

Wagga Wagga City Council

Planning Proposal

Amendment to the Wagga Wagga Local Environmental Plan 2010

Planning Proposal: 2016:1

- Item 1 - Deferred Area - Cartwrights Hill
- Item 2 - Deferred Area - Cartwrights Hill

Date of Planning Proposal:
7 November 2016

Contact:
Dave Mc Donald
Strategic Town Planner
Wagga Wagga City Council
Phone: 1300 292 442
Email: council@wagga.nsw.gov.au

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INTRODUCTION

In accordance with Section 55 of the *Environmental Planning and Assessment Act 1979*, this planning proposal has been prepared to amend provisions of the Wagga Wagga Local Environmental Plan 2010 (WWLEP). The planning proposal has been prepared in accordance with the NSW Department of Planning and Environment's Guideline 'A guide to preparing planning proposals'.

A Gateway determination under Section 56 of the *Environmental Planning and Assessment Act 1979* is requested.

This planning proposal contains two (2) items to the Wagga Wagga Local Environmental Plan 2010 including amendments to the mapping.

Item 1 in the Planning Proposal is to rezone Deferred Matter Area 1 to R5 Large Lot Residential and 1 hectare minimum lot size. The Cartwrights Hill Precinct Map for noise and odour will also be extended to include the area. Council supported the amendment at a meeting held on 26th April 2016. A copy of the minutes of the Ordinary meeting is included in Appendix 2.

Item 2 in the Planning Proposal is to rezone Deferred Matter Area 2 to RU1 Primary Production and 200 hectare minimum lot size. The Cartwrights Hill Precinct Map for noise and odour will also be extended to include the area. Council supported the amendment at a meeting held on 7th December 2015. A copy of the minutes of the Ordinary meeting is included in Appendix 2.

Council is seeking delegations to make this plan as the matters contained in the Planning Proposal are considered to be of local significance. The evaluation criteria for the delegation of plan making functions checklist will be provided separately. The completed Information Checklist is provided in Appendix 3.

BACKGROUND

The proposed rezoning of land at Cartwrights Hill, including the Deferred Matters has been considered in a series of previous reports. The Wagga Wagga City Council Planning Panel considered reports in June 2010, September 2010, October 2010, May 2011, February 2012, June 2012, February 2013 and May 2013.

The Southern Joint Regional Planning Panel on 13th October 2013 approved the rezoning of deferred land at Cartwrights Hill to RU6 Transition and R5 Large Lot Residential with a minimum lot size of 200 hectare and 1 hectare respectively. A RU6 Transition zone was intended to prevent any further residential subdivision. The R5 Large Lot Residential zone was intended to reduce the potential for conflict by significantly reducing the number of potential residential lots. The planning proposal was then referred to the Department for Gateway Determination.

In a letter dated 12 February 2015 the Department notified Council of the publication of Amendment No. 13 of the Wagga Wagga LEP 2010. The amendment included retaining approximately 30 hectares of land south of Bomen Road and 14.7 hectares east of East Street as deferred matters. The area (RU6 Transition) was deferred because of the uncertainty about the future upgrading of the Bomen Industrial Sewage Treatment Facility (BISTF). It was requested that Council consider a compatible zoning and lot size for the area.

The rezoning of land south of the Bomen Road and east of East Street to a rural zone was deferred due to the significant economic impacts on land owners. Further clarification was also required regarding the future of the BISTF before the land is rezoned.

This planning proposal considers the current and future role of these sites as buffer areas between Cartwrights Hill, the Bomen Industrial area and the BISTF.

Council at a meeting held on 7th December 2015 resolved to support a planning proposal to rezone the remaining deferred areas to RU1 Primary Production and amend the minimum lot size to 200 hectares. Council in response prepared a planning proposal and in a letter dated 18 December 2015 then request Gateway determination from the Department

Council then at an Ordinary Council Meeting held on 26 April 2016 resolved to 'approve Development Application DA16/0007, 23 lot residential subdivision at 1 – 101 Old Bomen Road, Cartwrights Hill, subject to various conditions'. Condition 36(b) is to amend the current Cartwrights Hill deferred Area Planning Proposal from RU1 to R5 Large Lot Residential to reflect the outcomes of the Development Application DA16/0007 determination and notify the Department of Planning and Environment of the amended gateway determination.

This planning proposal is an amendment to the proposal sent to the Department in December 2015 and reflects Council resolutions from 7 December 2015 and 26 April 2016.

ADDRESS OF LAND

Item 1

Item 1 is located between old Bomen Road, Bomen Road and the Olympic highway in Cartwrights Hill. The Bomen industrial area is located to the east and south- east. The relevant lot and Deposited Plan information and extent of each property is described below.

Deferred Matter 1		
Lot	Deposited Plan (DP)	Hectare
1	DP 572883	2.024
2	DP 612237	20.78
10	DP255059	0.1942

Item 2

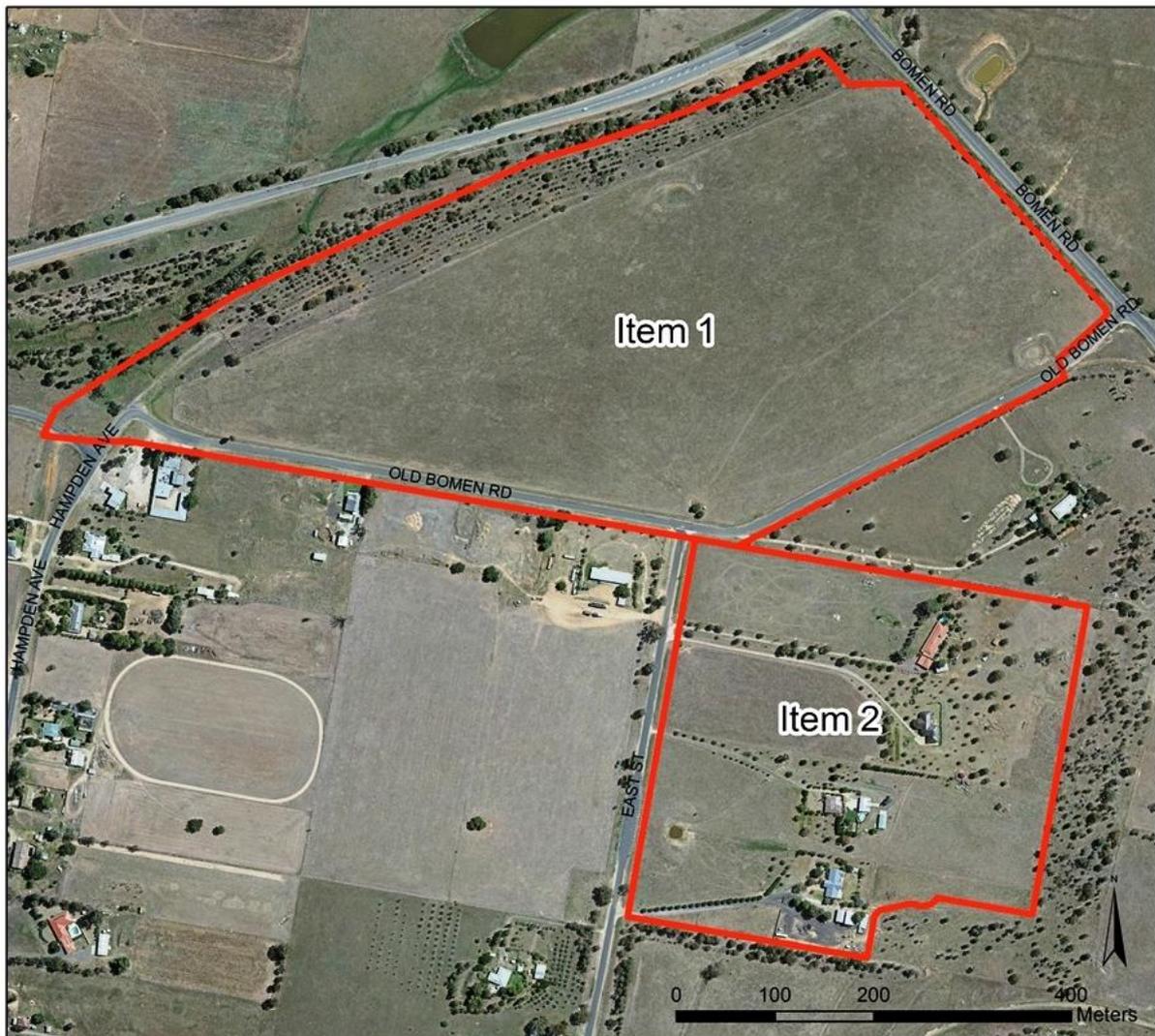
Item 2 is located at East Street, Cartwrights Hill. The Bomen industrial area is located to the east and south east. The lot and Deposited Plan information and extent of each property is described below.

Deferred Matter 2		
Lot	Deposited Plan (DP)	Hectare
1	DP 700660	3.941
2	DP 700660	3.941
3	DP 700660	3.941
4	DP 700660	2.871

EXISTING LAND USES

The sites are located in Cartwrights Hill. Item 1 site is vacant, whilst Item 2 contains a dwelling on each lot (refer to the below aerial photograph). The BISTF is located to the east and the Bomen Industrial Estate to the south and south east.

Site Location



PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of this planning proposal is to amend the Wagga Wagga Local Environmental Plan (WWLEP) 2010 by applying a zone, minimum lot size and precinct controls to the deferred areas within the WWLEP 2010.

PART 2 – EXPLANATION OF THE PROVISIONS

The proposed outcome will be achieved by undertaking the following amendments:

Item 1

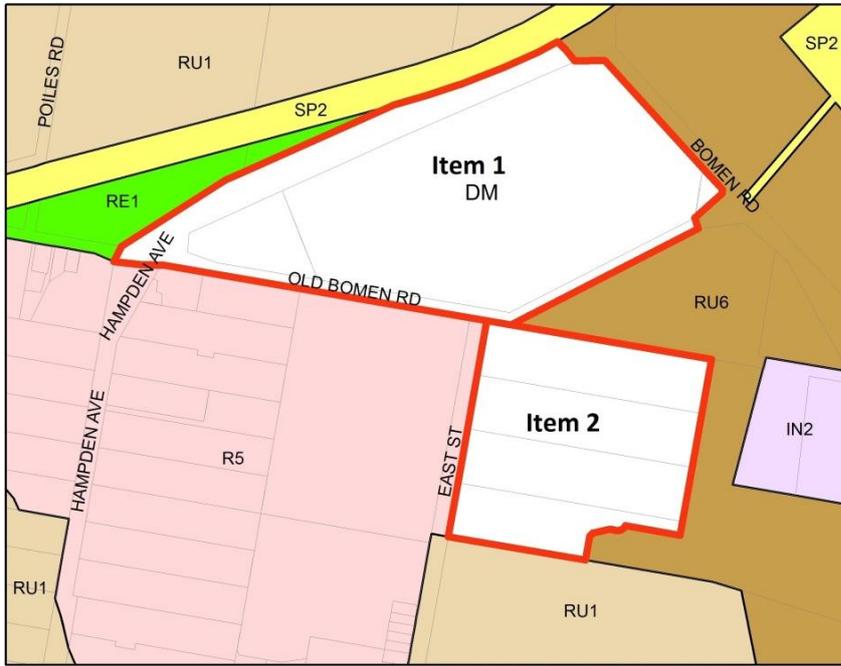
Map to be amended	Nature of map amendment
Land Zoning Map LZN_003E	Amend the Zoning Map from Deferred Matter to R5 Large Lot Residential
Minimum Lot Size Map LSZ_003E	Amend the Minimum Lot Size Map to 1 hectare
Cartwrights Hill Precinct Map CHP 003E	Amend the Precinct Map to include item 1.

Item 2

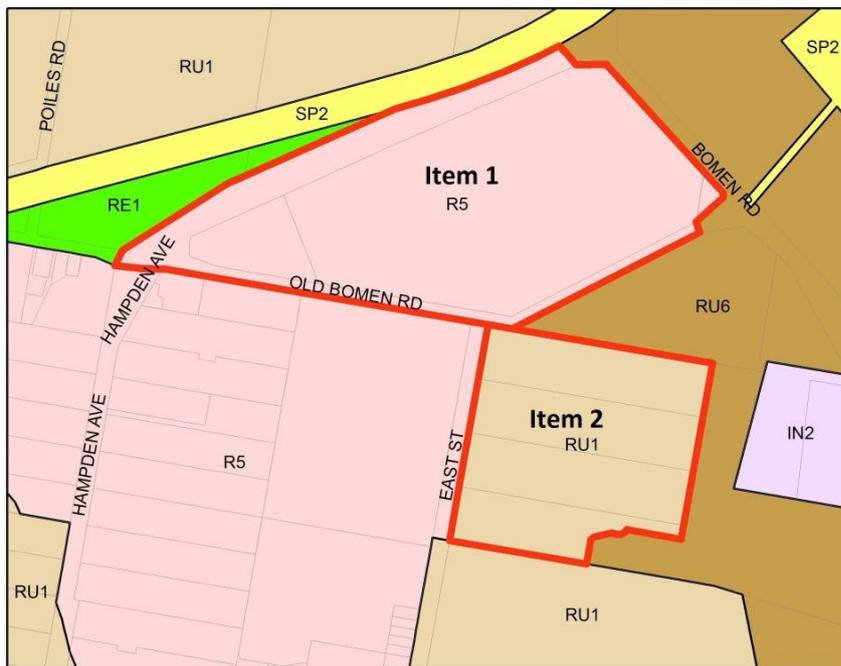
Map to be amended	Nature of map amendment
Land Zoning Map LZN_003E	Amend the Zoning Map from Deferred Matter to RU1 Primary Production
Minimum Lot Size Map LSZ_003E	Amend the Minimum Lot Size Map 200 hectares
Cartwrights Hill Precinct Map CHP 003E	Amend the Precinct Map to include item 2.

The proposed amendments are identified on the indicative maps below:

Cartwrights Hill Land Zoning map



Current Zoning



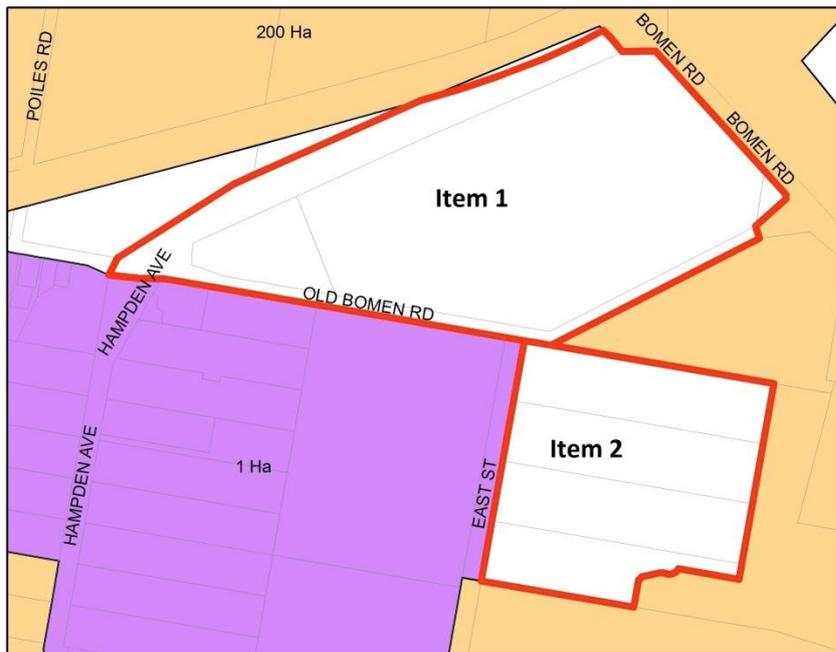
Proposed Zoning

Legend

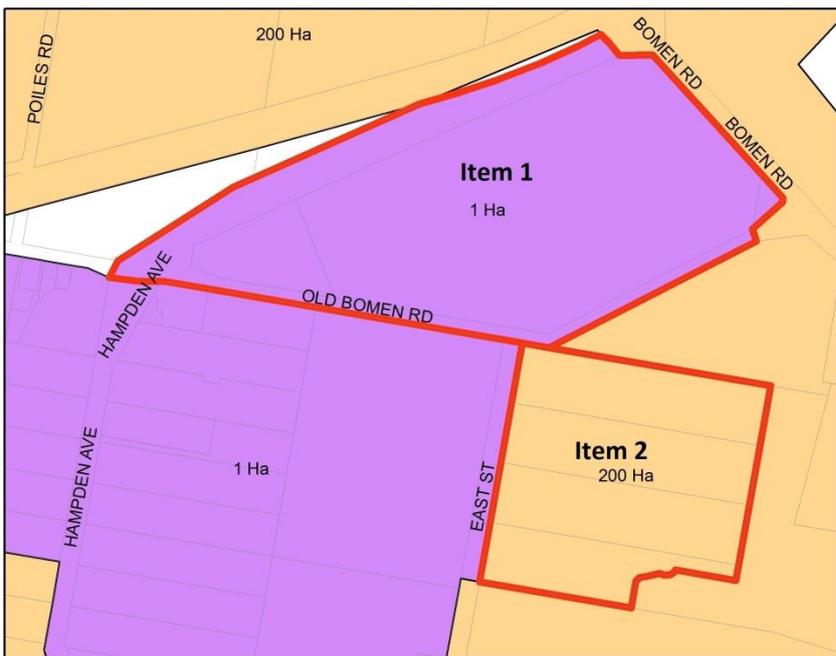
- Cadastre
- Proposed Change
- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- B6 Enterprise Corridor
- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- E4 Environmental Living
- IN1 General Industrial
- IN2 Light Industrial
- R1 General Residential
- R3 Medium Density Residential
- R4 High Density Residential
- R5 Large Lot Residential
- RE1 Public Recreation
- RE2 Private Recreation
- RU1 Primary Production
- RU2 Rural Landscape
- RU3 Forestry
- RU4 Rural Small Holdings
- RU5 Village
- RU6 Transition
- SP1 Special Activities
- SP2 Infrastructure
- W1 Natural Waterways
- W2 Recreational Waterways
- UL Unzoned Land



Cartwrights Hill Minimum Lot Size



Current Minimum Lot Size



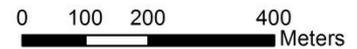
Proposed Minimum Lot Size

Legend

-  Cadastre
-  Proposed MLS Change

Minimum Lot Size

-  0.1 Ha
-  0.12 Ha
-  0.14 Ha
-  0.2 Ha
-  0.4 Ha
-  0.6 Ha
-  1 Ha
-  2 Ha
-  3 Ha
-  8 Ha
-  40 Ha
-  80 Ha
-  200 Ha



Cartwrights Hill Precinct Map



Current Precinct

Legend

 Cartwrights Hill Precinct



Proposed Precinct



0 100 200 400
 Meters

PART 3 – JUSTIFICATION

The WWLEP was amended in February 2015 (Amendment No. 13), however Item 1 and 2 remained as a deferred matter. A new clause was also inserted into the LEP that requires Wagga Wagga City to *consider odour and noise impacts from the Bomen industrial area and sewage treatment facility when assessing development within the residential area of Cartwrights Hill.*

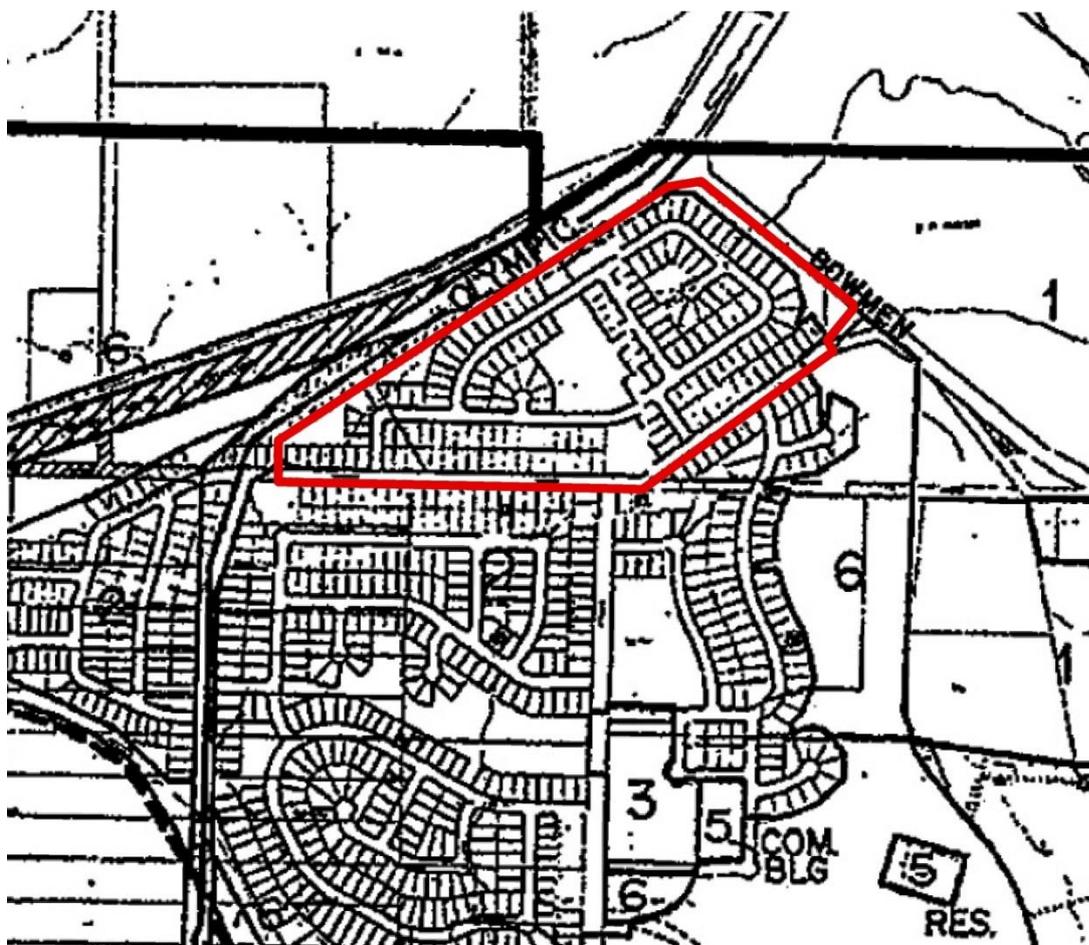
Item 1

The area south of Bomen Road remains deferred under the WWLEP2010.

The assessment pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 (Development Application for 23 lot subdivision) has been used to provide justification for the planning proposal.

Compliance with Wagga Wagga Local Environmental Planning Instrument

The subject site is Deferred Matters in the WWLEP 2010. A Development Application for subdivision of 23 lots was assessed against the provisions of Wagga Wagga LEP 1985. The zoning in WW LEP 1985 is residential and open space.



WWLEP1985 Land Zoning Map 1985

The WWDCP2005 contains specific residential subzones and density controls, but the maps do not have an indicative subdivision layout. A proposed large lot subdivision was submitted

with the Development Application. The layout is consistent with the residential zone objective of providing a variety of house-types and the open space zone objective of providing for the needs of residents.

WWLEP1985 states that, “except as otherwise provided by this plan, the council shall not grant consent to the carrying out of development on land to which this plan applies unless the council is of the opinion that the carrying out of the development is consistent with one or more of the objectives of the zone within which the development is proposed to be carried out.” The proposed subdivision is consistent with at least one of each of the zone objectives. The approved subdivision is therefore compliant with the current DCP provisions applying to the land.

Subdivision Plan



The current subzoning of the site in the WWDCP 2005 is Residential 2a, General (Urban Living Area) and 6a Recreation (Urban Living Area). There is no minimum lot size in WWDCP2005 and the approved subdivision complies with the density controls.

Impacts from Bomen Industrial Estate and Bomen Industrial Sewage Treatment Facility (BISTIF)

Noise

The expansion of the BISTIF or industry in the Bomen Industrial Estate may require ameliorative measures for particular industries in order to meet acceptable levels of noise. Land use controls will minimise the number of residential receptors and assists in separating noise-producing industries and sensitive areas.

Odour

In terms of new industry complying with the offensive odour provisions of the POEO Act, and that any new or expanded industrial activities in the Bomen Industrial Estate needs to comply with environmental management standards to limit odour emissions.

The management of new industries and the application of controls and caveats on future residential receptors is a far more appropriate mechanism of minimising land use conflicts in this locality.

Cumulative Impacts

The cumulative impacts of subdividing the subject site are considered to be minimal. The pattern of development will be consistent with likely future patterns of subdivision on land that is zoned as R5.

Site Location

The suitability of the site for residential subdivision has been carefully considered. The findings of the recent court case agrees that the characterisation of the area is a mix of rural and rural residential land and therefore the treatment of the subdivision as a large lot residential development is suitable and consistent with the strategic characterisation of the area.

Based on the approval given the recommendation is to rezone item 1 to R5 Large Lot Residential with a minimum lot size of 1 hectare.

In addition to the zone and minimum lot size the Cartwrights Hill Precinct map will be amended to include the area. The Department in a letter dated 12th February 2015, advised Council to consider inserting a new clause in the Local Environmental Plan that requires Council to consider noise and odour impacts from the Bomen Industrial Estate and sewage treatment facility when assessing development in the residential area of Cartwrights Hill.

The Department recognised the strategic importance of the Bomen Industrial Estate to the City of Wagga and to the region. Amendment No.13 and the Cartwrights Hill Precinct map seeks to protect the industries, but providing development opportunities.

Item 2

In 2011 the Wagga Wagga Interim Joint Regional Planning Panel supported the rezoning of this item to RU6 Transition zone with a 200 hectare minimum lot size. The main planning issue with the Deferred Matter was the proximity of the existing residential land to the Bomen Industrial Estate. The Department of Environment and Climate change raised concerns that future development would increase complaints about industrial odour if the land was fully developed. A RU6 zone and 200 hectare minimum lot size would prevent further subdivision. The intension of a RU6 Transition zone was to reduce conflicts by reducing residential potential.

The proposed RU1 Primary Production zone is consistent with the above mentioned. The RU1 zone will minimise the potential for conflict between four (4) existing residential properties and the Bomen Industrial Estate. The proposed 200 hectare minimum lot size will prevent any further subdivision.

Consistent with the existing adjoining RU1 Primary Production zone, Wagga Wagga Local Environmental Plan 1985 (Amendment No. 41) rezoned most of the four (4) lots to rural.

Section A – Need for the planning proposal

Is the planning proposal a result of any strategic study or report?

The planning proposal for item 1 is the result of a decision made pursuant to a previous planning instrument of Council (Wagga Wagga LEP 1985), and based on legal advice obtained by Council that a refusal of the subdivision would not be defensible in the land and environment court.

Item 2 is not a result of any strategic study or report.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, this planning proposal is the only way to achieve the intended outcomes as an LEP amendment is required.

Section B – Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Does the proposal have strategic merit?

The planning proposal is consistent with the Draft Riverina - Murray Regional Plan. The Draft Plan requires Councils to protect regionally significant industrial land from potential land use conflicts, arising from inappropriate and incompatible surrounding land uses.

Item 1 - Compliance with the conditions of approval of the subdivision application will ensure that the Bomen Industrial Estate is protected from conflicts from future residential land uses.

Item 2 – A 200 hectare minimum lots size will prevent any further subdivision.

Does the proposal have site-specific merit?

The planning proposal has site specific merit.

Item 1 - There are no known significant environmental values, resources or hazards. A 23 lots subdivision has been approved for the site. Services and infrastructure are available in the area.

Item 2 – A dwelling is located on each existing allotment.

Is the planning proposal consistent with the council's local strategy or other local strategic plan?

Community Strategic Plan

The Planning Proposal for item 1 and item 2 is consistent with Council's Ruby and Oliver Community Strategic Plan goal of planning for a resilient and sustainable built environment, including the measure of planning for a growing community.

A further goal is a growing economy. The measure for the goal is providing employment opportunities for all. Limited job creation will occur during the construction of the proposed subdivision; however the limited residential opportunities will protect growth of the Bomen Industrial Area.

Spatial Plan 2013 – 2043

The Planning Proposal is consistent with the following objectives of Council's Spatial Plan 2013 – 2043 endorsed by the Minister for Planning in 2013: -

- Provide opportunities for the community to be informed and involved on decisions impacting on them.

The Planning Proposal will be placed on public exhibition.

- We plan for resilient and sustainable built environments

The Planning Proposal will reduce the residential opportunities and land use complaints.

Is the planning proposal consistent with applicable State Environmental Planning Policies?

There are no relevant State Environmental Planning Policies applicable to this Planning Proposal.

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

The following directions are not applicable to the Wagga Wagga Local Government Area:

- 1.4 Oyster Aquaculture
- 2.2 Coastal Protection
- 4.1 Acid Sulfate Soils
- 4.2 Mine Subsidence and Unstable Land
- 5.1 Implementation of Regional Strategies
- 5.2 Sydney Drinking Water Catchments
- 5.3 Farmland of State and Regional Significance on the NSW Far North Coast
- 5.4 Commercial and Retail Development along the Pacific Highway, North Coast
- 5.8 Second Sydney Airport: Badgerys Creek
- 5.9 North West Rail Link Corridor
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Item 1

Relevant directions are assessed against the proposed amendments in the table below:

S117 Direction	Consistency?
3.1 Residential Zones	Item 1 is inconsistent with the direction. Large lot residential housing will reduce the choice of building types and locations available in the housing market and not make efficient use of existing infrastructure and services. The inconsistency is relatively minor.
3.4 Integrating Land Use and Transport	Item 1 is consistent with the direction. The land provides access to housing in close proximity to employment opportunities

Item 2

Relevant directions are assessed against the proposed amendments in the table below:

S117 Direction	Consistency?
3.4 Integrating Land Use and Transport	Item 2 is consistent with the direction. The land provides access to housing in close proximity to employment opportunities.

Section C – Environmental, social and economic impact

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?

No critical habitats or threatened species, populations or ecological communities will be affected by the planning proposal.

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

There are no known environmental effects.

Has the planning proposal adequately addressed any social and economic effects?

Undeferring the land and including in the Deferred Matter areas of item 1 and item 2 in the WWLEP 2010 will facilitate a zoning appropriate for Cartwrights Hills. There will be no known impacts on schools, hospitals or retail centres in the area. The nearest European listed heritage item is located at Wattle Vale Farm to the south. There will be no impact on the farm. Aboriginal items / places of significance have been identified further south in North Wagga Wagga. These items and places will not be affected.

Section D – State and Commonwealth interests.

Is there adequate public infrastructure for the planning proposal?

Item 1

Conditions of approval of the Development Application will ensure that there is adequate infrastructure.

Item 2

The planning proposal will restrict further subdivision of the area. The existing public infrastructure is adequate.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The views of State and Commonwealth public authorities will be sought once the Gateway Determination has been issued.

PART 4 – MAPPING

The planning proposal for item 1 and 2 seeks to amend the following maps:

Land Zoning Map

- LZN_003E

Lot Size Map

- LSZ_003E

Precinct Map

- CHP_003E

Council requests the ability to lodge the template maps at S59 stage rather than prior to exhibition. The maps provided in Appendix 1 are detailed enough for public exhibition purposes.

Maps for Public Exhibition purposes are provided in Appendix 1.

PART 5 – COMMUNITY CONSULTATION

The Planning Proposal will be placed on public exhibition and a notice placed in the local newspaper. Affected and adjoining land owners will also be notified of the Planning Proposal. Whilst this planning proposal is considered to be minor in nature, it is considered that a 28 day exhibition period is more suitable.

The public consultation process will only occur once comments have been received from following Government agencies:

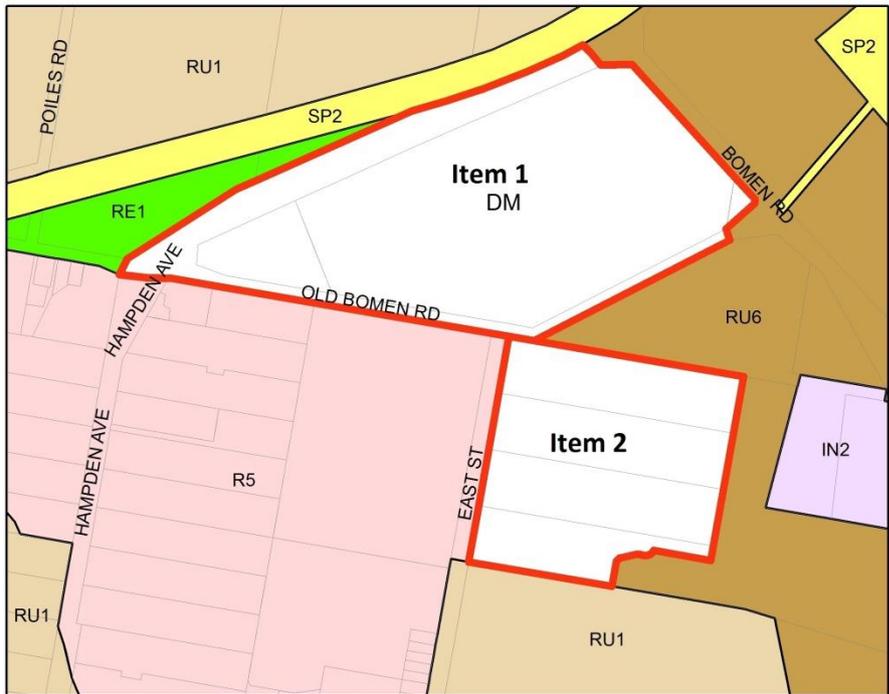
- NSW Environmental Protection Agency

PART 6 – PROJECT TIMELINE

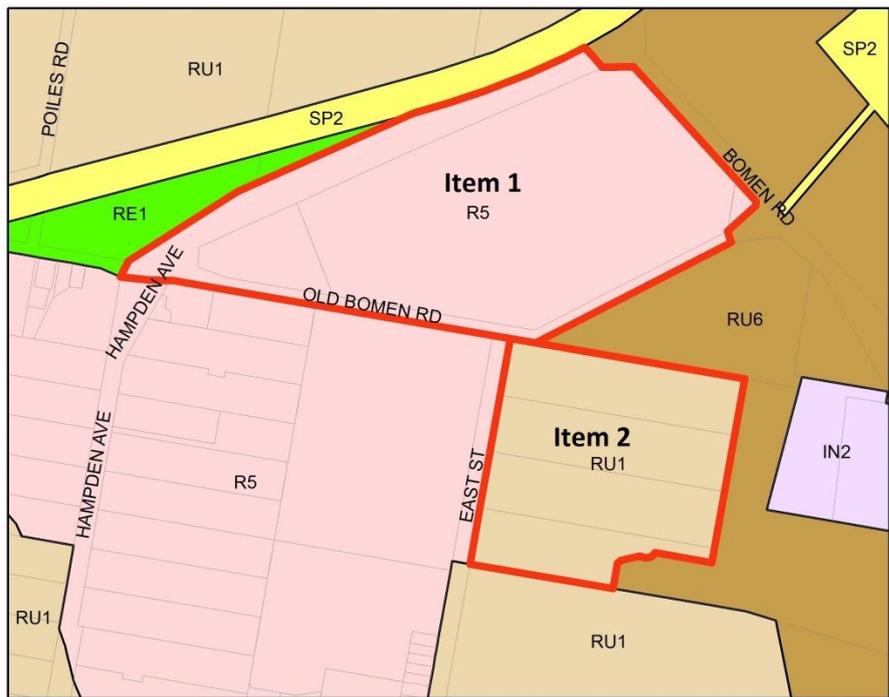
STAGE	TIMING
Anticipated commencement date	December 2016
Anticipated timeframe for completion of required technical information	February 2017
Timeframe for government agency consultation	March 2017
Commencement and completion dates for public exhibition period	April 2017
Dates for public hearing	N/A
Timeframe for consideration of submissions	May 2017
Timeframe for consideration of a proposal post exhibition	June 2017
Date of submission to the Department to finalise the LEP	July 2017
Anticipated date RPA will make the plan	August 2017
Anticipated date RPA will forward to the Department for notification	September 2017

Appendix 1: Public Exhibition Mapping

Land Zoning



Current Zoning



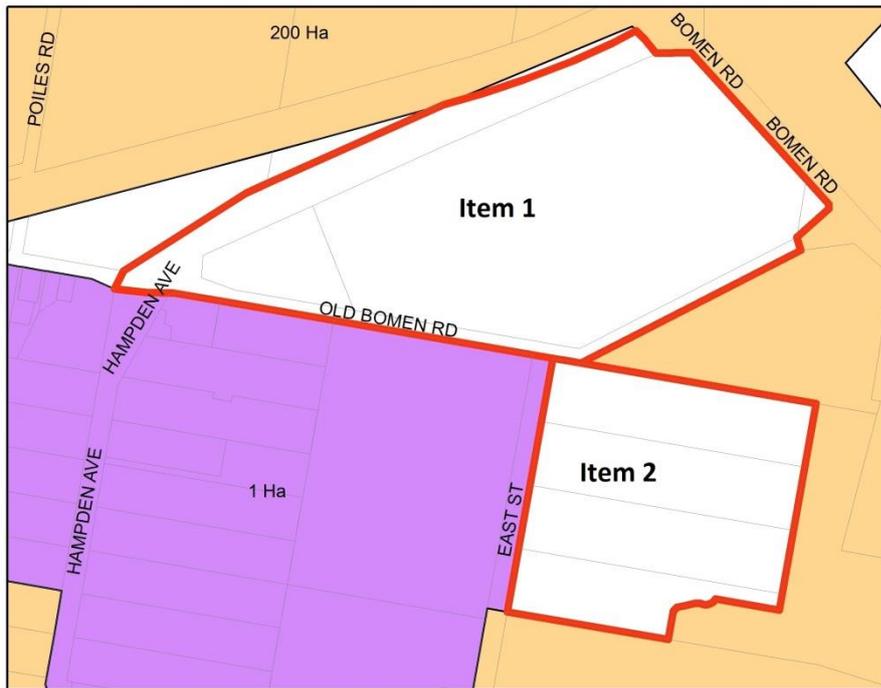
Proposed Zoning

Legend

- Cadastre
- Proposed Change
- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- B6 Enterprise Corridor
- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- E4 Environmental Living
- IN1 General Industrial
- IN2 Light Industrial
- R1 General Residential
- R3 Medium Density Residential
- R4 High Density Residential
- R5 Large Lot Residential
- RE1 Public Recreation
- RE2 Private Recreation
- RU1 Primary Production
- RU2 Rural Landscape
- RU3 Forestry
- RU4 Rural Small Holdings
- RU5 Village
- RU6 Transition
- SP1 Special Activities
- SP2 Infrastructure
- W1 Natural Waterways
- W2 Recreational Waterways
- UL Unzoned Land



Minimum Lot Size



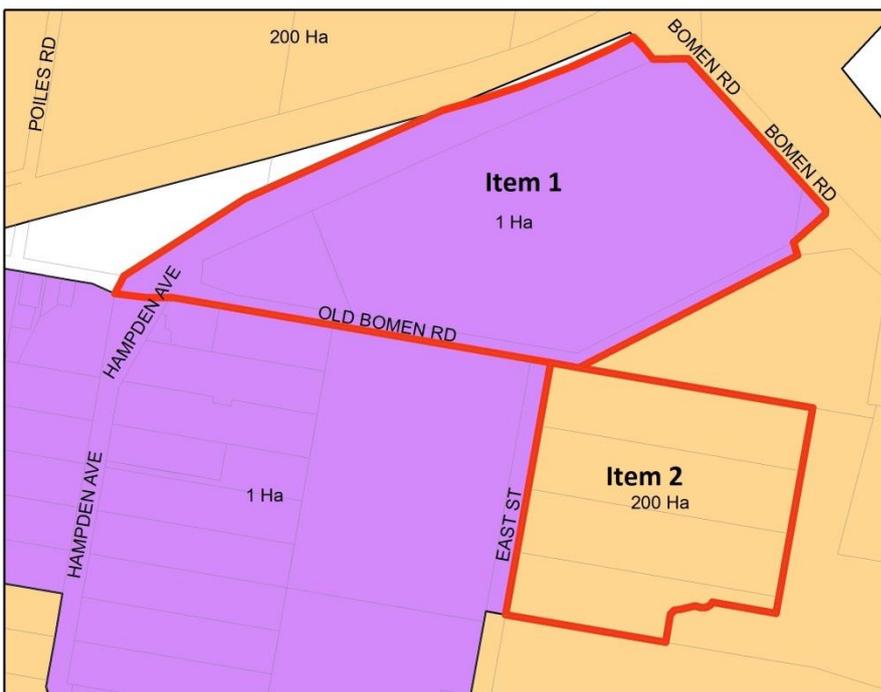
Current Minimum Lot Size

Legend

- Cadastre
- Proposed MLS Change

Minimum Lot Size

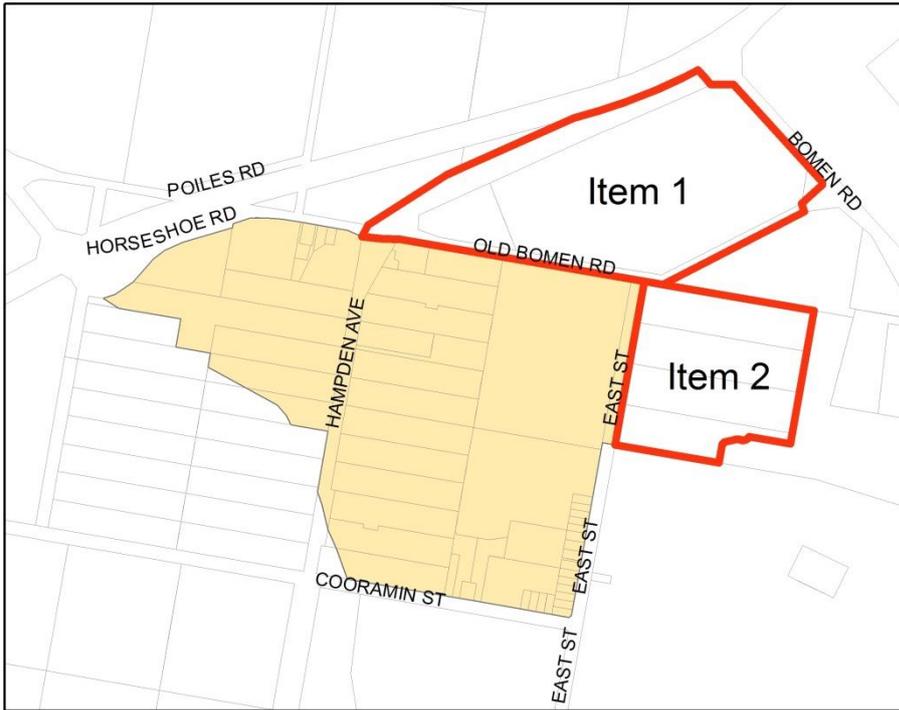
- 0.1 Ha
- 0.12 Ha
- 0.14 Ha
- 0.2 Ha
- 0.4 Ha
- 0.6 Ha
- 1 Ha
- 2 Ha
- 3 Ha
- 8 Ha
- 40 Ha
- 80 Ha
- 200 Ha



Proposed Minimum Lot Size



Cartwrights Hill Precinct Map



Current Precinct



Proposed Precinct

Legend

 Cartwrights Hill Precinct



0 100 200 400
Meters

Appendix 2: Council Reports and Minutes

Report submitted to the Policy and Strategy Committee Meeting on Monday 11 April 2016.

PSRP-1

REPORTS FROM STAFF

PSRP-1 DA16/0007 - 23 LOT RESIDENTIAL SUBDIVISION AT 1-101 OLD BOMEN ROAD CARTWRIGHTS HILL NSW 2650

Author: Gray, Amanda
General Manager: Eldridge, Alan

Recommendation

That Council approve Development Application DA16/0007, 23 Lot Residential Subdivision at 1-101 Old Bomen Road, Cartwrights Hill, subject to conditions outlined in the Section 79C Assessment Report for DA16/0007.

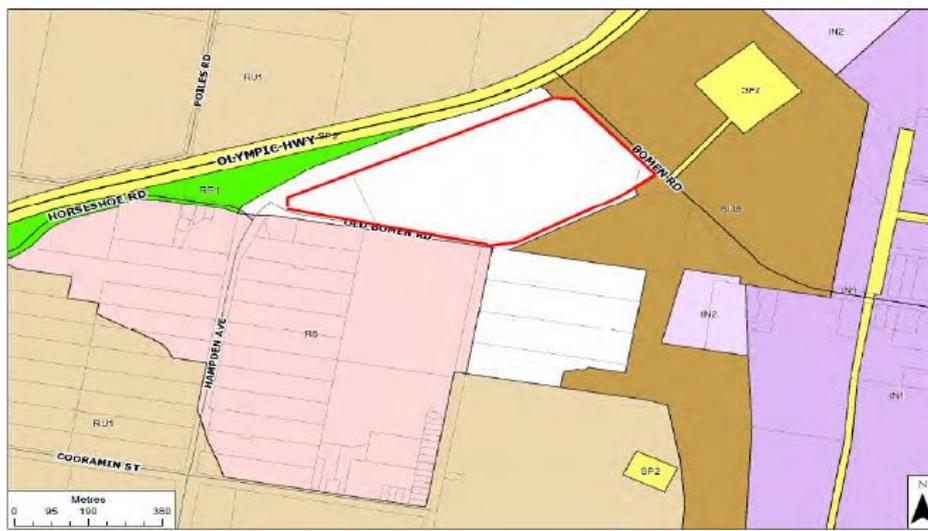
Applicant	Mrs Trudie Gilbert
Owner	Trudie Gilbert, Janet Wilks, Amanda Evans
Development Cost	\$500,000

Assessment

Criteria for the Development Application Report

The General Manager has requested that the report be presented to Council for determination.

Site Location



Policy

Wagga Wagga Local Environmental Plan 1985.
Wagga Wagga Development Control Plan 2005.

QBL Analysis

For a complete analysis of the social, environmental and economic considerations please refer to s79C Report, attached.

Risk Management Issues from the Council

- Refusal of the application will result in an immediate appeal process in the Land and Environment court which will have to be defended by Council. The reasons for refusal will have to be justified and withstand scrutiny and cross examination in court.
- Costs would be associated with defending such an appeal in relation to both the employment of a planning consultant and legal representation.
- There are perceived land use conflict issues associated with this development and future industrial development at Bomen.

Each of these issues are discussed in further detail within the attached s79c Assessment Report.

Internal / External Consultation

See the Section 79C Assessment report for full details of all consultation.

Link to Strategic Plan

4. We have a sustainable natural and built environment

4.2 We plan for resilient and sustainable built environments

Attachments

1. DA16-0007 s79C Assessment Report - Provided under separate cover
2. DA16-0007 Proposed Subdivision Layout - Provided under separate cover
3. DA16-0007 Proposed Staging Plan - Provided under separate cover
4. DA16-0007 Noise Level Contours for Bomen Industrial Estate - Provided under separate cover
5. DA16-0007 Odour Unit contours for Bomen Industrial Estate - Provided under separate cover

REASON: Because it is in the public interest that road naming within residential areas follow Council's Road and Suburb Naming Policy. Section 79C(1)(e) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

36. **Wagga Wagga City Councils Engineering Guidelines for Subdivisions and Development shall be referred to for the design of engineering requirements. Any aspect of the design which is not covered in Councils document should reference relevant specifications selected from other sources. Any aspect of the design that is not in accordance or not covered in council's document shall be listed and submitted with the plans for separate approval.**

NOTE: Satisfaction of this condition will not be completed until the relevant Local Traffic Committee minutes are endorsed by the Council

REASON: So that Council may ensure that the design and construction is in accordance with Councils requirements and for the information of the emergency services. Section 79c (l) (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- b **amend the current Cartwrights Hill deferred Area Planning Proposal from RU1 Rural to R5 Large Lot Residential to reflect the outcomes of the Development Application DA16/0007 determination and notify the Department of Planning and Environment of the amended gateway application**

RECORD OF VOTING ON DEVELOPMENT OR PLANNING MATTERS - SECTION 375A(3) LOCAL GOVERNMENT ACT 1993

For the Motion

R Kendall
Y Braid
A Brown
G Conkey OAM
P Funnell
G Hiscock
K Pascoe
K Poynter
D Tout

Against the Motion

CARRIED

**PSRP-7 PLANNING PROPOSAL TO REZONE DEFERRED AREAS TO RU1
PRIMARY PRODUCTION AND AMEND THE MINIMUM LOT SIZE TO
200 HECTARES**

Author: McDonald, David
Director: Crakanthorp, Andrew

Recommendation

That Council:

- a resolve to support the planning proposal to amend the Wagga Wagga Local Environmental Plan 2010**
- b submit the planning proposal to the Department of Planning and Environment for Gateway Determination**

Executive Summary

The Department of Planning and Environment requested Council to rezone the Deferred Matters areas in a letter dated 12 February 2015. The proposal is to rezone the land to RU1 Primary Production and to amend the minimum lot size to 200 hectares (Attachment 1).

Background

The proposed rezoning of land at Cartwrights Hill, including the Deferred Matters has been considered in a series of reports. The Wagga Wagga City Council Planning Panel considered reports in June 2010, September 2010, October 2010, May 2011, February 2012, June 2012, February 2013 and May 2013.

The Southern Joint Regional Planning Panel on 13th October 2013 approved the rezoning of the Deferred Matters at Cartwrights Hill to RU6 Transition and R5 Large Lot Residential with a minimum lot size of 200 hectare and one (1) hectare respectively.

The Department of Planning and Environment's (DP&E) notified Council in a letter received in February 2015 (attachment 2) that Amendment No. 13 of the Wagga Wagga LEP 2010 had been published. The amendment retained approximately 30 hectares of land south of Bomen Road as a Deferred Matter. The DP&E also retained certain land (approximately 15 hectares) east of East Street as a Deferred Matter. The reasons for deferring the RU6 Transition and RU1 Primary Production zoning related to potential economic impacts on land owners and uncertainty regarding the Bomen Industrial Sewerage Treatment Facility (BISTF).

The DP&E at a meeting held on 19 August 2015 supported a generic planning proposal for the area.

Planning Proposal

The site comprises of two (2) sites. The first site is located between old Bomen Road, Bomen Road and the Olympic highway in Cartwrights Hill. The second is located at East Street Cartwrights Hill. The Bomen industrial area is located to the east and south-east.

The land includes: -

Deferred Matter 1

- Lot 1 DP 572883
- Lot 2 DP 612237

Deferred Matter 2

- Lot 1 DP 700660
- Lot 2 DP 700660
- Lot 3 DP 700660
- Lot 4 DP 700660

The proposed amendment to the WW LEP 2010 is to:

- a. Rezone the Deferred Areas at Cartwrights Hill to RU1 Primary Production.*
- b. Amend the minimum lot size to 200 hectares for the RU1 Primary Production Zone, and to depict this on the Lot Size Map.*

Considerations

Bomen Industrial Area

The Bomen Industrial area is an important economic driver for the City of Wagga Wagga. The area contains major transport and logistics based businesses. In 2015 more than 1,900 people were employed in this significant industrial area. Further employment growth is expected once the major intermodal transport facility is constructed.

Bomen Industrial Sewerage Treatment Facility (BISTF)

The BISTF is a pre-treatment facility that treats industrial effluent from the Bomen industrial area. The plant reduces the industrial effluent to domestic strength quality before reaching Council's Narrung Street Treatment Facility. The Narrung Street Treatment facility then reduces the effluent from domestic strength to a suitable quality before discharging into the Murrumbidgee River.

There are no plans in Council's Long Term Financial Plan (10 years) or the Developer Servicing Plan (30 years) to expand the BISTF. New development in the Bomen industrial area could increase the need to improve / expand the BISTF.

Minimum lot Size and Zoning

A significant consideration regarding an appropriate zoning and minimum lot size is the impact from odour and noise pollution from the adjoining Bomen Industrial area and BISTF. Reducing potential impacts on existing and future residents is critical, especially as the Bomen industrial area expands and the need increases for an expanded BISTF.

Potential Land Use Conflict

As mentioned, there is potential for conflict if dwellings are located too close to industrial land uses. Conflicts occur from noise, odour, dust or other pollution generated from industrial activities and the operation of the sewage treatment plant. A buffer between these uses will reduce the potential for conflict. Residents' complaints could prove costly as businesses may need to either suspend operations or rectify the pollution.

Acoustics Assessment

Atkins Acoustics prepared a noise impact assessment for the BISTF in September 2012. This assessment was considered at a Southern Joint Regional Planning Panel meeting held on 16 May 2013. The Panel ultimately approved rezoning the deferred matters areas to RU6 Transition and R5 Large Lot Residential.

The report considered options that would reduce noise exposure to Cartwrights Hill and potential future land uses. At the time the cumulative contribution from the plant would achieve a noise level of more than 10dBA below the assessment intrusion criterion of 40dBA.

The assessment established that for the purpose of buffer zones for R5 Large Lot residential zoned land, 75% of land located north of Old Bomen Road would be noise affected.

Further updated assessments were undertaken as part of the submission to the Land and Environment Court NSW appeal against Council's decision to refuse a Development Application for 26 residential allotments.

Odour Assessment

A Buffer Zone Odour Impacts assessment was prepared by Todoroski Air Sciences Pty Ltd in 8 November 2011. The purpose of the assessment was to investigate impacts from an expanded BISTF and to recommend a buffer to potential residential development. The assessment was based on a developing between 30 to 125 residences. It was established that existing odour levels in the Bomen area are already above DECC criteria. The model predicted that complaints from odour will be quite high.

An important finding of the report was for Council not to increase receptors in the Cartwrights Hill area. A larger buffer west of the BISTF was recommended due to increasing sewage treatment requirements.

Once again further updated assessments were undertaken as part of the submission to the Land and Environment Court NSW appeal against Council's decision to refuse a Development Application for 26 residential allotments.

Protecting the Strategic Significance of the Bomen Industrial Park

The Land and Environment Court NSW recently (28 October 2015) dismissed an appeal against Council's decision to refuse Development Application No 13/0457 for the subdivision of Lot 10 DP 255059, Lot 1 DP 572883 and Lot 2 DP 612237, also known as 1-101 Old Bomen Road, Cartwrights Hill. An important component of the judgement was the '*broader strategic planning direction for the Cartwrights Hill area*'.

Budget

N/A

Policy

Environmental Planning and Assessment Act 1979.
Wagga Wagga Local Environmental Plan 2010.

Impact on Public Utilities

There will be no impact on public utilities.

Link to Strategic Plan**4. We have a sustainable natural and built environment****4.2 We plan for resilient and sustainable built environments****QBL Analysis**

	Positive	Negative
Social	Positive social outcomes will occur from the rezoning because future and existing residents will be protected from noise and odour impacts from the Bomen industrial area and the BISTF.	N/A
Environmental	Positive environmental outcomes will occur by retaining an appropriate buffer between residential properties and the BISTF.	N/A
Economic	Positive economic outcomes will occur because existing and future residents will be protected from potential noise and odours from the Bomen industrial area and BISTF.	N/A
Governance	Resolution of the rezoning and minimum lot size of the Deferred Matters / Areas represents a fair and equitable outcome. This takes into consideration objections to smaller lot sizes and potential impacts from the Bomen industrial estate and the BISTF.	N/A

Risk Management and Work Health and Safety Issues for Council

There are no specific issues identified.

Internal / External Consultation

Consultation with Council's internal LEP working group occurred on 30 September 2015 where the impacts from noise and odour from the Bomen industrial area and the BISTF were discussed. The Atkins Acoustics (2012) report may need to be revised to consider cumulative noise and odour impacts.

Attachments

1. Planning Proposal
2. Letter Department Planning & Environment February 2015

**PSRP-7 PLANNING PROPOSAL TO REZONE DEFERRED AREAS TO RU1
PRIMARY PRODUCTION AND AMEND THE MINIMUM LOT SIZE TO
200 HECTARES**

15/389 RESOLVED:

On the Motion of Councillors K Pascoe and G Hiscock

That Council:

- a support the Planning Proposal to amend the Wagga Wagga Local Environmental Plan 2010**
- b submit the Planning Proposal to the Department of Planning and Environment for Gateway Determination**

**RECORD OF VOTING ON DEVELOPMENT OR PLANNING MATTERS - SECTION
375A(3) LOCAL GOVERNMENT ACT 1993**

For the Motion

R Kendall
Y Braid
A Brown
G Conkey OAM
P Funnell
G Hiscock
J McLaren
A Negline
K Pascoe
K Poynter

Against the Motion

CARRIED

Appendix 3: Information Checklist

STEP 1: REQUIRED FOR ALL PROPOSALS

(under s55(a) – (e) of the EP&A Act)

- Objectives and intended outcome
- Mapping (including current and proposed zones)
- Community consultation (agencies to be consulted)
- Explanation of provisions
- Justification and process for implementation (including compliance assessment against relevant section 117 direction/s)

STEP 2: MATTERS – CONSIDERED ON A CASE BY CASE BASIS

(Depending on complexity of planning proposal and nature of issues)

PLANNING MATTERS OR ISSUES	To be considered	N/A		To be considered	N/A
Strategic Planning Context			Flooding	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consistent with the relevant regional plan, district plan, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Land/site contamination (SEPP55)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consistent with a relevant local council strategy that has been endorsed by the Department; or	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls; or	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sea level rise	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Seeking to update the current planning controls if they have not been amended in the last 5 years.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Urban Design Considerations		
Site Description/Context			Existing site plan (buildings vegetation, roads, etc)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Aerial photographs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Building mass/block diagram study (changes in building height and FSR)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Site photos/photomontage	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Lighting impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Traffic and Transport Considerations			Development yield analysis (potential yield of lots, houses, employment generation)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Local traffic and transport	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Economic Considerations		
TMAP	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Economic impact assessment	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Public transport	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Retail centres hierarchy	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cycle and pedestrian movement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Employment land	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Environmental Considerations			Social and Cultural Considerations		
Bushfire hazard	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Heritage impact	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Acid Sulphate Soil	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Aboriginal archaeology	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Noise impact	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Open space management	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Flora and/or fauna	<input type="checkbox"/>	<input checked="" type="checkbox"/>	European archaeology	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Soil stability, erosion, sediment, landslip assessment, and subsidence	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Social & cultural impacts	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Water quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Stakeholder engagement	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stormwater management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Infrastructure Considerations		
			Infrastructure servicing and potential funding arrangements	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Miscellaneous/Additional Considerations		
			List any additional studies that should be undertaken post Gateway determination		