



REPORT: Proposal (R18-4 63 Fitzroy Street, 2R Gilgandra Road) Applicant Barnson Pty Ltd on behalf of Taylor Made Homes Pty Ltd

AUTHOR: Growth Planning Projects Leader - Digital Futures
REPORT DATE: 16 October 2020
TRIM REFERENCE: ID20/1324

EXECUTIVE SUMMARY

Council is in receipt of a Proposal to allow for the manufacture of movable buildings on part of 2R Gilgandra Road, Dubbo part of 63 Fitzroy Street, Dubbo and to extend the existing IN2 Light Industrial Zone on a small portion of 63 Fitzroy Street, Dubbo. The Proposal is provided in **Appendix 1**.

Specifically the Proposal seeks the following amendments to the Dubbo Local Environmental Plan (LEP) 2011:

- Rezone part of Lot 69 DP 259061 and part of Lot 1 DP 197736 from E3 Environmental Management to IN2 Light Industrial; and
- Add “Light Industry (Movable Building Manufacturing)” as an additional permitted use on part Lot 31 DP 1263665, part Lot 1 DP 197736 and part Lot 69 DP 259061 under Schedule 1 of the Dubbo LEP 2011.

Council has undertaken pre-gateway consultation with the Biodiversity and Conservation Division (BCD) of the Department of Infrastructure Planning and Environment (DPIE) regarding potential flooding impacts of the Proposal. The BCD indicated that the Proposal is consistent with the *NSW Flood Prone Land Policy* and the principles of the *Floodplain Development Manual 2005* as well as the *Guideline on Development Controls on Low Flood Risk Areas*. The correspondence from the BCD is provided in **Appendix 2**.

On-site consultation was also held with adjoining landowners and relevant Council staff to discuss the Proposal on 15 October 2020. Four (4) adjoining or adjacent landowners from within the immediate locality attended the consultation.

Council’s assessment indicates that the Proposal has strategic merit and it is recommended that a Planning Proposal be submitted to the Department of Planning, Infrastructure and Environment (DPIE) to seek a Gateway Determination.

It is also recommended that Council request to use its delegations under Section 3.36 of the *Environmental Planning and Assessment Act, 1979* to draft the subject amendments.

Following receipt of the Gateway Determination, Council will place the draft amendment on public exhibition and undertake consultation in accordance with the Gateway Determination.

FINANCIAL IMPLICATIONS

This matter has no financial implications for Council. The requirement for local infrastructure upgrades would be borne by the developer as part of any development approval.

POLICY IMPLICATIONS

A Planning Proposal will be prepared to seek a Gateway Determination from the DPIE. Receipt of a Gateway Determination from the DPIE will allow Council to, conditionally, undertake an amendment to the Dubbo LEP 2011.

RECOMMENDATION

1. That a Planning Proposal be prepared and submitted to the NSW Department of Planning Industry and Environment for a Gateway Determination to:
 - (a) Rezone part of Lot 69 DP 259061 from E3 Environmental Management to IN2 Light Industrial;
 - (b) Rezone part of Lot 1 DP 197736 from E3 Environmental Management to IN2 Light Industrial; and
 - (c) Add "Light Industry (Movable Building Manufacturing)" as an additional permitted use on part Lot 31 DP 1263665, part Lot 1 DP 197736 and part Lot 69 DP 259061 under Schedule 1 of the Dubbo LEP 2011.
2. That Council seek authority from the NSW Department of Planning Industry and Environment to exercise the delegation in relation to the plan making functions under section 3.36 of the Environmental Planning and Assessment Act 1979.
3. That subject to issue of a Gateway Determination, following the completion of the public exhibition period, a further report be provided to Council detailing the results of the public exhibition and for further consideration of the Planning Proposal.

Carmel O'Connor

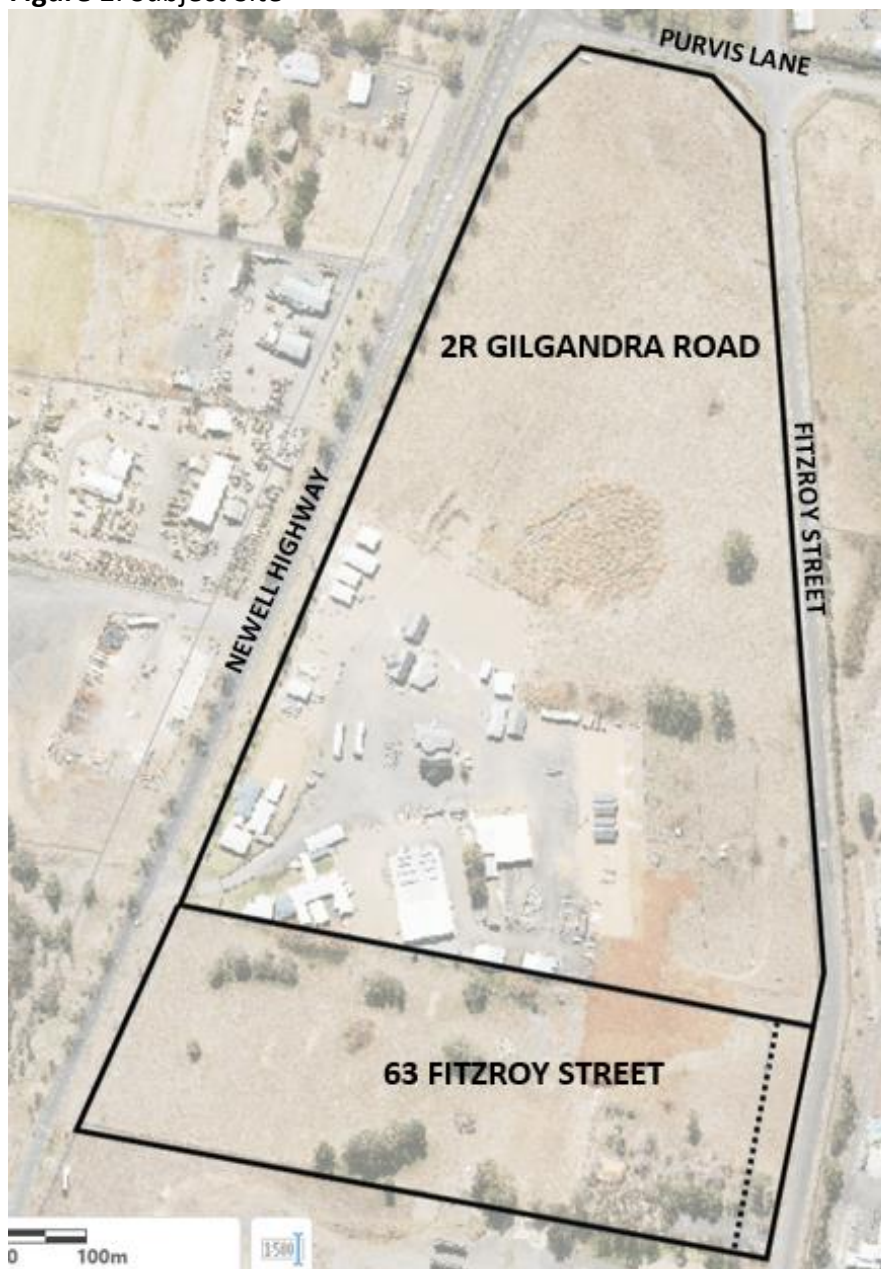
Growth Planning Projects Leader - Digital Futures

BACKGROUND

A Proposal applying to Lot 69 DP 259061 and Lot 1 DP 197736 (63 Fitzroy Street, Dubbo) and Lot 31 DP 1263665 (2R Gilgandra Road, Dubbo) (Figure 1) was received by Council on 2 July 2018. Following requests for additional information regarding flooding issues, an amended Proposal was submitted to Council by Barnson Pty Ltd on 1 April 2020. The subject Proposal is provided in **Appendix 1**.

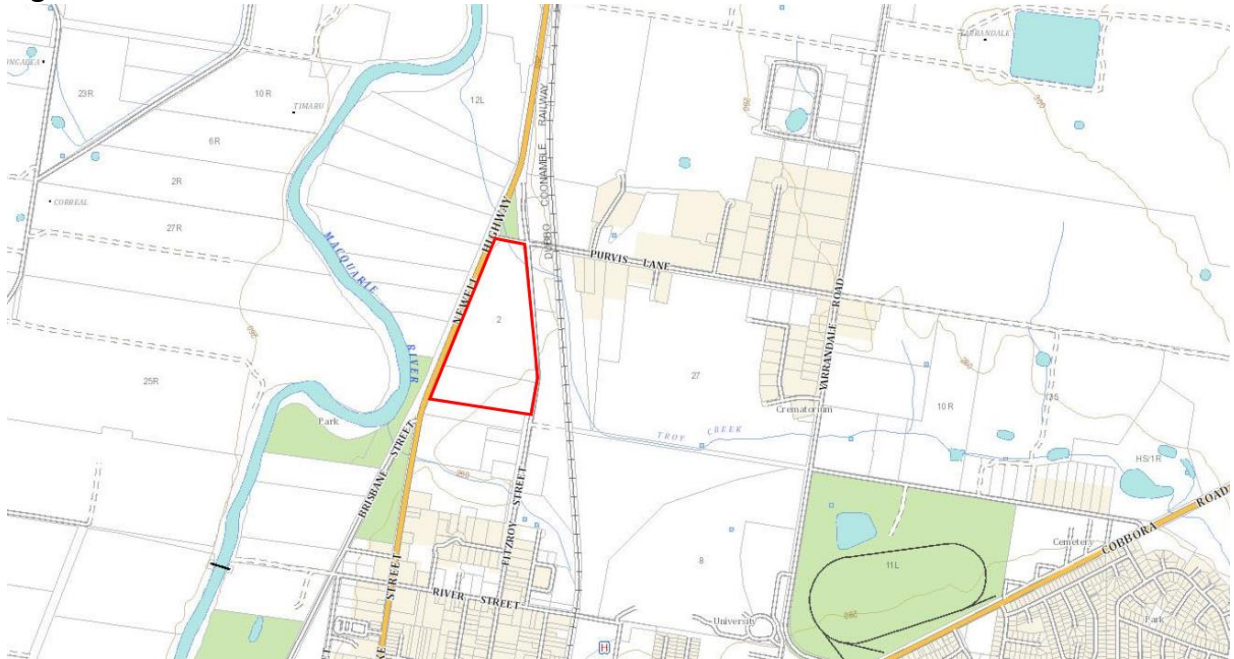
The subject site is located approximately 2 km north of the Dubbo CBD and is surrounded by mixed use development. Industrial and light industrial land uses are the main development type to its west and south (Figure 2).

Figure 1: Subject Site



Source: Geocortex, 2020

Figure 2: Local Context



Source: Barnson, 2020

63 Fitzroy Street

Sixty three (63) Fitzroy Street is currently zoned part IN2 Light Industrial and part E3 Environmental Management in accordance with Dubbo LEP 2011 (Figure 3). The property was formerly Golf West driving range and was purchased by Taylor Made Homes to facilitate the expansion of the movable building manufacturing business to the south.

Rezoning a small portion of this property from E3 Environmental Management to IN2 Light Industrial (Figure 4) will broaden the industrial uses permitted on this part of the site whilst also allowing the existing movable building manufacturing business to expand subject to development consent.

Allowing for a Light Industrial (movable building manufacturing) as an additional permitted use on very small portion of this property (Figure 5) will permit the expansion of the existing movable building manufacturing business only (subject to development approval).

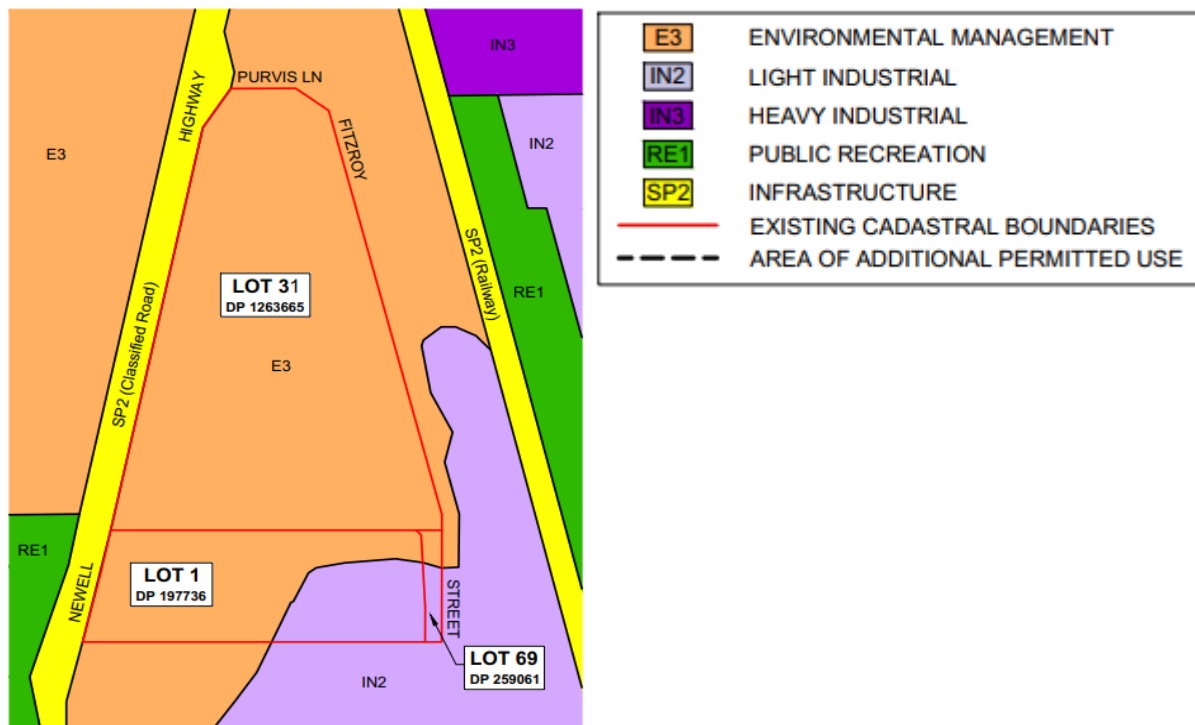
2R Gilgandra Road

The manufacture of movable buildings was an approved use on 2R Gilgandra Road under a previous LEP and it has been used for this purpose since the early 1980s. However due to its flood affectation, part of the site was zoned E3 Environmental Management in the 2011 Dubbo LEP.

Movable building manufacturing is not a permitted land use in the E3 Environmental Management Zone, however it can continue under the Existing Use provisions of the *Environment Planning and Assessment Act 1979*. These provisions severely restrict the potential for the existing business to expand. Identifying movable building manufacturing as additional permitted use on part of this property will allow the existing business to expand subject to development approval.

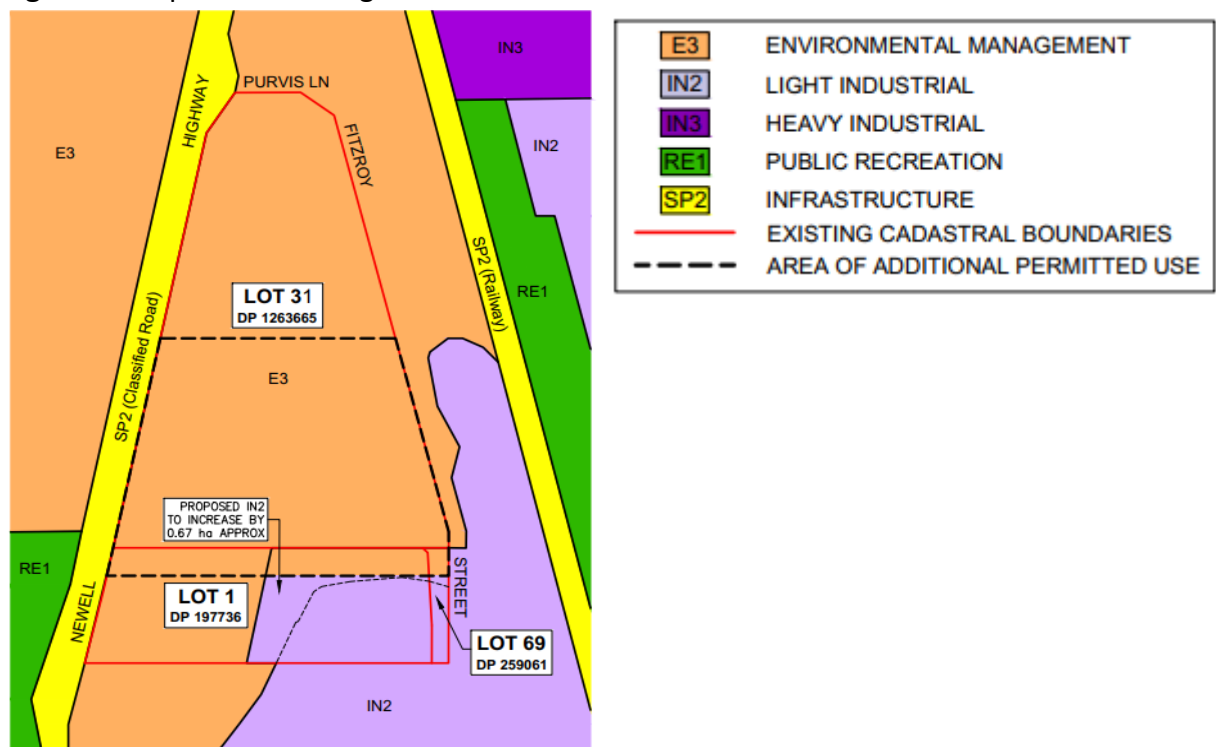
In March 2020, Lot 3 DP 1194822 and Lot 1 DP 1163911 (a closed road) were consolidated to form Lot 31 DP 1263665 (2R Gilgandra Road).

Figure 3: Current Zoning in Dubbo LEP 2011



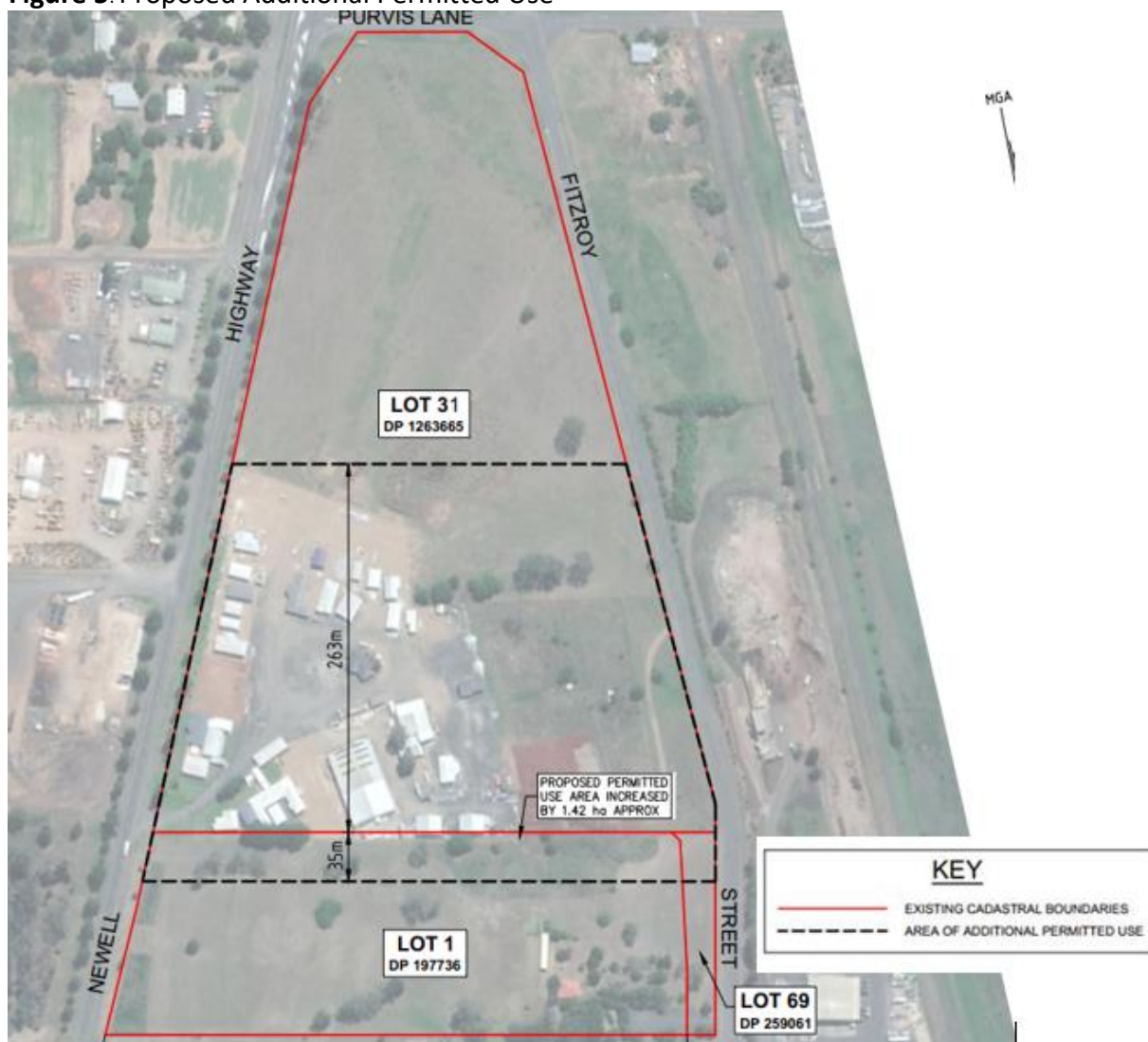
Source: Barnson, 2020

Figure 4: Proposed Rezoning and Additional Permitted Use



Source: Barnson, 2020

Figure 5: Proposed Additional Permitted Use



Source: Barnson, 2020

REPORT

1. Site Description

The Proposal relates to two (2) adjoining properties, 2R Gilgandra Road and 63 Fitzroy Street, Dubbo. The respective property descriptions are provided in Table 1 below.

Table 1: Property Description

Address	Lot	DP	Area Ha
2R Gilgandra Road, Dubbo	31	1263665	15.37
63 Fitzroy Street	69	259061	0.32
63 Fitzroy Street	1	197736	6.07
Total			21.76

The Macquarie River is located approximately 125 m to the west of the subject site. The majority of land on the western side of the site is zoned E3 Environmental Management and RE1 Recreation due its location within the Macquarie River floodplain.

2R Gilgandra Road is bound by Purvis Lane, Fitzroy Street and the Newell Highway. This property utilises an existing access off Gilgandra Road (Newell Highway). Sixty three (63) Fitzroy Street is bound by the Newell Highway and Fitzroy Street and utilises an existing access off Fitzroy Street. The land is predominantly cleared of vegetation and a large portion of the site is used for industrial purposes.

2. Dubbo Local Environmental Plan 2011

2R Gilgandra Road

2R Gilgandra Road is currently zoned E3 Environmental Management in accordance with Dubbo LEP 2011 (Figure 3).

63 Fitzroy Street

63 Fitzroy Street is currently zoned part E3 Environmental Management and part IN2 Light Industrial in accordance with the Dubbo LEP 2011 (Figure 3).

Flood Planning Area

The subject site is also identified as being within the Flood Planning Area (FPA) in accordance with the Dubbo LEP 2011 (Figure 6).

Figure 6: Flood Planning Area, Dubbo LEP 2011

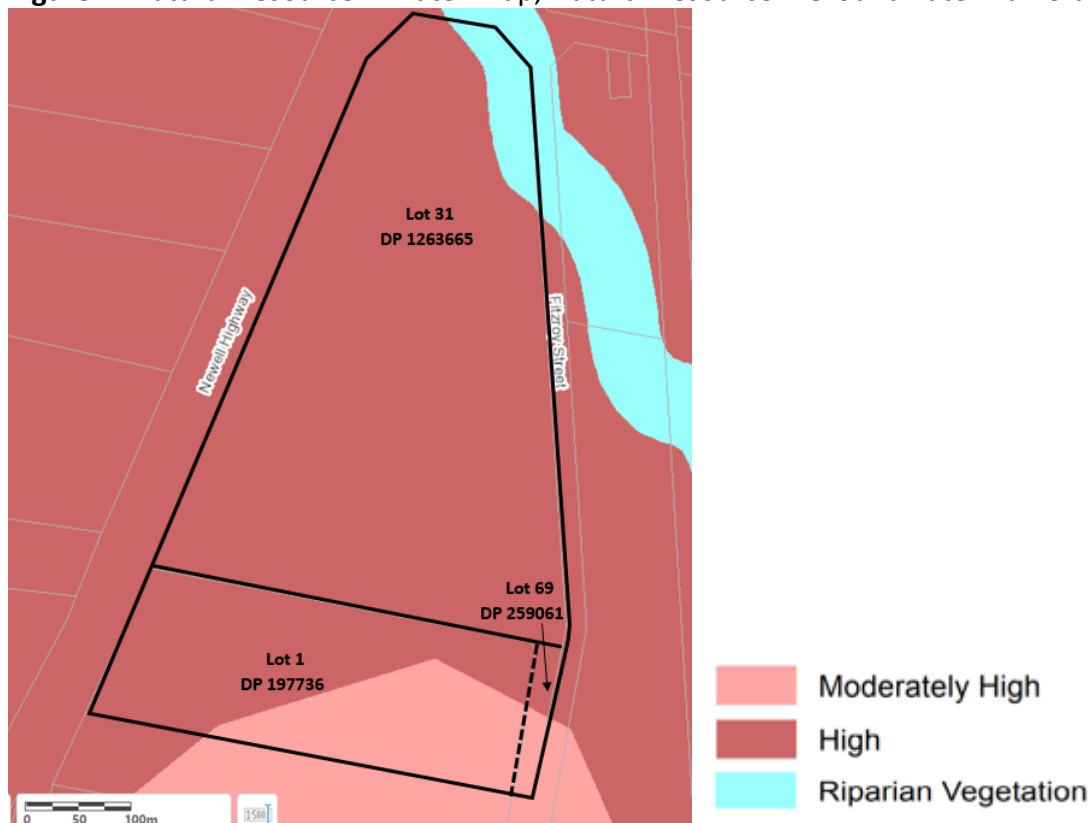


Source: Dubbo LEP 2011

Groundwater Vulnerability and Site Sensitivity

The subject site is identified as being subject to moderately high and high groundwater vulnerability in accordance with Dubbo LEP 2011 (Figure 7).

Figure 7: Natural Resource – Water Map, Natural Resource – Groundwater Vulnerability Map



3. Assessment

(i) Aboriginal Archaeology

The Proposal included a due diligence Archaeological Assessment prepared by OzArk Environmental and Heritage Management dated 14 June 2018 to assess the impacts of the proposed development. The study found no items or Aboriginal sites in or surrounding the subject land.

(ii) Traffic

The Proposal is unlikely to present any significant increase in traffic above the existing infrastructure capacity. Any future extension of the existing movable building manufacturing business or light industrial development at 63 Fitzroy Street will be subject to development consent including an assessment of traffic impacts.

(iii) Flora and Fauna

The majority of the subject land is clear of vegetation and is not known to contain any threatened species or ecological communities within the vicinity.

(iv) Ground water Vulnerability

The subject site is mapped as having moderately high and high ground water vulnerability pursuant to the provision of Clause 7.5 of the Dubbo LEP (Figure 7). The objective of the clause is to maintain the hydrological functions of groundwater systems and protect vulnerable groundwater from depletion and contamination as a result of inappropriate development.

The Proposal has not included an assessment of potential impact on groundwater vulnerability and salinity impacts. However, further development of the site is subject to development consent which will require an assessment of groundwater and salinity impacts.

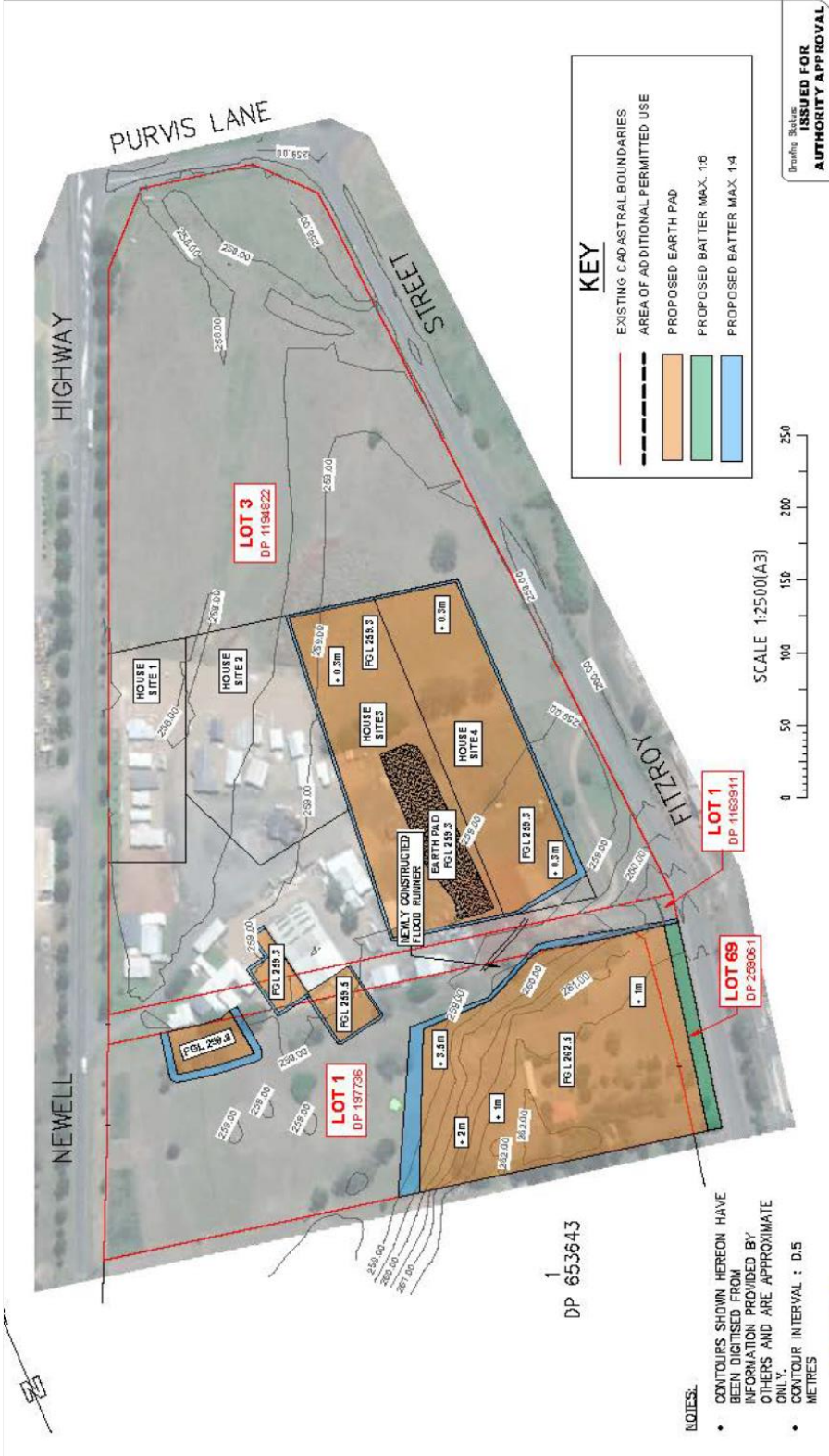
(v) Flooding

The subject site is identified as entirely within the Flood Planning Area (FPA) in accordance with the Dubbo LEP 2011 (Figure 6) and is also subject to Clause 7.1 of the LEP. The objective of this clause is to minimise the risk to life and property, whilst allowing compatible development on flood prone land and to avoid significant adverse impacts as a result of flooding.

The Proposal has included a Flooding Analysis prepared by Cardno dated November 2018 and updated on 30 March 2020. The flooding information indicates that the site is subject to mainstream flooding from the Macquarie River, local flooding from the Troy Gully and also flooding from the Talbragar River.

The study investigates the implications of the proposed earthen mounds upon the localised, Macquarie River and Troy Gully flood events. The Proponent has provided a plan of the proposed earthen mounds and their intended levels as seen in Figure 8.

Figure 8: Proposed Earthen Mounds



Source: Barnson, 2020

Macquarie River Flooding

In relation to the Macquarie River Flood, Cardno concluded that the proposed earthworks will have a negligible impact on the 1 % AEP flood levels and flood velocities, velocity x depth and provisional flood hazard. The local changes in peak velocity are such that the peak velocity remains low and does not pose a concern in relation to erosion scour in the 1 % AEP flood. Estimated existing and post earthworks hazard levels associated with the Macquarie River are provided in Figures 9 and 10 respectively.

Figure 9: Existing Conditions – 1 % AEP Flood Hazards, Macquarie River

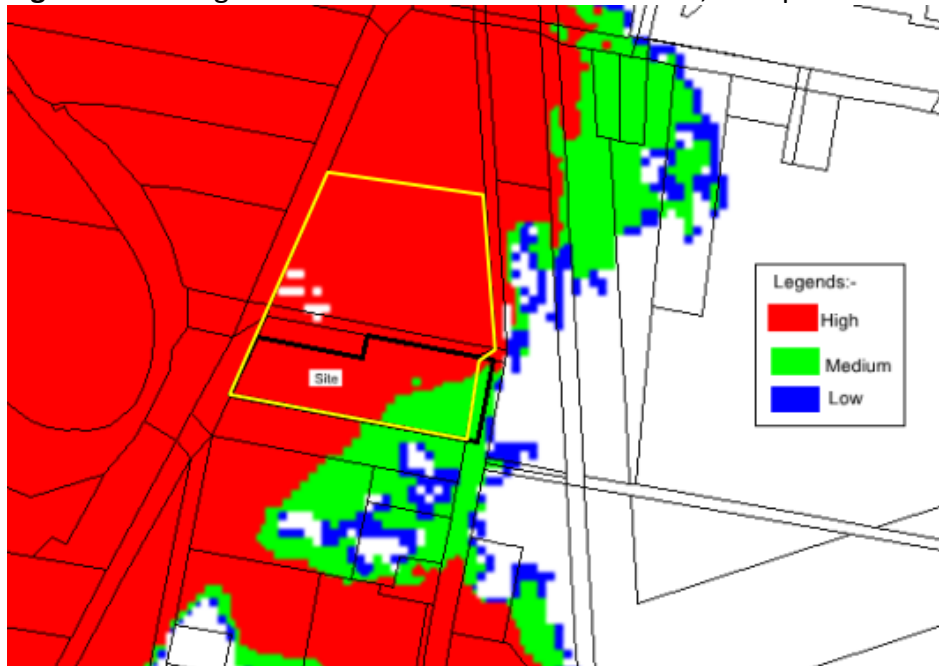
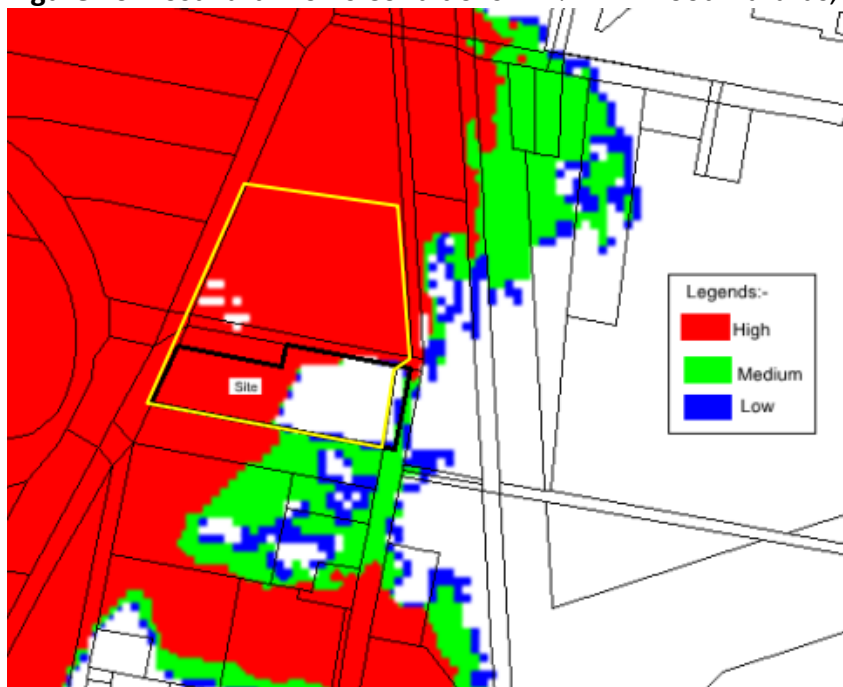


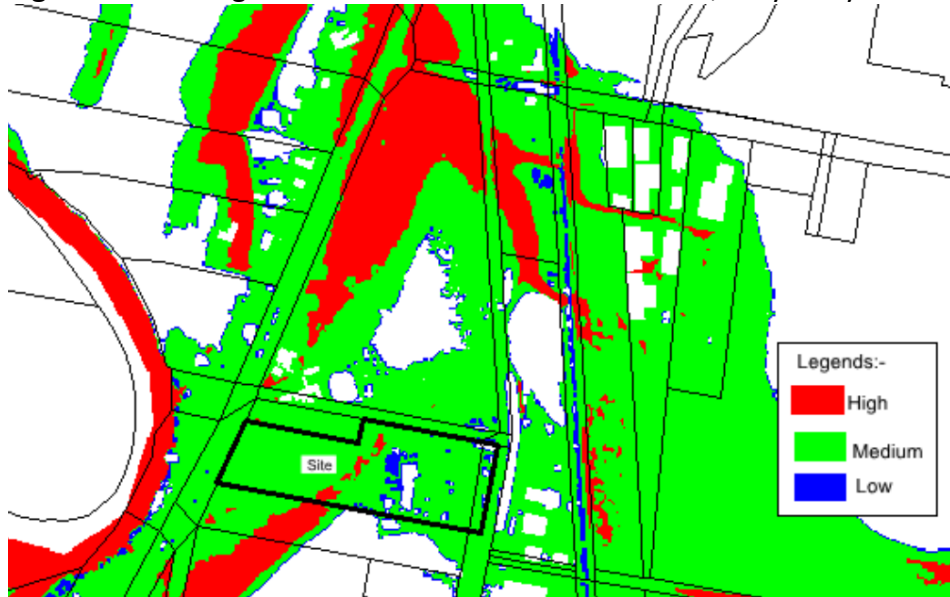
Figure 10: Post Earthworks Conditions – 1 % AEP Flood Hazards, Macquarie River



Troy Gully Flooding

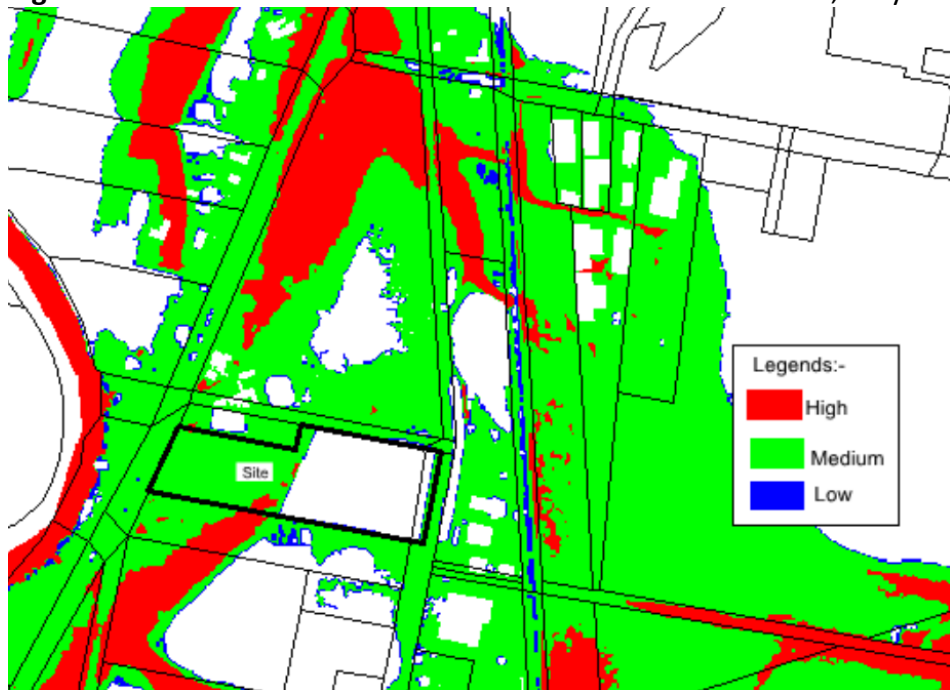
In relation to Troy Gully associated flooding, Cardno concluded that the proposed earthworks locally increase the 1% AEP flood levels on the southern side of the fill platform and have a small impact on flood velocities on the southern site boundary and that the local impact on velocity x depth and provisional flood hazard is negligible. The local changes in peak velocity are such that the peak velocity remains low and does not pose a concern in relation to erosion or scour in the 1% AEP flood. Estimated existing and post earthworks hazard levels associated with the Troy Gully are provided in Figures 11 and 12 respectively.

Figure 11: Existing Conditions – 1% AEP Flood Hazards, Troy Gully



Source: Cardno, 2020

Figure 12: Post Earthworks Conditions – 1 % AEP Flood Hazards, Troy Gully



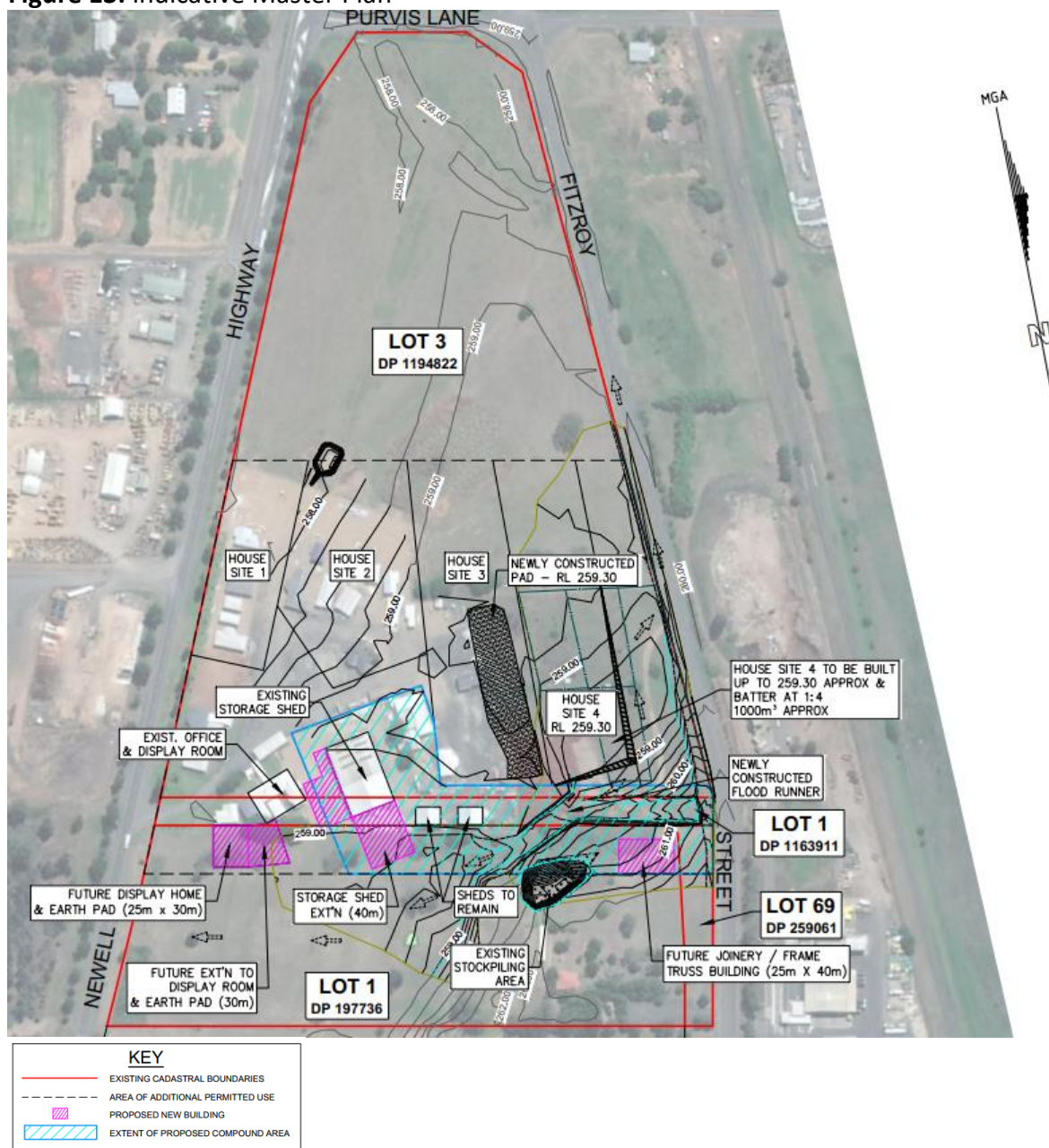
Source, Cardno, 2020

Council's pre-gateway consultation with the BCD confirmed that the Proposal is consistent with the *NSW Flood Prone Land Policy* and the principles of the *Floodplain Development Manual 2005* as well as the *Guideline on Development Controls on Low Flood Risk Areas*. The correspondence from BCD is provided in **Appendix 2**.

(vi) Master Plan

The Proponent has provided an indicative Master Plan to conceptualise the intended outcomes for the business (Figure 13).

Figure 13: Indicative Master Plan



Source: Barnson, 2020

The Master Plan depicts a number of existing sheds and relocatable housing sites. The buildings are intended to support the movable building manufacturing with additional display

buildings, extension to storage shed, relocated of detached storage sheds and future joinery and truss buildings.

(vii) Dubbo Local Environmental Plan (LEP) 2011

Land Use Zoning

The majority of the subject land is zoned E3 Environmental Management with the remainder being zoned IN2 Light Industrial.

The objectives of the E3 Environmental Management zone are as follows:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To ensure development is compatible with the flood hazard of the Macquarie and Talbragar Rivers.*
- *To ensure development does not create outbreaks of saline lands or exacerbate the existence of existing saline lands.*

It is considered that the proposed additional permitted use is consistent with the objectives of the E3 Environmental Management Zone as the site is highly disturbed as a result of its use for light industrial purposes for an extended period of time. There is no identified ecological significance on this site and the Proposal seeks only one additional permitted use that already exists on the site.

It is considered that an additional local provision limiting future development on the lands subject to the proposed additional permitted use may be appropriate to ensure future development is compatible with the identified flood hazard on this part of the site.

In addition, any impact on groundwater, flooding impacts or ecological values can be assessed at the detailed design stage of any future proposal for the site.

The objectives of the IN2 Light Industrial zone are as follows:

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*
- *To recognise the Depot Road and McKenzie Street industrial area as providing start up and transport related development opportunities.*

The Proposal seeks to extend the existing IN2 Light Industrial Zone on 63 Fitzroy Street in order to broaden the range of light industrial uses permissible on the site and to facilitate the expansion of the existing business which includes a significant opportunity to allow Light

Industrial (movable building manufacturing) as a permitted use and the potential to generate additional employment opportunities. The subject use is also consistent with that of surrounding landuses.

Light Industrial is defined as follows:

light industry means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following:

- (a) high technology industry,
- (b) home industry,
- (c) artisan food and drink industry.

An Industrial Activity is defined as follows:

industrial activity means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.

(4) Strategic Merit Test

In August 2016, the Department of Planning and Environment introduced the Strategic Merit Test, to determine whether a proposal demonstrates sufficient strategic and site specific merit to proceed to the Gateway.

Based on the Strategic Merit Test outlined in the Department's publication, A Guide to Preparing Local Environmental Plans (December 2018), a brief assessment of the Proposal against the Strategic Merit Test is provided below:

Will the proposal give effect to the relevant regional plan outside of the Greater Sydney Region?

I. Central West and Orana Regional Plan

The Proposal will assist in achieving the vision of with the Central West and Orana Regional Plan, *"The most diverse regional economy in NSW with a vibrant network of centres leveraging the opportunities of being at the heart of NSW"* by facilitating the expansion of an existing business.

The Proposal will also assist in achieving the directions and actions of the Plan as described below:

Direction 10. Promote business and industrial activities in employment lands

The Proposal will encourage the expansion of industrial activities on the existing IN2 zoned land by facilitating the expansion of an existing light industrial movable building manufacturing business.

Action 10.1. Encourage the sustainable development of Industrial and Employment land to maximise infrastructure to connect to the existing freight network.

The Proposal will encourage expansion an existing light industrial movable building manufacturing business, adjacent to existing IN2 Light Industrial Zoned Land on a major freight network.

Action 12.4. Amend planning controls to deliver greater certainty of use.

The Proposal will amend Dubbo LEP 2011 to provide greater certainty to the existing Taylor Made Home business regarding permissibility of expansion.

Will the proposal give effect to a relevant local strategic planning statement or strategy that has been endorsed by the Department or require as part of a regional or district plan or local strategic planning statement?

The Proposal was initially assessed against the Dubbo Industrial Areas Development Strategy in place at the time of lodgement and was considered consistent with this Strategy.

Subsequently the Dubbo Employment Lands Strategy was adopted by Council and endorsed by the then Department of Planning and Environment in 2019. Council maintains that the Proposal remains consistent with the Dubbo Employment Lands Strategy as described below:

II. Dubbo Employment Lands Strategy

The subject site is located in the North Dubbo Industrial Precinct. The Planning Principals for the precinct are:

- *Maintain Dubbo as the major employment and service centre of the Orana region;*
- *Ensure an adequate supply of appropriately located and serviced employment lands are maintained to facilitate short-term, medium-term and long-term growth; and*
- *Facilitate revitalisation of existing employment land precincts to meet the changing needs of industry.*

A relevant opportunity for the area is to *“Regulate development within the floodplain to be sympathetic to the environmental constraints”*.

The Proposal will support existing employment land to be utilised to meet the long term needs of the existing business and contribute to local employment opportunities. The Proposal has been designed to be sympathetic to the Macquarie River floodplain. Further, it is also recommended that a local provision be inserted in Dubbo LEP 2011 limiting potential development on the subject lands to that assessed in the Applicant’s flooding information.

III. Dubbo Regional Local Strategic Planning Statement

It is considered that the Proposal through facilitating the expansion of an existing business, will give effect to *Planning Priority 8 – Ensure Supply of Employment Generating Land* and *Action 8.1 Implementing and progress the recommendation as contained within the Employment Lands Strategy, 2019*.

IV. Dubbo Region Community Strategic Plan

The Community Strategic Plan is a long term plan produced by Council that aims to guide and influence the actions and initiatives of the Dubbo Regional Council, state government and the community to 2040.

The Plan sets out five (5) visions to reflect the priorities of the local community. The Proposal is consistent with and will give effect to the stated economy and liveability visions as summarised below:

Economy Vision

Strategy	Assessment
3.2.1 Employment opportunities for all sectors of the community that support economic growth.	The existing movable building manufacture business employs 34 staff and 15 contractors. Securing the proposed additional permitted use and extension of the IN2 zone will provide security for the future of the business and will facilitate future expansion.
3.5.1 Opportunities for long term growth and investment across sectors and industry is leveraged.	The existing business currently employs 34 staff and 15 contractors. The proposal will contribute to the local term economic growth of the LGA through securing the permissibility of the existing business and facilitating its potential expansion.
3.5.6 Investment in the Local Government Area as a driver of growth in the region is a key priority for government, industry and the local community.	The proposal will facilitate investment in the LGA through securing the permissibility of the existing use and expanding the existing IN2 Zone.
3.7.3 Planning controls ensure adequate suitable land is available for new development opportunities.	The proposal will contribute to the supply of suitable land for expansion of the exiting movable building manufacture business.

Liveability Vision

Strategy	Assessment
5.10.1 Landuse management improves and sustains the built and natural environment.	The proposal will facilitate future development on the site that will require the lodgement of a development application with Council and assessment under Councils existing planning provisions.
5.10.3 Urban stormwater discharge from the drainage network into receiving waters is limited.	Future development on the site will require the minimisation of urban stormwater discharge into receiving waters.
5.10.5 Planning instruments include provisions for the protection of sensitive environments.	The proposal will facilitate development of E3 Environmental Management zoned land for an existing use. Future development will be subject to existing LEP provisions regarding the protection of sensitive environments.

Is the proposal responding to a change in circumstances, such the investment in new infrastructure or changing demographic trends that have not been recognised by existing strategic plans?

The Proposal seeks to enable the extension of the existing business (subject to development consent). The subject business was permissible with consent on 2R Gilgandra Road prior to the adoption of the Dubbo LEP 2011. The extension of the IN2 Light Industrial zone on 63 Fitzroy Street will facilitate the extension of this business.

Section 9.1 Directions

A number of Section 9.1 Directions are applicable to the Proposal. As provided in **Appendix 1**, the subject Proposal is consistent with the majority of directions and presents only minor inconsistencies.

State Environmental Planning Policies (SEPP)

A number of State Environmental Planning Policies (SEPPs) apply to the Proposal. It is considered that the proposal is consistent with the relevant SEPPs as outlined in **Appendix 1**.

SUMMARY

Council is in receipt of a Proposal to rezone Lot 69 DP 259061 and part Lot 1 DP 197766 (known as 63 Fitzroy Street, Dubbo) from E3 Environmental Management to IN2 Light Industrial under the provisions of the Dubbo LEP 2011.

The Proposal also seeks to allow Light Industrial (movable building manufacturing) as an additional permitted use on part Lot 31 DP 1263665 (2R Gilgandra Road), part Lot 1 DP

197736 and part Lot 69 DP 259061 (63 Fitzroy Street) under Schedule 1 of the Dubbo LEP 2011.

Flooding information was submitted with the Proposal, which concluded that based on the landowner's master plan, the flooding impacts of development on the site would be minimal. Pre-gateway consultation with the BCD of DPIE has not identified flooding issues with the Proposal and has advised that it is consistent with the *NSW Flood Prone Land Policy* and the principles of the *Floodplain Development Manual 2005* as well as the *Guideline on Development Controls on Low Flood Risk Areas*.

The Proposal is considered consistent with the objectives of the Dubbo Urban Areas Development Strategy, the Industrial Areas Development Strategy relevant at the time of lodgement and the Dubbo Employment Lands Strategy adopted and endorsed in 2019.

It is recommended that Council prepare a planning proposal accordingly, forward it to DPIE for Gateway Determination and request to use its Delegations under Section 3.36 of the *Environmental Planning and Assessment Act, 1979* regarding plan making functions.

Appendices:

- 1 Appendix 1 - Proposal
- 2 Appendix 2 - Biodiversity and Conservation Division Correspondence