

Planning Proposal

Kyogle LEP 2012 Amendment No. 1

Rezoning of 19-25 Andrew Street, Kyogle



Kyogle Council November 2013

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Introduction

SUMMARY OF THE PLANNING PROPOSAL

This planning proposal relates to Lot 101 in Deposited Plan 1078192 located at 19-25 Andrew Street, Kyogle. The planning proposal seeks to amend the Kyogle Local Environmental Plan 2012 by changing the zoning of Lot 101 DP 1078192 from Zone R1 General Residential to Zone IN2 Light Industrial. The change in zoning is proposed in order to reflect the current light industrial use of the property and to permit the lodgement of a future development application to extend the light industrial use of the site.

PLANNING CONTEXT

Council Resolution

Council considered the proposed amendment to the Kyogle Local Environmental Plan 2012 at its ordinary meeting of 11 November 2013 and resolved:

1. *That Council support the proposal to amend the Kyogle LEP 2012 to change the zoning of Lot 101 DP 1078192 to Zone IN2 Light Industry.*
2. *That Council submit the planning proposal to the NSW Department of Planning and Infrastructure for review and gateway determination.*
3. *That Council request the Minister for Planning and Infrastructure to delegate plan making powers to Council to enable Council to carry out the plan making steps.*
4. *That upon an affirmative gateway determination being received from the Department of Planning & Infrastructure, Council staff carry out the procedural steps associated with the progress of the planning proposal, including community consultation.*
5. *That a further report be presented to Council on this matter following the conclusion of community consultation and review of submissions.*

Kyogle Local Environmental Plan 2012

The Kyogle LEP 2012 commenced on 11 February 2013. The plan is in the format of the NSW Standard Instrument for LEPs. Prior to the commencement of the Kyogle LEP 2012 the subject land was in the Village zone. The Kyogle LEP 2012 applied Zone R1 General Residential to the site along with all other land on the southern side of Andrew Street. It appears that this occurred to avoid a fragmented pattern of zones. In accordance with section 107(1) of the *Environmental Planning and Assessment Act 1979*, the Kyogle LEP 2012 did not prevent the continuation of the use of the land for light industrial purposes.

Circumstances of the Case

The circumstances of the site and this proposal are:

1. The site is located at 19-25 Andrew Street. It adjoins the Sydney-Brisbane railway corridor to the east, rural land to the south (in Zone R1) and residential properties to the west. The majority of properties fronting Andrew Street are used for residential purposes exclusive of the subject site and the two lots opposite the subject site on the northern side of Andrew Street. Fairymount Creek traverses the lot adjoining the subject site's western boundary. Figure 1 below shows the site and its context.

2. The site supports an established agricultural produce industry (approved as a light industry) being a seed handling and drying establishment. The property owner intends to seek consent to extend the existing development.
3. The current use and future planned additional use of the site is for light industrial purposes. A zoning to reflect the current and proposed light industrial use is the most appropriate.
4. The current residential zone does not reflect the existing use of the site.
5. The land has been determined to be suitable for light industrial development and use:
 - The majority of the site is not affected by flooding: the Kyogle Floodplain Risk Management Plan maps approximately 300m² of the south-western corner of the site as being in the 'Flood Fringe' hazard category zone, this same area is mapped on Flood Planning Map FLD_004 in the LEP as being in the Flood Planning Area.
 - The site is not subject to other natural hazards.
 - The site is provided with all required services including sealed road access, power, water, sewer and telecommunications.

Figure 1 below shows the site and its context.



Figure 1 Subject site and context

Part 1- Objectives or Intended Outcomes

The objectives of this planning proposal are:

- To recognise the current light industrial usage of the subject property by inclusion in the IN2 Light Industrial land use zone.
- To provide for the future expansion and redevelopment of the site for light industrial purposes.

Part 2- Explanation of Provisions

It is proposed that the Kyogle Local Environmental Plan 2012 be amended as follows:

1. That Land Zoning Map LZN_004C be amended by changing the zoning of Lot 101 DP 1078192 at 19-25 Andrew Street Kyogle from Zone R1 General Residential to Zone IN2 Light Industrial.

The IN2 Light Industrial zone best reflects the current use of the site for light industrial purposes and will facilitate the orderly future expansion and redevelopment of the site for light industrial purposes.

Part 3- Justification

Section A – Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

No. The property is within a locality which has been considerably developed for light industrial purposes. In 1995 Council prepared Development Control Plan No. 3 – Industrial development. The plan identified the general locality of the site as being the preferred area for industrial development within the town. Subsequent to the introduction of the DCP, the subject lands were approved and developed for light industrial development (seed drying and handling facility), resulting in the use of the site consistent with adjoining industrial zoned properties.

The site has an area of 5723 m² and is capable of and suitable for increased light industrial usage. The alteration to the zoning as sought is required to facilitate further light industrial development of the site.

The proposal is consistent with aims of the Kyogle LEP 2012 and the objectives of Zone IN2. Land on the opposite side of Andrew Street is in Zone IN2 Light Industrial.

There is no strategy that seeks to retain the subject site for residential purposes. Light industrial use of the land is considered to be a more desirable outcome than residential development on the site due to amenity impacts from the adjoining railway corridor.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending the Kyogle LEP 2012 to alter the zoning of the site to IN2 Light Industrial is the only way to achieve the objectives of the planning proposal. Without the amendment there is limited opportunity for the expansion or redevelopment of the industrial site.

3. Is there a net community benefit?

Yes. The proposed zoning change will provide for additional opportunity for light industrial development and use of the site providing increased levels of service for the local community and increased employment opportunities.

Section B – Relationship to the strategic planning framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Yes. The proposal is consistent with the Far North Coast Regional Strategy which provides the regional framework for the consideration of policy development and the overall vision of the future. The site is within the existing serviced and developed area of Kyogle consistent with the Strategy provisions.

5. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plans?

Yes. The planning proposal is consistent with:

- The aims and objectives of the Kyogle LEP 2012.
- The provisions of the Kyogle Community Strategic Plan 2012-2025 that seeks to ensure appropriate land is zoned to allow development and to assist and coordinate the ongoing development of the Kyogle Council area and enhance and market its capacity as a location for residential opportunities, primary production, industry, commerce, government services and tourism.

6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. The proposal is generally consistent with applicable State Environmental Planning Policies (SEPP).

7. Is the planning proposal consistent with the applicable Ministerial Directions (S. 117 directions)?

Yes. The proposal is consistent with the relevant Section 117 Directions. A Section 117 Direction checklist for the planning proposal is contained in Appendix 1.

Section C – Environmental, social and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?

No. The planning proposal is unlikely to result in negative impacts on flora and fauna. The site is a disturbed (previously cleared) and developed light industrial property within the developed urban area of Kyogle. The site has no specific habitat significance.

9. Are there any other likely environmental effects as a result of the planning proposals and how are they proposed to be managed?

No direct adverse environmental impacts are likely to arise as a result of the planning proposal. Issues such as minimising erosion and sediment potential, preventing stormwater, dust and noise pollution can be adequately addressed at future development application stage.

10. How has the planning proposal adequately addressed any social and economic effects?

Economic impacts

The proposed zoning change will provide for additional opportunity for light industrial development and use of the site providing increased levels of service for the local community and increased economic activity and employment opportunities. There are no likely external negative economic impacts associated with the proposal.

Social impacts

The proposal will facilitate the ability for future development applications to be lodged to extend the light industrial use of the site. It is considered that future development of the site for light industrial purposes can occur without adversely affecting the quality of life or social wellbeing of the residents of the locality. Future expansion of light industrial activities is not expected to create adverse impacts on the amenity of residential properties nearby for the following reasons:

- Land adjoining the site's western boundary is owned by the owner of the subject site. The next nearest residential property is approximately 35 metres from the site's western boundary.
- Land adjoining the eastern boundary of the site is railway corridor and on the eastern side of this, rural land.
- Land adjoining the site's southern boundary is in Zone R1 General Residential however, this land is prone to flooding where it adjoins the subject site and is considered to have limited development potential in the vicinity of the subject site.
- Activities permitted in the IN2 Light Industry zone are restricted to activities that do not create significant amenity impacts, such as depots, warehouse and distribution centres and light industries.
- The majority of the site is already developed meaning any future extension is likely to be of a smaller scale than the existing development.

Given the location and topography of the site, future development can occur with minimal visual impact upon the nearest dwellings. In conclusion, the proposal presents minimal potential for adverse social impact.

Heritage impacts

The site is not identified as an item of environmental heritage under the Kyogle LEP 2012, North Coast Regional Environmental Plan or state inventory. The proposal will not affect the heritage significance of sites within the general locality.

Section D – State and Commonwealth interests

11. *Is there adequate public infrastructure for the planning proposal?*

Yes. The planning proposal does not create the need for any additional public funded infrastructure. Required infrastructure provisioning for any additional development upon the site will be met via Section 94 contributions or required as conditions of development consent.

12. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

Consultation will be undertaken with relevant agencies following the gateway determination stage of the LEP amendment.

Part 4- Mapping

The proposed amendment can be achieved via an amendment to land zoning map LZN_004C in the Kyogle Local Environmental Plan 2012. Current map LZN_004C is included at Appendix 2. Amended map showing proposed zoning is included at Appendix 3. Amended map cover sheet is included at Appendix 4.

Part 5- Community Consultation

Council has not undertaken any community consultation concerning this planning proposal. It is anticipated that this will occur as part of the formal exhibition of the planning proposal and as directed through the gateway determination process. Council anticipates that community consultation would involve the following:

1. Notification of adjoining and surrounding landowners and business operators by mail.
2. Placement of a notice in the Richmond River Express Examiner.
3. Placement of a notice on the Kyogle Council website.

Council considers that the proposal meets the definition of a 'low impact' proposal and that the exhibition period should be 14 days.

Part 6- Project Timeline

The proposed timeline for completion of the planning proposal is as follows:

Plan Making Step	Estimated Completion Date
Gateway Determination (anticipated)	December 2013
Completion of Technical Assessment	January 2014
Government Agency Consultation	February 2014
Public Exhibition Period	February 2014
Public Hearing (if required)	Not required
Submissions Assessment	March 2014
RPA Assessment of PP and Exhibition Outcomes	April 2014
Council sends to Parliamentary Counsel for drafting	May 2014
Council adoption and making of draft LEP	June 2014
Forward to Department for notification	June 2014

Appendices

Appendix 1 Section 117 Directions Checklist

DIRECTION NUMBER	COMPLIANCE OF PLANNING PROPOSAL
1. Employment and Resources	
1.1 Business and Industrial Zones	Consistent. The proposal will encourage employment growth and protect employment land in business and industrial zones
1.2 Rural Zones	Does not apply to planning proposal
1.3 Mining, petroleum Production and Extractive Industries	Does not apply to planning proposal
1.4 Oyster Aquaculture	Does not apply to planning proposal
1.5 Rural Lands	Does not apply to planning proposal
2. Environment and Heritage	
2.1 Environmental Protection Zones	Does not apply to planning proposal
2.1 Coastal Protection	Does not apply to planning proposal
2.3 Heritage Conservation	Does not apply to planning proposal
2.4 Recreational Vehicle Areas	Does not apply to planning proposal
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent
3.2 Caravan Parks and Manufactured Home Estates	Does not apply to planning proposal
3.3 Home Occupations	Does not apply to planning proposal
3.4 Integrating Land Use & Transport	Does not apply to planning proposal
3.5 Development Near Licensed Aerodromes	Does not apply to planning proposal
3.6 Shooting Ranges	Does not apply to planning proposal
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Does not apply to planning proposal
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal
4.3 Flood Prone Land	Consistent. The planning proposal is in accordance with the Kyogle Floodplain Risk Management Plan. Although the planning proposal proposes to rezone flood prone land for industrial purposes, this inconsistency is of minor significance for the following reasons: The area of the site mapped as flood prone land consists of approximately 300m² on the south-western boundary. Figure 2 below illustrates the extent of the Flood Planning Area.

	- This area of land is mapped in the Kyogle Floodplain Risk Management Plan as being in the 'flood fringe' hazard category zone meaning it is only subject to minor flooding in the most extreme flood events. - The planning proposal will not permit development in floodway areas as it does not remove the provisions of Clause 6.2 Flood Planning of the LEP and as such, any future development application for industrial development will be subject to the flood planning provisions of the LEP.  Figure 2 Map showing extent of Flood Planning Area
4.4 Planning for Bushfire Protection	Does not apply to planning proposal
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent. Proposal is consistent with the urban growth provisions of the Far North Coast Regional Strategy
5.2 Sydney Drinking Water Catchment	Does not apply to planning proposal
5.3 Farmland of State and Regional Significance	Does not apply to planning proposal
5.4 Commercial and Retail Development	Does not apply to planning proposal
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to planning proposal
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent
6.2 Reserving Land for Public Purposes	Does not apply to planning proposal
6.3 Site Specific Provisions	Does not apply to planning proposal
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to planning proposal

Appendix 2 Current Land Zoning Map LZN_004C



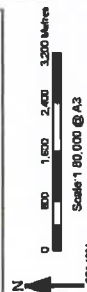
Kyogile Local Environmental Plan 2012

Land Zoning Map - Sheet LZN_004C

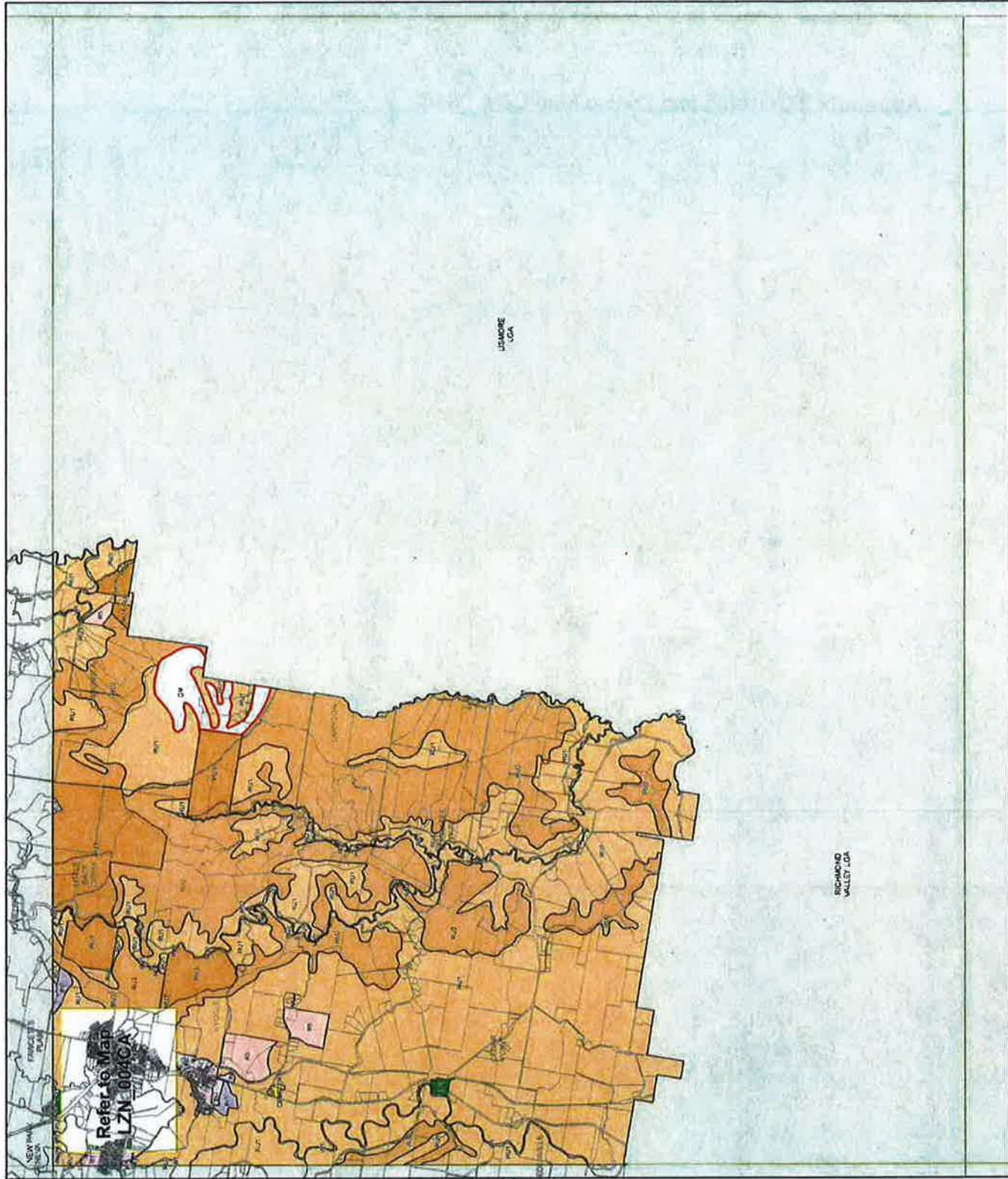
- Zone**
- EC** Local Centre
 - EU** Mixed Use
 - EN** National Parks and Nature Reserves
 - BP1** General Industrial
 - PI** Light Industrial
 - GR1** General Residential
 - MD** Medium Density Residential
 - LS** Large Lot Residential
 - PR** Public Recreation
 - PR1** Private Recreation
 - PU** Primary Production
 - RL** Rural Landscape
 - FC** Forestry
 - PP** Primary Production Small Lots
 - V** Village
 - INF** Infrastructure
 - MT** Natural Waterways
 - MT2** Recreational Waterways
 - DM** Deferred Matter

Cadastral

— Cadastral 13/02/2012 © Land and Property Information (LPI)



Projection: GDA 1984
MGA Zone 56
Map distribution number: 4502_2004_LZN_004C_20121118



Appendix 3 Proposed Zoning Map LZN_004C



Kyogle Local Environmental Plan 2012

Land Zoning Map - Sheet LZN_004C

Zones

- Local Centre**
 - LCZ
- Mixed Use**
 - MUZ
- National Parks and Nature Reserves**
 - NPNR
- Environmental Conservation**
 - ECZ
- Environmental Management**
 - EMZ
- General Industrial**
 - GI
- Light Industrial**
 - LI
- General Residential**
 - R1
- Medium Density Residential**
 - R2
- Large Lot Residential**
 - RS
- Public Recreation**
 - REZ
- Private Recreation**
 - RU1
- Primary Production**
 - PP1
- Rural Landscape**
 - RL
- Forestry**
 - FR
- Primary Production Small Lots**
 - PP2
- Village**
 - VL
- Special Activities**
 - SPA
- Infrastructure**
 - SP2
- Natural Waterways**
 - W1
- Recreational Waterways**
 - W2

Cadastre

Cadastre 13/02/2012 © LPM NSW



0 1000 2000
Metres
Scale 1:50,000 @ A3

Projection: GDA 1984
MGA Zone 56

Appendix 4 Map cover sheet

Environmental Planning and Assessment Act 1979

**Kyogle Local Environmental Plan 2012
(Amendment 1)**

Kyogle Council
PO Box 11
Kyogle NSW 2474

Map Cover Sheet

The following map sheet is revoked:

Map Sheet	Map Identification Number
Land Zoning Map LZN_004C	4550_COM_LZN_004C_080_20120220

The following map sheet is adopted:

Map Sheet	Map Identification Number
Land Zoning Map LZN_004C	4550_COM_LZN_004C_080_20131018

Certified Date

Executive Manager Planning and Environment

Minister for Planning Date