

**RP-1 PLANNING PROPOSAL TO AMEND THE WAGGA WAGGA LOCAL ENVIRONMENTAL PLAN 2010 - GUMLY GUMLY**

**Author:** Crystal Golden  
**Director:** Natalie Te Pohe

**Summary:** Consider submissions received and the results of a completed cumulative flood impact study for the proposal.

Propose two revised planning proposals and submit to NSW Department of Planning and Environment for revised Gateway Determination to enable further public consultation.

**Recommendation**

That Council:

- a note the submissions and results of the cumulative flood impact study
- b support the revision of two planning proposals for Gumly Gumly to amend the Wagga Wagga Local Environmental Plan 2010
- c revise and submit the two planning proposals to the Department of Planning and Environment for Gateway Determination
- d prepare an amendment to the Wagga Wagga Development Control Plan 2010 to be exhibited alongside the planning proposal, addressing development concerns outlined in the report
- e receive a further report after receiving the revised Gateway Determinations from the Department of Planning and Environment, and the subsequent public exhibition period:
  - i addressing any submissions made in respect of the planning proposals
  - ii proposing adoption of the planning proposals unless there are any recommended amendments deemed to be substantial and requiring a further public exhibition period

**Application Details**

**Submitted Proposal:** Amendment to the Wagga Wagga Local Environmental Plan 2010 to rezone land and remove the minimum lot size.

**Applicant:** RPS Australia East Pty Ltd (Refer to in Attachment 4)

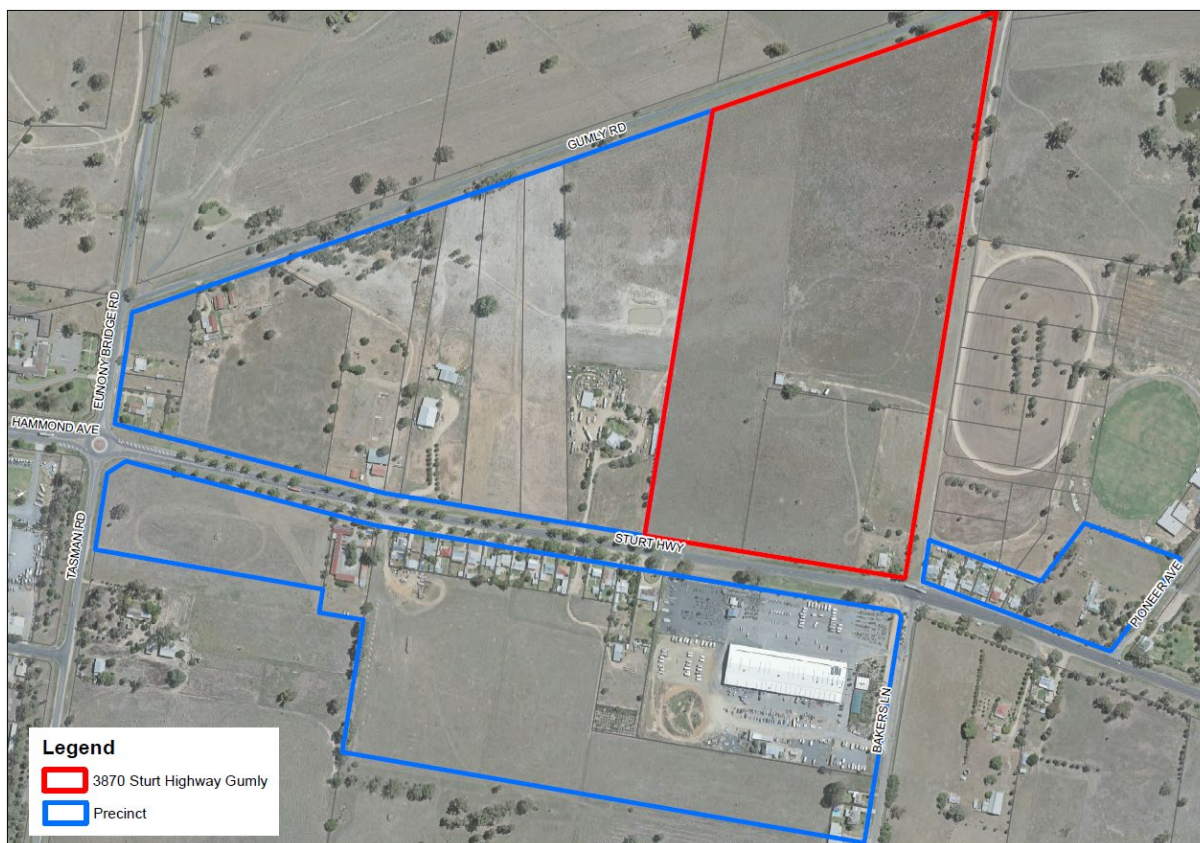
**Land Owners:** Various land owners provided under confidential cover

**Report****The proposal:**

Two planning proposals have received Gateway Determination from the NSW Department of Planning and Environment (DPE) for the following areas:

- 3870 Sturt Highway, Gumly Gumly – Gateway Determination received 2 November 2011
- Gumly Gumly Precinct – Gateway Determination received 9 July 2013

The original proposal areas are shown in the map below:



In 2012, Council was in receipt of an application to amend the Wagga Wagga Local Environmental Plan 2010 (WWLEP) for 3870 Sturt Highway, Gumly Gumly. The application resulted in a planning proposal being submitted to the NSW Department of Planning and Environment (DPE) for Gateway Determination. Gateway Determination was received in 2013 enabling the proposal to proceed subject to conditions.

To support the application for 3870 Sturt Highway, Gumly Gumly, a precinct was identified and submitted to DPE and received Gateway Determination to proceed subject to conditions.

The proposals intended to rezone the identified land from RU1 Primary Production, RE1 Public Recreation and B1 Neighbourhood Centre to B6 Enterprise Corridor and remove the minimum lot size of 200ha.

Formal public consultation has occurred in accordance with the Gateway Determination with the general public and state agencies for 3870 Sturt Highway, Gumly Gumly Planning Proposal. No formal consultation has occurred for the Gumly Gumly Precinct Planning Proposal.

During the consultation period for the 3870 Sturt Highway, Gumly Gumly Planning Proposal, 9 submissions were received and are outlined below under “Internal / External Consultation” with a response. As Council is proposing to revise the planning

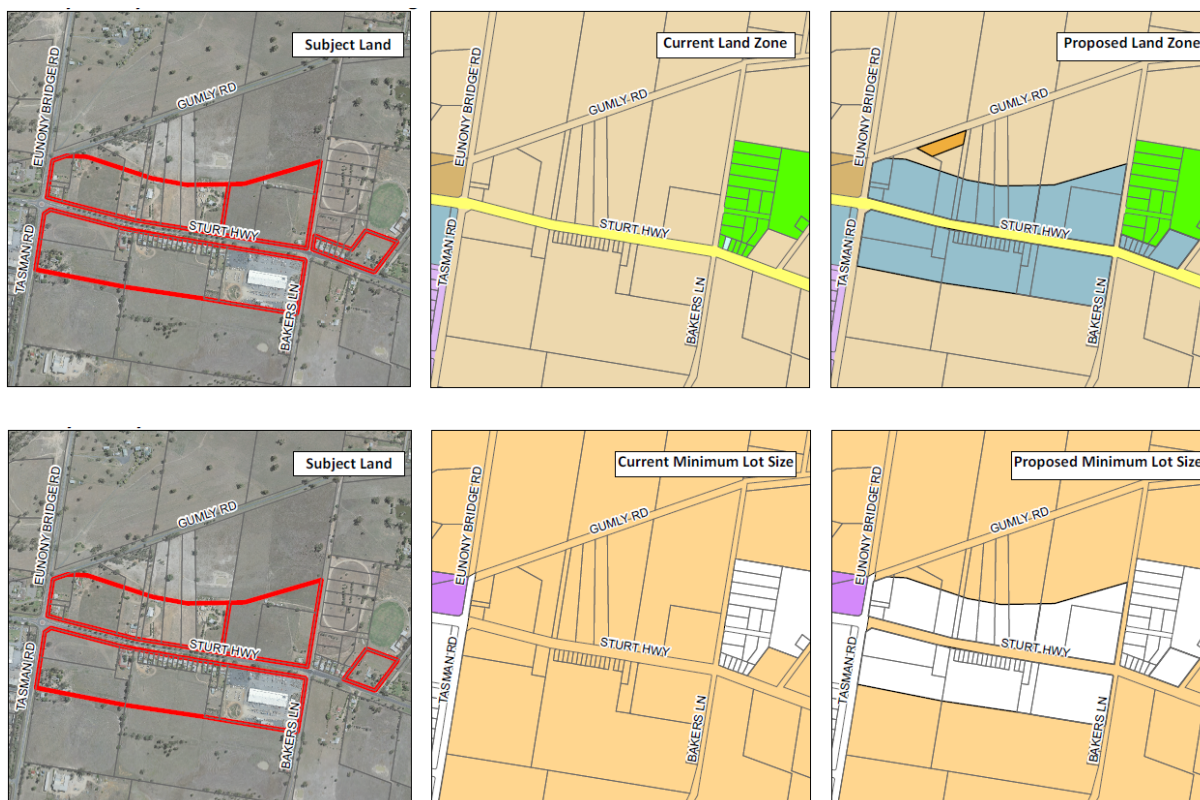
proposal, further consultation with agencies, submitters and affected land owners will be undertaken. No formal public consultation has been undertaken for the precinct proposal.

As a result of the submissions received and the results of the cumulative flood impact study, it is proposed to amend the planning proposal and submit to DPE for a revised Gateway Determination.

The revised amendments intend to achieve the following:

- Rezone lots or part lots from RU1 Primary Production to B6 Enterprise Corridor and remove the 200ha minimum lot size.
- Rezone lots from RE1 Public Recreation to B6 Enterprise Corridor.
- Rezone one lot from B1 Neighbourhood Centre to B6 Enterprise Corridor.
- Rezone part of a lot from RU1 Primary Production to E2 Environmental Conservation.

The revised amendments are show in the maps below:

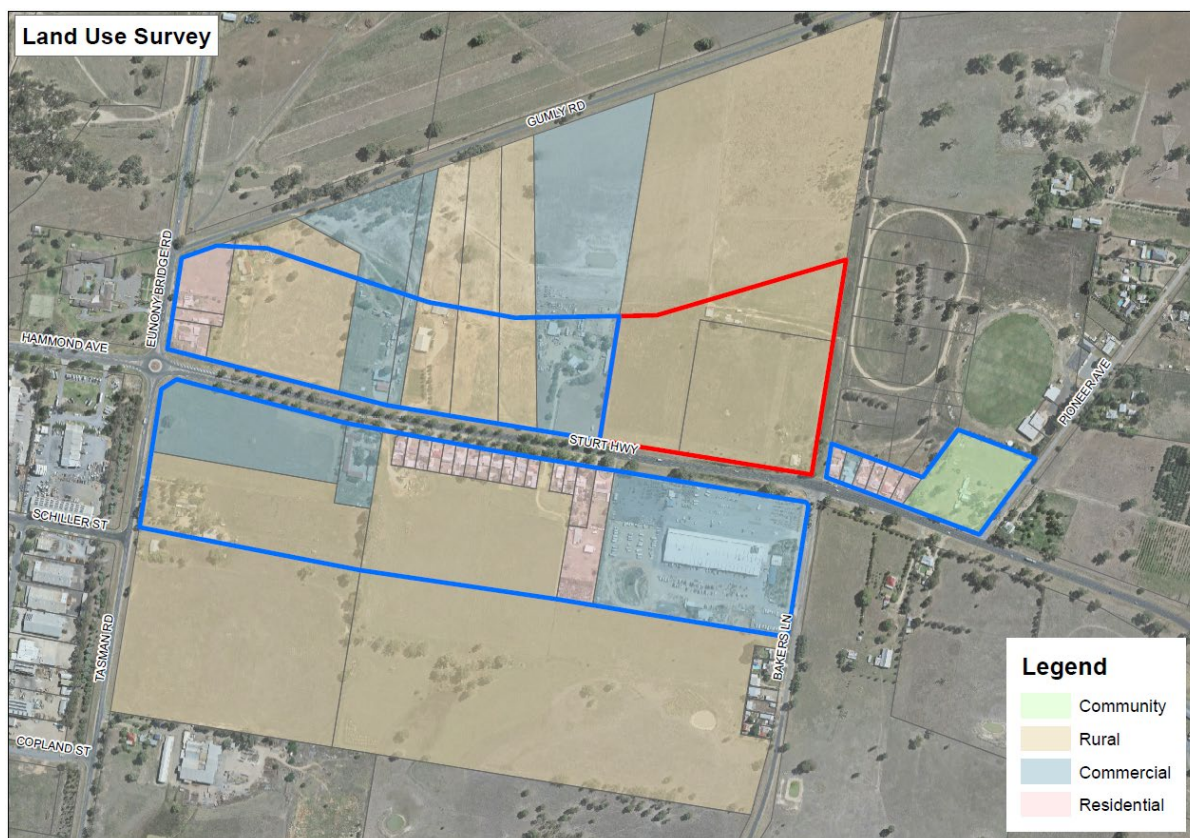


### Site and location:

The subject sites are located on the Sturt Highway, east of the city. The proposed rezoning is a direct extension of the existing eastern employment precinct.

The site currently contains a mix of rural, commercial, community and residential land uses, as shown in the map below:





### Key considerations:

Council staff assessment has considered the following:

#### 1. B6 Enterprise Corridor zone and competition with the central business district:

The objectives of the B6 Enterprise Corridor zone are 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 maintain the effective operation and function of main roads and limit opportunities for additional access to and from the Sturt Highway.
- To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are close to, and support the viability of centres.
- To facilitate the development of large-scale business premises that do not detract from the core commercial functions of the Wagga Wagga central business district.
- To protect the primacy of the Wagga Wagga central business district.
- To facilitate a mix of uses along the Sturt Highway that services the need of the travelling public.

Other zones were considered for this area, and the B6 Enterprise Corridor is considered the most appropriate zoning and will protect the central business district and function of the Sturt Highway.

The B6 Enterprise Corridor zone will provide opportunities for a clear entrance to be established for the city and is an extension of an existing B6 Enterprise Corridor west of the precinct.

## 2. Loss of agricultural land

The land is not currently used for prime agricultural purposes, nor is it likely to be used for prime agricultural purposes in the future. The majority of the sites are currently being used for residential and commercial purposes.

The proposal to rezone RU1 Primary Production land will not result in the loss of prime agricultural land. The land is identified as Class 2. The NSW Office of Environment and Heritage "The land and soil capability assessment scheme" identifies that Class 2 is very high capability land with slight limitation that can be managed by readily available, easily implemented management practices. The land is capable of most land uses and land management practices, including intensive cropping with cultivation. Whilst the land has a Class 2 categorisation, the existing use of the land and potential for land use conflicts, limits the areas ability to be used for prime agricultural purposes.

## 3. Flooding

The site is subject to riverine flooding as identified in Council's Floodplain Risk Management Plan and Study. As part of the Gateway Determination conditions, staff have consulted with the Office of Environment and Heritage on flooding matters. As a result of this consultation, a cumulative flood impact assessment (attached) for the site has been undertaken alongside the review of the Floodplain Risk Management Plan and Study.

The purpose of the cumulative flood impact study was to assess the cumulative impacts of land raising and building development within the precinct to ensure the proposed zoning will not have significant impacts on flooding upstream or downstream of the precinct.

The assessment originally included five scenarios and a revised preferred scenario was also modelled. In each scenario, the rezoned land was filled to the final 5% annual exceedance probability (AEP) level plus 500mm freeboard, in accordance with the current policy for land in the adjacent eastern employment precinct.

The original assessment identified that scenario 4 was the preferred scenario as it resulted in little or no flood impacts. The scenario avoids areas identified as floodway, a key recommendation of the Floodplain Development Manual and the NSW Government's Flood Prone Land Policy. The original Scenario 4 was determined by the low and no hazard areas identified in the 2014 Flood Model adopted by Council. The revised scenario 4 was developed for the final assessment which refined scenario 4 based on hydraulic categorisation (floodway) defined in the Wagga Wagga Revised Murrumbidgee River Flood Risk Management Study, resulting in the southern rezoning area being extended further towards the southern floodway.

The final assessment assumed that each vacant lot that is currently zoned for development is filled to the 5% AEP level plus 500mm freeboard. This ensured an accurate assessment of the cumulative impacts of the Gumly Gumly rezoning.

Whilst the revised scenario 4 enables greater opportunities for the site and avoids floodway hydraulic categorisation in accordance with the Floodplain Development Manual, the scenario results in greater increases in flood levels on adjoining areas. For these reasons the planning proposal is recommended to proceed with the original scenario 4 zoning configuration.

The current Wagga Wagga Development Control Plan 2010 (DCP) applies a range of controls to ensure development is compatible with the existing flood risk. Currently, flood risk on the proposed rezoning site would most appropriately be managed by complying with the controls currently set for Gumly Gumly and in particular low impact commercial development. These controls are consistent with the Flood Risk Management Study and its review of the current Development Control Plan.

To support this planning proposal, Council is currently undertaking an amendment to the DCP to ensure the existing flood controls are updated in line with the recommendations of the Revised Wagga Wagga Floodplain Risk Management Study and Plan (2018). This will also ensure the flood controls apply to the subject land.

Full flooding details are included in the planning proposal.

#### 4. Vegetation

A patch of River Red Gum has been identified within the area of the broader precinct and has been recommended for protection by the Office of Environment and Heritage. As part of the planning proposal, an E2 Environmental Conservation zone is proposed to protect the threatened species.

#### 5. Maintaining effective operation and function of the Sturt Highway

The Roads and Maritime Services (RMS) have indicated that the number of access points to the Sturt Highway are to be minimised and the use of local roads should be encouraged. Council supports this and will ensure that the DCP provides controls that ensure the area is developed in consultation with RMS to ensure access points are minimised.

#### Conclusion:

An assessment has been undertaken (Attached) and has determined that the planning proposal is supported for the following reasons:

- It will facilitate development that is consistent with the Wagga Wagga 2018 Flood Risk Management Plan and Study and NSW Flood Plain Development Manual.
- The proposal is consistent with Council's adopted strategies.
- It is consistent with the relevant S117 Ministerial Directions.

#### **Financial Implications**

The planning proposal for 3870 Sturt Highway, Gumly Gumly is the result of an application to amend the Wagga Wagga Local Environmental Plan 2010. The application was lodged in 2011 and attracted an application fee of \$5,000 during the

2011/2012 financial year. The planning proposal for the precinct was generated internally and did not attract any application fees.

## Policy and Legislation

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

## Link to Strategic Plan

### The Environment

Objective: We plan for the growth of the city

Outcome: We have sustainable urban development

### Risk Management Issues for Council

An approval of the proposal may be subject to public scrutiny during the public consultation process and may put additional pressure on Council to consider the increase in the height of building provisions throughout the local government area.

### Internal / External Consultation

The most recent Councillor Workshop was held on 6 May 2019 to discuss the planning proposals.

Formal public consultation and Agency consultation has been undertaken in accordance with the Gateway Conditions. As this report is recommending a revised planning proposal be submitted for a revised Gateway Determination, additional formal consultation will occur after the revised Gateway Determination is received.

Standard internal referrals were undertaken with the original planning proposals. The planning proposals have now been altered as a result of submissions received and the completed flood study. As Gateway Determinations have been received for these proposals, no further internal consultation is proposed.

Submissions received during public consultation are summarised in the table below:

Submissions received		
Submitter	Comment	Response
Office of Environment and Heritage (OEH) Submissions dated <ul style="list-style-type: none"> <li>▪ 6/3/2013</li> <li>▪ 10/11/2014</li> <li>▪ 2/12/2014</li> </ul>	<ul style="list-style-type: none"> <li>▪ Does not support the proposal due to a number of outstanding issues relating to flood modelling and cumulative impacts of development on the Gumly Gumly Floodplain.</li> <li>▪ The planning proposal should be deferred until the issue with the revised 'Rating Curve' is resolved and remodelling is completed to better understand the flooding issues and impacts at the proposed rezoning site.</li> </ul>	<p>Agreed.</p> <p>The planning proposal has been delayed significantly to address the flooding concerns. The Gumly Gumly cumulative flood assessment was delayed pending the finalisation of the Wagga Wagga 2018 Revised Flood Risk Management Plan and Study to ensure correct modelling of the impacts.</p>

		<p>It is believed that this now addresses the original concerns raised.</p> <p>OEH have been involved in finalising the Gumly Assessment.</p>
	<ul style="list-style-type: none"> <li>Does not oppose the planning proposal, however, recommends rezoning a patch of River Red Gum identified on Lot 2 DP 829057 to E3 Environmental Management.</li> </ul>	<p>Noted – the rezoning is included in the precinct planning proposal.</p>
	<ul style="list-style-type: none"> <li>Notes that the proposal will have no effect on the conservation of areas, objects or places of indigenous heritage significance, but has concerns with subsequent development resulting from the rezoning if objects are present.</li> <li>Requests that a detailed cultural heritage assessment be undertaken with consideration to soil type and the potential for the land to have been used by Aboriginal people. Should an assessment not be carried out prior to rezoning, it will need to be completed as part of 'due diligence' required as part of a development application.</li> </ul>	<p>It is considered that the development application stage is appropriate for detailed cultural heritage assessment and 'due diligence'.</p>
<p>Catchment Management Authority Murrumbidgee (CMA)</p> <p>Dated 27/2/2013</p>	<ul style="list-style-type: none"> <li>CMA has a statutory role in the assessment of proposals that may involve the clearing / removal of native vegetation under the Native Vegetation Act 2003. The proposal will remove CMA from the statutory role.</li> <li>Recommends Council investigate potential protection requirements with OEH.</li> <li>Recommend council consider mechanisms, such as tree preservation orders that would protect significant habitat native trees from future developments.</li> </ul>	<p>Agreed.</p> <p>Since the original planning proposal, new biodiversity legislation has been introduced providing greater protection and changed approval processes.</p> <p>It is considered that the new legislation is adequate enough to provide protection during subsequent development of the site.</p>
<p>Local Land Services (LLS)</p> <p>Dated 17/10/2014</p>	<ul style="list-style-type: none"> <li>No significant issues.</li> <li>Any clearing of native vegetation should be avoided and / or minimised wherever possible.</li> <li>Consider rehabilitating the landscape through revegetation activities utilising endemic</li> </ul>	<p>Agree.</p> <p>The new biodiversity legislation has been introduced and will address clearing.</p> <p>Revegetation can be addressed as part of</p>



	<p>species that will also ensure minimal impact on soil erosion and water quality.</p> <ul style="list-style-type: none"> <li>Consider any threatened communities and threatened species habitat.</li> </ul>	<p>development application assessment.</p> <p>OEH have indicated a patch of River Red Gum to be rezoned and this is included in the precinct planning proposal.</p>
<p>Roads and Maritime Services (RMS) Dated 30/10/2014</p>	<ul style="list-style-type: none"> <li>RMS has a policy to minimise the number of vehicular access points to the Sturt Highway and/or encourage the use of local road for access.</li> <li>RMS promotes the strategic approach to rezoning and subdivision of the site to provide for connectivity within the various stages of subdivision of land and integration of access provision for the development of adjoining sites and minimise the need for access directly to the Classified Road network.</li> <li>Council needs to consider the short and long term options for the road network and consider the location of a gateway treatment to Wagga Wagga, the importance of Bakers Lane and whether access to the subject site from the Sturt Highway is to be provided via a 4 way intersection at Bakers Lane or new intersection offset from the current intersection of Bakers Lane with the Sturt Highway</li> </ul>	<p>Agreed.</p> <p>Council will consider the access options and include within the DCP in consultation with RMS.</p>
<p>Resident Dated 20/1/2013</p>	<ul style="list-style-type: none"> <li>Need to address localised flooding caused by existing developments.</li> <li>There are no drainage systems for the site. Additional drainage needs to be installed.</li> <li>The houses north of the Sturt Highway is odd to be included and suggests the owners wouldn't agree with the rezoning.</li> <li>Understands Council's wants to beautify the approach to Wagga Wagga, but does not believe this will occur with the amount of rubbish around.</li> <li>Agree that development is good for the city but it must not be at</li> </ul>	<p>Council notes the concerns regarding flooding impacts and this has been considered as part of the cumulative flood impact assessment.</p> <p>In terms of existing developments, this relates to current development application approvals and not this planning proposal. Any future development applications will be subject to the relevant development controls.</p> <p>Further consultation will be undertaken.</p>

	the expense of existing and established rate payer.	
Progress Association Dated 8/2/2013	<ul style="list-style-type: none"> <li>▪ The rezoning will introduce industry in the corridor and impact on the traffic conditions and safety of residents that live within the precinct.</li> <li>▪ Concerns are raised about the flood impacts on residents living within the area.</li> <li>▪ Questions whether rates will be increased if the property is not being used for commercial purposes.</li> <li>▪ How will the land use conflicts be managed with new industries and existing residences?</li> </ul>	<p>The traffic concerns are noted and further work will be undertaken with RMS to ensure the DCP contains appropriate provisions.</p> <p>The flooding impacts have been addressed as part of the cumulative flood impact study.</p> <p>Residents will have the ability to request that the rate change be deferred.</p> <p>Land use conflicts will be addressed through the development application process.</p>
Habitat Planning (Submission to 3870 Sturt Highway proposal) Dated 14/11/2014	<ul style="list-style-type: none"> <li>▪ There are inconsistencies with the mapping and land descriptions of the exhibited material.</li> <li>▪ Seeks Council's support to rezone the broader precinct to the north.</li> <li>▪ The detailed flood model provision completed in March 2014 provides the analysis of flooding in Gumly Gumly that can be used to determine developable land and the request for the rezoning to extend to the precinct.</li> </ul>	

Proposed consultation methods are indicated in the table below:

	Mail			Media				Community Engagement					Digital				
	Rates notices insert	Direct mail	Letterbox drop	Council news story	Council News advert	Media releases	TV/radio advertising	One-on-one meetings	Your Say website	Community meetings	Stakeholder workshops	Drop-in sessions	Surveys and feedback forms	Social media	Email newsletters	Website	Digital advertising
TIER																	
Consult		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>											<input checked="" type="checkbox"/>	

## Attachments

1. Land Owners Details

*This matter is considered to be confidential under Section 10A(2) of the Local Government Act 1993, as it deals with: personnel matters concerning particular individuals.* - Provided under separate cover

2. Gumly Gumly Cumulative Flood Impact Study - Provided under separate cover

3. Assessment Report - Gumly Gumly Planning Proposal - Provided under separate cover

4. Applicant Details

## **REPORTS FROM STAFF**

### **RP-1 PLANNING PROPOSAL TO AMEND THE WAGGA WAGGA LOCAL ENVIRONMENTAL PLAN 2010 - GUMLY GUMLY**

#### **19/171 RESOLVED:**

On the Motion of Councillors D Hayes and K Pascoe

#### **That Council:**

- a note the submissions and results of the cumulative flood impact study**
- b support the revision of two planning proposals for Gumly Gumly to amend the Wagga Wagga Local Environmental Plan 2010**
- c revise and submit the two planning proposals to the Department of Planning and Environment for Gateway Determination**
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- e receive a further report after receiving the revised Gateway Determinations from the Department of Planning and Environment, and the subsequent public exhibition period:**
  - i addressing any submissions made in respect of the planning proposals**
  - ii proposing adoption of the planning proposals unless there are any recommended amendments deemed to be substantial and requiring a further public exhibition period**

**CARRIED**

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

#### For the Motion

Y Braid OAM  
G Conkey OAM  
P Funnell  
D Hayes  
V Keenan  
R Kendall  
K Pascoe

#### Against the Motion