General Industrial Zone with no MLS.

The land is currently zoned 1 Rural, 2 Residential, 3 Business, 5 Special Uses (Community Building) and 6 Open Space.

About 70 ha (source WWCC) of land currently zoned Residential 2 is proposed to be rezoned to R5 Large Lot Residential under the PP. The majority of the Residential 2 land is undeveloped.

The main planning issue with this deferred matter is the proximity of the existing residential land to the Bomen industrial area and the existing Cargill Abattoir to the east.

The current 2 Residential Zone (no MLS) under Wagga Wagga LEP 1985 was proposed to be zoned RU6 Transition Zone (200 ha MLS) under the exhibited draft Wagga Wagga LEP 2008 based on an odour study and submission from the then Department of Environment and Climate Change (DECC). Both the study and DECC raised concerns that future urban development would result in an increase in complaints about industrial odour impacts if residential zoned land was permitted to develop to its full potential.

The proposed RU6 Transition Zone and 200 ha minimum lot size under draft Wagga Wagga LEP 2008 would have prevented any further residential subdivision in the current 2 Residential Zone. The Wagga Wagga City Council Planning Panel deferred the matter in February 2010 to enable Council to undertake further investigations into the proposed zones in response to objections to the RU6 Transition zone by landholders.

The R5 Large Lot Residential Zone replaces the majority of the proposed RU6 Transition zone. The intent of the R5 Large Lot Residential Zone (1 ha MLS) is to reduce land use conflict by reducing the future housing potential in the current 2 Residential Zone from approximately 750 lots to 100 lots (WWCC). A smaller area of RU6 Transition Zone has been retained to act as a buffer between the R5 Large Lot Residential Zone/RU1 General Rural Zone and the Bomen industrial area.

SITE 2 - ESTELLA

Approximately 6-7 ha of land north west of Wagga Wagga in the suburb of Estella currently zoned 1 Rural Zone under Wagga Wagga LEP 1985. This area was deferred from the Wagga Wagga LEP 2010 because of its proximity to a local heritage item, Estella homestead, and concerns with possible adverse impacts of the encroachment of residential development on the heritage item, e.g. visual impacts. The land was proposed to be zoned R1 General Residential Zone and R5 Large Lot Residential Zone (no MLS) under the exhibited draft Wagga Wagga LEP 2008.

The PP seeks to rezone this land to R5 Large Lot Residential Zone (1,000m2 MLS). The zone and lot size are intended to protect and maintain view corridors to Estella Homestead.

PP Number : PP_2011_WAGGA_001_00 Dop File No : 10/03634-1

Proposal Details

Date Planning Proposal Received :	12-May-2011	LGA covered :	Wagga Wagga
Region :	Southern	RPA :	Wagga Wagga City Council
State Electorate :	WAGGA WAGGA	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Olympic Highway		
Suburb :	Cartwrights Hill	City :	Wagga Wagga
		Postcode :	2650
Land Parcel :	The subject land is identified in Attachment A of the Planning Proposal		
Street :	Old Narrandera Road		
Suburb :	Estella	City :	Wagga Wagga
		Postcode :	2650
Land Parcel :	The subject land is identified in Attachment B of the Planning Proposal (part Lot 799 DP 1150062)		

DoP Planning Officer Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	N/A

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MDP Number :	Date of Release :	
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots : 170	No. of Dwellings (where relevant) :	170
Gross Floor Area : 0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with : Yes		
If No, comment :		
Have there been meetings or communications with registered lobbyists? : No		
If Yes, comment :		

Supporting notes

Internal Supporting Notes :

Description of Site 1 Cartwrights Hill

Predominately cleared flat to undulating land with a small section of steeper land to the south east. The site is north of Wagga Wagga City and contains a mix of public infrastructure, rural, residential, rural residential and industrial land uses.

Description of Site 2 Estella

Cleared undulating rural land adjoining Estella Homestead to the west.

Air Photo Site 1 and Air Photo Site 2 (SIX Viewer Map) show the approximate location and landscape features of these deferred matters and surrounding land.

Relevant Planning Authority

1. Council publicly exhibited the draft LEP for the deferred matters from 8 September to 5 October 2010 on the assumption that the Wagga Wagga City Council Planning Panel (WWCCPP) continued to be the Relevant Planning Authority (RPA) for the deferred matters to complete the Wagga Wagga LEP 2010.

2. The former Minister advised Council on the 10 February 2010 that a Planning Proposal must be prepared to progress the rezoning of the deferred matters and that under its terms of reference the WWCCPP could not be the RPA. To facilitate urgent resolution of the matter the former Minister directed that the Wagga Wagga Interim Joint Planning Panel (WWIJPP) to be the RPA in accordance with s54(2) of the Environmental Planning and Assessment Act 1979 (the Act).

3. The WWIJPP subsequently submitted a PP (12 May 2011) and resolved to advise the Department that "these amendments have been subject to extensive consultation with the community and government agencies and as a result, that the exhibition period for the planning proposal, if any, should be the minimum permitted under the Act and Regulations."

Request for Additional Information

After a review of the PP the Department requested the following additional information on the 17 May 2011:

1. Attachments A,B,C and D referenced in the PP (see below).
2. Copies of the proposed amendments to the Land Zoning Map and Lot Size Map in PDF format.
3. A revised PP to explicitly outline "Objectives or Intended Outcomes" and "Explanation

of the Provisions".

4. Copy of the resolution by the WWIJP at its meeting 4 May 2011 on the PP.
5. Copy of the latest Odour Study commissioned by Council.
6. Clarification/justification for the proposed change of zone from 1 Rural under Wagga Wagga LEP 1985 over lots 3 and 4 DP 730383 to R5 Large Lot Residential Zone located adjacent to the Bomen industrial area and previously proposed as RU6 Transition Zone (buffer).

The additional information and corrections, including a revised PP, has been provided by Council in stages between 3/6/2011 and 22/6/2011.

Council has provided the following information as part of the PP;

1. Covering letter dated 12 May 2011.

Planning Proposal

2. Revised Planning Proposal (received 3 June 2011).
3. Attachments A and B of the PP - Amendments to the Land Zoning and Lot Size Maps (received 17 June 2011).
4. Attachment C of the PP - Additional information report (received 3 June 2011).
5. Attachment D of the PP - Response on s117 Directions.
6. Additional information on lots 3 and 4 DP 730383 (received 3 June 2011).

Additional Information

7. Attachment 1 - Diagram of proposed zones for Cartwrights Hill (received 3 June 2011).
8. Attachment 2 - Diagram of exhibited LEP Zones under draft Wagga Wagga LEP 2008 for Cartwrights Hill (received 3 June 2011)
9. Attachment 3 - Diagram showing location of Estella deferred area and Estella Homestead.
10. Report and resolution - Wagga Wagga City Council Planning Panel meeting on the deferred areas 13 October 2010.
11. Report and resolution - Wagga Wagga Interim Joint Planning Panel meeting 4 May 2011.
12. Exhibition material of draft LEP for deferred areas - September/October 2010.
13. Submission from DECC dated 1/10/2010 and DECCW dated 21/2/2011 on the exhibited LEP for deferred areas.
14. Copy of submissions (Cargill, G. Ashley, L&L Hull and G. Brady) on the exhibited LEP for deferred areas.
15. Letter from PAEHolmes dated 13/10/2009 responding to a submission by landowners in Cartwrights Hill (Cartwrights Hill Group) who challenged the veracity of the Odour Modelling Impact Assessment (dated January 2008) prepared by Holmes Air Sciences (received 3 June 2011).

Note: The description in the PP for Estella is incorrect. Instead of part Lot 730, DP 1138147 it should read part Lot 799 DP 1150062 as in the description above.

The proposed zones represent a reasonable compromise that attempts to address equity, land owner aspirations, land use conflict and strategic planning.

External Supporting
Notes :

The Planning Proposal seeks to apply appropriate zones, land uses and minimum lot sizes for the areas deferred from Wagga Wagga Local Environmental Plan (LEP) 2010. The proposed zones and development controls react to concerns and issues raised in submissions received during exhibition of LEP 2010 from government agencies, landowners and the community.

Cartwrights Hill is proposed to be zoned a mixture of R5 Large Lot Residential Zone with a 1 ha minimum lot size (MLS), RU6 Transition Zone with a 200 ha MLS, SP2 Infrastructure Zone and IN1 General Industrial Zone with no MLS.

Estella is proposed to zoned R5 Large Lot Residential Zone with a 1,000m2 MLS. The zone and lot size are intended to protect and maintain view corridors to Estella Homestead.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment : The statement on the PP objectives simply indicates that the purpose of the PP is to
undefer two deferred matters under the Wagga Wagga LEP 2010
1. Deferred Area 1. Land at Cartwrights Hill
2. Deferred Area 2. Land in the vicinity of Estella Homestead, Old Narrandera Road, Estella

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : The statement on the explanation of the provisions provides an outline of the proposed
zones and lot sizes to be applied to the two deferred matters. The Statement also includes
a description of the draft zones that were exhibited under the draft Wagga Wagga LEP
2008 before these sites were deferred.

The Statement in the PP does not include information on the current zones applying to the
deferred areas under Wagga Wagga LEP 1985 and Wagga Wagga Rural LEP 1991 that are
intended to be replaced by proposed zones under the PP.

Site 1. Cartwrights Hill - Existing Zones

The majority of the Cartwrights Hill deferred area is under Wagga Wagga LEP 1985 and
has the following zones;

- 1 Rural Zone
- 2 Residential Zone
- 3 Business Zone
- 4 Industrial
- 5 Special Uses
- 6 Open Space

The majority of the deferred area is zoned 2 Residential Zone and 1 Rural Zone.

A small area of this deferred land (approximately 15 ha) is zoned 1 Rural Zone under
Wagga Wagga Rural LEP 1991. This small area will be zoned RU6 Transition Zone under
the PP. The deferred area does not include an internal SP2 Infrastructure Zone (Sewer
Plant) under Wagga Wagga LEP 2010 as it was not deferred from the SI LEP.

Site 2. Estella

The Estella deferred area is zoned 1 Rural Zone under Wagga Wagga LEP 1985.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? No

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land
- 6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 4—Development Without Consent and Miscellaneous Exempt and Complying Development
SEPP No 6—Number of Storeys in a Building
SEPP No 21—Caravan Parks
SEPP No 22—Shops and Commercial Premises
SEPP No 30—Intensive Agriculture
SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)
SEPP No 33—Hazardous and Offensive Development
SEPP No 36—Manufactured Home Estates
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 62—Sustainable Aquaculture
SEPP No 64—Advertising and Signage
SEPP No 65—Design Quality of Residential Flat Development
SEPP No 70—Affordable Housing (Revised Schemes)
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007
SEPP (Major Projects) 2005
SEPP (Mining, Petroleum Production and Extractive Industries) 2007
SEPP (Rural Lands) 2008
SEPP (Temporary Structures and Places of Public Entertainment) 2007

e) List any other matters that need to be considered :

Wagga Wagga Spatial Plan 2008 (WWSP) has been adopted by Council, however, it has not been adopted by the Director General.

Section 2.4 on Environment and Amenity in the WWSP states that:

"Monitoring of odour impacts from Cargill Beef Meat processing operations has now been reported. The position remains that there is doubt over the compatibility of Cargill operations and residential development in Cartwrights Hill. It is not appropriate to allow further residential development at the present time."

The PP is therefore inconsistent with the WWSP because it seeks to continue with residential development at Cartwrights Hill. The intention of the PP, however, is to reduce the density of residential development in this area by replacing the existing residential zone (no MLS) under Wagga Wagga LEP 1985 with an R5 Large Lot Residential Zone (1 ha MLS) under an amendment to Wagga Wagga LEP 2010.

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

Council has correctly identified that the PP is inconsistent with s117 Direction 1.2 Rural Zones and Direction 3.1 Residential Zones but has incorrectly indicated that the PP is consistent with s117 Direction 1.5 Rural Lands and 1.1 Business and Industrial Zones. Identified inconsistencies have been adequately justified except for the rezoning of Lots 3 and 4 DP 730383 from Rural 1 Zone to R5 Large Lot Residential Zone.

1. Rural 1 Zone to IN1 General Industrial Zone

The inconsistency with s117 Direction 1.2 and 1.5 for the conversion of a small amount of Rural Zoned land (approx.30 ha) to an IN1 General Industrial Zone has not been identified or justified by Council. The inconsistency, however, is considered of minor significance because the land is within the Bomen industrial area and is currently used for industrial purposes.

2. Residential 2 Zone to R5 Large Lot Residential Zone

The majority of the land proposed to be zoned R5 Large Lot Residential Zone (1 ha MLS) under the PP converts land previously zoned 2 Residential Zone (no MLS) under Wagga

Wagga LEP 1985. Some of this land is currently zoned 3 Business and the conversion to an R5 zone is inconsistent with s117 Direction 1.1 Business and Industrial Zones.

Council has justified the inconsistency with s117 Directions on the basis that the R5 Large Lot Residential Zone (1 ha MLS) represents a more equitable compromise than completely removing subdivision entitlements under the existing Residential 2 Zone with the previously proposed RU6 Transition Zone (200 ha MLS). The R5 Large Lot Residential Zone provides a balance between existing development rights and the amelioration of potential adverse impacts (impacts from Bomen industrial area).

3. Business 3 Zone to R5 Large Lot Residential Zone

The conversion of a small amount of Business Zone to an R5 Large Lot Residential Zone is considered to be of minor significance.

4. Rural 1 Zone to R5 Large Lot Residential Zone - Lots 3 and 4 DP 730383

The inconsistency with s117 Direction 1.2, 1.5 and 3.1 has not been adequately justified for land described as Lot 3 and 4 DP 730383 (4.4 ha) currently zoned 1 Rural Zone (Wagga Wagga LEP 1985) that are proposed to be zoned R5 Large Lot Residential Zone in the PP. This land is shown on the diagram "Air Photo Site 1 - Cartwrights Hill".

The proposed R5 Large Lot Residential Zone over Lots 3 and 4 is:

- not considered of minor significance (land use conflict);
- not supported by any study, s117 1.2, 1.5 and 3.1;
- not supported by a Strategy adopted by the Director General - s117 1.2, 1.5 and 3.1;
- not of good design - s117 3.1; and
- inconsistent with the Rural Subdivision Principles (Rural Lands SEPP), i.e. "The consideration of natural and physical constraints and opportunities of land" and "planning for dwelling opportunities that take into account those constraints."

These lots are separated from the main R5 Large Lot Residential Zone and are in close proximity to the proposed IN1 General Industrial Zone located on its eastern boundary (land use conflict). The lots are also within a strip of land proposed to be zoned RU6 Transition Zone that is being used as a buffer between proposed residential land and industrial land. Although each lot currently has a dwelling house, the proposed R5 Zone and 1 ha MLS will enable landowners to subdivide the land to create two additional lots and dwelling houses in close proximity to the Bomen industrial area. This will potentially exacerbate land use conflict.

Lots 3 and 4, the proposed RU6 Transition Zone and the Bomen industrial area are separated by a north-south ridge that acts as a physical buffer to the R5 Zone to the west. It is logical that lots 3 and 4 be included as part of the industrial/buffer area.

The site was inspected by Brett Whitworth (Department's Regional Director, Southern Region) and Graham Judge (Senior Planner, Southern Region) on the 3 June 2011. Photos taken during the inspection are tagged "Photos Site Inspection 20110603" and clearly show the close proximity of these lots to the proposed industrial zone and existing industrial development.

It is recommended that the PP be amended to zone Lots 3 and 4 DP 730383 as IN2 Light Industrial Zone (no MLS) to remove the opportunity for further residential subdivision within close proximity to the Bomen industrial area. An area of RU6 Transition Zone to the west will act as a buffer between the IN2 Zone and R5 Large Lot Residential Zone further to the west.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment : The amending Land Zoning Map and Lot Size Map are adequate for public exhibition subject to an amendment prior to public exhibition to change the R5 Large Lot Residential Zone and 1 ha MLS over lots 3 and 4 DP 730383 to IN2 Light Industrial Zone (no MLS) as recommended in the Planning Team Report.

It is noted that the PP rezones a number of areas to SP2 Infrastructure, however, descriptions have not been added. Descriptions need to be added that are contained in the SEPP (Infrastructure) or the Dictionary of the Standard Instrument.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment :

Public Exhibition

Council publicly exhibited the draft LEP for the deferred matters from 8 September to 5 October 2010 on the assumption that the Wagga Wagga City Council Planning Panel (WWCCPP) continued to be the Relevant Planning Authority (RPA) for the deferred matters to complete the Wagga Wagga LEP 2010.

The former Minister advised Council on the 10 February 2011 that a Planning Proposal must be prepared to progress the rezoning of the deferred matters and that under the terms of reference the WWCCPP could not be the RPA. To facilitate urgent resolution of the matter the former Minister directed that the Wagga Wagga Interim Joint Planning Panel (WWIJPP) to be the RPA in accordance with s54(2) of the Environmental Planning and Assessment Act 1979 (the Act).

The WWIJPP resolved to advise the Department, as part of the PP, that "these amendments have been subject to extensive consultation with the community and government agencies and as a result, that the exhibition period for the planning proposal, if any, should be the minimum permitted under the Act and Regulations."

It is recommended that the PP be amended:

- to zone Lots 3 and 4 DP 730383 as IN2 Light Industrial Zone (no MLS) to remove the opportunity for further residential subdivision within close proximity to the Bomen industrial area.
- the PP includes a review on the RPA's response to the s117 Directions.

As a consequence of this change to the PP it is also recommended that:

- the revised PP be publicly exhibited for 14 days.
- land holders, relevant state agencies and previous submitters be notified of the exhibition prior to the start of the exhibition period.
- the owners of Lots 3 and 4 be advised of the change to the PP prior to the start of the exhibition period.
- previous submitters are advised that their previous submission on the exhibition of the draft plan in September/October 2010 will be taken into consideration as part of the assessment of the exhibited amended PP.
- the odour study prepared by Holmes Air Services dated 31 January 2008 and the review of this study by PAEHOLMES dated 13 October 2009 are placed on public exhibition with the PP.

Additional Director General's requirements

Are there any additional Director General's requirements? No

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? No

If No, comment :

The rezoning of Lot 3 and 4 DP 730383 (4.4 ha) from 1 Rural Zone (Wagga Wagga LEP 1985) to R5 Large Lot Residential Zone in the PP has not been adequately justified. See the discussion under the section on inconsistencies with s117 Directions.

Proposal Assessment

Principal LEP:

Due Date : **July 2010**

Comments in relation
to Principal LEP :

The Wagga Wagga LEP 2010 (Standard Instrument LEP) was notified on the 16 July 2010. It included two deferred matters that are now the subject of the current PP.

Assessment Criteria

Need for planning
proposal :

The PP is required for these deferred matters to ensure that a SI LEP applies to all of the Wagga Wagga LGA. The deferred areas are the only areas in the LGA that are not included in the SI LEP. These areas are currently affected by the provisions of the Wagga Wagga LEP 1985 and Wagga Wagga Rural LEP 1991.

The deferred areas have been subject to extensive study and review by the RPA, particularly the Cartwrights Hill deferred area. A summary of the studies and reviews undertaken by Council are discussed under "Consistency with strategic planning framework".

Consistency with strategic planning framework :

1. Cartwrights Hill and Holmes Odour Study

Council commissioned an investigation and report by Holmes Air Sciences in 2008 on the impact of odorous industries within the Bomen industrial area to assist Council in its review of future development near the Bomen industrial area, particularly the Cartwrights Hill area. The odour assessment was undertaken in accordance with methodology outlined in a document prepared by the NSW Department of Environment and Climate Change in 2005. The odour assessment report entitled "Draft Odour Modelling and Impact Assessment: Bomen Industrial Estate, Wagga Wagga 31 January 2008" is included with the documentation on the LEP Tracking System.

The report acknowledged that there are some uncertainties associated with odour modelling and in the emission estimates. It concluded that:

- "Predicted odour levels at Cartwrights Hill due to existing and proposed odour sources in the Bomen area are above the DECC's criteria. The magnitude of model predictions suggest that odour complaints are very likely to occur on occasions"

- "Odour controls on some processes are likely to have reduced off-site odour impacts slightly, but not to the point where compliance with odour criteria can be demonstrated"

- "Cargill Foods is likely to be the most significant source of odour at Cartwrights Hill"

- "It should be noted also that an increase in population density in the Cartwrights Hill area may increase the likelihood of odour complaints".

2. Wagga Wagga Spatial Plan 2008

Section 2.4 on Environment and Amenity in the WWSP states that:

"Monitoring of odour impacts from Cargill Beef Meat processing operations has now been reported. The position remains that there is doubt over the compatibility of Cargill operations and residential development in Cartwrights Hill. It is not appropriate to allow further residential development at the present time."

3. Cartwrights Hill and Draft Wagga Wagga LEP 2008.

In response to the Odour Study and early consultation with DECC in 2007 the environmental study commissioned by Council to accompany the draft Wagga Wagga LEP 2008 recommended that "planning controls should not encourage increased population in the Cartwrights Hill area". The Cartwrights Hill residential zone was subsequently proposed to be zoned RU6 Transition Zone (200 ha MLS) under the exhibited draft Wagga Wagga LEP 2008 to prevent further residential subdivision in the area. This decision was made by the WWCCPP.

4. Cartwrights Hill area deferred

The exhibition of the draft Wagga Wagga LEP 2008 and the public hearing attracted a number of submissions on the proposed zone and lot size provisions for Cartwrights Hill.

In response to a submission from the Cartwrights Hill Group, who challenged the voracity of the odour study, the WWCCPP commissioned Holmes to respond. PAE Holmes provided a response (13 October 2009) and concluded that based on their review the conclusions of the original study remain valid.

Some key matters raised at the public hearing and submissions included:

- Rezoning Cartwrights Hill will disadvantage current owners, some of whom purchased properties with the intention of subdividing the land in the future, as part of their retirement plan.

- Loss of property value.

- Odour study is flawed.

- Odour generated by Cargill Beef Australia (CBA) should be addressed by CBA.

- The proposed "buffer zone" was contrary to the official purpose of an RU6 Zone.

- The western limit of the Bomen industrial area should not be moved closer to Cartwrights Hill, especially when the existing rural zone already acts as the desired buffer.

The report on the public hearing did not make a particular conclusion other than to say that the proposed RU6 Zone at Cartwrights Hill, is clearly a contentious issue that needs careful consideration, and it appears that there is scope for the proposal to be modified.

The WWCCPP subsequently resolved to defer the Cartwrights Hill area from the SI LEP to enable further investigation to be undertaken.

5. Planning Proposal

The PP changes the previous draft zones exhibited under the draft Wagga Wagga LEP 2008.

- An R5 Large Lot Residential Zone replaces the draft RU6 Transition Zone over the 70 ha of land currently zoned 1 Rural Zone (Lots 3 and 4 DP 730383), 2 Residential Zone, 3 Business Zone, 5 Special Uses Zone and 6 Open Space Zone.

- An RU6 Transition Zone replaces the draft IN2 Light Industrial Zone and part of the draft IN1 General Industrial Zone on land currently zoned 1 Rural Zone and 6 Open Space Zone. The RU6 Transition Zone acts as an 80-100 metre buffer between the industrial area and the majority of the proposed R5 Large Lot Residential Zone.

- There is no buffer between the proposed R5 Large Lot Residential Zone on Lots 3 and 4 DP 730383 and Bomen industrial area.

- An RU1 Primary Production Zone is retained consistent with the draft Wagga Wagga LEP 2008 on land currently zoned 1 Rural Zone.

- An IN1 General Industrial Zone is retained consistent with the draft Wagga Wagga LEP 2008 on land currently zoned 1 Rural Zone and 4 Industrial Zone.

- An SP2 Infrastructure Zone is retained consistent with the draft Wagga Wagga LEP 2008 on land currently zoned 5 Special Uses Zone.

The main change to the exhibited draft Wagga Wagga LEP 2008 is the change of the draft RU6 Transition Zone (200 ha MLS) to an R5 Large Lot Residential Zone (1 ha MLS).

Council has indicated in Attachment C of the PP that the PP is based on trying to find an equitable and appropriate balance between competing interests by;

"allowing some development that is compatible with existing development in the locality while managing potential land use conflicts with existing and future industrial development in Bomen."

The WWIJP took into consideration the following matters when making these changes to the draft zones;

- Objection by residents on the down-zoning of their land and removal of development rights,

- Odour modelling indicates that critical odour contours affects other land in the locality where development already exists or has been approved without concerns raised with the impacts of odour.

6. DECCW submissions on PP

Recent submissions from DECCW (now Office of Environment and Heritage) dated 1 October 2010 and 21 February 2011 respond to the proposed zones and minimum lot sizes under the PP as follows:

- October 2010 - DECCW objects to the proposed R5 Large Lot Residential Zone under the PP.

- DECCW continues to raise concerns with any increased residential density in close proximity to the industrial activities within the Bomen industrial area because of the potential (based on odour modelling) for "significant and long term/intractable land-use conflicts."

- DECCW states that the odour modelling does not take into account future industrial development in Bomen and Cartwrights Hill will therefore be subject to greater levels of odour and noise in the future.

- February 2011 - DECCW acknowledges Council's position but reiterates its role to ensure the impacts of noise, odour and dust on sensitive land uses are minimised by ensuring adequate separation distance between incompatible uses.

7. Conclusion

It is clear that the Council (WWIJPP) has generally prepared a PP that represents a compromise between the current 2 Residential Zone and the previous draft RU6 Transition Zone (200 ha MLS). The R5 Large Lot Residential Zone (1 ha MLS) will reduce, but not eliminate, some of the existing potential land use conflict (odour/noise/dust) by reducing the future housing potential in the current 2 Residential Zone from approximately 750 lots to 100 lots (WWCC) and by maintaining a buffer zone (RU6 Transition Zone) between the R5 Large Lot Residential Zone and the Bomen industrial area.

The compromise is understandable given the likely economic and social impacts on affected landholders in Cartwrights Hill from the substantial reduction in development potential under a blanket RU6 Transition Zone (200 ha MLS).

What is not logical and does not have merit is the rezoning of Lots 3 and 4 DP DP 730383, located within the buffer area and adjoining the proposed IN1 General Industrial Zone, from 1 Rural Zone to R5 Large Lot Residential Zone.

Council has not adequately justified the inconsistency with s117 Direction 1.2, 1.5 and 3.1 on this matter (see section on 'Adequacy').

It is recommended that the PP be amended to zone Lots 3 and 4 DP 730383 as IN2 Light Industrial Zone (no MLS) to remove the opportunity for further residential subdivision within close proximity to the Bomen industrial area.

Zone objectives and the low impact nature of permitted uses in the IN2 Light Industrial Zone, in addition to the RU6 Transition Zone to the west, will act as a buffer between the IN1 zone in Bomen and the remaining R5 Large Lot Residential Zone to the west on Cartwrights Hill.

Environmental social
economic impacts :

The PP is an attempt to balance competing economic, social and environmental impacts. The section "Consistency with strategic planning framework" provides a more detailed outline of these competing impacts and the justification for the PP and for amendments to the PP (i.e. lots 3 and 4 DP 730383).

Assessment Process

Proposal type :	Inconsistent	Community Consultation Period :	14 Days
Timeframe to make LEP :	9 Month	Delegation :	DDG
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage		

Is Public Hearing by the PAC required?	No
(2)(a) Should the matter proceed ?	Yes

If no, provide reasons : **The PP should proceed subject to a condition that the PP be amended to change the proposed zoning of lots 3 and 4 DP 730383 from R5 Large Lot Residential Zone to IN2 Light Industrial Zone for reasons outlined in the section "Consistency with strategic planning framework" and that subject to consultation, including public exhibition for 14 Days.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Amend Wagga Wagga LEP 2010 - Deferred Matters (Cartwrights Hill and Estella)

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Revised_PP_20110603.pdf	Proposal	Yes
Attachment_A_PP_CartwrightsHill_Zone_LotSize_Maps.pdf	Proposal	Yes
Attachment_B_PP_Estella_Zone_LotSize_Maps.pdf	Proposal	Yes
Attachment_C_of_PP_recd_20110603.pdf	Proposal	Yes
Attachment_D_PP_Response_to_s117_Directions.pdf	Proposal	Yes
Covering_Letter_Deferred_Matters_PP_12_May_2011.pdf	Proposal Covering Letter	Yes
Air_Photos_Sites_1_and_2.pdf	Photograph	Yes
LZN_003C.pdf	Map	Yes
LZN_003F.pdf	Map	Yes
LZN_003E.pdf	Map	Yes
LSZ_003.pdf	Map	Yes
Additional_information_lot_3_4_730383.pdf	Map	Yes
Holmes_Odour_Assessment_Report_20080131.pdf	Study	Yes
Holmes_Odour_Assessmt_20091013.pdf	Study	Yes
DECC_submission_20101001.pdf	Proposal	Yes
DECC_submission_20110221.pdf	Proposal	Yes
Air_Photos_Sites_1_and_2.pdf	Photograph	Yes
Site location Lot 3 & 4 DP 730383 SIX Map.pdf	Photograph	Yes
WWIJPP_Report_Resoln_PP_20110504.pdf	Proposal	Yes
CartwrightsHill_Current_Zones.pdf	Map	Yes
Photos_Site_Inspection_20110603.pdf	Photograph	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

- S.117 directions:
- 1.1 Business and Industrial Zones
 - 1.2 Rural Zones
 - 1.3 Mining, Petroleum Production and Extractive Industries
 - 1.5 Rural Lands
 - 2.3 Heritage Conservation
 - 3.1 Residential Zones
 - 3.2 Caravan Parks and Manufactured Home Estates
 - 3.3 Home Occupations
 - 3.4 Integrating Land Use and Transport
 - 4.3 Flood Prone Land
 - 6.2 Reserving Land for Public Purposes

Additional Information : **Recommendation:**
It is recommended that Planning Proposal proceed subject to the following conditions:

1. The Planning Proposal is revised to zone Lots 3 and 4 DP 730383 as IN2 Light Industrial Zone (no MLS).
2. The Planning Proposal is to be exhibited for a period of 14 days.
3. The Planning Proposal should be completed within 9 months.

4. The Director General (or an officer of the Department nominated by the Director General) agree that the inconsistencies of the revised Planning Proposal with s117 Directions 1.2, 1.5 and 3.1 are of minor significance.
5. That the land holders, relevant state agencies and previous submitters (to the exhibition of the draft plan in September/October 2010) be notified by the RPA of the exhibition prior to the start of the exhibition period.
6. That the previous submitters are notified by the RPA that their previous submission on the exhibition of the draft plan in September/October 2010 will be taken into consideration as part of the assessment of the exhibited amended PP.
7. That the owners of Lots 3 and 4 DP 730383 be notified by the RPA of the change to the PP prior to the start of the exhibition period.
8. That the odour study prepared by Holmes Air Services dated 31 January 2008 and the review of this study by PAEHOLMES dated 13 October 2009 are placed on public exhibition with the PP.
9. It is noted that the PP seeks to rezone a number of areas to SP2 Infrastructure. Descriptions are required on the maps for these areas that are contained in the SEPP (Infrastructure) or the Dictionary of the Standard Instrument. This is required before the PP is submitted for finalisation.
10. The land description for the Estella property is incorrectly identified as part Lot 730 DP 1138147 and should be part Lot 799 DP 1150062.

Supporting Reasons :

1. The rezoning of rural zoned land to R5 Large Lot Residential Zone and 1 ha MLS proposed on Lots 3 and 4 DP 730383 has not been adequately justified in the PP given their close proximity to the Bomen industrial area. The IN2 Light Industrial Zone will remove the opportunity for further residential subdivision within close proximity to the Bomen industrial area, reducing potential land use conflict, but provide opportunities for low impact industrial uses on these lots that are located between Bomen industrial area and residential development to the west (Cartwrights Hill).
2. A condition requires preparation of a revised planning proposal and therefore further public consultation is required on the new planning proposal.
3. The public exhibition of the Planning Proposal should include any relevant technical studies commissioned by the RPA that were used in the preparation of the PP.

Signature:



Printed Name:

Mark Parker A/RD

Date:

1st July 2011