

Planning Services

Gateway Determination Report

LGA	Blayney Shire Council
PPA	Blayney Shire Council
NAME	Insert Zone E2 Environmental Conservation (E2) in to the Blayney Local Environmental Plan 2012 and rezone proposed Lot 202 in the subdivision of Lot 201 DP 1037198 and proposed Lot 204 in the subdivision of Lot 1422 DP 1168271 from RU1 Primary production (RU1) to E2 Environmental Conservation (0 homes, 0 jobs)
NUMBER	PP_2018_BLAYN_001_00
LEP TO BE AMENDED	Blayney Local Environmental Plan 2012
ADDRESS	'Stratton Vale' in the Parish of Carlton, Panuara 'Flyers Creek – Belubula River' in the Parish of Blake, Panuara
DESCRIPTION	Proposed Lot 202 in the subdivision of Lot 201 DP 1037198 Proposed Lot 204 in the subdivision of Lot 1422 DP 1168271
RECEIVED	2 August 2018
FILE NO.	IRF18/4335
POLITICAL DONATIONS	There are no donations known or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no known meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

The planning proposal seeks to amend the Blayney LEP 2012 to rezone proposed Lot 202 in the subdivision of Lot 201 DP 1037198 and proposed Lot 204 in the subdivision of Lot 1422 DP 1168271 from RU1 Primary production to E2 Environmental Conservation. The E2 Zone is a new zone being introduced by the planning proposal. Specifically, changes will include;

- Amending Blayney Local Environmental Plan 2012 to include reference to Zone E2 Environmental Conservation in section 2.1 land use zones;
- Amending Blayney Local Environmental Plan 2012. to insert Zone E2 Environmental Conservation provisions at the end of the Land Use Table;

- Adding reference to zone E2 Environmental Conservation to the Land Zoning Map; and
- Rezoning the subject land from RU1 Primary Production to Zone E2 Environmental Conservation under Blayney Local Environmental Plan 2012

The purpose of the new zone and rezoning the land is to facilitate biodiversity offsets under the *Biodiversity Act 2016*.

Site description

The planning proposal affects two areas as shown in Figure 1 below. The two sites are located south on existing mining operation and are surrounded by productive agricultural land. The land appears to be undulating and series of creeks, drainage lines and scattered vegetation. The two sites comprise:

“Stratton Vale”

Shown in Figure 2 proposed Lot 202 in the subdivision of Lot 201 DP 1037198 Parish of Carlton will be 60.61ha is irregular in shape and will wholly zoned E2.

“Flyers Creek – Belubula River”

Shown Figure 3 proposed Lot 204 in the subdivision of Lot 1422 DP 1168271 Parish of Blake will be 104.7ha is irregular in shape and will wholly zoned E2.

The subject areas are owned by Cadia Holdings Pty Limited and Contango Agricultural Company Pty Ltd, being wholly owned subsidiaries of Newcrest Mining Limited.

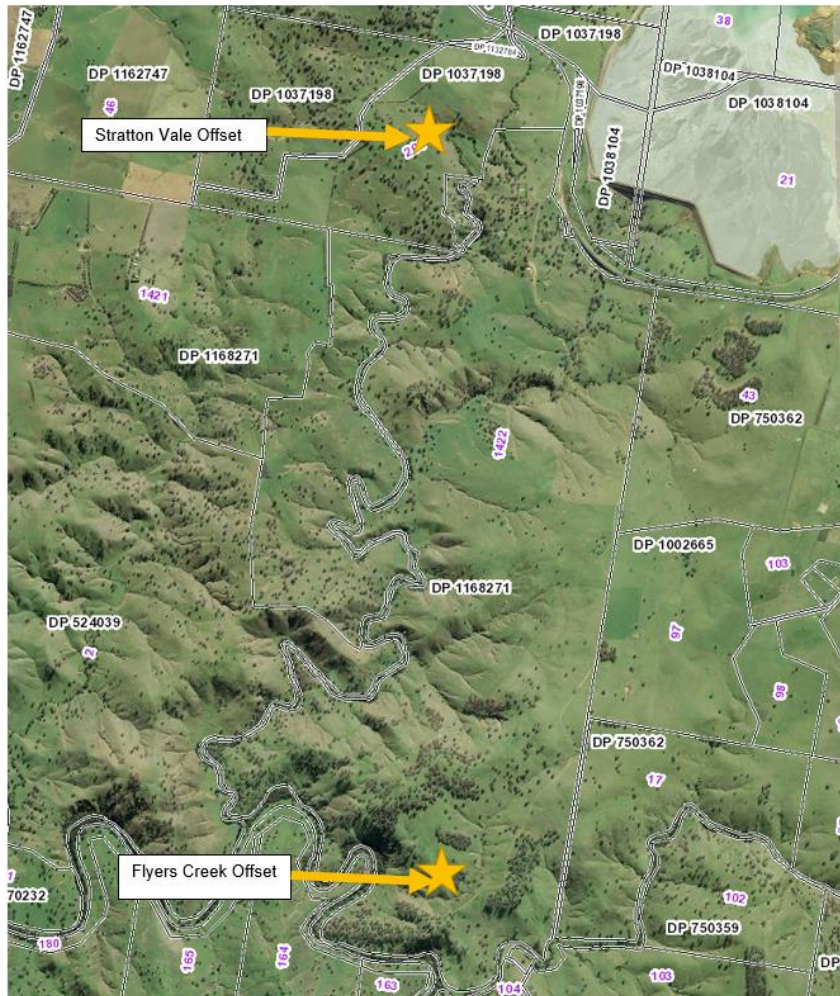
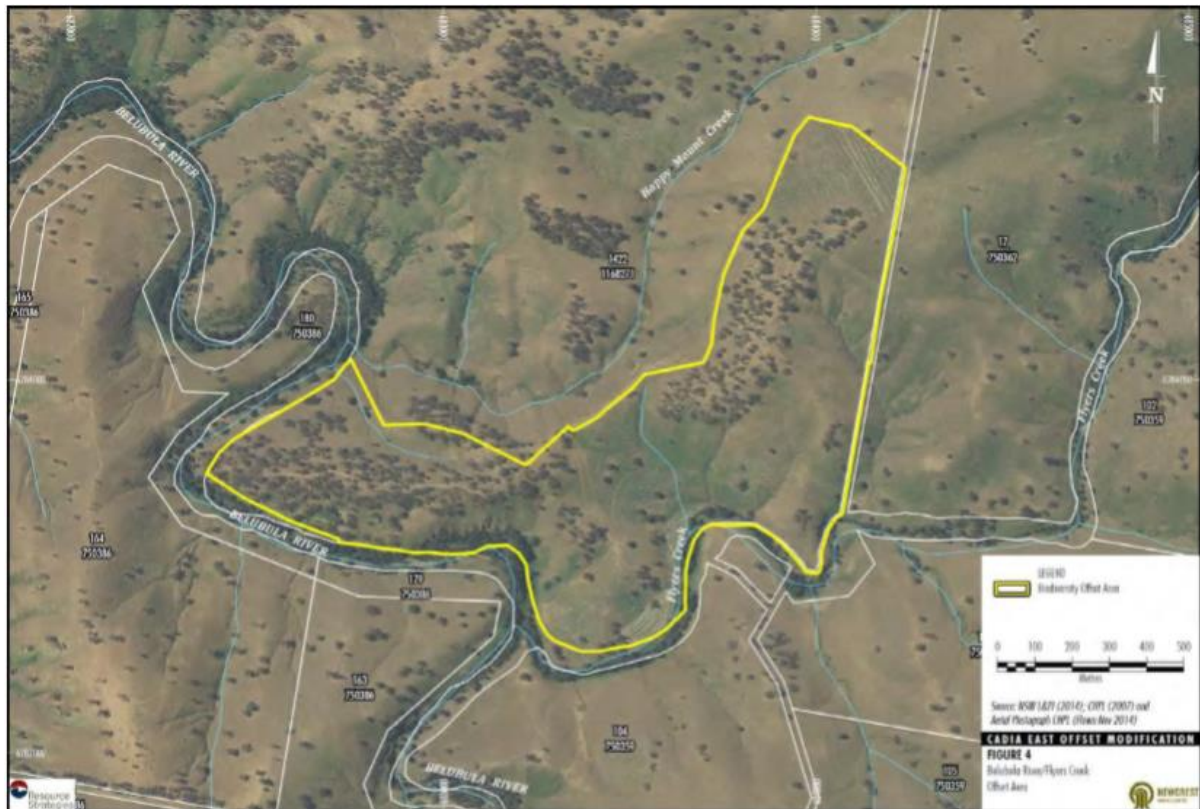


Figure 1 – Location Plan



Existing planning controls

Both sites are zone RU1 Primary Production as shown in Figure 4 below.

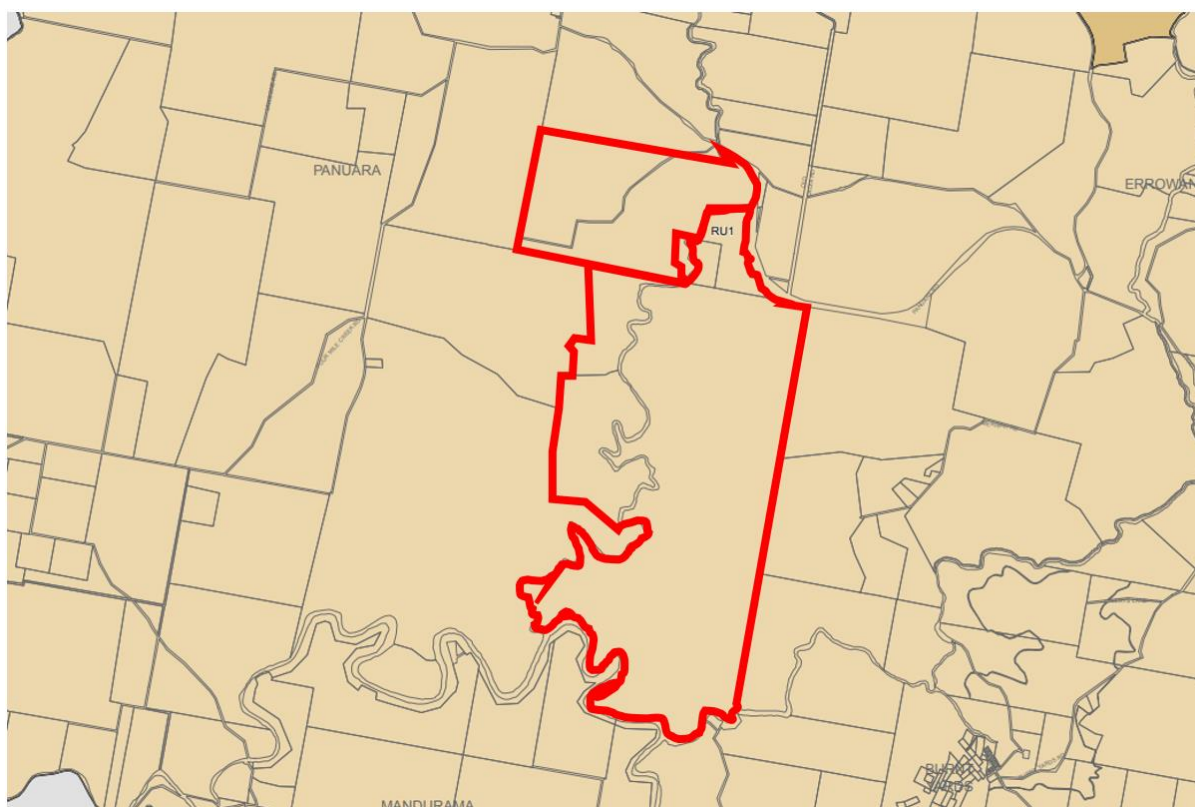


Figure 4 – Existing zoning map

The below land use table currently applies to the land:

Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To enable function centres, restaurants and appropriate forms of tourist and visitor accommodation to be developed in conjunction with agricultural uses.

2 Permitted without consent

Building identification signs; Environmental protection works; Extensive agriculture; Home occupations

3 Permitted with consent

Airstrips; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Business identification signs; Camping grounds; Cellar door premises; Cemeteries; Community facilities; Correctional centres; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Function centres; Helipads; Heliports; Home-based child care; Home businesses; Home industries; Home occupations (sex services); Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture; Jetties; Landscaping material supplies; Moorings; Open cut mining; Plant nurseries; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Restaurants or cafes; Roads;

Roadside Stalls; Rural industries; Truck depots; Veterinary hospitals; Water recreation structures; Water supply systems

4 Prohibited

Any development not specified in item 2 or 3

Summary of recommendation

Proceed with Condition – The planning proposal meets the requirements in the relevant section 9.1 directions and SEPPs. The planning proposals intent is to satisfy in part, the requirements for implementing a conservation offset strategy.

Council has not addressed the following section 9.1 directions, 1.2 Rural Zones, 1.5 Rural Lands and 5.10 Implementation of Regional Plans. A condition is recommended to ensure they are addressed as part of the planning proposal.

A condition is recommended to ensure that the project timeline is included in the planning proposal.

PROPOSAL

Objectives or intended outcomes

The planning proposal states:

The objectives or intended outcomes of this Planning Proposal would be achieved by:

- *Amending Blayney Local Environmental Plan 2012 to include reference to Zone E2 Environmental Conservation in section 2.1 land use zones;*
- *Amending Blayney Local Environmental Plan 2012. to insert Zone E2 Environmental Conservation provisions at the end of the Land Use Table;*
- *Adding reference to zone E2 Environmental Conservation to the Land Zoning Map; and*
- *Rezoning the subject land from RU1 Primary Production to Zone E2 Environmental Conservation under Blayney Local Environmental Plan 2012.*

Comment: The stated objective and intended outcomes are considered adequate. The planning proposal overview provides explanation as to why the planning proposal is being undertaken, being, to satisfy in part, the requirements for implementing a conservation offset strategy.

Explanation of provisions

The planning proposal states:

It is proposed by this submission to rezone the lands under BLEP2012 to Zone E2 Environmental Conservation. The following provisions are proposed to amend Blayney Local Environmental Plan 2012 by:

1. *Adding reference to Zone E2 Environmental Conservation to Part 2.1 Land Use Zones;*
2. *Adding the following to the Land Use Table after the reference to Zone RE2 Private Recreation:*

Zone E2 Environmental Conservation

1 Objectives of zone

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

2 Permitted Without Consent

Environmental protection works

3 Permitted With Consent

Environmental facilities; Flood mitigation works; Roads

4 Prohibited

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

3. *Amending the Land Zoning Map in respect to the two subject lands in accordance with the proposed zoning map shown as Figure 3 in Part 4 below.*

Comment: The explanation of provisions is considered to be adequate. This Land Use Table is consistent on the model Standard Instrument Local Environmental Plan.

Mapping

Existing and proposed zoning mapping has been provided as part of the planning proposal and is considered to be adequate for exhibition.

NEED FOR THE PLANNING PROPOSAL

The planning proposal states:

The planning proposal stems from Cadia East Project Modification 7 which was approved by the Minister for Planning's delegate on 4 August 2015.

The planning proposal forms one of a number of associated measures to ensure the long-term security of conservation offsets required for the Cadia East Project

Comment: Given the history of the site and the requirements for implementing a conservation offset strategy under condition 41 schedule 3 of the CEPA as specifically modified in modification 7 approved by the delegate to The Minister for Planning on 4 August 2015, the planning proposal is the best means to achieve the objectives and intended outcome.

STRATEGIC ASSESSMENT

State

Whilst there is no State strategic framework the rezoning forms part of a conservation offset strategy under condition 41 schedule 3 of the CEPA as specifically modified in modification 7 approved by the delegate to The Minister for Planning on 4 August 2015.

Central West and Orana Regional Plan 2036

The planning provides assessment against Direction 13 of the Central West and Orana Regional Plan 2036.

The regional plan identifies areas of high environmental value in Figure 7 – Environmental Assets.

The subject lands are identified as containing high environmental value. This planning proposal is consistent with the Regional Plan's proposed action 13.1 to "protect high environmental value assets through local environmental plans."

Comment: The planning proposal is considered to align with the regional plan, specifically action 13.1.

The Councils of Blayney Cabonne and Orange City Sub-Regional Rural and Industrial Land Use Strategy

Section 3.4 of the strategy is relevant to planning proposal, whereby:

The natural environment provides the basis for the Sub-Region's important agricultural industries and their viability depends on maintaining the natural resource base.

Environmental protection zoning could be used to identify, protect and conserve environmentally sensitive lands and their high conservation values.

Provision of suitable buffers to development is critical in facilitating appropriate outcomes for natural resources, including groundwater, surface water, remnant vegetation and riparian corridors.

The planning proposal is considered to assist in the delivery of this section.

Section 9.1 Ministerial Directions

The planning proposal has addressed only the one section 9.1 Direction.

2.1 ENVIRONMENT PROTECTION ZONES: This Direction does apply to the planning proposal as it will create an environment protection zone. While the proposal is considered to be CONSISTENT with this direction as the planning proposal will introduce provisions that facilitate the protection and conservation of environmentally sensitive areas.

Council has not addressed the following section 9.1 Directions. A condition is recommended to ensure they are addressed as part of the planning proposal.

1.2 RURAL ZONES: This Direction does apply to the planning proposal as it will affect land within an existing or proposed rural zone. While the proposal is considered to be CONSISTENT with this direction as the planning proposal has been prepared in response to condition 41 schedule 3 of the CEPA as specifically modified in modification 7 approved by the delegate to The Minister for Planning. The land has been identified as having high environmental value and there is considered to be minimal impact on agricultural production.

Council has not addressed this section 9.1 Direction. A condition is recommended to ensure this Direction is addressed as part of the planning proposal.

1.5 RURAL LANDS: This Direction does apply to the planning proposal as it will affect land within an existing rural zone and a proposed environmental protection zone.

The proposal is considered to be CONSISTENT with this direction as the planning proposal has been prepared in response to condition 41 schedule 3 of the CEPA as specifically modified in modification 7 approved by the delegate to The Minister for Planning. The land has been identified as having high environmental value and there is considered to be no loss in agricultural production.

Council has not addressed this section 9.1 Direction. A condition is recommended to ensure this Direction is addressed as part of the planning proposal.

5.10 IMPLEMENTATION OF REGIONAL PLANS: This Direction does apply to the planning proposal as the Central West and Orana Regional Plan 2036 applies to the land.

As identified above the proposal is considered to be CONSISTENT with this direction.

State environmental planning policies

Council have identified the State Environmental Planning Policy (Rural Zones) 2008 as the only the SEPP relevant to planning proposal.

Section 7 of State Environmental Planning Policy (Rural Lands) 2008 includes the following Rural Planning Principle:

. . . (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,

Council has not addressed this section 9.1 Direction. A condition is recommended to ensure this Direction is addressed as part of the planning proposal.

This planning proposal is consistent with the rural planning principles of State Environmental Planning Policy (Rural Lands) 2008.

SITE-SPECIFIC ASSESSMENT

Social, Environmental and Economic

The planning proposal is likely to have a net benefit, having regard to social, environmental and economic matters.

The planning proposal will conserve natural assets and environmentally sensitive land in perpetuity and accordingly will be conserved over the long term to the benefit of the community.

The rezoning and environmental conservation plan also contributes to the economic benefit the mine extension contributes to the local region. The proposal is consistent with biosecurity management objectives.

CONSULTATION

Community

Council have proposed the following community consultation strategy:

Community consultation would involve:

- *An exhibition period of 28 days.*
- *The community is to be notified of the commencement of the exhibition period via a notice in the local newspaper and on Council's website. The notice will:*
 - *Give a brief description of the objectives or intended outcomes of the planning proposal;*
 - *Indicate the land affected by the planning proposal;*
 - *State where and when the planning proposal can be inspected;*
 - *Provide the name and address for the receipt of submissions; and*
 - *Indicate the closing date for submissions.*
- *Written notification to land owners in the vicinity.*

Comment: The consultation strategy is considered to be adequate.

Agencies

OEH were consulted during modification of the CEPA. As such it is considered to be appropriate for Council to consult with OEH on the planning proposal.

TIME FRAME

The planning proposal indicates that the timeframe for completion of the amendment is included in Part 6 of the planning proposal. Part 6 was not submitted as part of the planning proposal package. A condition is recommended to ensure that the project timeline is included in the planning proposal. Having considered this and the nature of the planning proposal it is considered appropriate to allow a 12 month timeframe for the planning proposal to be notified.

LOCAL PLAN-MAKING AUTHORITY

Council have not requested local plan-making authority. However, given the nature of the planning proposal, being a local matter, it is considered appropriate to issue Council with delegation to exercise plan making functions for this proposal.

CONCLUSION

- Preparation of the planning proposal is supported to proceed with conditions.
- The planning proposal addresses the Department's 'A guide to preparing planning proposals'.
- The Director Regions, Western can use delegation to determine this proposal as it is consistent with broader government policy.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. note that the consistency with section 9.1 Directions 2.1 Environment Protection Zones, 1.2 Rural Zones, 1.5 Rural Lands and 5.10 Implementation of Regional Plans

It is recommended that the delegate of the Minister for Planning / Greater Sydney Commission determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.

2. Consultation is required with the following public authorities:
 - OEH
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.
5. Council is to amend the planning proposal prior to community consultation to address and demonstrate consistency with following section 9.1 Directions.
 - 1.2 Rural Zones;
 - 1.5 Rural Lands; and
 - 5.10 Implementation of Regional Plans
6. Council is to amend the planning proposal prior to community consultation to include project timeline in Part 6.



Wayne Garnsey
Team Leader, Western



30-08-2018

Damien Pfeiffer
Director Regions, Western
Planning Services

Contact Officer: Haydon Murdoch
Planning Officer, Western
Phone: 6229 7914