

**Development and Environmental Services' Report to the Ordinary Meeting of  
Bogan Shire Council held 22 March 2018**

- Councils to impose a levy on complying development certificates to fund monitoring and enforcement of complying development standards in their area;
- Councils to stop work for up to seven days on a complying development site to investigate whether the construction is in line with the certificate. From there, the Council can take more formal action - such as a development control order - if warranted; and
- The courts to declare a complying development certificate invalid if it does not meet the approved standards.

Where Developers have constructed works that go beyond an approval, then retrospectively applied for a modification to authorise the extra works, Councils will be able to impose an additional fee to deter retrospective modification applications. This fee will be set in the Environmental Planning and Assessment (EP&A) Regulations.

Given the scope of the changes in this Act, the Government is taking a staged approach to the Act's commencement. Most of the changes will commence in the first quarter of 2018. Other changes will take longer to switch on and will involve further consultation, so new features of the planning system like community participation plans and local strategic planning statements will be introduced over time.

#### **4.3 Recommendation**

It is recommended that the report be received and noted.

### **5. REZONING APPLICATION – AUSTRALIAN HOTEL SITE, NYNGAN**

#### **Summary**

*The purpose of this report is for Council to consider an amendment to the Bogan Local Environmental Plan 2011 to rezone Lot 1 Section 33 DP 758802 (Australian Hotel site) from R1 – General Residential to B6 – Enterprise Corridor and endorse the planning proposal to enable it to be forwarded to the Department of Planning and Environment and gain a Gateway determination.*

#### **5.1 Introduction**

The purpose of this report is for Council to consider a rezoning application made by Geolyse on behalf of Nyngan Rural Agencies Pty Ltd to rezone land legally identified as Lot 1 Section 33 DP 758802 (42-44 Nymagee Street), which presently contains the Australian Hotel building.

The planning proposal submitted by the applicant seeks to rezone the land from R1 – General Residential to B6 - Enterprise Corridor under the Bogan Local



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Bogan Shire Council held 22 March 2018**

Environmental Plan 2011 (BLEP 2011) in order to allow for future development of the site for additional commercial purposes, subject to the development consent of Council.

## **5.2 Discussion**

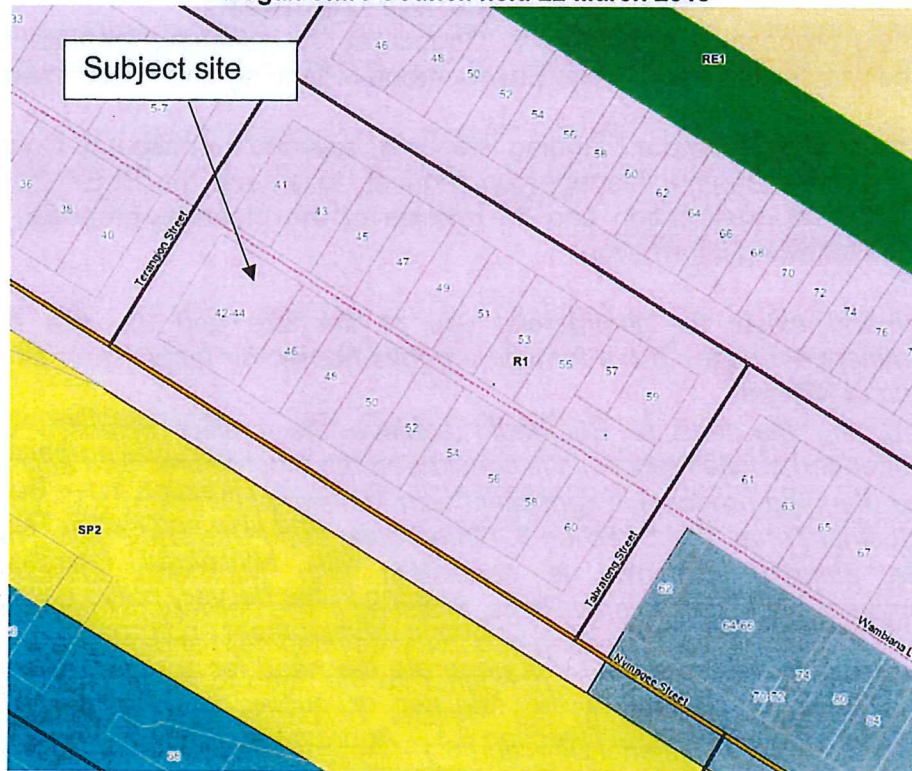
The subject site currently contains the Australian Hotel and drive through bottle shop which has been established on the site for many years, prior to gazettal of the Bogan Local Environmental Plan 2011 (BLEP 2011). Surrounding the site are existing single storey dwellings.

Following the standardisation and gazettal of the Bogan Local Environmental Plan 2011, the land located between Tabratong Street and Terangion Street, heading west and fronting Nymagee Street was zoned R1 – General Residential as shown within **Figure 1**. This is generally consistent with the form of development located in the area being of single storey residential dwellings fronting Nymagee Street.

Land located from Dandaloo Street to the corner of Tabratong Street (further east of the site) is zoned B6 - Enterprise Corridor under the BLEP 2011 and includes operating businesses such as Nyngan Panel and Paint and Nyngan Pet and Stock. The objectives of the B6 - Enterprise Corridor Zone are as follows:

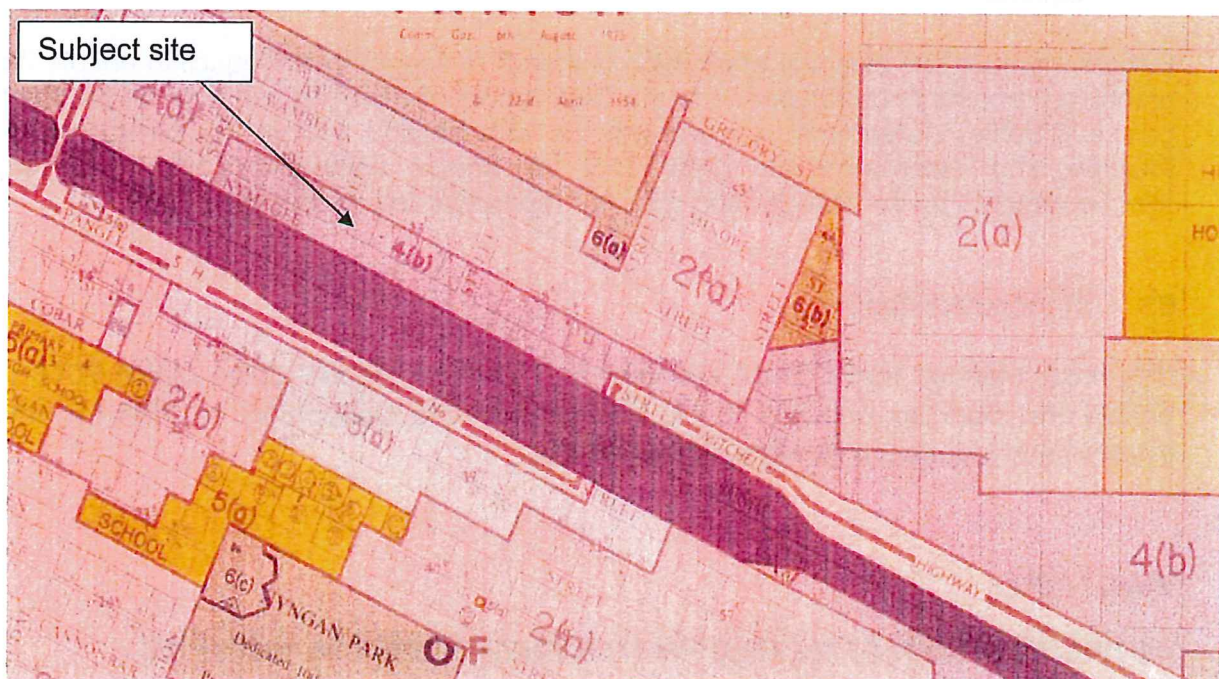
- *To promote businesses along main roads and to encourage a mix of compatible uses.*
- *To provide a range of employment uses (including business, office, retail and light industrial uses).*
- *To maintain the economic strength of centres by limiting retailing activity.*
- *To provide for residential uses, but only as part of a mixed use development.*

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**Figure 1: BLEP 2011 Zoning Map**

Under the former Bogan LEP 1991, the subject site and surrounding land were located within the Zone No. 4 (Industrial Zone) as illustrated by **Figure 2** below.



**Figure 2: BLEP 1991 Zoning Map**



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The planning proposal is submitted to Council as the *planning proposal authority* in accordance with Section 3.32 of the Environmental Planning and Assessment Act 1979.

The applicant has prepared a Planning Proposal, included in mailout to Councillors and available from the General Manager on request, to amend the BLEP 2011 and has included its intent, justification and the effects of the planning proposal, specifically including the following information:

- *Demand exists for commercial use of the site and the site has housed commercial usage, in the form of a public house, for longer than any site in the town of Nyngan.*
- *Rezoning the land to B6 would achieve the project objective without any unintended consequences, it is considered the most appropriate approach.*
- *The planning proposal is consistent with Ministerial Direction 1.1 – Business and Industrial Zones and Direction 3.4 Integrating Land Use and Public Transport.*
- *The planning proposal is consistent with Ministerial Direction 5.10 - Implementation of Regional Plans, assisting in the delivery of the goals of the Far West Regional Plan promoting economic development and growth.*
- *The planning proposal does not generate the need for any explicit concurrence, consultation or referral to the Minister or public authority and is therefore consistent with Ministerial Direction 6.1 – Approval and Referral Requirements.*
- *The ongoing use of the land for a commercial purpose, and its location proximal to the central business district, confirms that the land is suitable for development for industrial/employment generating purposes.*
- *There is an overall positive Net Community Benefit of social and economic effects.*

Endorsement of this rezoning application is therefore sought from Council to enable the planning proposal to be forwarded to the Department of Planning and Environment and gain a Gateway determination in accordance with Section 3.34 of the Environmental Planning and Assessment Act 1979. Once this occurs, community consultation may also be required by the Minister and a further report will be provided to Council.

#### **5.4 Recommendation**

It is recommended that Council endorse the planning proposal dated March 2018 to enable the planning proposal to be forwarded to the Department of Planning and Environment and gain a Gateway determination.

**Kayla Volker**

**ACTING MANAGER OF DEVELOPMENT & ENVIRONMENTAL SERVICES**