

Planning Services

Gateway Determination Report

LGA	Bogan Shire
PPA	Bogan Shire Council
NAME	Rezoning of 42-44 Nymagee Street, Nyngan
NUMBER	PP_2018_BOGAN_001_00
LEP TO BE AMENDED	Bogan Shire Local Environmental Plan 2011
ADDRESS	42-44 Nymagee Street, Nyngan
DESCRIPTION	Lot 1 Sec 33 DP758802
RECEIVED	29 March 2018, adequate on 26/04/2018
FILE NO.	IRF18/15193
POLITICAL DONATIONS	There are no known donations 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

To amend the Bogan Shire Local Environmental Plan 2011 land zoning map (Sheet – LZN_008A) to reflect a single lot rezoning from R1 General Residential to B6 Enterprise Corridor at 42-44 Nymagee Street, Nyngan.

Site description

The planning proposal relates to Lot 1 Sec 33 DP758802 at 42-44 Nymagee Street, Nyngan (**Locality Map**). The lot is currently used as the Australian Hotel and a drive through bottle shop

Existing planning controls

Lot 1 Sec 33 DP758802 is currently zoned R1 General Residential. The planning proposal is to rezone it to B6 Enterprise Corridor. There is no minimum lot size applicable to the zone in the Nyngan urban area.

Surrounding area

The planning proposal site is 42-44 Nymagee Street, Nyngan which is situated along the Mitchell Highway, a main thoroughfare of Nyngan. The surrounding area contains the business and residential areas of Nyngan and the Nyngan Train Station (**Locality Map**).

Summary of recommendation

Proceed with Condition – The objective and methodology of the planning proposal is recommended to proceed with conditions related to community consultation timeframes and updating LEP maps.

PROPOSAL

Objectives or intended outcomes

The objective of the planning proposal is to rezone Lot 1 Sec 33 DP758802 of 42-44 Nymagee Street, Nyngan, from R1 General Residential to B6 Enterprise Corridor. This will be achieved by amending the LEP land zoning map (Sheet – LZN_008A).

Explanation of provisions

The planning proposal will require updating the LEP land zoning map (Sheet – LZN_008A). There are no other changes required to the LEP or maps.

Mapping

Only the land zoning map (Sheet – LZN_008A) requires updating in accordance with the *Standard Technical Requirements for Spatial Datasets and Maps*.

NEED FOR THE PLANNING PROPOSAL

The planning proposal states the Australian Hotel has been a commercial house longer than any other site in Nyngan. It was originally zoned as R1 General Residential when the LEP was created. Rezoning the land B6 Enterprise Corridor has been requested as it will allow for future development of the site for additional commercial purposes, subject to the development consent of Council. Other options were considered in the planning proposal including:

- Rezoning the lot to a different business zone: Currently B2 Local Centre and B6 Enterprise Corridor are the only business zones in the LEP. Rezoning to any other business zone is not preferred as it would require the addition of a new zone to the LEP.
- Add the site to the list of properties within Schedule 1 of the LEP for additional permitted uses: This is not the preferred outcome as Schedule 1 is only to be used where the desired outcome of the planning proposal cannot be achieved by another method.
- Amending the list of permissible uses within the existing R1 General Residential land zone: Expanding the list of permissible uses within R1 zoned land to include commercial land uses may have unintended consequences for other properties in the R1 General Residential zone.

It is recommended for the planning proposal to proceed with conditions, as:

- B6 Enterprise Corridor is currently in use in the LEP and present at other locations along Nymagee Road, Nyngan.
- The definition of zone B6, as opposed to zone B2, is better aligned to the current land use of Lot 1 Sec 33 DP758802 as the Australian Hotel and a drive through bottle shop.

STRATEGIC ASSESSMENT

State

No State strategies have been identified as being relevant to this planning proposal.

Regional / District

The Far West Regional Plan applies to the Bogan LGA. The planning proposal is of minor significance and relevance to the Far West Regional Plan. The planning proposal is not inconsistent with the regional plan.

Local

The *Western Councils' Sub Regional Land Use Strategy 2009* contains an analysis and outcomes for Bogan Shire LGA relating to zoning of commercial areas of Nyngan. One of the actions of this strategy was to create a business enterprise zone in the Nyngan commercial centre. This was completed in the Bogan LEP. The strategy placed a restriction on this rezoning by stating "Any additional area to be rezoned to allow commercial development needs to be adjoining the existing commercial area". Rezoning of 42-44 Nymagee Street would not be rezoning adjacent commercial land and is inconsistent with this strategy. However, as outlined in the planning proposal, 42-44 Nymagee Street was incorrectly zoned during creation of the Bogan Shire LEP and rezoning will rectify the issue. Therefore, rezoning of 42-44 Nymagee Street is considered justified despite being inconsistent with the *Western Councils' Sub Regional Land Use Strategy 2009*.

Section 9.1 Ministerial Directions

The planning proposal is regarding a business situated on zone R1 Residential Land and the rezoning is considered to be of minor significance. Therefore, the following section 9.1 Ministerial Directions are applicable to this planning proposal:

- Direction 1.1 – Business and Industrial Zones: the planning proposal is consistent as it would add a new business zone to allow for minor, further employment.
- Direction 3.1 – Residential Zones: the planning proposal is inconsistent with this direction as it will result in minor loss (approximately 0.2ha) of residential zone by rezoning the lot to B6 Enterprise Corridor. The Director Regions, Western as delegate of the Secretary can be satisfied that the inconsistency is of minor significance in this case.
- Direction 3.4 – Integrating Land Use and Public Transport: the net community benefit test found the proposal is not expected to result in an external cost to the community. This is mainly due to the proposal being of minor significance and can be considered consistent with this direction.
- Direction 5.10 – Implementation of Regional Plans: the planning proposal is of minor significance and not inconsistent with the Central West and Orana Regional Plan. It can be considered consistent with this direction.
- Direction 6.1 – Approval and Referral Requirements: the planning proposal does not require any concurrence from other public authorities and is consistent with this direction.

- Direction 6.3 – Site Specific Provisions: the planning proposal is to rezone Lot 1 Sec 33 DP758802 to another zone already listed in the LEP, to allow for development to occur. This is consistent with Direction 6.3.

State environmental planning policies

The State Environmental Planning Policy No 55 – Remediation of Land relates to all land, including this planning proposal. Rezoning will not result in any change in land use as the Australian Hotel is an existing facility on the land. Therefore, any current contamination, if present, is consistent with the continued use of the land as the Australian Hotel. If any additional development on this land occurs, it can be assessed at the Development Application stage.

Clause 104 of the State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) requires for consultation with Roads and Maritime Services (RMS) to occur if traffic generating developments outlined in Schedule 3 occur. It is proposed for any traffic generating development on Lot 1 Sec 33 DP758802, requiring consultation with RMS, to be dealt with during the Development Application stage.

SITE-SPECIFIC ASSESSMENT

Social

Rezoning of the land will allow for flexibility of future development to occur on the lot. This is not expected to result in any cost or conflict to the community.

Environmental

Rezoning of the land is not expected to result in any negative impact to the environment. Any development permissible as a result of the rezoning would be assessed at the Development Application stage for impact to the environment.

Economic

Rezoning of the land will allow for flexibility of future development to occur on the lot. This would result in a benefit to the local economy through employment of construction contractors to build the development. The planning proposal also states other businesses would benefit during the operational phase including cleaning and supply companies.

CONSULTATION

Community

Community consultation will be required in accordance with 5.5.2 of *A guide to preparing local environmental plans 2016*. The planning proposal has requested for a 14 day community consultation period in accordance with low impact proposals. Justification for this is that the minor amendment of the LEP would be to rectify the current non-permissible land zoning for an existing commercial use. This is consistent with the surrounding land use zones and would not change a principle LEP or reclassify public land.

It is agreed that this is a low impact proposal, however, given that the land is to be rezoned, it is recommended that a 28 day community consultation period be undertaken. This will allow neighbouring property holders to be consulted regarding any future development of Lot 1 Sec 33 DP758802, which may affect them.

Agencies

No agency consultation has been triggered for this planning proposal.

TIME FRAME

Council has not specified a timeframe for completing this proposal. It is recommended for a 12 month completion period to be granted to ensure there is adequate time to consult the community and finalise the LEP amendments.

LOCAL PLAN-MAKING AUTHORITY

Council has requested authorisation to be the local plan-making authority for this proposal. Given the nature of this proposal, Council's request for delegation is supported.

CONCLUSION

Preparation of the planning proposal is supported to proceed with conditions. Recommended conditions relate to standard procedures for exhibition, consultation and updating of LEP maps.

RECOMMENDATION

It is recommended that the delegate of the Secretary agree that any inconsistencies with section 9.1 Direction, 3.1 Residential Zones, is minor and justified. Given the nature of the planning proposal, Council should be the local plan-making authority.

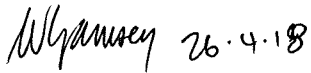
It is recommended that the delegate of the Minister for Planning determine that the planning proposal should proceed subject to the following conditions:


1. Community consultation is required under sections 2.22 and 3.34(2)(c) of the Act as follows:
 - (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016) and must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).

No consultation is required with public authorities/organisation under section 3.34(2)(d) of the Act.

2. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
3. Prior to submission of the planning proposal under section 3.36 of the Act, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.

4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.


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