

Request for Initial Gateway Determination

Instructions to Users

When forwarding a planning proposal to the Minister under section 56(1), the relevant planning authority must provide the information specified on this form. This form and the required information should be sent to your local Regional Office.

Relevant Planning Authority Details

Name of Relevant Planning Authority: *Mid-Western Regional Council*

Contact Person: *Catherine Van Laeren*

Contact Phone Number and Email Address: *(02) 6378 2882*
Council @ midwestern.nsw.gov.au

Planning Proposal Details

1. **LAND INVOLVED** (If relevant - e.g. Street Address and Lot and Deposited Plan): ☒

Attached/Completed ☒

2. **MAPS** (If applicable - electronic and hard copy) ☒

- ☒ Location map showing the land affected by the proposed draft plan in the context of the LGA (tagged 'location map').
- ☒ Existing zoning map showing the existing zoning of the site and surrounding land and proposed zoning change for the site/s (tagged 'comparative existing/proposed zoning') -

3. **PHOTOS and other visual material (if applicable)** ☒

- ☒ Aerial photos of land affected by the Planning Proposal
- ☐ Photos of land involved and surrounding land uses

4. **COMPLETE PLANNING PROPOSAL** (electronic and hard copy) ☒

- ☒ All matters to be addressed in a planning proposal - including Director-General's requirements for the justification of all planning proposals (other than those that solely reclassify public land) in accordance with a 'Guide to preparing a planning proposal' are completed prior to forwarding to the Regional Office in the first instance. See attached pro-forma.

4. **PLANNING PROPOSAL HAS BEEN SUPPORTED BY COUNCIL** ☒

- ☒ Council has considered the written planning proposal before it is sent to the Department of Planning.
- ☒ Attached is Council's resolution to send the written planning proposal to the Department of Planning.

Signed for and on behalf of the Relevant Planning Authority

18/03/10
DATE: DD/MM/YY



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MUDGEES NSW 2850

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(nb): OUT10/1B54882B, A0420210

18 March 2010

Lois Gray
Regional Director - Western Region
NSW Department of Planning
PO Box 58
Dubbo NSW 2830

Atten: Wayne Garnsey

Dear Ms Gray

RE PLANNING PROPOSAL – LOTS 271 & 276 DP 755442 – ULAN ROAD - ULAN

Further to the preliminary discussions held between Council's Officers and the Department of Planning, Council requests that the attached Planning Proposal be forwarded to the LEP Gateway for determination.

Please find enclosed a copy of; the relevant resolution of Council and associated report to Council, the Planning Proposal and associated cover sheet in addition to material submitted by the land owner in relation to the Proposal. Should you have any queries in relation to this matter please contact the undersigned on 02 6378 2882.

Yours faithfully

A handwritten signature in blue ink, appearing to be "Nathan Burr", written over a circular blue stamp or seal.

NATHAN BURR
ENVIRONMENTAL TOWN PLANNER

6.2.11 PLANNING PROPOSALS – RYLSTONE RURAL RESIDENTIAL, ULAN INDUSTRIAL NODE

REPORT BY GROUP MANAGER PLANNING AND DEVELOPMENT
Planning Proposals – Ulan Industrial & Rylstone Rural Res
A0100050, A0420211, A0420210

THIS IS A PLANNING DECISION AND A DIVISION IS REQUIRED

RECOMMENDATION

That:

1. Council resolves to endorse the Planning Proposal to rezone lots 1, 2, 3 and 4 of DP 837670 titled Panorama Court Rylstone – Rural Residential Development, and submit the endorsed Planning Proposal to the NSW Department of Planning for assessment;
2. Council resolves to endorse the Planning Proposal to rezone lots 271 and 276 of DP 755442 titled Ulan Industrial Node, and submit the endorsed Planning Proposal to the NSW Department of Planning for assessment.

EXECUTIVE SUMMARY

This report is to seek the endorsement of two planning proposals which seek to commence the rezoning process in accordance with relevant provisions of Part 3 of the Environmental Planning and Assessment Act, 1979. A summary of the new plan making process is included as attachment 1 of this report, it is noted that at this juncture the purpose of a Planning Proposal is to provide a summary of the intended outcomes of the proposal, an explanation of the intended statutory provisions, justification and detail what community consultation will be carried out if further consideration of the proposal is approved by the LEP Gateway. The Planning Proposals are not to be regarded as the final and comprehensive approval of the rezoning application, in addition to this endorsement of the Planning Proposals is not to be considered as tacit approval for the rezoning.

DETAILED REPORT*Panorama Court Rylstone – Rural Residential Development*

The Planning and Development Committee at its August 2009 meeting resolved to pursue an amendment to the Rylstone Local Environmental Plan 1996 (Rylstone LEP) seeking a rezoning of the subject land from 1(c1) – Rural Small Holdings to 1(c) – Rural Residential on the basis that the site had been incorrectly zoned in error. In accordance with the resolution the matter was forwarded to the NSW Department of Planning (DoP) for consideration and was rejected by the DoP. Subsequently it was revealed that the site had not been zoned in error and had in fact been development to its full potential. The current proposal seeks to rezone the land in accordance with the recommendations contained in the Draft Mid-Western Regional Comprehensive Land Use Strategy (CLUS). In this regard the crux of the Planning Proposal is that the site is located in proximity to hard and soft infrastructure and can be readily delivered to market in a manner that does not place an undue burden on the community. The creation of additional housing opportunities in proximity to Rylstone is in accordance with the CLUS.

Ulan Industrial Node

At its August 2009 meeting Council considered a report regarding the preparation of a Planning Proposal to rezone 38ha of land known as Lots 271 and 276 DP 755442 on the corner of Toole and Ulan Roads, Ulan from Agriculture to General Industry under the Interim LEP 2008. The primary purpose of the rezoning is to provide suitable industrial land for industries ancillary to the nearby mining operations. Council resolved at the time to support the preparation of a Planning Proposal in addition to investigating other opportunities for industrial land within the locality. The Planning Proposal may be viewed as an attachment to this report.

Other opportunities for Industrial land within the locality of Ulan:

In accordance with the resolution of Council a review of land within the locality of Ulan was undertaken which revealed the following constraints to rezoning alternate sites.

- Willingness to develop.
The Draft Mid-Western Regional Comprehensive Land Use Strategy has been placed on formal public exhibition and informal public exhibition. While the Strategy identified a potential opportunity for an industrial node to be located in the Ulan locality, no submissions were received other than the subject planning proposal seeking consideration for such a zoning. While it is technically feasible to establish potentially suitable industrial land, it is crucial to have willingness on behalf of the land owner to carry through such development.
- Cost of establishing suitability.
There are extensive environmental, economic and social studies that must be conducted prior to the eventual rezoning of land, particularly in the case of a change in land use to industrial development. These reports are valued in tens of thousands of dollars and present a constraint on the identification of alternate sites.
- Proximity to the intended market.
One of the key justifications for the current Planning Proposal is that it is within proximity to the intended market. This consideration limits the geographic extent of alternate considerations.
- Access to road and rail infrastructure.
The current site has frontage Ulan Rd in addition to rail frontage. Seeking sites that have similar qualities which are not owned or controlled by mining companies or are within an acquisition zone presents a challenge.
- Size and shape of allotments.
Not all lots will be suitable for the intended purpose

Council could undertake to contact individual owners however; a methodology should be established with regard to how the cost burden associated with undertaking an assessment of the environmental factors will be allocated, that is, whether the cost will be borne by the community or the land owner.

Impact on existing Industrial zoned land:

The proposed zoning for the industrial node is Heavy Industrial. The purpose of this is to differentiate it the Ulan area from the existing industrial land within Gulgong and Mudgee. In this regard specific subdivision and land use controls can be formulated so that the Ulan node targets the specific market of mining related industry. A further economic assessment of the impacts related to the establishment of the Ulan node will be required before the rezoning process can be completed.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC OR POLICY IMPLICATIONS

The Planning Proposals seek to enact recommendations contained within the Draft Mid-Western Regional Comprehensive Land Use Strategy which has been publicly exhibited.

CATHERINE VAN LAEREN
GROUP MANAGER
PLANNING AND DEVELOPMENT

4 December 2009

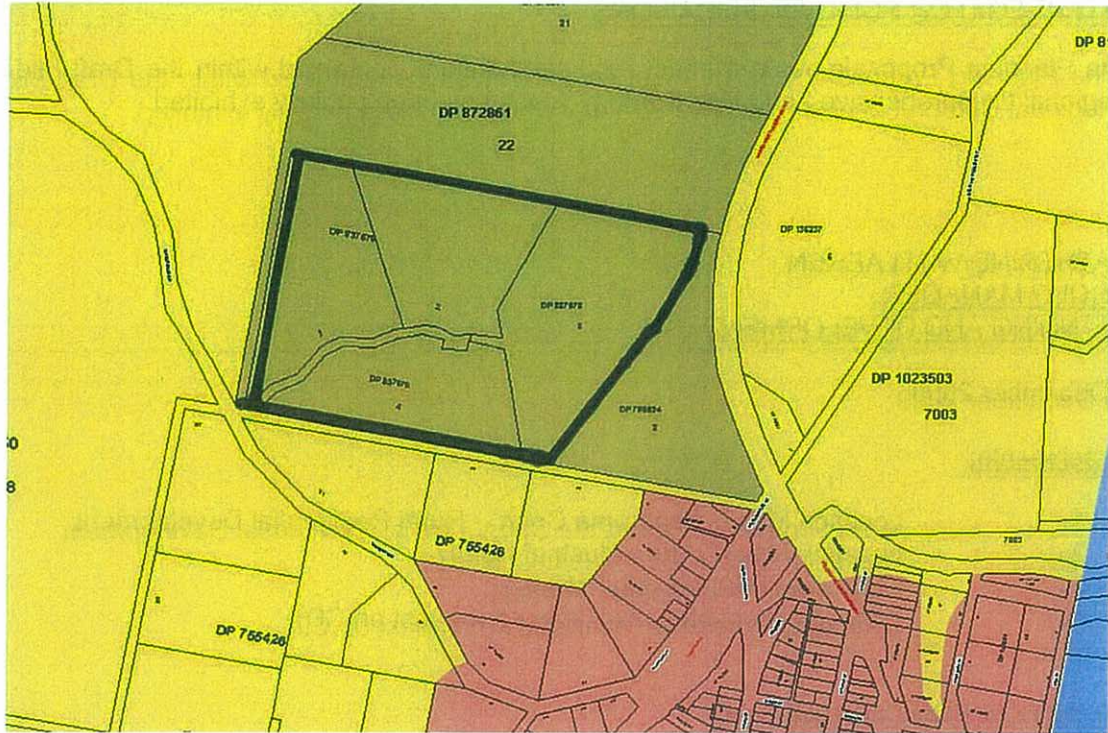
Attachments:

1. Location Map – Panorama Court - Rural Residential Development
2. Location Map – Ulan Industrial Node
3. LEP Local Plan Making Process
4. Planning Proposals (available on request on CD)

APPROVED FOR SUBMISSION:

WARWICK BENNETT
GENERAL MANAGER

Attachment 1 Subject Site



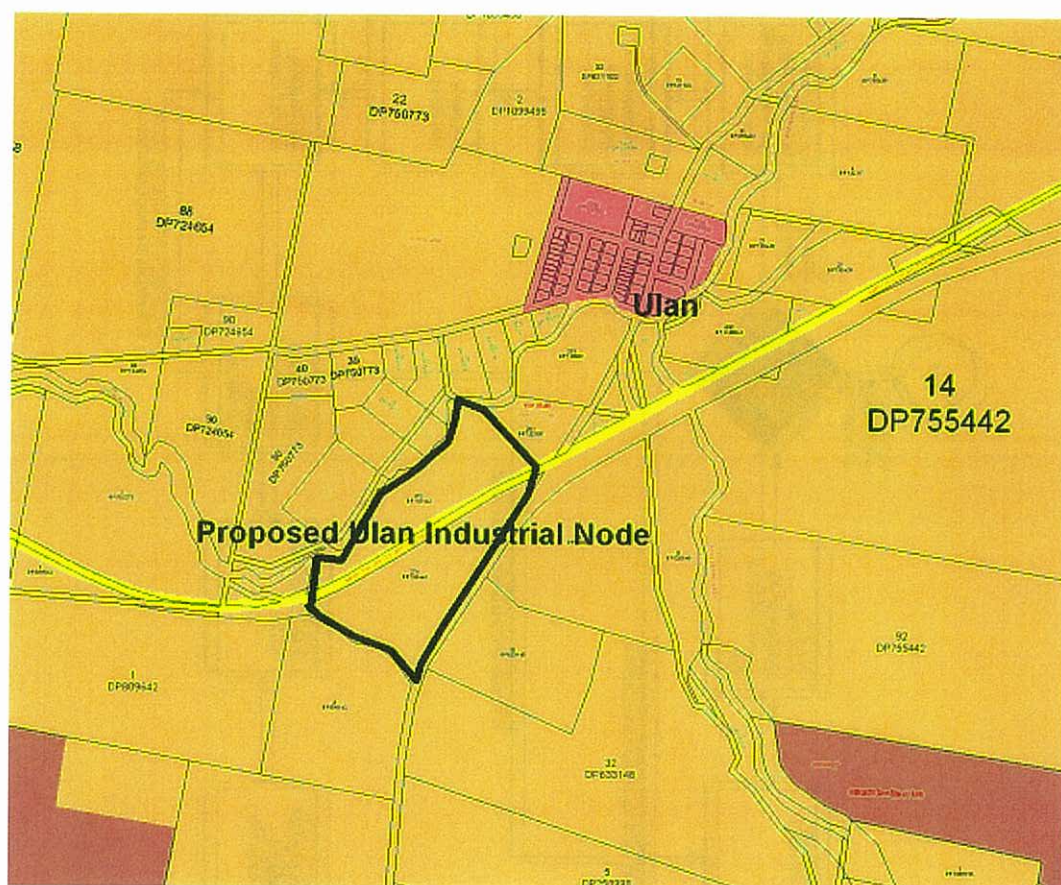
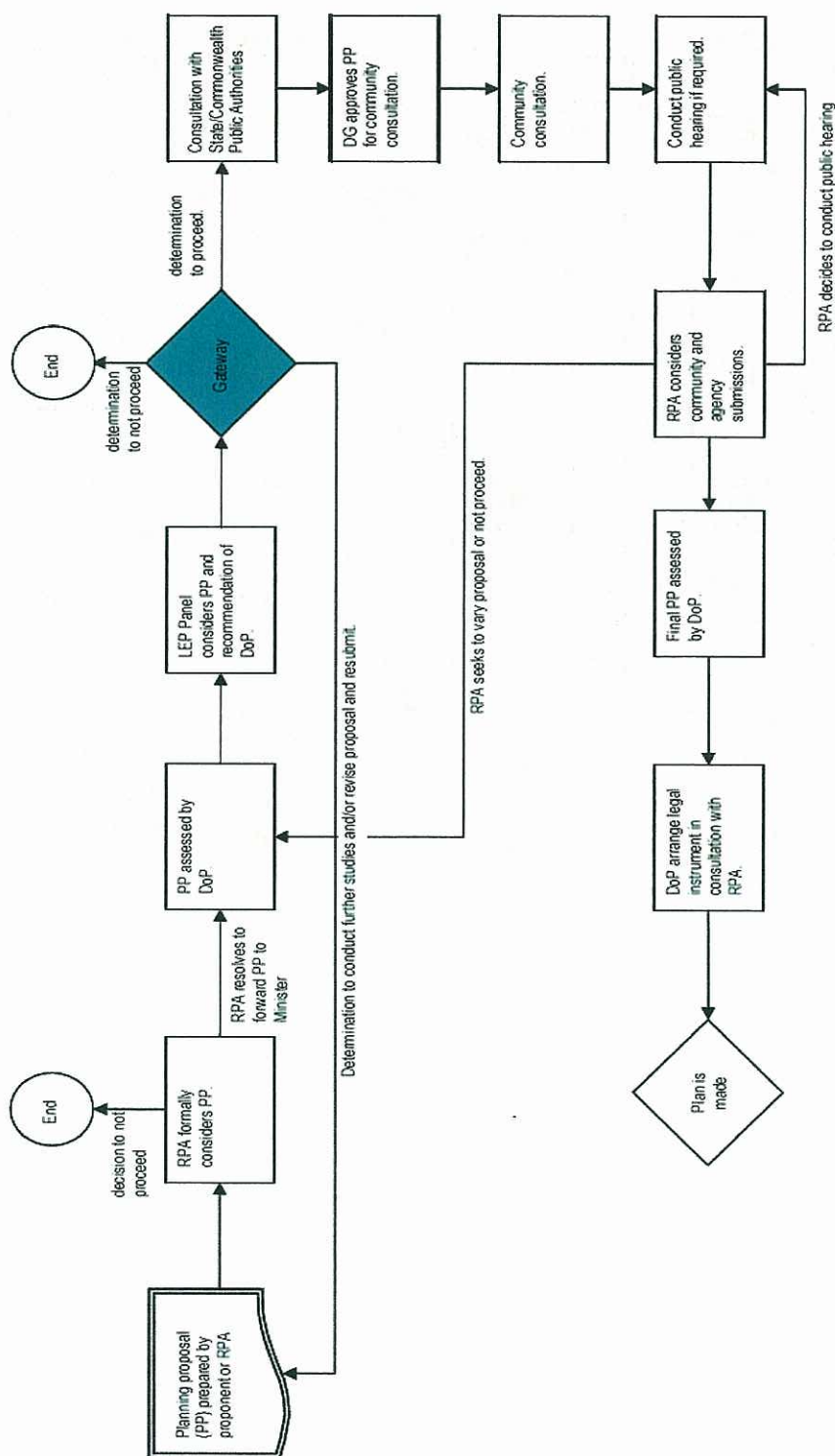


Figure 5 – Process to make a local environmental plan





MID-WESTERN REGIONAL COUNCIL

Planning and Development Committee Meeting Extract Committee Meeting: 3 February 2010

ITEM 4: NOTICES OF MOTION TO PLANNING AND DEVELOPMENT COMMITTEE

4.1 PLANNING PROPOSALS – ULAN INDUSTRIAL NODE

A0100035, A0100051, A0420210

P.04/10

MOTION: Walker / Thompson

That Council resolves to endorse the planning proposal to rezone lots 271 and 276 of DP 755442 titled Ulan industrial node, and submit the endorsed planning proposal to the NSW Department of Planning for assessment.

The motion was put and carried as a resolution with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Thompson	✓	
Cr Holden		✓
Cr Kennedy	✓	
Cr Lang	✓	
Cr Loneragan		✓
Cr Martens	✓	
Cr Shelley	✓	
Cr Walker	✓	
Cr Webb	✓	

Planning Proposal

Ulan Industrial Node

To rezone the subject lots 271 and 276 of DP755442 - Ulan Road, Ulan NSW, from Agriculture to IN3 - Heavy Industrial and Conservation to permit the establishment of a mining support industrial node.

Mid-Western Regional Council



February 2010

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RELEVANT PLANNING AUTHORITY DETAILS

Name of Relevant Planning Authority: Mid-Western Regional Council

Contact Person: Catherine Van Laeren

Contact Phone Number: (02) 6378 2882

Contact email address: council@midwestern.nsw.gov.au

INTRODUCTION

The subject site is comprised of Lots 271 and 276 DP 755442 and is located on the corner of Toole Road and Ulan Road in the locality of Ulan. The total area of the subject allotments is approximately 38Ha which is bound by Sportsmans Hollow Creek. The two allotments that form the site are bisected (NE-SW) by Gulgong to Sandy Hollow Railway. The subject site is within proximity to the village of Ulan and a number of existing and establishing coal mines.

PART 1 - OBJECTIVES AND INTENDED OUTCOMES

The purpose of this planning proposal relating to Lots 271 and 276 DP 755442 (the site) is to facilitate the establishment of an industrial precinct in proximity to existing and establishing mining operations, whilst preserving ecologically sensitive areas of the site in the public interest. The best method to achieve this will require the rezoning of the privately owned land to part IN3 Heavy Industrial and part Conservation.

PART 2 - EXPLANATION OF PROVISIONS

Amendment to the Mid-Western Regional Interim Local Environmental Plan 2008 (LEP 2008) map in accordance with the proposed zoning map depicted in Figure 3 (Appendix 1).

Amendment of the Mid-Western Regional Interim Local Environmental Plan 2008 to include the following:

- Insertion of a new IN3 Heavy Industrial zone table including objectives based on the Standard Instrument.
- Amendment of clause 19 - minimum lot sizes, to incorporate a 4000m² minimum lot size for the new Heavy Industrial zone.
- Amendment of clause 44 - subdivision in industrial zones, to apply this clause to the new heavy industrial zone. Additional provisions should require the consent authority to satisfy itself that where new lots are to be created adequate provision has been made for reticulated services including, electricity, telecommunications, potable water, sewerage disposal and stormwater treatment.

It is noted that the existing provisions which relate to the Conservation Zone within LEP 2008 are not intended to be amended by this planning proposal.

PART 3 - JUSTIFICATION

3A - NEED FOR THE PLANNING PROPOSAL

3A(1) Is the planning proposal a result of any strategic study or report?

The Mid-Western Comprehensive Land Use Strategy (CLUS) has been adopted by Council however, is yet to be finally endorsed by Council or the Department of Planning. In Section 3.2.4 – General and heavy industry identifies the need for additional industrial land and recognises the demand from developing coal resources within the LGA as a key economic driver. An analysis of existing industrial zoned land indicates that land available within Mudgee while adequate to meet immediate needs, is appropriate for industrial developments that incorporate a retail or service component. It is estimated that currently available land stocks within Mudgee equate approximately 4 years supply with a further 14 lots in the process of being delivered to market (Section 3.2.4 CLUS). These lots due to their proximity to residential and retail uses and relative lot size are not considered

suitable for heavy industrial purposes and are not interchangeable with the proposed new Ulan Heavy Industrial zone land.

The CLUS identifies a potential opportunity for the provision of large lot industrial/heavy industrial lots within or adjacent to existing industrial zoned land at Gulgong however, further analysis is required to augment the CLUS with regard to the demand and nature of the demand for larger lot heavy industrial lots (Section 3.2.4 CLUS). Given the proposal is specifically intended to establish mining related industries in proximity to existing and emerging mines in the Ulan area land availability in Kandos (an approx. 75 min journey by road) is of little consequence. While opportunities existing in Mudgee, Gulgong and Kandos for the provision of larger lot heavy industrial allotments these opportunities are subject to further investigation and are generally not viable short term prospects.

Section 3.2.4 of the CLUS identifies Ulan as a precinct where industrial land can be established to serve the needs of the mining industry in the short term. In this regard the proposal is considered to be consistent with the strategy by identifying land that may be suited to the intended purpose (subject to the outcome of the planning proposal process) in a location that will facilitate the development of synergies between mines and mining related industries/services while not undermining the long term viability of other industrial areas.

Locating mining related industries and services within existing mine sites is considered to be an unsuitable alternative to the proposal due to issues arising within permissibility, existing conditions of consent, commercial confidence, land tenure and potential conflicts between land operators.

The proponent has submitted details of mining related expenditure within the region which depicts only 8% of operational spending being retained within the region while approx. 59% escapes specifically through the engagement of specialist mining contractors based outside the region. The proposal specifically intends to make land available to these specialist mining contract firms for the purposes of establishing operations within the region. Furthermore there is an estimated 6.3 billion dollars expected to be generated by the establishment of new or expansion of existing mining operations in proximity to the site over the next 5 years. Given the significance of anticipated investment it is considered a priority to establish a heavy industrial zone within the area immediately to allow business and industry to establish in step with the operationalising of the mining ventures rather than await the gazettal of Council's Standard Instrument LEP due mid 2011.

The subject land will focus directly on the Ulan mining precinct and by locating here will directly service the mines through the establishment of activities relating to haulage, mine engineering, mine electrical services, conveyor services, security services, mine equipment rebuild workshops and the like.

3A(2). Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. While the Comprehensive Land Use Strategy identifies the desire for the creation of an industrial node in the locality and the planning proposal is an effective and efficient means of examining the merits of the current proposal in the context of the strategic

goals. Mining capacity in the locality is currently undergoing significant expansion and it is considered necessary to establish the aforementioned industrial node as soon as practicable in order to service the growing demand for mining support industries particularly in this location.

3A(3) Is there a net community benefit?

Yes. Refer to Appendix 4 for a net community benefit analysis. The proposal is likely to have positive externalities generating economic multipliers through the capture of escape spending currently associated with mining related service industries and will reduce the impact on infrastructure associated with heavy haulage of equipment and materials. The proposal has identified certain areas as being environmentally sensitive. In this regard the proposed zoning addresses the retention and preservation of existing vegetation and watercourses in addition to excluding development from areas containing fragile soils. The identification and management of these sensitive areas will reduce the occurrence of negative externalities usually associated with environmental degradation.

3B - RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK.

3B(1) 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)?

There are no applicable regional or sub-regional applicable in this instance

3B(2) Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

This planning proposal is consistent with the Mid-Western Comprehensive Land Use Strategy (CLUS), which has been adopted by Council and yet to be endorsed by the Department of Planning, which is the underlying strategic plan for land use within the Mid-Western Local Government Area, as discussed in (A1). The CLUS identifies the land as being suitable for mining related industries but requires further environmental assessment. The CLUS has been on public exhibition and adopted by Council, the CLUS is currently in the process of being referred to the Department of Planning for formal endorsement.

3B(3) Is the planning proposal consistent with applicable state environmental planning policies?

Yes. An analysis of the applicable State Environmental Planning Policies (SEPP's) is included in Appendix 2. The proposal is either consistent with or not offensive to any applicable SEPP's.

State Environmental Planning Policy 44 – Koala Habitat Protection (SEPP 44)

This SEPP requires a council listed within schedule 1 of the SEPP to survey the extent of potential and core koala habitat within the Local Government Area (LGA) and amongst other things, so zone any core habitat with an environmental conservation zone. The subject site is located within the former Mudgee Shire Council LGA which is listed within the schedule. The land has not been identified as being core koala habitat therefore the planning proposal does not conflict with the SEPP. A 7-Part test has been carried out over the site and potential ecologically sensitive areas have been included within a proposed Conservation zone.

State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)

This planning proposal involves a change of usage of the land. The anticipated risk of contaminating activities being carried out on the site is low however, agriculture is an activity that has previously and is currently an activity that does not require development consent, accordingly council does not have complete knowledge with regard to whether potentially contaminating activities (as described by the Planning Guidelines – SEPP 55) have been carried out on the site. In order to be consistent with the SEPP the planning authority should consider a preliminary investigation of the site and if appropriate a detailed investigation prior rezoning the land. In this instance it is reasonable to undertake a preliminary investigation after the gateway determination.

3B(4) Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

This planning proposal is generally consistent with the relevant Ministerial Directions however; inconsistencies and additional requirements are elaborated upon below. An analysis of the applicable Directions is included as an attachment (refer to Appendix 3).

S117 - 1.1 Business and Industrial Zones

The Proposal is inconsistent with 4(e) in that it is not consistent with an approved strategy. This inconsistency is of minor significance as the CLUS identifies the land as being suitable for mining related industries but requires further environmental assessment. The CLUS has been adopted by Council, furthermore Council at its meeting on 3 February 2010 endorsed this Planning Proposal.

S117 - 1.2 Rural Zones

This direction is applicable to the proposal and the proposal is inconsistent with the direction. In this regard the proposal seeks to rezone land that is presently a rural zone to IN3 – Heavy Industrial. The direction provides that a proposal may be inconsistent with direction in instances where the proposal is of minor significance. The site is considered to be a relatively low value in terms of agricultural production and constrained by areas of fragile soils, watercourses, remnant vegetation, presence of a railway line, existing and emerging mines uses within proximity to the site. The total area and unique nature of the proposed rezoning suggest that agricultural viability and/or sustainability in the region will be unaffected by the proposal.

S117 - 1.5 Rural Lands

The proposal involves the rezoning of land that is presently zoned rural and involves the establishment of conservation zoned land therefore the provisions of this direction apply. This direction requires a planning proposal to be consistent with the Rural Planning Principles listed in the State Environmental Planning Policy – Rural Lands (Rural Lands SEPP).

(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,

The proposal seeks to establish an industrial node in proximity to an existing rural village and the Ulan mining precinct in an area that is subject to a number of existing constraints. The proposed industrial use of the site will be less susceptible to land use conflict associated with nearby coal production and is furthermore unlikely to prejudice the viability of existing or potential economic activities within the rural areas. The proposal is likely to stem the inappropriate and unauthorised use of rural farms within the locality for industrial and quasi industrial uses such as earth moving depots presently occurring in the locality.

(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,

The subject site is minor in nature (38 ha) and due to existing infrastructure and geographical features is somewhat buffered from other rural lands, in this regard the proposal is unlikely to affect the ongoing operation of production or the ability of that production to respond to the changing nature of agriculture in the locality.

(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,

As previously mentioned the proposal seeks to establish industrial land in an orderly manner that will not impinge on existing or future production in the locality and by doing

so reduce the desire to establish unauthorised industrial uses on rural lands. It is considered that the proposal will have a positive social and economic benefits in the locality and region.

(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,

The proposal seeks to capture escape spending associated with the operation of mines within the locality while at the same time having additional public benefits such as the removal of heavy transport from local and state roads as the subject site is in close proximity to the established mines. The capture of this economic good is likely to have multiplier effects within the region. The proposal at its core seeks to establish conservation areas to protect the parts of the land that are of ecological significance, in this regard the proposal is considered to be aimed at achieving triple bottom line outcomes for the community.

(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,

The planning proposal contains a preliminary investigation of the ecological significance of the site. The result of this investigation has been incorporated into the proposal by the inclusion of proposed conservation zoned areas which are intended to reduce development pressure on the more sensitive areas of the site.

(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,

N/A – Rural lifestyle, settlement and housing is not suitable on the subject site due to its proximity to the mines.

(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,

N/A

(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

The proposal is generally consistent with the CLUS which although yet to be endorsed by the Director-General, has been the subject of public exhibition.

S117 - 4.4 Planning for Bushfire Protection

The subject land is identified as being bushfire prone. Following the gateway determination the Council must consult with the NSW Rural Fire service in accordance with Ministerial Direction 4.4 – Planning for Bushfire Protection. Prior to this consultation it will be necessary to conduct a bushfire hazard assessment which has regard to Planning for Bushfire Protection 2006, and the relevant Ministerial Direction.

S117 - 6.3 Site Specific Provisions

The Proposal is inconsistent with 4(b) because it will introduce a new zone, albeit the new Standard Instrument zone IN3, however the inconsistency is considered to be of minor significance as Heavy Industry use has been identified in CLUS, preliminary assessment indicates that such use is appropriate on the subject land.

3C - ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT.

The site is considered to be generally suitable for the intended purpose however; the following potential impacts have been identified as being relevant to the Proposal. It is considered that the impacts can be addressed appropriately either through the Planning Proposal process or by subsequent assessment of any development applications that are facilitated by the rezoning.

3C(1) 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?

A Flora and Fauna Ecological Investigation was undertaken. This investigation identified the presence of a number of Endangered Ecological Communities (Grey Box/Yellow Box/Red Gum Woodland & Derived Grassland) within certain areas of the site. There are a number of further investigations recommended to be conducted during Spring, such additional analysis would be conducted following the gateway determination. Preliminary assessment indicates that that suitable mitigation measures can be put in place to negate any adverse ecological impacts. Consultation with the Department of Environment, Climate Change and Water is intended to be undertaken in accordance with the Gateway approval.

3C(2) Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Bushfire

The proposal has the potential to result in impacts on stormwater management, provision of reticulated water and sewerage services, rail access, traffic, bushfire hazard, waste management, land contamination, noise generation, soil stability and vegetation management.

The following reports have been submitted to support the planning proposal:

- Flora and Fauna
- Soils and Salinity
- Potential impacts on adjoining lands

As previously mentioned further assessment of the Bushfire Hazard and endangered species will be required after the gateway determination. Additional assessment should be required to address the potential impacts and subsequent mitigation measures relating to the potential noise generation, land contamination, traffic generation, waste management and the provision of sustainable reticulated water (impacts on stormwater and groundwater) and sewerage services. It is envisaged that these assessments would be required after the gateway determination but prior to any public exhibition of the planning proposal.

The preliminary investigation work has revealed areas of potential ecological sensitivity which the Proposal seeks to protect via the implementation of the Conservation zone.

3C(3) How has the planning proposal adequately addressed any social and economic effects?

A survey of the site revealed no apparent items of Aboriginal Heritage significance and a review of Council's records indicates that the site is otherwise unlisted with regard to Heritage significance. The proposal purports to have the economic benefit of providing a cost effective solution to limited heavy industrial land resources in Mudgee, in addition to facilitating the establishment of economic activity near the village of Ulan. The rezoning aims to encourage mining support industries to locate in the vicinity of the target market thereby reduce the costs associated with transporting equipment in and out of the area for servicing and the like. It is anticipated that the proposal will generate employment locally and through multipliers in the region. It also identifies and protects land that is of environmental sensitivity.

3D - STATE AND COMMONWEALTH INTERESTS.

3D(1) Is there adequate public infrastructure for the planning proposal

Reticulated power, road and rail infrastructure either adjoin the site or are located within proximity to the site. The capacity and suitability of these will be established through consultation with the relevant authorities subsequent to the gateway determination. Essential services such as waste management, on-site water and sewerage treatment as per above, will be the subject of further assessment after the Gateway determination. Preliminary investigations indicate that sufficient raw water may be derived from existing sources located nearby (Ulan dam) subject to agreement. It is considered that the provision of reticulated services and stormwaterwater quality treatment are key considerations that will require further analysis prior to the public exhibition of the planning proposal. If these issues are not satisfactorily addressed the planning proposal may have to be abandoned.

3D(2) What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

Consultation will be carried out in accordance with the gateway determination and all submissions considered and the proposal will be varied accordingly or submitted for assessment.

It is anticipated consultation with the following public authorities and non government organisations will be required,

- Country Energy
- NSW DECCW
- Transgrid
- Hunter Central Rivers CMA
- Central West CMA
- NSW Office of Water
- NSW Department of Industry & Investment - Minerals & Agriculture

Council have not undertaken preliminary consultations with agencies.

PART 4 - COMMUNITY CONSULTATION

The proposal will significantly alter the land use of the site and it is considered appropriate to apply the recommended community consultation for 'All other planning proposals' which would include the following:

- An exhibition period of 28 days commencing on the date that a notice of exhibition is printed in the local news press
- Advertising in the local newspaper at the start of the exhibition period
- Advertising on Council's website for the duration of the exhibition period
- Notification of adjoining and adjacent property owners by way of written notification.

Political Disclosure Statement

A political donations disclosure statement has been submitted to comply with the provisions S147(3) of the Environmental Planning and Assessment Act 1979 prior to the submission of this planning proposal to the Minister or Director-General and is attached in Appendix 5.

Appendix 1

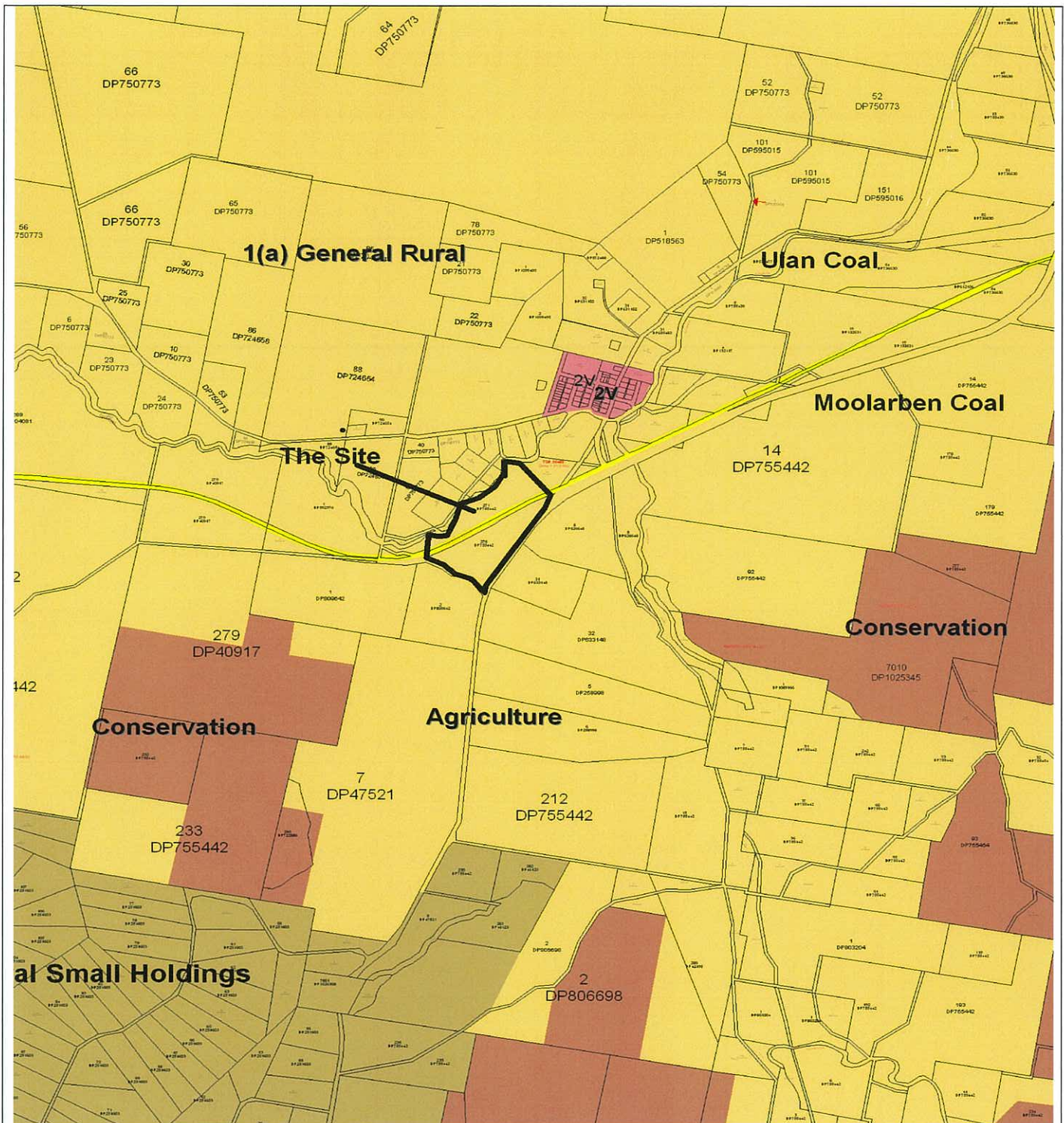


Figure 1 – Location Map

Figure 2 – Proposed Zoning

Figure 3 – Aerial View

Figure 1 – Location Map Depicting Existing Land Use Zones



Disclaimer

This map has been created for the purpose of showing basic locality information over Mid-Western Regional Council. Property boundary line network data is supplied by Department of Lands.

This map is a representation of the information currently held by Mid-Western Regional Council. While every effort has been made to ensure the accuracy of the product, Council accepts no responsibility for any errors or omissions.

NORTH

This figure is an extract from the Mid-Western Regional Interim Local Environmental Plan 2008 – It depicts the location of the site in addition to the existing zoning of the subject and surrounding land. Note the locations of the existing mining operations are also identified.



Figure 2 – Proposed Zoning of the Subject Site

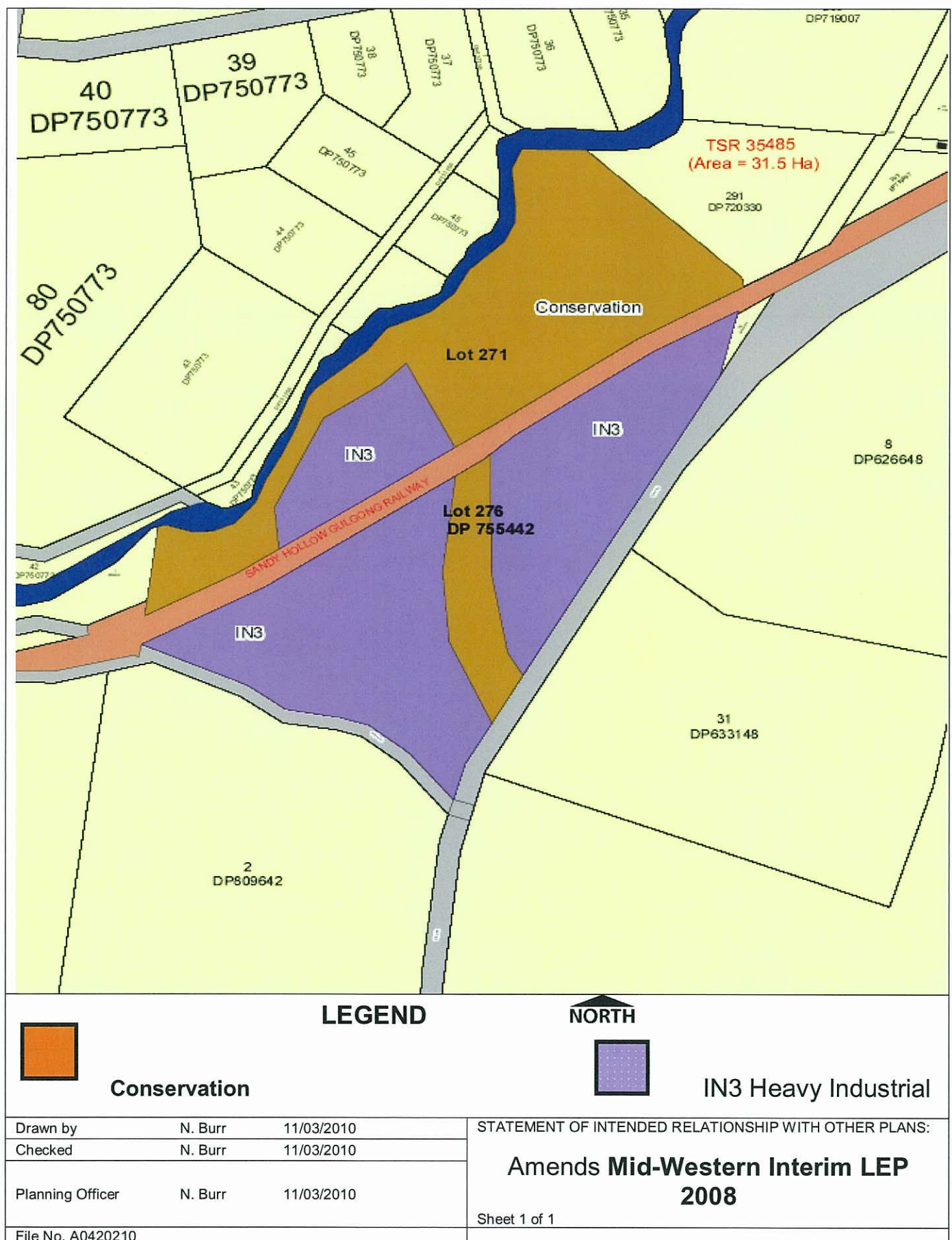
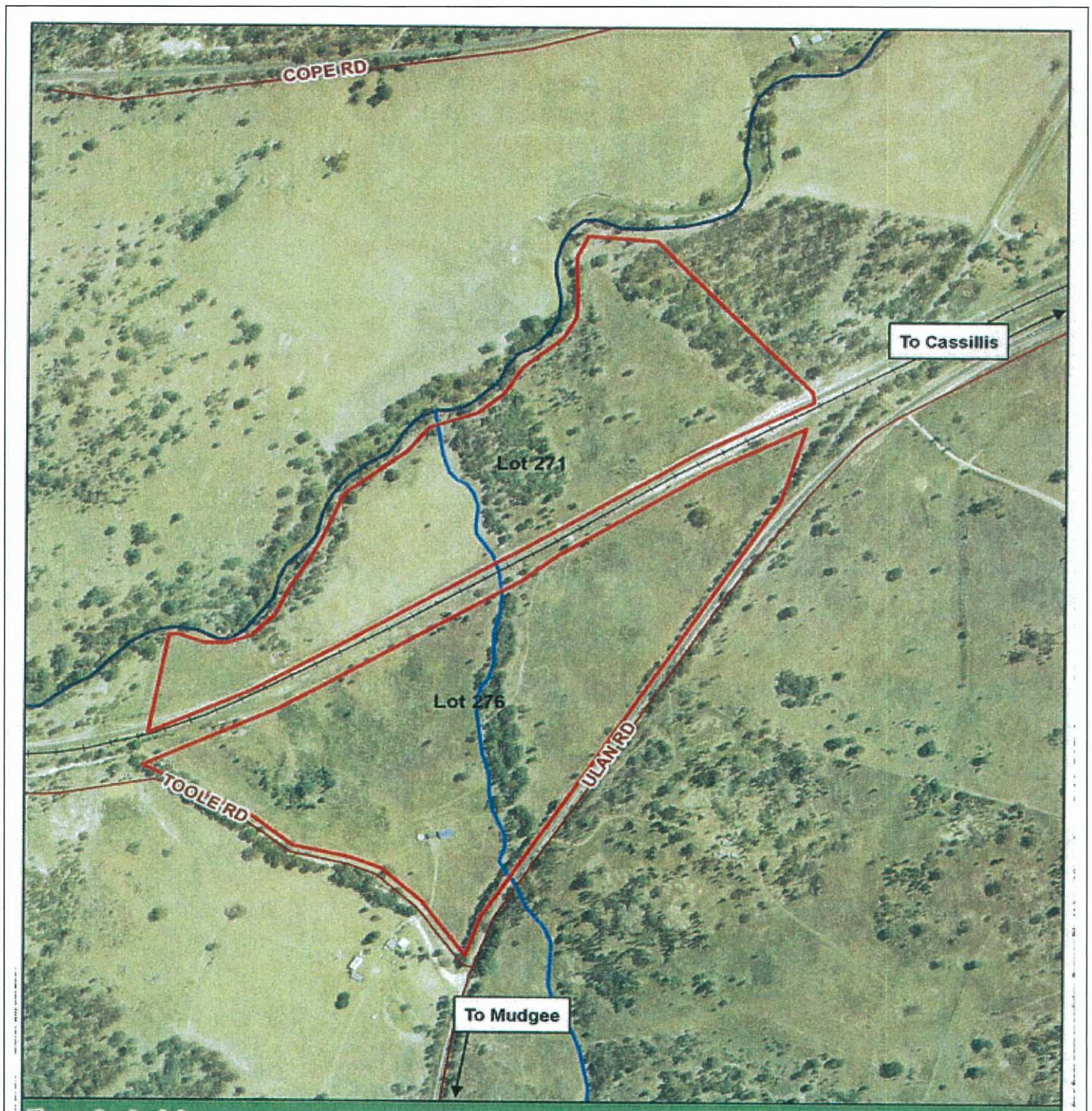


Figure 3 – Aerial View of the Subject Site



Disclaimer

This map has been created for the purpose of showing basic locality information over Mid-Western Regional Council. Property boundary line network data is supplied by Department of Lands.

This map is a representation of the information currently held by Mid-Western Regional Council. While every effort has been made to ensure the accuracy of the product, Council accepts no responsibility for any errors or omissions.



Areas depicted are for the respective allotments of 271, 276 Deposited Plan 755442. Dwelling Houses and various associated outbuildings lawfully exist on each allotment.



Appendix 2



State Environmental Planning Policy Analysis

State Environmental Planning Policy	Relevant	Consistent	Comment
State Environmental Planning Policy No 1—Development Standards	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy No 6—Number of Storeys in a Building	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy No 14—Coastal Wetlands	No	N/A	
State Environmental Planning Policy No 15—Rural Landsharing Communities	No	N/A	
State Environmental Planning Policy No 19—Bushland in Urban Areas	No	N/A	
State Environmental Planning Policy No 21—Caravan Parks	No	N/A	
State Environmental Planning Policy No 22—Shops and Commercial Premises	No	N/A	
State Environmental Planning Policy No 26—Littoral Rainforests	No	N/A	
State Environmental Planning Policy No 29—Western Sydney Recreation Area	No	N/A	
State Environmental Planning Policy No 30—Intensive Agriculture	No	N/A	
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)	No	N/A	
State Environmental Planning Policy No 33—Hazardous and Offensive Development	No	N/A	
State Environmental Planning Policy No 36—Manufactured Home Estates	No	N/A	
State Environmental Planning Policy No 39—Spit Island Bird Habitat	No	N/A	
State Environmental Planning Policy No 41—Casino Entertainment Complex	No	N/A	
State Environmental Planning Policy No 44—Koala Habitat Protection	Yes	Yes	Refer to part 3b(3) of the report.
State Environmental Planning Policy No 47—Moore Park Showground	No	N/A	
State Environmental Planning Policy No 50—Canal Estate Development	No	N/A	
State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	No	N/A	
State Environmental Planning Policy No 53—Metropolitan Residential Development	No	N/A	
State Environmental Planning Policy No 55—Remediation of Land	Yes	Yes	Refer to part 3b(3) of the report.
State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential	No	N/A	
State Environmental Planning Policy No 60—Exempt and Complying Development	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy No 62—Sustainable Aquaculture	No	N/A	
State Environmental Planning Policy No 64—Advertising and Signage	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	No	N/A	
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	No	N/A	
State Environmental Planning Policy No 71—Coastal Protection	No	N/A	
State Environmental Planning Policy (Affordable Rental Housing) 2009	No	N/A	
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	No	N/A	
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	No	N/A	
State Environmental Planning Policy (Infrastructure) 2007	Yes	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	No	N/A	
State Environmental Planning Policy (Major Development) 2005	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy (Rural Lands) 2008	Yes	Yes	Direction 1.5 - Rural Lands issued by the Minister pursuant to S117 of the Act requires certain planning proposals to be consistent with the Rural Planning Principles contained within this SEPP. Consideration of these principles is a function of Direction 1.5 and is elaborated upon in the relevant part of the planning proposal.
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	No	N/A	
State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007	No	N/A	
State Environmental Planning Policy (Western Sydney Employment Area) 2009	No	N/A	
State Environmental Planning Policy (Western Sydney Parklands) 2009	No	N/A	

Appendix 3

S117 Ministerial Directions Analysis



		Applicable (PP)	Consistent	Remarks
1	Employment and Resources			
1.1	Business and Industrial Zones	Yes	Yes	The proposal seeks to create additional industrial land
1.2	Rural Zones	Yes	No	The site is considered to be of minor significance and will not generally affect the agricultural capacity of the area.
1.3	Mining, Petroleum Production and Extractive Industries	Yes	Yes	The proposal is consistent with the direction as mining and extractive industrial are not prohibited in the proposed zones. The proposal is not located on any known coal or mineral reserves. The Director General of the DPI will be consulted following the gateway determination in accordance with the S117 Direction
1.4	Oyster Aquaculture	No	N/A	
1.5	Rural Lands	Yes	Yes	The proposal is not considered to be adverse to the Rural Planning Principles contained within SEPP - Rural Lands and is therefore consistent with this Direction.
2	Environment and Heritage			
2.1	Environment Protection Zones	Yes	Yes	The proposed zones reflect the environmental sensitive of the site.
2.2	Coastal Protection	No	N/A	
2.3	Heritage Conservation	Yes	Yes	An assessment of the Aboriginal and European heritage significance of the site has not revealed any sensitive locations or items on the site.
2.4	Recreation Vehicle Areas	Yes	N/A	
3	Housing, Infrastructure and Urban Development			
3.1	Residential Zones	No	N/A	
3.2	Caravan Parks and Manufactured Home Estates	No	N/A	
3.3	Home Occupations	No	N/A	
3.4	Integrating Land Use and Transport	Yes	Yes	The proposal explicitly seeks to locate industrial land uses so as to minimise transport burden on business and community infrastructure
3.5	Development Near Licensed Aerodromes	No	N/A	
4	Hazard and Risk			
4.1	Acid Sulfate Soils	No	N/A	
4.2	Mine Subsidence and Unstable Land	No	N/A	
4.3	Flood Prone Land	No	N/A	
4.4	Planning for Bushfire Protection	Yes	TBA	Further assessment will be required in addition to consultation with the Commissioner of the NSW Rural Fire Service after the gateway determination and prior to community consultation.
5	Regional Planning			
5.1	Implementation of Regional Strategies	No	N/A	
5.2	Sydney Drinking Water Catchments	No	N/A	
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	No	N/A	
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A	
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	N/A	

5.6	Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	N/A	
5.7	Central Coast (Revoked 10 July 2008. See amended Direction 5.1)			
5.8	Second Sydney Airport: Badgerys Creek	No	N/A	
6	Local Plan Making			
6.1	Approval and Referral Requirements	Yes	Yes	
6.2	Reserving Land for Public Purposes	Yes	Yes	
6.3	Site Specific Provisions	Yes	No	The planning proposal seeks to introduce a new zone and associated development standards into the LEP which does not comply with this direction. The inconsistency in this instance is considered to be minor in nature and acceptable in this instance.
7	Metropolitan Planning			
7.1	Implementation of the Metropolitan Strategy	No	N/A	

Appendix 4



Net Community Benefit Analysis

Net Community Benefit?

The following is based on the Evaluation Criteria provided in the NSW Department of Planning Draft Centres Policy, Planning for Retail and Commercial Development. The proposal is considered to be in the public interest and have a positive net community benefit.

- 1. Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800 metres of a transit node)?**

There are no applicable State or Regional strategic directions for development.

- 2. Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?**

No.

- 3. Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?**

The proposal is consistent with the CLUS which is currently awaiting endorsement by the Department of Planning and is therefore unlikely to set an undesirable precedent. The expectations of the landowner and adjoining owner should remain largely unchanged, in this regard the community expects development to be carried out in accordance with the Act and zoning to best established in accordance with the CLUS setting a clear direction and expectation.

- 4. Have the cumulative effects of other spot rezoning proposals in the locality been considered?**

Yes. There are no other spot rezonings in the locality and this proposal is focused on supporting the mining industry within this locality.

- 5. What was the outcome of these considerations?**

N/A

- 6. Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?**

The proposal intends to establish employment generating uses such as businesses relating to activities relating to haulage, mine engineering, mine electrical services, conveyor services, security services, mine equipment rebuild workshops and the like.

- 7. Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?**

No.

- 8. Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site?**

Yes. Preliminary investigation reveal that existing infrastructure is available within proximity of the site however, the capacity and suitability of the infrastructure services will be better established through the consultation process.

- 9. Is there good pedestrian and cycling access?**

N/A

- 10. Is public transport currently available or is there infrastructure capacity to support future public transport?**

No. Given the nature of the site it is considered that public transport opportunities is not a relevant consideration.

- 11. Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?**

Yes. The proposal explicitly seeks to reduce the transport burden currently imposed on the mining activities in the locality that result from a lack of suitable industrial land in the vicinity of the existing mines. In this regard mining related manufacturing and services are based beyond the region.

- 12. Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?**

No. The proposal does not include a residential component and services in the region are not likely to be affected. The proposal seeks to take advantage of existing infrastructure funded by local, state and federal authorities in conjunction with private investment namely existing road, rail and electricity supply networks

- 13. Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?**

No. The land is identified as being bushfire prone land however, further assessment and consultation with the NSW Rural Fire Service will be carried out in accordance with the relevant Ministerial Direction. The land is not the subject of any Government strategy or study that identifies area of significance in terms of biodiversity or other environmental values. Preliminary investigation carried out

in relation to this proposal have identified areas that are of ecological significance in terms of species composition, water and stream bank quality which are to be retained and managed via a conservation zone.

14. Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community?

The proposal is within an area already impacted upon by the nearby operation of mining industries. There is a potential for subsequent industrial development to have a negative impact on nearby residents however, these impacts will be assessed in more detail following the gateway determination. Where necessary appropriate mitigation measures required of the development.

15. Will the public domain improve?

No. The proposal will have a limited impact on the public domain.

16. Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?

Yes. The proposal intends to provide industrial land stock that is currently not available within the region.

17. If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?

No as proposal is reliant on and supportive of the nearby mining industry. It is expected that economic multipliers may influence the prosperity of the nearby village of Ulan.

18. What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?

The proposal serves the public interest through reducing the traffic impact associated with heavy transport in addition to creating employment opportunities within the region. The public interest is further served through the creation of employment lands which will generate economic multipliers within the region. The implication of not proceeding at this time is that mining related industry and services will be outsourced beyond the region. The environmentally sensitive land is being identified and protected by appropriate land zonings.

Appendix 5



Political Disclosure Statement

Political donations disclosure statement



NSW GOVERNMENT
Department of Planning

Office use only:

Date received: ____/____/____

Planning application no. _____

This form may be used to make a political donations disclosure under section 147(3) of the *Environmental Planning Assessment Act 1979* for applications or public submissions to the Minister or the Director-General.

Please read the following information before filling out the Disclosure Statement on pages 3 and 4 of this form. Also refer to the 'Glossary of terms' provided overleaf (for definitions of terms in *italics* below). Once completed, please attach the completed declaration to your planning application or submission.

Explanatory information

Making a planning application or a public submission to the Minister or the Director-General

Under section 147(3) of the *Environmental Planning and Assessment Act 1979* ('the Act') a person:

- (a) who makes a *relevant planning application* to the Minister or the Director-General is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by any person with a *financial interest* in the application, or
- (b) who makes a *relevant public submission* to the Minister or the Director-General in relation to the application is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by the person making the submission or any associate of that person.

How and when do you make a disclosure?

The disclosure to the Minister or the Director-General of a *reportable political donation* under section 147 of the Act is to be made:

- (a) in, or in a statement accompanying, the relevant planning application or submission if the donation is made before the application or submission is made, or
- (b) if the donation is made afterwards, in a statement of the person to whom the relevant planning application or submission was made within 7 days after the donation is made.

What information needs to be included in a disclosure?

The information requirements of a disclosure of *reportable political donations* are outlined in section 147(5) of the Act.

Pages 3 and 4 of this document include a Disclosure Statement Template which outlines the information requirements for disclosures to the Minister or to the Director-General of the Department of Planning.

Note: A separate Disclosure Statement Template is available for disclosures to councils.

Warning: A person is guilty of an offence under section 125 of the *Environmental Planning and Assessment Act 1979* in connection with the obligations under section 147 only if the person fails to make a disclosure of a *political donation* or gift in accordance with section 147 that the person knows, or ought reasonably to know, was made and is required to be disclosed under section 147.

The maximum penalty for any such offence is the maximum penalty under Part 6 of the *Election Funding and Disclosures Act 1981* for making a false statement in a declaration of disclosures lodged under that Part.

Note: The maximum penalty is currently 200 penalty units (currently \$22,000) or imprisonment for 12 months, or both.

6/3/10

Glossary of terms (under section 147 of the Environmental Planning and Assessment Act 1979)

gift means a gift within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981*. Note. A gift includes a gift of money or the provision of any other valuable thing or service for no consideration or inadequate consideration.

Note: Under section 84(1) of the *Election Funding and Disclosures Act 1981* gift is defined as follows:

gift means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration.

local councillor means a councillor (including the mayor) of the council of a local government area.

relevant planning application means:

- a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site, or
- b) a formal request to the Minister or the Director-General for development on a particular site to be made State significant development or declared a project to which Part 3A applies, or
- c) an application for approval of a concept plan or project under Part 3A (or for the modification of a concept plan or of the approval for a project), or
- d) an application for development consent under Part 4 (or for the modification of a development consent), or
- e) any other application or request under or for the purposes of this Act that is prescribed by the regulations as a relevant planning application, but does not include:
 - f) an application for (or for the modification of) a complying development certificate, or
 - g) an application or request made by a public authority on its own behalf or made on behalf of a public authority, or
 - h) any other application or request that is excluded from this definition by the regulations.

relevant period is the period commencing 2 years before the application or submission is made and ending when the application is determined.

relevant public submission means a written submission made by a person objecting to or supporting a relevant planning application or any development that would be authorised by the granting of the application.

reportable political donation means a reportable political donation within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981* that is required to be disclosed under that Part. Note. Reportable political donations include those of or above \$1,000.

Note: Under section 86 of the *Election Funding and Disclosures Act 1981* reportable political donation is defined as follows:

86 Meaning of "reportable political donation"

- (1) For the purposes of this Act, a reportable political donation is:
 - (a) in the case of disclosures under this Part by a party, elected member, group or candidate—a political donation of or exceeding \$1,000 made to or for the benefit of the party, elected member, group or candidate, or
 - (b) in the case of disclosures under this Part by a major political donor—a political donation of or exceeding \$1,000:
 - (i) made by the major political donor to or for the benefit of a party, elected member, group or candidate, or
 - (ii) made to the major political donor.
- (2) A political donation of less than an amount specified in subsection (1) made by an entity or other person is to be treated as a reportable political donation if that and other separate political donations made by that entity or other person to the same party, elected member, group, candidate or person within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1).
- (3) A political donation of less than an amount specified in subsection (1) made by an entity or other person to a party is to be treated as a reportable political donation if that and other separate political donations made by that entity or person to an associated party within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1). This subsection does not apply in connection with disclosures of political donations by parties.
- (4) For the purposes of subsection (3), parties are associated parties if endorsed candidates of both parties were included in the same group in the last periodic Council election or are to be included in the same group in the next periodic Council election.

a person has a financial interest in a relevant planning application if:

- a) the person is the applicant or the person on whose behalf the application is made, or
- b) the person is an owner of the site to which the application relates or has entered into an agreement to acquire the site or any part of it, or
- c) the person is associated with a person referred to in paragraph (a) or (b) and is likely to obtain a financial gain if development that would be authorised by the application is authorised or carried out (other than a gain merely as a shareholder in a company listed on a stock exchange), or
- d) the person has any other interest relating to the application, the site or the owner of the site that is prescribed by the regulations.

persons are associated with each other if:

- a) they carry on a business together in connection with the relevant planning application (in the case of the making of any such application) or they carry on a business together that may be affected by the granting of the application (in the case of a relevant planning submission), or
- b) they are related bodies corporate under the *Corporations Act 2001* of the Commonwealth, or
- c) one is a director of a corporation and the other is any such related corporation or a director of any such related corporation, or
- d) they have any other relationship prescribed by the regulations.

 7/3/10
2

Political Donations Disclosure Statement to Minister or the Director-General

Political Donations Disclosure Statement to Minister or the Director-General

Name of donor (or ABN if an entity)	Donor's residential address or entity's registered address or other official office of the donor	Name of party or person for whose benefit the donation was made	Date donation made	Amount/ value of donation
				

2/3/10

Political Donations Disclosure Statement to Minister or the Director-General

If you are required under section 147(3) of the Environmental Planning and Assessment Act 1979 to disclose any political donations (see Page 1 for details), please fill in this form and sign below.

Disclosure statement details

Name of person making this disclosure Phillip William English	Planning application reference (e.g. DA number, planning application title or reference, property address or other description) Resolving Agreement - Lots 276 and 271 Toole Rd, Ulan
--	--

Your interest in the planning application (circle relevant option below)

You are the APPLICANT

☒ YES / ☐ NO

OR

You are a PERSON MAKING A SUBMISSION IN RELATION TO AN APPLICATION

☐ YES / ☐ NO

Reportable political donations made by person making this declaration or by other relevant persons

* State below any reportable political donations you have made over the relevant period (see glossary on page 2). If the donation was made by an entity (and not by you as an individual) include the Australian Business Number (ABN).

* If you are the applicant of a relevant planning application state below any reportable political donations that you know, or ought reasonably to know, were made by any persons with a financial interest in the planning application. OR

* If you are a person making a submission in relation to an application, state below any reportable political donations that you know, or ought reasonably to know, were made by an association.

Name of donor (or ABN if an entity)	Donor's residential address or entity's registered address or other official office of the donor	Name of party or person for whose benefit the donation was made	Date donation made	Amount/ value of donation
NIL	N/A	N/A	N/A	NIL

Please list all reportable political donations—additional space is provided overleaf if required.

By signing below, I/we hereby declare that all information contained within this statement is accurate at the time of signing.

Signature(s) and Date

2/3/10

Name(s)

PHILLIP WILLIAM ENGLISH

2/3/10