



Phone: (02) 6392 3247

Fax: (02) 6392 3260

Contact: Heather Nicholls

THE GENERAL MANAGER

POST OFFICE BOX 17

MOLONG 2866

Website: www.cabonne.nsw.gov.au

Email: council@cabonne.nsw.gov.au

Our Ref:

Doc ID: 937297

ABN: 41992 919 200

29 June 2018

westernregion@planning.nsw.gov.au

Dear Sir/Madam

**PLANNING PROPOSAL - AMENDMENT TO CABONNE LEP 2012
REQUEST TO PROCEED WITH THE MAKING OF
LEP CABONNE LOCAL ENVIRONMENTAL PLAN (AMENDMENT 8)
GATEWAY REF PP_2018_CABON_001_00**

Further to council's receipt of the Gateway Determination for a Planning Proposal seeking to amend Schedule 1 of the Cabonne Local Environmental Plan 2012 to permit the establishment of a truck wash facility upon Lot 30 in DP 130510 at Molong, council has completed the public exhibition and notification of the proposal, and having considered a further report on the matter has resolved to proceed with the proposal. The matter is referred to the department for its consideration and the making of the plan.

Please find attached, for the review of the Western Region Office of the Department of Planning and Environment, the following documents:

- Council's section 3.36 report and extract of the relevant council meeting minutes
- Copies of the responses from NSW Roads and Maritime Services, Office of Environment and Heritage, and NSW Rural Fire Services.

The matters raised in the RMS submission would be addressed at the development application stage.

Also attached is a copy of the Parliamentary Counsel Opinion (ref e2018-145.d02) that was inadvertently sought by council. Under the terms of the Gateway determination council is not delegated with plan making authority in this instance.

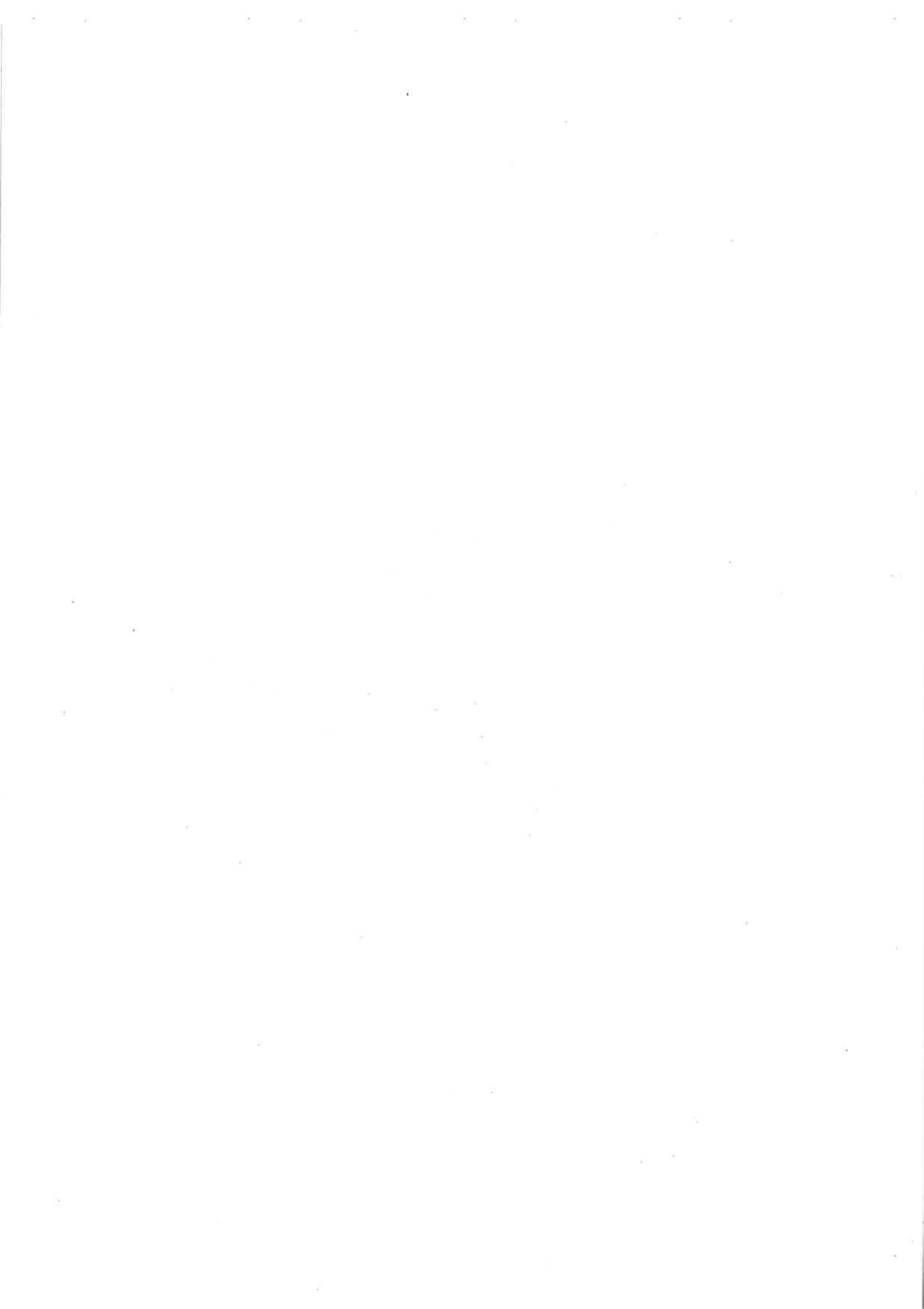
The proposal is now forwarded to the department for its review and consideration.

Please advise if any additional information is required to enable finalisation of the proposal. Should you have any further enquiries please contact the undersigned during business hours on 6392 3246.

Yours faithfully,

HJ Nicholls

DIRECTOR ENVIRONMENTAL SERVICES





28 May 2018

SF2014/060372; WST16/00130/03

General Manager
Cabonne Council
PO Box 17
MOLONG NSW 2866

Dear Sir

**PP_2018_CABON_001_00: Lot 30 DP130510; Market and Creosus (HW7) Streets, Molong;
Cabonne Local Environmental Plan 2012 –Additional Permitted Uses**

I refer to an email from Jann Ferguson on 9 May 2018 referring PP_2018_CABON_001_00 to Roads and Maritime Services for comment. Reference is made to my email to Council's Michelle Murphy on 12 September 2016 (copy enclosed).

The proposed amendment has been reviewed. Roads and Maritime notes the proposal seeks to permit an additional land use at the above-mentioned land. The additional land use is to accommodate a future truck wash facility.

The subject land has frontage to and gains vehicular access from the Mitchell Highway via Market Street. The Mitchell Highway at this location is a sign posted 100km/h speed zone. Roads and Maritime does not object to the proposal, however, in accordance with my earlier email, advises Council that as land use activities intensify on the site, vehicular access arrangements between the subject land and the Mitchell Highway, in particular the Market Street/Mitchell Highway intersection, will need to be upgraded and potentially altered to ensure a high level of road safety and traffic efficiency for turning and through traffic at this location.

Please keep Roads and Maritime informed of the progress of this proposal. Should you require further information please contact the undersigned on 02 6861 1453.

Yours faithfully

Andrew McIntyre
Manager Land Use Assessment
Western Region

Roads and Maritime Services

DOC18/225769
PP 08

The General Manager
Cabonne Council
PO Box 17
MOLONG NSW 2866
council@cabonne.nsw.gov.au

Dear Mr Harding

Truck Wash Facility, Market & Creosus Streets, Molong (PP_2018_CABON_001_00)

Thank you for your letter, dated 6 April 2018, seeking comment from the Office of Environment and Heritage (OEH) on the proposed amendment to the Cabonne Local Environmental Plan 2012.

OEH has the following primary areas of interest relating to strategic land use planning proposals:

1. The impacts of development and settlement intensification on biodiversity and Aboriginal cultural heritage;
2. Adequate investigation of the environmental constraints of affected land;
3. Avoiding intensification of land use and settlement in environmentally sensitive areas (ESAs); and
4. Ensuring that development within a floodplain is consistent with the NSW Government's Flood Prone Land Policy, the principles set out in the Floodplain Development Manual, and applicable urban and rural floodplain risk management plans.

We also understand that planning proposals must comply with current statutory matters such as the Local Planning Directions under S117 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

We generally support strategic planning proposals which:

- Avoid rural settlement intensification in areas of biodiversity value, Aboriginal cultural heritage value and other environmentally sensitive areas;
- Include objectives, such as 'no net loss of native vegetation'; and
- Minimise flood risk to human life, property and the local environment while maintaining floodplain connectivity for environmental benefit.

Please refer to **Attachment A** which includes our generic recommendations for local government strategic planning. Council should ensure that those matters within **Attachment A** which are relevant to the rezoning proposal have been appropriately addressed.

Should you require further information on any other matter that is the responsibility of OEH, please contact David Geering, Conservation Planning Officer on (02) 6883 5335 or email david.geering@environment.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Samantha Wynn', written in a cursive style.

SAMANTHA WYNN
Senior Team Leader Planning - North West
Regional Operations Division

Contact officer: DAVID GEERING
6883 5335

ATTACHMENT A

Office of Environment and Heritage (North West Branch) general advice for local government strategic planning

Biodiversity Values

Rural settlement intensification can have significant impacts on biodiversity. Development will have short and long-term negative impacts on biodiversity. These negative impacts are caused by activities such as:

- the clearing of house and building sites;
- the disturbance caused by infrastructure (such as new roads, fence lines, dams and access to utilities); and
- the construction of asset protection zones for statutory fire protection.

The cumulative effect of multiple subdivisions will magnify these substantial impacts on biodiversity. These impacts are not regulated by the *Biodiversity Conservation Act 2016* or *Local Land Services Act 2013*.

There is also a need to recognise climate change as a severe and wide-ranging threat to biodiversity in NSW. Rising temperatures and sea-levels, changed rainfall and fire regimes will affect biodiversity in complex and often unpredictable ways. As a result of climate change, current threats to biodiversity, including habitat loss, weeds, pest animals and drought, are expected to intensify.

In many cases, existing approaches to biodiversity conservation (protection of intact vegetation, species recovery, mitigation of current threats and revegetation and restoration activities) will form the basis of adaptation programs to address the impacts of climate change. Reducing existing threats to biodiversity, such as habitat loss, pests and weeds is the most effective option for enabling species to adapt to climate change (at least in the short term) as this will increase the capacity of species to persist in their current locations and form the base from which migration can occur.

Council has the responsibility to control the location and, to a degree, development standards of settlement and other land use intensification. Local Environmental Plans (LEPs) can be used to avoid settlement and development in Environmentally Sensitive Areas (ESAs) including areas of remnant native vegetation.

The S117 Directions in the *Environmental Planning and Assessment Act 1979* (EP&A Act) require that Councils in preparing a new LEP must include provisions that facilitate the protection and conservation of ESAs. As a minimum, these provisions must aim to maintain the existing level of protection for ESAs within the LGA, as afforded by the current LEP.

As a matter of priority, the OEH recommends six actions be taken by Councils when developing new LEPs. These will address the S117 Directions, and protect biodiversity from growth, development and associated pressures and changes:

1. Implement appropriate Environmental Zonings;
2. Avoid development in remnant native vegetation;
3. Establish large minimum lot sizes;
4. Conduct comprehensive environmental studies if areas of high environmental sensitivity occur in sites where there is a strong imperative to intensify land use;
5. Include a biodiversity overlay and clauses within the LEP; and
6. Define biodiversity protection and management measures in Development Control Plans (DCPs).

1. Implement appropriate Environmental Zonings

The zone, E1 'National Parks and Nature Reserves', should be applied to all of the OEH estate within the LGA. We also encourage Councils to apply other environmental and water ways zones in appropriate areas.

The E1 zoning is intended to apply to all lands acquired under the *National Parks and Wildlife Act 1974* (NP&W Act), and therefore is not limited to only the 'National Park' and 'Nature Reserve' classifications.

OEH is also strongly supportive of the implementation of appropriate environmental zonings to other areas identified to have high biodiversity or Aboriginal cultural sensitivity. Private and public lands with high conservation values, including those providing linkages or corridors, can be protected in LEPs through appropriate zoning and/or via overlays with associated development controls. Councils should implement land use zonings such as E2-E4 and W1-W2 to provide as much protection as possible to biodiversity and ecological communities. Specific advice regarding the use of these zones is included in Practice Note previously forwarded to Council.

In particular, we advocate the application of the E2 zone to areas of private or Crown lands that are presently managed primarily for conservation (such as crown reserves or areas under conservation covenants).

We also recommend that Travelling Stock Reserves (TSRs) with known conservation values are included in E3 zones at a minimum, although E2 zoning would be preferred. Mapping of TSRs, including identified conservation values, is available via the Grassy Box Woodlands Conservation Management Network. This mapping can be accessed via <http://gbwcmn.net.au/node/6>.

2. Avoid development in remnant native vegetation

- Council, through the Land Use Strategy and LEP, can protect biodiversity by avoiding development such as settlement and other land use intensification, in areas of remnant native vegetation.
- Development should be directed to areas that have already been cleared, unless such areas have been identified as having environmental importance.

Avoiding development in areas of native vegetation will contribute to the achievement of State biodiversity targets.

Settlement should also be avoided in locations that are likely to be targeted for investment. Landholders in such areas may receive incentive funding for protection and enhancement of native vegetation or revegetation of cleared areas.

OEH will not support strategic land use recommendations or LEP provisions that allow further settlement opportunities in these areas, particularly if Council assumes that ongoing management could be effectively controlled by complex DCP rules.

To assist, the best available mapping of remnant native vegetation has been supplied to Council as part of an interagency package of ESA mapping and associated Technical and Practice Notes to help Council identify areas where further settlement intensification should not be allowed. At the broad strategic level, these maps can be used to identify areas that are most likely to be free from significant land, water or biodiversity constraints, therefore more suited to development.

Excluding remnant native vegetation from development pressure on private land could be largely achieved by retaining such areas on relatively large holdings, within RU1 and RU2 zones for example.

Similarly, higher density settlement in 'fire prone' locations should be avoided in the first instance. Where residential areas abut native vegetation there is pressure for the required Asset Protection Zones and other hazard management measures to encroach on that vegetation, particularly where adequate existing cleared land has not been retained to fulfil that role.

Avoiding settlement in remnant native vegetation is also likely to avoid bushfire prone lands and protect any Aboriginal cultural heritage that may remain in such areas.

3. Establish large minimum lot size limits

Minimum lot size limits should be large in RU1 and RU2 zones as well as environmentally sensitive areas. This will reduce the pressures of development and settlement on biodiversity in rural lands.

Minimum lot size limits can be used to reduce the pressures of development and settlement on biodiversity. The LEP should define realistically large minimum lot size limits with associated dwelling provisions to control the intensity of development and settlement.

In particular, Council needs to ensure that minimum lot sizes in environmentally sensitive areas are of an appropriately large size to control the cumulative impact of any development and settlement intensification permitted in those areas by the LEP.

Council needs to adopt a risk-based approach to this matter. The selected sizes should be designed to meet expectations of rural living while minimising the adverse environmental impacts of any settlement that may occur with the sub division.

If Council is strongly of the opinion that lot sizes need to be reduced then this should not be applied uniformly across the shire with environmentally sensitive areas excluded from such revisions.

4. Conduct targeted environmental studies

Where development in areas of native vegetation or environmentally sensitive areas cannot be avoided, a targeted environmental study should be conducted. This should focus on ensuring a "maintain or improve" outcome for biodiversity.

Where Council is unable to avoid applying zonings or minimum lot sizes which permit essential development intensification in remnant native vegetation, a targeted study should be conducted to investigate the biodiversity values of the area. Any study should determine how potential impacts can be mitigated or, where this is not possible, offset through conservation management of other areas.

This study and any resulting objectives and zonings should aim to ensure a 'maintain or improve' outcome. This is a vital step in the strategic planning process and in effectively addressing the S117 Directions.

5. Include a biodiversity overlay and suitable clauses within the LEP

OEH strongly recommends the use of overlays and associated provisions with the LEP to provide additional protection for biodiversity.

It is particularly important to define assessment and development control provisions for those instances where development or settlement intensification cannot be avoided in remnant native vegetation.

LEPs should include objectives and provisions that require a 'maintain or improve' outcome for native vegetation and threatened species whenever clearing of native vegetation or environmentally sensitive areas cannot be avoided

Overlays can also be used to update any existing 'environmentally sensitive lands' provisions in current LEP and therefore meet the requirements of the S117 Directions to at least maintain existing environmental protection standards.

Importantly, the use of such overlays is consistent with the Department of Planning and Environment (DP&E) Practice Note PN 09-002v (30 April 2009) on environmental zones' which states:

'Local environmental provisions may be applied where zone provisions need to be augmented in order to ensure that special environmental features are considered. For example, rural land that is still principally for agriculture but which contains environmentally sensitive areas may be zoned RU1 or RU2 and the environmental sensitivities managed through a local provision and associated ('overlay') map.

The benefits of this approach include:

- *The intended conservation or management outcomes for land can be clearly articulated in the LEP.*
- *Areas are clearly defined and controls streamlined.*
- *Sub-zones are not created. (These are not permitted under the standard instrument).*

Provisions for environmentally sensitive areas may include multiple natural resource or other features such as acid sulfate soils and riparian land. A local provisions clause may include objectives and, where the sensitivity is a mappable attribute, a map would accompany the provision'.

OEH advocates the inclusion of the environmentally sensitive land overlays developed by the former Departments of Water and Energy, Environment and Climate Change, and Primary Industries (Fisheries). These overlays and clauses have been prepared to provide Council with information on resource assets and environmental constraints and how these assets and constraints should be managed during the assessment of development applications. The use of the environmentally sensitive areas overlays supplied by agencies is now common-place in both exhibited and gazetted LEPs.

The use of these overlays and clauses and how these may affect land uses are outlined in the previously mentioned Practice Note and Technical Note. When implemented in this way the layers and clauses do not exclude development. Rather, they act as a flag for values that may be present at a site. Sites should be checked for these potential values prior to any development approval. If the values are present at the site, the impact should be avoided or, if this is not possible, at the very least minimised and mitigated.

6. Define biodiversity protection and management measures in Development Control Plans

Biodiversity protection and management measures should be defined in DCPs for all areas zoned for rural small holdings, residential and other development intensifications.

We view DCPs as a secondary mechanism to provide biodiversity protection and management measures. It is vital that biodiversity values are first considered strategically in zoning decisions and development assessment provisions. We do not consider it acceptable to completely defer consideration of these matters to the DCP stage.

It is also important to consider the threats to remnant native vegetation posed by adjoining land uses.

For example, threats to biodiversity associated with nearby growth and intensification of residential land use include (but are not limited to):

- Clearing;
- domestic animals;
- invasive plants;
- effluent and waste dispersion;
- changes in hydrology and hydraulics;
- increasing access due to fire trails and other tracks; and
- firewood collection.

Particular attention should be paid to relevant Key Threatening Processes identified and listed under the *Biodiversity Conservation Act 2016*ⁱⁱ. Mechanisms to abate threats to ESAs (such as implementing codes of practice, best management practice, alternative designs and operations, control technology and buffers between remnant vegetation and small holdings) should be considered.

Council should recognise that buffers may be necessary between environmentally sensitive areas and other land uses. The size of the buffer will vary depending on the nature or activity being undertaken and the level of management control required to prevent or minimise adverse impacts. Provisions should be made to rigorously assess any developments within environmentally sensitive areas and adjoining buffers to prohibit land uses and activities that threaten the ecological integrity, values and function of the area.

Some forms of development adjacent to national parks and reserves can impact on their values and should be avoided or restricted. Council should consider how these areas could be buffered from incompatible development and activities so that potential conflicts can be minimised.

The OEH Guidelines for Developments Adjoining OEH Estateⁱⁱⁱ have been designed to assist Councils when they are assessing development on lands adjoining OEH estate. However, the issues identified in these guidelines are also relevant when considering buffers for protection of environmentally sensitive areas.

Aboriginal Cultural Heritage

Land Use Strategies, LEPs and DCPs should aim to identify and protect culturally sensitive areas, rather than relying on site by site development assessment.

Aboriginal objects, places and areas are protected across all land tenure under the NPWS Act. However, Council should not rely on the site by site development assessment process as the only mechanism for considering the impact of development and settlement intensification on Aboriginal cultural heritage.

It is clear from the S117 directions and mandatory clauses in the Standard Instrument that DP&E supports a **strategic approach** to the protection of Aboriginal cultural heritage. Provisions to facilitate the strategic conservation of Aboriginal cultural and heritage within a local government area should include a landscape framework for assessing potential impacts and partnership development with local Aboriginal people.

We strongly recommend that Councils develop planning strategies that result in the **avoidance** of impacts to Aboriginal cultural heritage and minimise impacts in instances where avoidance is not possible.

Specifically, it is important to:

- Develop a framework for effective Aboriginal engagement; and
- Identify sensitive and least sensitive areas through:
 - accessing existing Aboriginal site information;
 - cross reference to landscape information;
 - assessment of areas of potential development/settlement intensification;
 - use of the Department's search tools;
 - reports from previous studies.
 - Aboriginal knowledge; and by
 - Undertaking site surveys to ground truth assumptions.

We offer the following advice to aid Council efforts in adequately addressing Aboriginal cultural heritage assessment and protection within strategic planning documents and environmental planning instruments:

1. The Aboriginal Heritage Information Management System

Councils should contact the OEH to seek access to the Aboriginal Heritage Information Management System (AHIMS) prior to the drafting of any new Land Use Strategy or LEP. AHIMS is the State register of known Aboriginal site locations. A data licence agreement between the OEH and Council can be prepared on application. Information about obtaining a data licence is available on the OEH website^{iv}. Alternatively, the AHIMS Registrar can be contacted by phone on (02) 9585 6513 or (02) 9585 6345 or by email at ahims@environment.nsw.gov.au.

2. Aboriginal Heritage Study

We recommend using the AHIMS data, along with any previous landscape assessments of the occurrence of Aboriginal objects and sensitive areas, to assist in developing effective strategies to assess impacts to Aboriginal sites in areas being considered for future development. The selection of landscape mapping to overlay with AHIMS site data will highlight distribution patterns between landscape features and Aboriginal sites. This information can assist in identifying potential areas of sensitivity in locations where no location information for Aboriginal sites exists.

OEH can be contacted to advise on data searches for previous cultural and heritage studies undertaken in each Council LGA, and discuss the potential for appropriate desktop tools for use in cultural heritage management.

We recommend that the strategic planning process be used to initiate the development of a strategic framework for engaging local Aboriginal community interests to ensure that active engagement with Aboriginal people evolves over time.

3. Implement a range of tools to ensure strategic management of Aboriginal cultural heritage

We strongly recommend that Councils aim to protect identified areas of Aboriginal cultural sensitivity through:

- The designation of appropriate zoning provisions and boundaries where possible,
- Inclusion on the Heritage Map of any specific important areas identified (which will enable the mandatory clauses in the Standard Instrument to be effectively applied),
- The generation of a cultural heritage constraints map which could be used in a similar way to the ESA layers provided by the natural resource management agencies,
- Appropriate provisions within DCPs to ensure adequate assessment and protection of Aboriginal cultural heritage values,
- Formation of an Aboriginal Community Advisory Group to ensure on going input and dialogue on identification and management of Aboriginal cultural heritage for the LGA

4. Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales^v

This code of practice is to assist individuals and organisations to exercise due diligence when carrying out activities that may harm Aboriginal objects and to determine whether they should apply for consent in the form of an Aboriginal Heritage Impact Permit (AHIP).

The NPW Act provides that a person who exercises due diligence in determining that their actions will not harm Aboriginal objects has a defence against prosecution for the strict liability offence if they later unknowingly harm an object without an AHIP.

The NPW Act allows for a generic code of practice to explain what due diligence means. Carefully following this code of practice, which is adopted by the *National Parks and Wildlife Regulation 2009* (NPW Regulation) made under the NPW Act, would be regarded as 'due diligence'. This code of practice can be used for all activities across all environments.

This code sets out the reasonable and practicable steps which individuals and organisations need to take in order to:

- identify whether or not Aboriginal objects are, or are likely to be, present in an area
- determine whether or not their activities are likely to harm Aboriginal objects (if present)
- determine whether an AHIP application is required.

When formulating DCPs and other planning controls, Council should require proponents to undertake due diligence in accordance with the Code of Practice. Proponents should provide Council with evidence that the due diligence process has been followed.

ⁱ <http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Environmental-Plans/~media/F1001EC0B1C443CD83286163B43891B8.ashx>

ⁱⁱ **Key Threatening Processes:**

<http://www.environment.nsw.gov.au/threatenedspecies/KeyThreateningProcesses.htm>

ⁱⁱⁱ **Guidelines for Development Adjoining DECCW Estate:**

<http://www.environment.nsw.gov.au/protectedareas/developmentadjoiningdecc.htm>

-
- iv <http://www.environment.nsw.gov.au/licences/AboriginalHeritageInformationManagementSystem.htm>
 - v **Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW**
<http://www.environment.nsw.gov.au/licences/archinvestigations.htm>

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Telephone: 1300 NSW RFS
e-mail: records@rfs.nsw.gov.au

Headquarters
Locked Bag 17
Granville NSW 2142

Facsimile: 8741 5433



The General Manager
Cabonne Council
PO Box 17
MOLONG NSW 2866

PP_2018_CABON_001_
Your Ref:00
Our Ref: R18/789
DA18041612666 RB

ATTENTION: HJ Nicholls

8 May 2018

Dear Sir/Madam

Planning Proposal - 30//130510 Market and Creosus Streets Molong

I refer to your correspondence dated 6 April 2018 seeking advice for the above Planning Proposal in accordance with the 'Environmental Planning and Assessment Act 1979'.

The New South Wales Rural Fire Service (NSW RFS) has considered the information provided and has no specific recommendations in relation to bush fire protection.

Should you wish to discuss this matter please contact Rohini Belapurkar on 1300 NSW RFS.

Yours sincerely

Kalpana Varghese
A/Team Leader Planning & Environment Services (East)

For general information on bush fire protection please visit www.rfs.nsw.gov.au



ITEM 19 - PLANNING PROPOSAL - LOT 30 DP 130510, MARKET AND CREOSUS STREETS, MOLONG

REPORT IN BRIEF

| | |
|----------------------------|--|
| Reason For Report | To obtain council approval to proceed with the rezoning of land. |
| Policy Implications | Nil |
| Budget Implications | Nil |
| IPR Linkage | 4.5.3.a Assess and determine development applications, construction certificate applications and Onsite Sewerage Management Systems (OSMS) to meet agreed service levels |
| Annexures | Nil |
| File Number | \\OFFICIAL RECORDS LIBRARY\LAND USE AND PLANNING\PLANNING\AMENDMENT 8 TO LEP 2012 - MOLONG TRUCK WASH - 925508 |

RECOMMENDATION

THAT pursuant to section 3.36 of the Environmental Planning & Assessment Act 1979, council forward the Planning Proposal to the Department of Planning and Environment for the Minister to make a Local Environmental Plan to include Lot 30 DP 130510, Market and Creosus streets, Molong, in schedule 1 of the Cabonne Local Environmental Plan 2012, to permit a truck wash facility as an additional permitted use.

DIRECTOR OF ENVIRONMENTAL SERVICES' REPORT

1.0 SUMMARY

Council at its meeting of 27 February 2018 resolved to amend the Cabonne Local Environmental Plan 2012, to include in schedule 1 of the plan, land described as Lot 30 DP 130510, for the purpose of an additional land use being a commercial truck wash facility.

The proposal was received by the Department of Planning and Environment on 6 March, 2018 and a Gateway Determination was issued by the department on 29 March 2018.

In accordance with the Gateway Determination the planning proposal was placed upon public exhibition for a period of 28 days from 12 April 2018 until 11 May 2018. During the exhibition period the Planning Proposal and all relevant documents were available at the council's Molong offices and through council's web site. Notification was made through public advertisement placed in the Molong Express.

As required by the Gateway determination, the planning proposal was forwarded to NSW Office Environment and Heritage and NSW Roads and Maritime Services.

By the close of the notification phase no community submissions had been received by council. Responses were received from NSW Office of Environment and Heritage, NSW Roads and Maritime Services and NSW Rural Fire Services. The NSW RMS provided comment relating to road upgrade requirements, that would be taken into account should the LEP amendment proceed and a subsequent Development Application be lodged with council for determination.

The council may now consider to resolve to proceed with the amendment to the local planning provisions, in accordance with the submitted amended Planning Proposal, and the issued Gateway Determination, and to submit the planning proposal to the Minister for the making of the plan.

2.0 GATEWAY DETERMINATION

The Gateway Determination was issued by the department on 29 March 2018, with a 12 month timeframe for completion. The Gateway determination was not subject to a review request.

3.0 COMMUNITY CONSULTATION

The planning proposal and Gateway determination documentation was placed upon public exhibition for a period of 28 days from 12 April 2018 until 11 May 2018. The exhibition was notified in the Molong Express on 12 and 26 April.

Documentation was available for inspection at the Molong council office, as well as being available on council's web site. By the close of the public exhibition phase no submissions had been received by council.

4.0 VIEWS OF PUBLIC AUTHORITIES

As required by the Gateway determination, the planning proposal was forwarded to NSW Office Environment and Heritage (OEH) and NSW Roads and Maritime Services (RMS). Council also referred the planning proposal to the NSW Rural Fire Service.

NSW OEH AND RFS had no requirements of the proposal. RMS provided comment on the requirements for road intersection upgrades in the event that the proposed development was to proceed. RMS noted that their comments were advisory only at this stage, as further consultation would be required when a Development Application for the proposed activity is submitted, following the LEP amendment.

5.0 CONSISTENCY WITH s117 DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS

An assessment of the proposals consistency, justifiable inconsistency or inconsistency with all relevant s117 directions, SEPPs and other strategic planning documents was provided with the Planning Proposal. The proposal is generally in accordance with the s117 Directions, SEPPS, Central West & Orana Regional Plan, and the Blayney, Cabonne and Orange City councils rural and industrial sub regional strategy.

6.0 PARLIAMENTARY COUNSEL OPINION

The opinion of the Parliamentary Counsel to the making of the amending LEP was requested on 25 May 2018 and approval issued on 5 June 2018.

7.0 OTHER RELEVANT MATTERS

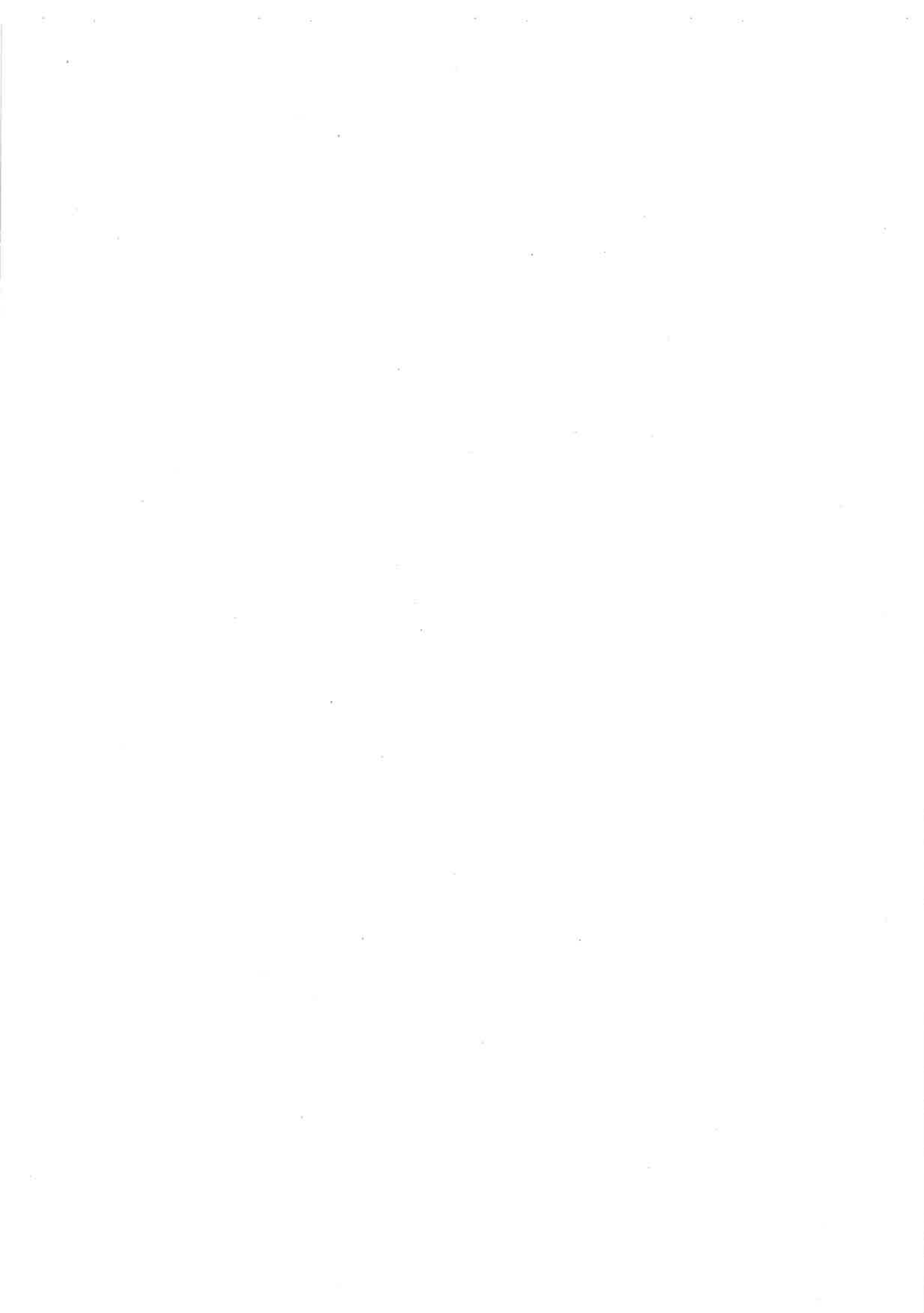
No representations has been received on the planning proposal from State or Federal members of Parliament, nor has council met with any government Minister in relation to the planning proposal.

8.0 MAPPING

The amendment to the LEP does not require an amendment to the standard mapping sheets of the Cabonne LEP 2012.

9.0 RECOMMENDATION

It is recommended that the plan be made to include Lot 30 DP 130510, Market and Creosus streets, Molong, in schedule 1 of the Cabonne Local Environmental Plan 2012, to permit a truck wash facility as an additional permitted use.



~~initial development consent has fulfilled its purpose with the subdivision completed by the registration of the plans.~~

MOTION (Oldham/Jones)

THAT Modification Application 1999/0008/1 for subdivision of land described as Lots 1, 2 and 4 in DP 882990 be refused, as the purpose of the development consent concluded with the registration of the subdivision.

18/06/32 Carried

The Chair called for a Division of Council as required under Section 375A (3) of the Local Government Act which resulted in a vote for the motion (noting the absence of Clrs Durkin & Newsom - apologies) as follows:

For: Clrs K Beatty, J Jones, M Nash, P Mullins, G Treavors , L Oldham, P Batten, K Walker, J Weaver, and I Davison.

Against: Nil

**ITEM - 19 PLANNING PROPOSAL - LOT 30 DP 130510, MARKET AND
CREOSUS STREETS, MOLONG**

MOTION (Batten/Nash)

THAT pursuant to section 3.36 of the Environmental Planning & Assessment Act 1979, council forward the Planning Proposal to the Department of Planning and Environment for the Minister to make a Local Environmental Plan to include Lot 30 DP 130510, Market and Creosus streets, Molong, in schedule 1 of the Cabonne Local Environmental Plan 2012, to permit a truck wash facility as an additional permitted use.

18/06/33 Carried

The Chair called for a Division of Council as required under Section 375A (3) of the Local Government Act which resulted in a vote for the motion (noting the absence of Clrs Durkin & Newsom - apologies) as follows:

For: Clrs K Beatty, J Jones, M Nash, P Mullins, G Treavors , L Oldham, P Batten, K Walker, J Weaver, and I Davison.

Against: Nil

ITEM - 20 REQUEST TO WAIVE FEES FOR USE OF MOLONG HALL

MOTION (Walker/Treavors)

THAT Council donate an amount equal to the fee for the use of the Molong Community Hall by the Salvation Army for the annual Red Shield Appeal



PARLIAMENTARY COUNSEL

Opinion

Environmental Planning and Assessment Act 1979
Proposed Cabonne Local Environmental Plan 2012 (Amendment No 8)

Your ref: PP_2018_CABON_001_00
Our ref: e2018-145.d02

In my opinion the attached draft environmental planning instrument may legally be made.

A handwritten signature in dark ink, appearing to be 'R. Hodge'.

(R HODGE)
Acting Parliamentary Counsel
5 June 2018



New South Wales

Cabonne Local Environmental Plan 2012 (Amendment No 8)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the
Environmental Planning and Assessment Act 1979.

.....

Cabonne Local Environmental Plan 2012 (Amendment No 8)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Cabonne Local Environmental Plan 2012 (Amendment No 8)*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

This Plan applies to land at Market Street, Molong, being Lot 30, DP 130510.

4 Amendment of Cabonne Local Environmental Plan 2012

Schedule 1 Additional permitted uses

Insert at the end of the Schedule:

2 Use of certain land at Market Street, Molong

- (1) This clause applies to land at Market Street, Molong, being Lot 30, DP 130510.
- (2) Development for the purpose of a truck washing facility is permitted with development consent.

