

7 GATEWAY ENTERPRISE PARK PLANNING PROPOSAL (20.00250)

Recommendation:

That Council:

- (a) prepare a planning proposal to:
 - (i) rezone the subject land 3(b) - Service Business excluding the 50 metre wide Raglan Creek corridor which will be zoned 6(a) – Local Recreation;
 - (ii) include a provision in the Bathurst Regional (Interim) Local Environmental Plan 2005 to:
 - 1) permit Freight Transport Facilities on part of the land as shown on the preliminary DCP map (see attachment 4);
 - 2) enable Warehouses or Distribution Centres on part of the land as shown on the preliminary DCP map (see attachment 4) only in conjunction with Freight Transport Facilities; and
 - 3) define Freight Transport Facilities and Warehouses or Distribution Centres for the purposes of the provision;
 - (iii) amend the definition of Bulky Goods Salesroom or Showroom under the Bathurst Regional (Interim) Local Environmental Plan 2005;
- (b) prepare a concurrent amendment to the Bathurst Regional (Interim) Development Control Plan 2011 generally in accordance with the preliminary DCP map outlined in the report that provides buffers to the great Western Highway, neighbouring properties and Raglan Creek;
- (c) forward the Planning Proposal to the Department of Planning and Infrastructure seeking a gateway approval;
- (d) notify the proponents of Council's resolution; and
- (e) call a division.

Report:

Council has received a request from the landowners of the subject property for Council to consider a Planning Proposal to:

- (a) rezone the subject land from 1(a) - Inner Rural to 3(b) - Service Business pursuant to the Bathurst Regional (Interim) Local Environmental Plan 2005;
- (b) include Freight Transport Terminal (Intermodal Transport Terminal), warehouses and industry uses in Schedule 4 of the Bathurst Regional (Interim) Local Environmental Plan 2005; and
- (c) prepare a Development Control Plan amendment for the site.

The site

The site comprises the following allotments, which are legally known as Lot 1 DP 1093933, Lot 2 DP 1079829, Lots 21 and 22 DP 137352 and Lot 23 DP 1133685. The site is an irregular parcel of land with a northern frontage of 900m to the Great Western Highway and a southern frontage to the Great Western Railway, providing a total site area of 29.47 ha (see **attachment 1**). The site is currently zoned 1(a) - Inner Rural pursuant to the Bathurst Regional (Interim) Local Environmental Plan 2005.

The site generally consists of lightly undulating land. It contains an old decomposed granite (gravel) quarry, known as Kelso/Muldoon's Gravel Quarry, located in the south-eastern portion of the site with numerous tracks and material stockpiles.

The site is dissected by Raglan Creek and a tributary of Raglan Creek. Raglan Creek runs from the south-eastern corner to the middle of the site's Great Western Highway frontage. The tributary is located adjacent to the Great Western Highway and joins the main watercourse at approximately the middle of the site.

History of the site

Concept Plan

In February 2006 the landowners lodged a Concept Plan for approval with the NSW Department of Planning (DoP) pursuant to Section 75O of the Environmental Planning and Assessment Act 1979 (EP&A Act). The Concept Plan included a number of components including:

- an intermodal freight terminal;
- two private rail sidings from the Great Western Railway;
- hardstand areas for storage of containerised goods;
- warehousing;
- highway use sites for warehousing and bulky goods developments;
- a service station;
- administrative and maintenance facilities for the intermodal terminal;
- internal and access roads;
- parking for 46 vehicles; and
- landscaping.

Approval for a road/rail freight intermodal terminal, with associated storage and business facilities, was granted by the DoP on 12 August 2006.

Modification of Concept Plan

In December 2008 the landowners sought a modification to the approved Concept Plan from the DoP pursuant to Section 75W of the EP&A Act. The modification involved:

- a revised footprint layout for individual allotments and buildings on site;
- introduction of two (2) fast food restaurants with 24 hour operation;
- a reduction in hardstand area storage;
- a revised rail siding and loading area;
- a small reduction in total gross floor area;
- changes to site access;
- changes to the riparian corridor and a revised Stormwater Management Strategy;
- consolidation of the approved truck refuelling facility, railway engineer's facility and forklift maintenance facility into the administrative facility;

- subdivision;
- revised Concept Plan staging;
- exclusion of a portion of the site from the Concept Plan approval; and
- modifications to the conditions of approval namely conditions 1, 6 and 10.

The DoP approved the modification of the Concept Plan in December 2009.

Council's submission to the Concept Plan

Council made a submission to the DoP in March 2006 objecting to the Development Application on the basis of:

- The proposed land uses are inconsistent with the objectives of the 1(a) - Inner Rural zone.
- Road transport terminals, bulky goods salesrooms, showrooms, warehouses and service stations are considered discretionary uses and are not usually consistent with the objectives of the zone.
- Council's opinion is that it is inappropriate and premature to consider the proposed development in isolation of the preparation of the Bathurst Region Urban and Rural Strategies and the Comprehensive LEP that will direct future growth of the city and determine the most suitable locations for future industrial and business growth.
- Council has noted that as a result of the structural reform process the DoP has established a Local Environmental Plan Review Panel to provide advice on new procedures. PS 06-005 includes examples of changes to existing plans by way of spot rezonings that the Department would be unlikely to support.

Examples include:

- The rezoning of rural land to industrial purposes inconsistent with a Section 117 direction; and
- A land rezoning or change in development controls in isolation and in the absence of a context where such a rezoning would be more appropriately included in the preparation of a Comprehensive LEP.

This circular suggests that the Department opposes changes from rural to industrial uses and/or substantial developments considered in isolation and in the absence of the context where such a change would be more appropriately included in the preparation of a Comprehensive LEP.

Council's submission to the Modification of the Concept Plan

Council made a further submission to the DoP in February 2009 objecting to the modification of the development consent on the following basis:

- That the proposed modification is substantially and radically different to that of the original Concept Plan approved by the Minister.
- The bulky goods component of the development has almost doubled from the original approval and is no longer ancillary to the primate intermodal facility.
- There has been a significant reduction in the warehousing component of the development from 57, 625 m² to 46,240 m².

- (d) A further 3.9 hectares has been set aside for further development. The intent of the original Concept Plan was to establish the development parameters for the whole of the development site.
- (e) Alteration to the development from the back of the site to the front which was heavily relied upon by the proponents. The movement away from the agreed staging lends credence to Council's original position that the development was primarily aimed at establishing a bulky goods precinct over the site, which is contrary to the objectives of the current rural zoning.
- (f) The development has been altered so as to include the construction and dedication of public roads to service the majority of the allotments. The original proposal included internal private roadways.
- (g) The development as originally proposed made no reference to the land being subdivided.
- (h) Development for the purposes of the commercial precinct is not consistent with the objectives of the 1(a) - Inner Rural zone. If this development were being considered under Part 4 of the Act it would quite clearly be refused as being an inappropriate development within the context of a rural zone.
- (i) It is clear from Council's perspective that the development has been radically altered from that approved by the Minister through the original Part 3A process. The current proposal is squarely aimed at short circuiting the current LEP process in an attempt to introduce bulky goods development without going through the Part 3 process.

A full copy of Council's submissions are at **attachment 2**.

Applicant's desired Planning Proposal

The applicant has subsequently requested that Council consider a Planning Proposal to:

- (a) rezone the subject land from 1(a) - Inner Rural to 3(b) - Service Business pursuant to the Bathurst Regional (Interim) Local Environmental Plan 2005;
- (b) include Freight Transport Terminal (Intermodal Transport Terminal), warehouses and industry uses in Schedule 4 of the Bathurst Regional (Interim) Local Environmental Plan 2005 (ie make those uses permissible on the site); and
- (c) prepare a Development Control Plan amendment.

The Planning Proposal is similar in nature to that of the DoP's approved Concept Plan. The Planning Proposal submission is at **attachment 3**.

Bathurst Region Urban Strategy

Council adopted the Bathurst Region Urban Strategy in 2007. The Strategy was endorsed by the DoP in 2008. The following summarises relevant aspects of the Strategy as it relates to the subject site.

Section 5.2 Retail/Business

The Urban Strategy identified four areas within Bathurst with potential for expanding the

city's Service Business zone. The subject site was identified and it was recommended that the land be rezoned as part of the Comprehensive LEP.

An extract of the Urban Strategy is provided below:

Site 1 - Sydney Road (29 ha)

Constraints and Opportunities	Comments
<i>History and proximity to bulky goods (retail) development.</i>	- A Development Application for a regional rail freight terminal has been approved on this site by the Department of Planning: - The proposal includes: Containerised goods storage - hardstand areas. Regional terminal warehousing and support facilities. Bulky goods (retail) development. Service Station. - adjoining Kelso industrial estate and opposite existing bulky goods (retail) development (including the Harvey Norman development site).
<i>Flooding/environmental considerations.</i>	- Flood free. - Traversed by Raglan Creek from south east to north west. Opportunity to enhance and protect this section of Raglan Creek as an open space corridor between Raglan and Kelso. Any development of land would need to consider appropriate buffering from industrial lands to the west.
<i>Transport and access.</i>	- Direct access to State Highway Network. - Adjoins rail corridor to the south.
<i>Gateways.</i>	- Any development of land would need to consider the significance of the eastern gateway approach to the City. - Sufficient area would need to be made available adjacent to the road reserve for future tree planting and landscape enhancement.
<i>Agricultural Suitability.</i>	- Urban.

A summary of suitability and recommendation is presented below:

Site 1 - Sydney Road

This site provides a logical expansion of the existing bulky goods (retail) development fronting Sydney Road. Development pressure to develop this site for urban uses is evident from the substantial Regional Rail Freight Terminal application recently approved by the Department of Planning.

Recommendation: Rezone Site 1 service business in 2008.

The Urban Strategy identified both this site and land off Lee Street (behind Bunnings) as being suitable for rezoning to 3(b) - Service Business. The Strategy therefore identified a total of 34 hectares as being suitable for service business use (approximately 29 hectares of the subject land and approximately 5 hectares of the Lee Street site). The Strategy indicated that this might be an oversupply of service business land but that it would enhance

the consolidation of these precincts and reduce further spot developments along the Great Western Highway.

Section 5.3.2 - Rail infrastructure and service opportunities

Council's Urban Strategy made a recommendation to:

"Protect and retain the rail corridor and ancillary holdings in light of potential urban passenger usage and the establishment of a regional rail transport terminal within the City"

Recommended Actions

- a) *Plan for the protection of the rail corridor and ancillary holdings through the retention of the existing industrial zoning of the rail corridor and ancillary holdings.*
- b) *Do not permit residential rezonings in close proximity to the rail corridor.*
- c) *Ensure that rail freight terminals remain a permissible use in the **industrial zone**.*

It is important to note that the recommended action is that the rail freight terminals remain permissible in the industrial zone. The applicant proposes to zone the subject land service business and also permit a rail freight terminal on the land.

This is contrary to this section of the Urban Strategy.

Section 6.6 - Rural vistas, views, landscapes and scenic gateways.

Council's Urban Strategy made a recommendation to:

Create a significant eastern gateway into Bathurst that enhances the rural vistas, provides unity amongst many discordant visual effects and reflects the heritage values of the City.

Recommended Actions:

- a) *Avoid the use of structures along the eastern approach, such as feature walls and small gardens that are not in keeping with the historical character of the City and become outdated.*
- b) *Implement the eastern gateway approach recommendations of the Bathurst Vegetation Management Plan into relevant planning documents including the following:*

	<i>Eastern Gateway Approach Development Control Provision</i>
<i>Raglan to O'Connell Road (prior to future highway)</i>	<i>Southern side development:</i> ● <i>Landscaping design should consider infrastructure constraints and drainage lines. No trees should be planted in constrained areas.</i> ● <i>Landscaping design of sites in proximity to Raglan Creek bridge should include poplars.</i>

This recommendation of the Bathurst Region Urban Strategy will assist Council in developing the development standards for the subject land should the rezoning proceed. In this regard the rezoning should not proceed without a Development Control Plan (DCP) amendment to establish appropriate detailed development controls for the site.

Bathurst CBD and Bulky Goods Business Development Strategy

Council adopted the Bathurst CBD and Bulky Goods Business Development Strategy in December 2011.

The Strategy identifies the site as being able to satisfy the demand for bulky goods needs of the Bathurst region into the future. The Strategy (page 226) identifies the site's role as "*The primary bulky goods precinct catering for the long term requirements of the City and its Regional catchment area.*"

The Strategy does not include any comment in relation to the associated use of the site as an intermodal freight terminal other than to comment that such approval was granted by the DoP.

The Strategy indicates (page 226) that the site will need to be able to accommodate bulky goods and associated retail floor space amounting to about 43,310 m² of gross building area. A minimum site requirement of 12.7 hectares is recommended by the Strategy. Such a site would satisfy the City's expected bulky goods building area requirements to 2036.

The Strategy also makes recommendations in relation to the lot dimensions, location of buildings and car parking. Those recommendations will contribute to the design elements and development standards located in the DCP amendment which will be required to support this Planning Proposal.

The Strategy likewise recommends that the Gateway site should be developed as a bulky goods precinct ie a B5 zone under the standard instrument. Council proposes to zone the land as such under its Comprehensive LEP which is currently being prepared.

Bulky goods salesroom or showroom definition under the Bathurst Regional (Interim) Local Environmental Plan 2005

Another recommendation of the Strategy is that Council amend the definition of Bulky Goods Salesroom or Showroom to enable further types of businesses which need larger floor areas, but are traditionally not bulky goods such as JB Hi Fi, Spotlight and the like. If this Planning Proposal proceeds it would therefore be logical to include this alteration to the definition of Bulky Goods Salesroom or Showroom as part of the Planning Proposal.

The current LEP definition is:

bulky goods salesroom or showroom means a building or place used primarily for the sale by retail or auction, or the hire or the display, of items (whether goods or materials) that are of such size, shape or weight as to require:

- (a) a large area for handling, storage or display, or
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading items into their vehicles after purchase or hire,

but does not include a building or place used primarily for sale of foodstuffs or clothing.

It is proposed that the definition will be altered to:

bulky goods salesroom or showroom means:

Land used to sell or hire:

- a) *Automotive parts and accessories*
- b) *camping, outdoor and recreation goods;*
- c) *electric light fittings;*
- d) *animal supplies including equestrian and pet goods;*
- e) *floor and window coverings;*
- f) *furniture, bedding, furnishings, fabric and manchester and homewares;*
- g) *household appliances, household electrical goods and home entertainment goods;*
- h) *party supplies;*
- i) *swimming pools;*
- j) *office equipment and supplies;*
- k) *baby and children's goods, children's play equipment and accessories;*
- l) *sporting , cycling, leisure, fitness goods and accessories; or*
- m) *goods and accessories which:*
 - *require a large area for handling, display and storage of goods; or*
 - *require direct vehicle access to the building by customers for the purpose of loading or unloading goods into or from their vehicles after purchase or hire.*

It does not include the sale of food, clothing and footwear unless ancillary to the primary use.

Use of the site as an Intermodal Freight Terminal and for industrial uses

The request for rezoning includes a request to permit the site to also be used as an Intermodal Freight Terminal and for industrial uses including warehousing. The DoP have approved a Concept Plan for the site which included an Intermodal Freight Terminal. That Development Consent has since lapsed.

The land is currently zoned 1(a) - Inner Rural and whilst certain aspects of the development may well be permissible, it remains highly unlikely that any Development Application under Part 4 of the Environmental Planning and Assessment Act 1979 would be supported given the lands current zoning.

The Bathurst CBD and Bulky Goods Business Development Strategy recommends that the site be zoned 3(b) - Service Business and that at least 12.7 hectares of the site be available only for bulky goods and associated retailing development to satisfy the demand for bulky goods floor space to 2036.

The Bathurst Region Urban Strategy also recommends the site be zoned 3(b) - Service Business and suggests that the whole of the site be set aside for bulky goods development to satisfy the ongoing demand in Bathurst. It is acknowledged that this would create an oversupply of land in the short to medium term, but would ensure land would be available in the longer term, beyond the 2036 timeframe recommended by the Bathurst CBD and Bulky Goods Business Development Strategy.

The site is 29 hectares in size. The inclusion of industrial and Intermodal Freight Terminal uses could be tolerated if Council is satisfied to plan only for the supply of land for bulky goods development at this precinct to the year 2036. However, should Council wish to plan for bulky goods growth for a longer timeframe, as recommended by its Urban Strategy, then these additional uses should **not** be permitted.

The subject site is the key site for the provision of Bulky Goods land to the year 2036 and beyond.

Bathurst's future Comprehensive LEP under the Standard Instrument LEP

Council continues to progress its Comprehensive LEP towards a draft LEP for public exhibition. In Council's most recently drafted version submitted to the Department of Planning and Infrastructure it is proposed that the land would be zoned B5 - Business Development which will permit various uses such as Bulky Goods and the like. The draft LEP prohibits rail freight terminals in the B5 zone, in line with the recommendations of Council's strategic planning strategies.

Proposed Development Control Plan Amendment

To support and direct the development of the land, it is also proposed to prepare a DCP amendment which will be placed on public exhibition at the same time as the Planning Proposal. The DCP amendment will take into consideration the relevant recommendations of many of the Strategic Plans which Council has commissioned recently including the Bathurst Region Urban Strategy, the Bathurst Vegetation Management Plan and the Bathurst Urban Waterways Management Plan.

A preliminary plan is provided at **attachment 4**. Importantly it sets aside a 40 metre buffer zone to the Great Western Highway (Sydney Road) to provide appropriate land for gateway approach improvements and landscaping, a 50 metre access and protection corridor over Raglan Creek and land use buffers to adjoining rural and industrial land.

Conclusion

Council has received a request from the landowner to consider a Planning Proposal to:

- (a) rezone the subject land from 1(a) - Inner Rural to 3(b) - Service Business pursuant to the Bathurst Regional (Interim) Local Environmental Plan 2005;
- (b) include Freight Transport Terminal (Intermodal Transport Terminal), warehouses and industry uses as permissible uses on the site in Schedule 4 of the Bathurst Regional (Interim) Local Environmental Plan 2005; and
- (c) prepare a Development Control Plan amendment.

Council's various Strategies identify the site as strategic land suitable for rezoning to enable further expansion of bulky goods development within Bathurst.

It is considered that Council should proceed as follows:

1. Proceed to rezone the subject land 3(b) - Service Business excluding the 50 metre wide Raglan Creek corridor which should be zoned 6(a) – Local Recreation.
2. Include a provision in the Bathurst Regional (Interim) Local Environmental Plan 2005 to:
 - a) permit Freight Transport Facilities on part of the land as shown on the preliminary DCP map (see attachment 4);
 - b) enable Warehouses or Distribution Centres on part of the land as shown on the preliminary DCP map (see attachment 4) but only in conjunction with Freight Transport Facilities; and
 - c) define Freight Transport Facilities and Warehouses or Distribution Centres for the purposes of this land.

3. Amend the definition of Bulky Goods Salesroom or Showroom under the Bathurst Regional (Interim) Local Environmental Plan 2005 as recommended by the Bathurst CBD & Bulky Goods Development Strategy 2011.
4. Proceed to amend the Bathurst Regional (Interim) Development Control Plan 2011 generally in accordance with the preliminary DCP map that provides buffers to the great Western Highway, neighbouring properties and Raglan Creek.

Council's Planning staff consider this to be the best option as it:

1. Ensures the implementation of the recommendations of the various strategies of Council and will provide far greater opportunity for longer term and ongoing consolidation of bulky goods development in one precinct well beyond the year 2036.
2. Enables part of the site to be used as an intermodal freight terminal (Freight Transport Facility) and associated warehousing (Warehouse and Distribution Centre) as requested by the applicant in a manner that does not jeopardise Council's planning strategies.
3. Enables all of the land to be used for Bulky Goods Salesroom or Showrooms purposes should the Freight Transport Facilities and Warehouses or Distribution Centres not proceed.

Recommendation

It is recommended that Council proceed with the Planning Proposal in an amended form from that requested by the landowners to:

- (a) prepare a planning proposal to:
 - (i) rezone the subject land 3(b) - Service Business excluding the 50 metre wide Raglan Creek corridor which will be zoned 6(a) – Local Recreation;
 - (ii) include a provision in the Bathurst Regional (Interim) Local Environmental Plan 2005 to:
 - 1) permit Freight Transport Facilities on part of the land as shown on the preliminary DCP map (see attachment 4);
 - 2) enable Warehouses or Distribution Centres on part of the land as shown on the preliminary DCP map (see attachment 4) only in conjunction with Freight Transport Facilities; and
 - 3) define Freight Transport Facilities and Warehouses or Distribution Centres for the purposes of the provision;
 - (iii) amend the definition of Bulky Goods Salesroom or Showroom under the Bathurst Regional (Interim) Local Environmental Plan 2005;
- (b) prepare a concurrent amendment to the Bathurst Regional (Interim) Development Control Plan 2011 generally in accordance with the preliminary DCP map outlined in the report that provides buffers to the great Western Highway, neighbouring properties and Raglan Creek;
- (c) forward the Planning Proposal to the Department of Planning and Infrastructure seeking a gateway approval;

- (d) notify the proponents of Council's resolution; and
- (e) call a division.

Financial Implications

The applicant has paid the relevant application fees for the Planning Proposal and the DCP amendment as outlined in Council's Management Plan.

Bathurst 2036 Community Strategic Plan - Objectives and Strategies

- Objective 3: To protect a vibrant CBD and support and grow retail diversity. Strategy 3.4
- Objective 1: To attract employment, generate investment and attract new economic development opportunities. Strategy 1.5
- Objective 9: To protect and enhance the region's landscapes, views, vistas, open spaces and the Macquarie River. Strategy 9.1
- Objective 28: To plan for the growth of the region and the protection of the region's environmental, economic, social and cultural assets. Strategy 28.1

Meeting type:	ORDINARY MEETING OF BATHURST REGIONAL COUNCIL	
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Minute Section:	RECEIVE AND DEAL WITH DIRECTORS' REPORTS	Section Number
Minute Status	Released	
Minute Security:	Standard	

SubSection:	Director Environmental Planning & Building Services' Report	SubSection Number: Division Required:
Created By:	Sally Moore/BathurstCC	

Subject:	GATEWAY ENTERPRISE PARK PLANNING PROPOSAL	
Item Number:	7	
File Number:	(20.00250)	
Minute Number:	14	

Moved By:	I North	Seconded By:	B Bourke
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Resolution: **RESOLVED:**That Council:

- (a) prepare a planning proposal to:
 - (i) rezone the subject land 3(b) - Service Business excluding the 50 metre wide Raglan Creek corridor which will be zoned 6(a) – Local Recreation;
 - (ii) include a provision in the Bathurst Regional (Interim) Local Environmental Plan 2005 to:
 - 1) permit Freight Transport Facilities on part of the land as shown on the preliminary DCP map;
 - 2) enable Warehouses or Distribution Centres and ancillary industrial uses on part of the land as shown on the preliminary DCP map only in conjunction with Freight Transport Facilities; and
 - 3) define Freight Transport Facilities and Warehouses or Distribution Centres for the purposes of the provision;
 - (iii) amend the definition of Bulky Goods Salesroom or Showroom under the Bathurst Regional (Interim) Local Environmental Plan 2005;
- (b) prepare a concurrent amendment to the Bathurst Regional (Interim) Development Control Plan 2011 generally in accordance with the preliminary DCP map outlined in the report that provides buffers to the Great Western Highway, neighbouring properties and Raglan Creek;
- (c) forward the Planning Proposal to the Department of Planning and Infrastructure seeking a gateway approval;
- (d) notify the proponents of Council's resolution; and
- (e) call a division.

On being **PUT** to the **VOTE** the **MOTION** was **CARRIED**

The result of the division was:

In favour of the motion - Cr W Aubin, Cr B Bourke, Cr G Hanger, Cr M Morse, Cr I North, Cr G Westman, Cr J Jennings, Cr M Coote, Cr G Rush,

Against the motion - NIL

Absent - NIL

Abstain - NIL

Precis: