

# **Wagga Wagga City Council**

## **Planning Proposal**

### **Amendment to the Wagga Wagga Local Environmental Plan 2010**

**Gumly Gumly – 3870 Sturt Highway, Gumly Gumly**

**Date of Planning Proposal:**

Revised Planning Proposal  
27 May 2019

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## Separate Attachments

- 1 – RPS Planning Proposal – Rezoning Application
- 2 – Gumly Gumly Cumulative Impact Assessment
- 3 – Habitat Assessment, Bushstone-Curlew Gumly Gumly
- 4 – Agency Submissions

## INTRODUCTION

Council is in receipt of an application (provided as attachment 1) to amend the Wagga Wagga Local Environmental Plan 2010 (WWLEP) for 3870 Sturt Highway, Gumly Gumly.

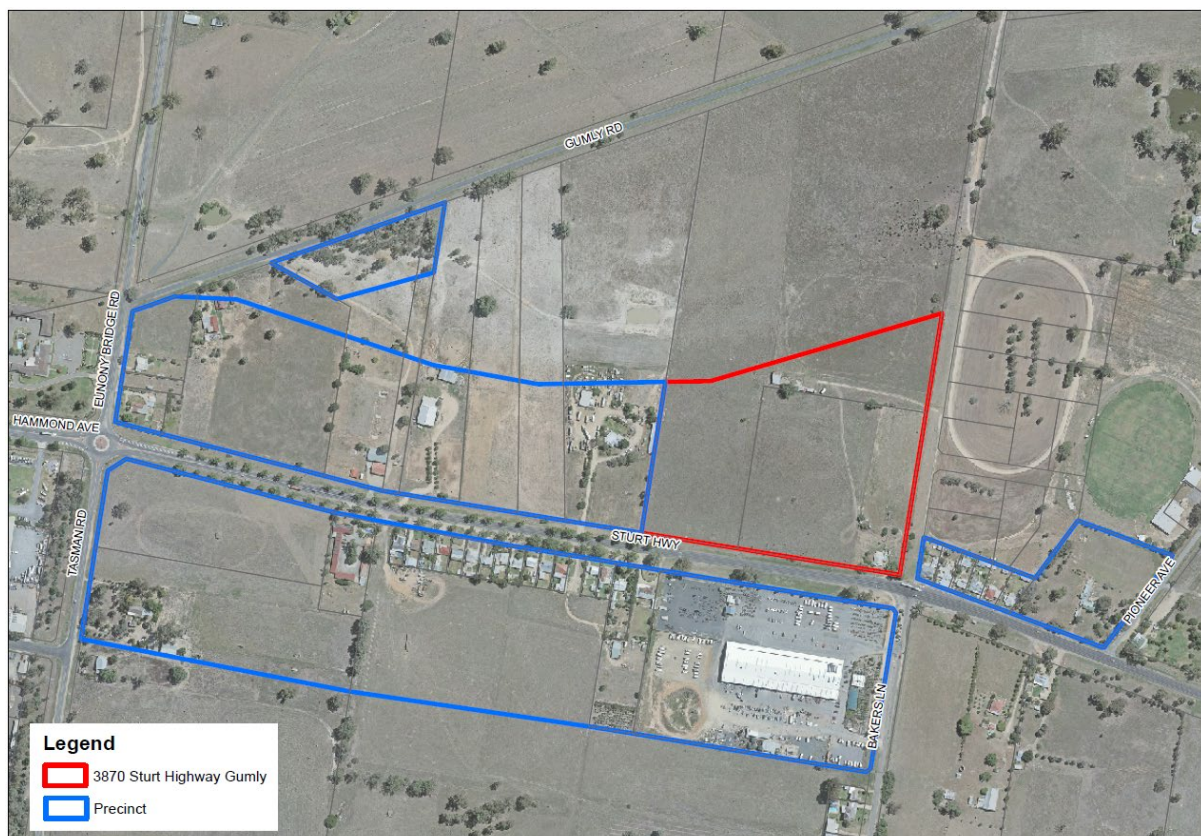
The application was received in 2012 and a planning proposal was prepared and submitted for Gateway Determination in May 2013. A Gateway Determination was received in July 2013 with conditions regarding the planning proposal and community consultation. As a result of consultation, a cumulative flood study has been completed and the planning proposal has been amended as a result of the study results. This revised planning proposal is submitted for a revised Gateway Determination.

**Note:** Whilst this planning proposal is for one property (two lots), a separate planning proposal has been submitted to consider rezoning of a broader precinct that will support this planning proposal. If both planning proposals are supported, the gazettal will be staged to ensure there are no issues with new legislated mapping.

Two planning proposals are proposed:

- 3870 Sturt Highway, Gumly Gumly (this planning proposal)
- Gumly Gumly Precinct (separate planning proposal)

The planning proposal areas are identified below:



## PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The planning proposal proposes to amend the land zoning and minimum lot size for part of Lot 1 DP 305732 and Part of Lot 1 DP 1085667, 3870 Sturt Highway, Gumly Gumly.

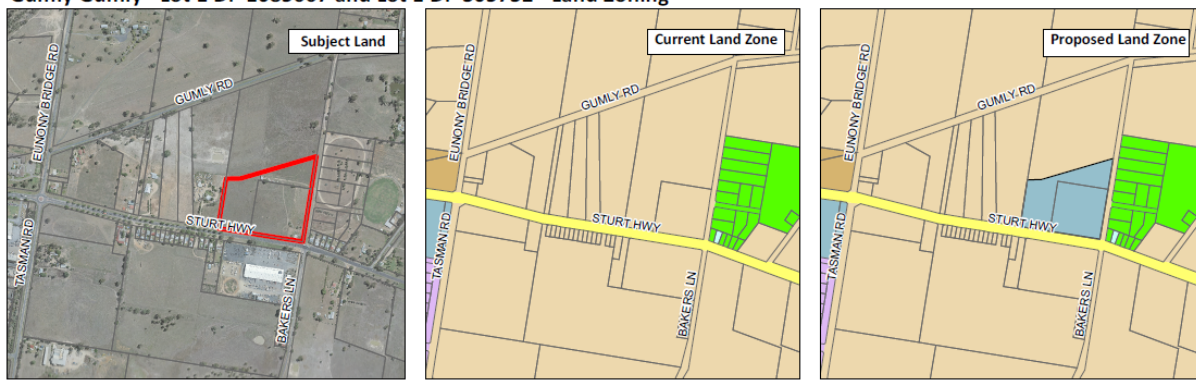
## PART 2 – EXPLANATION OF THE PROVISIONS

The proposed outcome will be achieved by amending maps sheets LZN\_004F and LSZ\_004F in the WWLEP by:

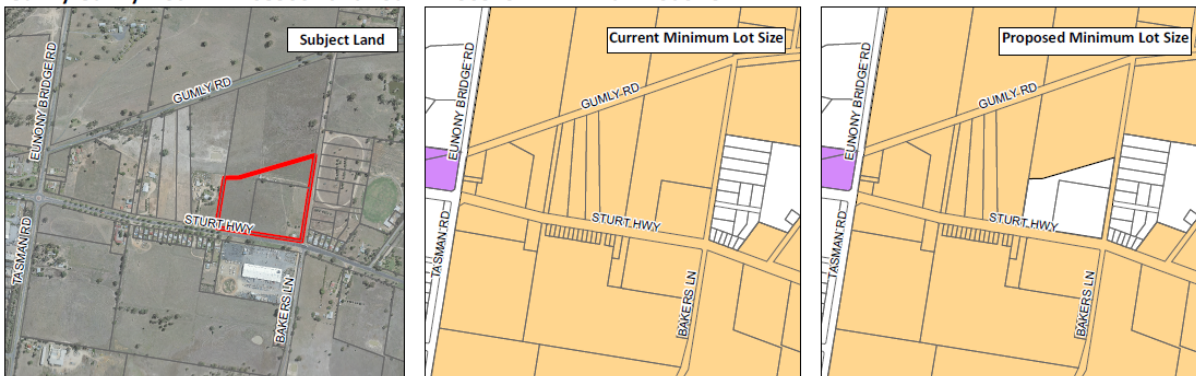
- Rezoning part of the lots from RU1 Primary Production to B6 Enterprise Corridor
- Removing the 200ha minimum lot size from part of the lots

The mapping showing the intended provisions is shown below:

Gumly Gumly - Lot 1 DP 1085667 and Lot 1 DP 305732 - Land Zoning



Gumly Gumly - Lot 1 DP 1085667 and Lot 1 DP 305732 - Minimum Lot Size



## PART 3 – JUSTIFICATION

### Section A – Need for the planning proposal

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

The application for this rezoning was submitted with the following:

- Traffic impact assessment
- Infrastructure assessment
- Flood impact study



- Proposed rezoning plan
- Macroplan Economic Report

The original application is provided with this planning proposal.

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

A planning proposal is the only way to achieve the intended outcomes. The current zoning and minimum lot size limit the opportunities for the subject land. The site is not considered to be of appropriate size for sustainable agricultural uses and the existing character within the precinct is not that of agriculture. The area has a mix of urban developments and a rezoning will help establish a clear entry to the city.

Without rezoning, the intended use for a larger commercial precinct cannot be achieved. The proposed rezoning will result in land being used as an enterprise corridor precinct, acting as a Gateway to the city of Wagga Wagga.

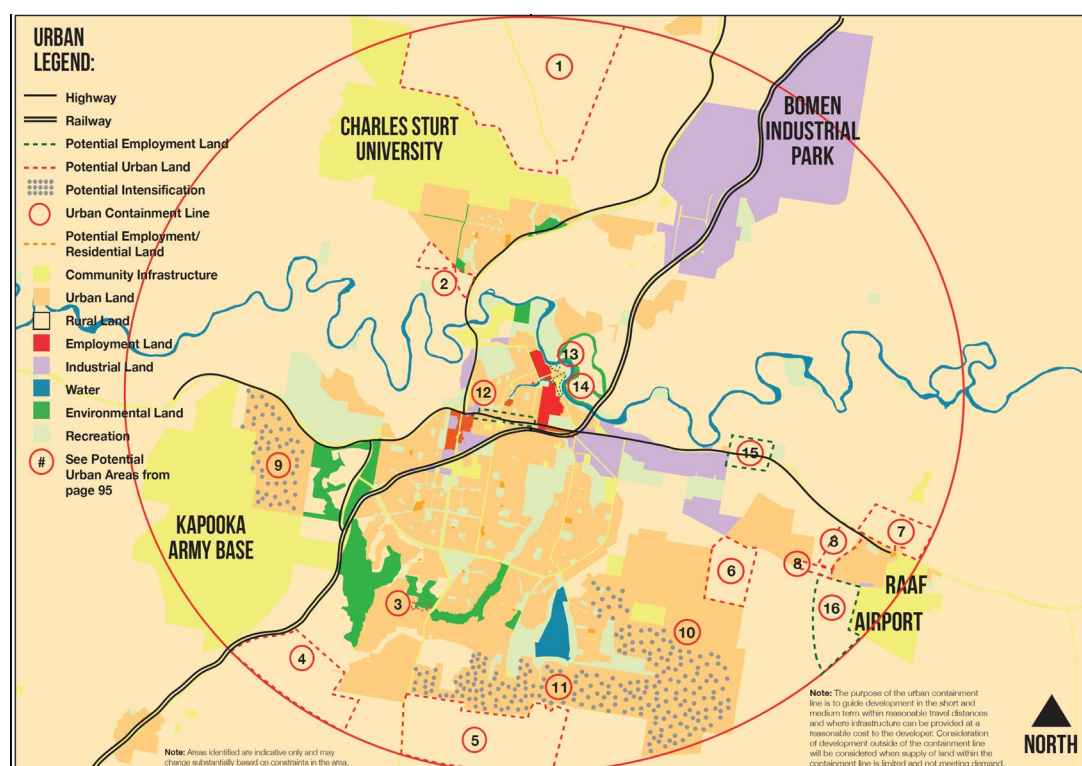
## **Section B – Relationship to strategic planning framework**

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

The planning proposal is consistent with the Riverina Murray Regional Plan, Direction 22 – Promote the growth of regional cities and local centres as it is increasing the amount of employment land within the city which will encourage future investment and increased job opportunities and services.

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

The subject land is identified in Councils Endorsed Spatial Plan 2013-2043 as potential employment land, shown as area 15 on the Spatial Plan map below:



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

The relevant State Environmental Planning Policies (SEPP) are assessed in the below table:

STATE ENVIRONMENTAL PLANNING POLICY	COMPLIANCE
SEPP 55 – Remediation of land	The planning proposal is proposing to rezone land from RU1 Primary Production to B6 Enterprise Corridor. There is no known contamination on the subject land, however, unknown past agricultural uses can potentially cause contamination. For the purposes of rezoning, it is considered that this planning proposal is consistent with the SEPP as no contamination has been identified.
SEPP – Rural Lands 2008	<p>The planning proposal is consistent with this SEPP as the land proposed to be rezoned is not productive or sustainable agricultural land.</p> <p>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. 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.</p>

**Is the planning proposal consistent with applicable Ministerial Directions (s. 9.1 directions)?**

The relevant Section 9.1 Ministerial Directions are assessed in the below table:

DIRECTION	COMPLIANCE
1.1 Business and Industrial Zones	Consistent - The planning proposal is proposing to apply a business zone to the subject land, it is not proposing to reduce the amount of land zoned for business purposes.
1.2 Rural Zones	<p>Inconsistent – The planning proposal is inconsistent with this direction as it proposes to rezone land from a rural zone to a business zone. The inconsistency is justified by the Wagga Wagga Spatial Plan 2013-2043 which considers the direction and identifies the land as potential employment land. The Spatial Plan is approved by the Director-General of the Department of Planning.</p> <p>Consultation with the NSW Catchment Management Authority during the consultation period for 3870 Sturt Highway has identified that removing the rural zone will also remove protection of significant vegetation. As a result, this revised planning proposal is proposing an environmental zone over the patch of vegetation identified within the precinct.</p>

1.5 Rural Lands	Inconsistent – The planning proposal is inconsistent with this direction as it proposes to rezone land from a rural zone to a business zone. The inconsistency is justified by the Wagga Wagga Spatial Plan 2013-2043 which considers the direction and identifies the land as potential employment land. The Spatial Plan is approved by the Director-General of the Department of Planning.
3.4 Integrating Land Use and Transport	<p>Consistent – The planning proposal is consistent with this direction as it will increase access to jobs within the city. The subject area is located on the Sturt Highway which is a public transport route and will be accessible by the proposed active travel route.</p> <p>NSW Roads and Maritime Services were consulted as part of the consultation period for 3870 Sturt Highway. As a result, it is considered that the function of the Sturt Highway can be maintained through development controls that require local access roads to service the needs of local developments and properties.</p>
3.5 Development Near Regulated Airports and Defence Airfields	Consistent – The planning proposal is consistent with this direction as the land is not within the Wagga Wagga ANEF contours.
4.3 Flood Prone Land	<p>Inconsistent – The planning proposal is inconsistent with this direction as it proposed to rezone flood prone land from rural to business. The rezoning is consistent with Council's adopted Flood Risk Management Plan and Study that was developed in line with NSW Flood Prone Land Policy and Floodplain Development Manual 2005 and therefore the inconsistency is considered minor.</p> <p>The proposed B6 Enterprise Corridor zone avoids the hydraulic categorisation of floodway in a 1% AEP event. In addition, a cumulative flood impact study indicates that development in the area will not result in significant flood impact to other properties.</p> <p>The cumulative flood impact study was prepared in conjunction with the Revised Wagga Wagga Flood Risk Management Plan and Study 2018 to ensure consistent modelling data.</p> <p>Consultation with NSW Office of Environment and Heritage was undertaken during the consultation period for 3870 Sturt Highway. This consultation resulted in the completion of a cumulative flood impact study to assess impacts of the rezoning.</p> <p><b>Note:</b> Further information is provided at the end of this table to justify the inconsistency as minor.</p>
5.10 Implementation of Regional Plans	Consistent – The planning proposal is consistent with this direction as it is proposing to increase job opportunities within the city by increasing the amount of business zoned land.



### **Additional compliance information - 4.3 - Flood Prone Land:**

A Cumulative Flood Impact Assessment (**Attachment 2**) was undertaken and completed in November 2018. The assessment expands on the flood study provided with the application and uses the most recent flood modelling adopted as part of Council's Flood Risk Management Plan and Study. The purpose of the assessment 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 zoning scenarios and a preferred scenario was identified. For each of the five original scenarios and the revised preferred scenario, the rezoned land was filled to the final 5% annual exceedance probability (AEP) level plus 0.5m freeboard, in accordance with the current policy for land in the adjacent Eastern Industrial Precinct.

The original assessment identified that scenario 4 was the preferred scenario as it resulted in little or no flood impacts across three flood events. 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 a freeboard of 500mm. This ensured an accurate assessment of the cumulative impacts of the Gumly Gumly rezoning.

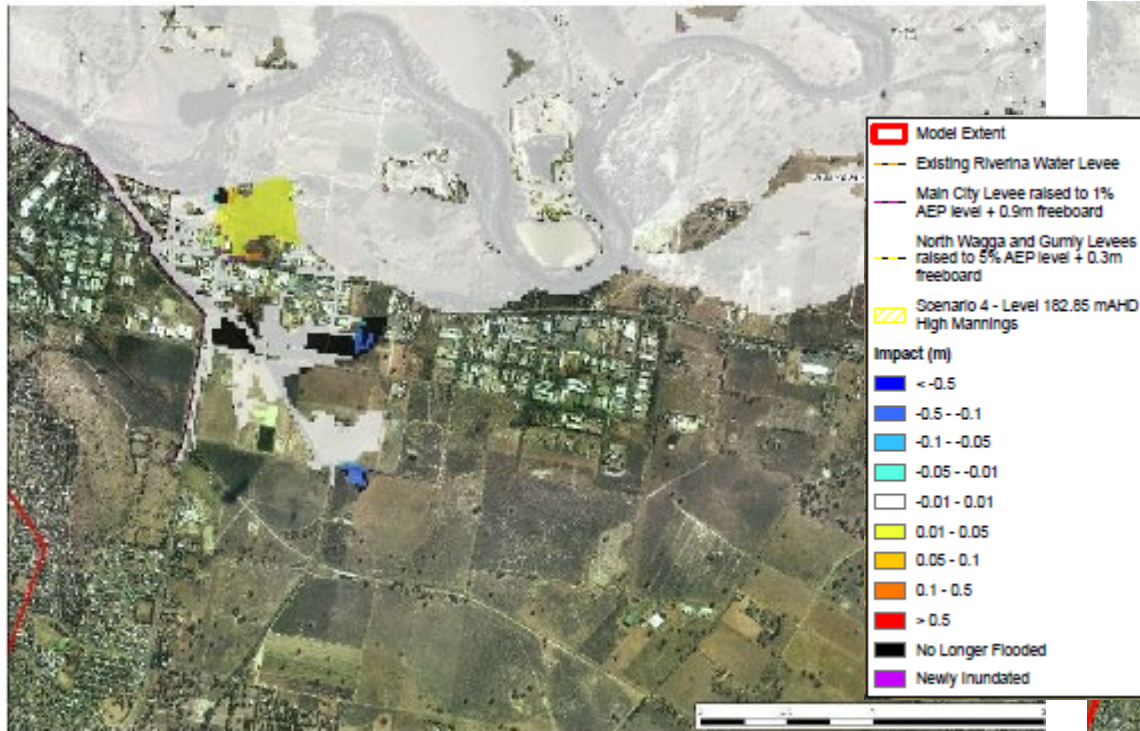
Scenario 4 resulted in the following impacts for the 0.2% AEP, 1% AEP and 5% AEP flood events:

- 0.2% - small area of marginal decrease in flood levels (up to 0.05m reduction) west of the site. Marginal increase in flood level (up to 0.05m increase) to the east and south of the site.
- 1% - Small area of marginal decrease in flood levels (up to 0.05m reduction) immediately north west of the site. Marginal increase in flood level (up to 0.05m increase) to the east, south and west of the site.
- 5% - No impact.

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 retaining the existing Scenario 4 rezoning extent.

The cumulative impacts of the existing eastern industrial area are shown below for the 5% and 1% AEP events alongside the impacts of Scenario 4 rezoning in Gumly Gumly. The model demonstrates that the rezoning will have minimal or improved impact to flood levels as a result of development and fill of the subject area.

**Existing industrial zoned area – assumed 50% fill**

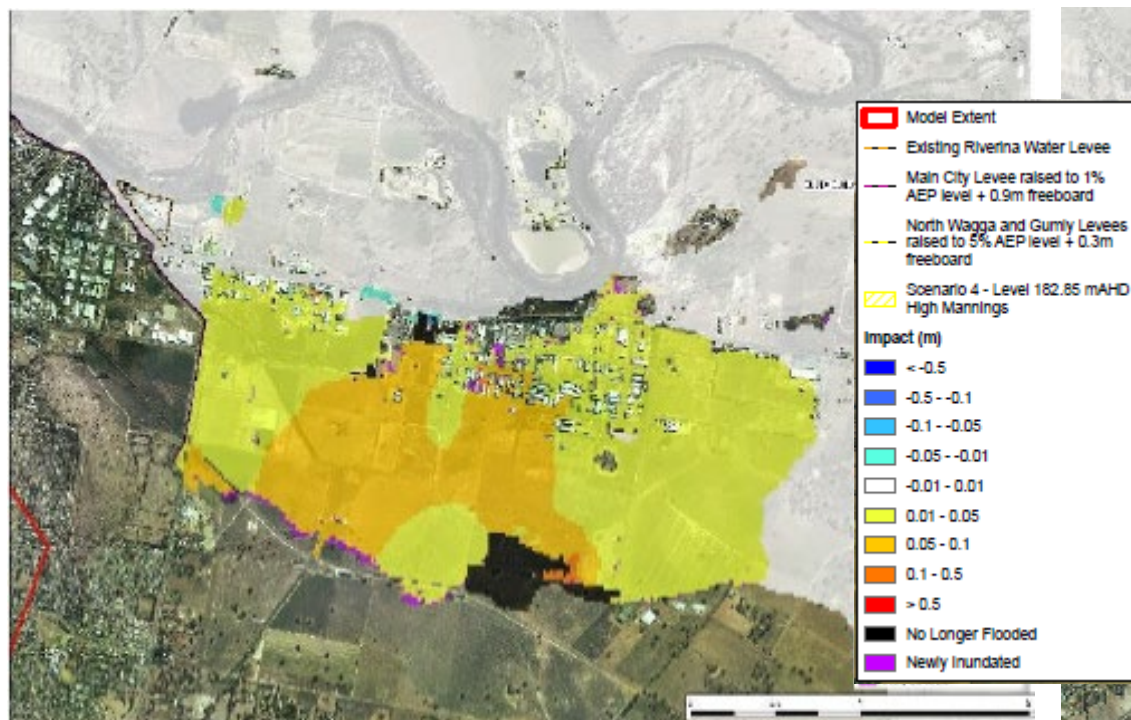


**Scenario 4 - Proposed B6 Enterprise Corridor zoning**

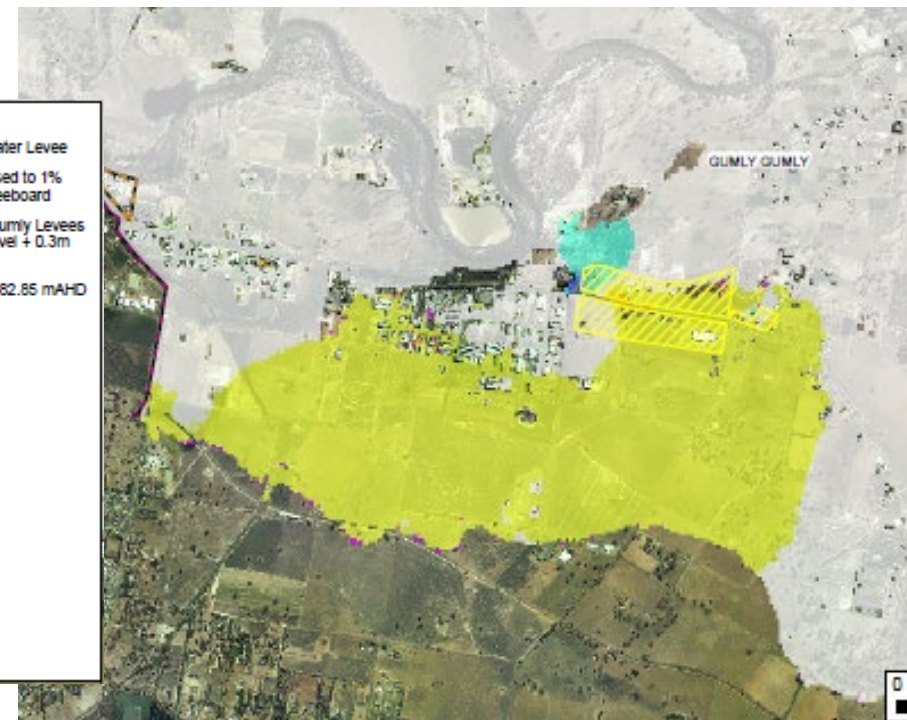




**Existing industrial zoned area – assumed 50% fill**



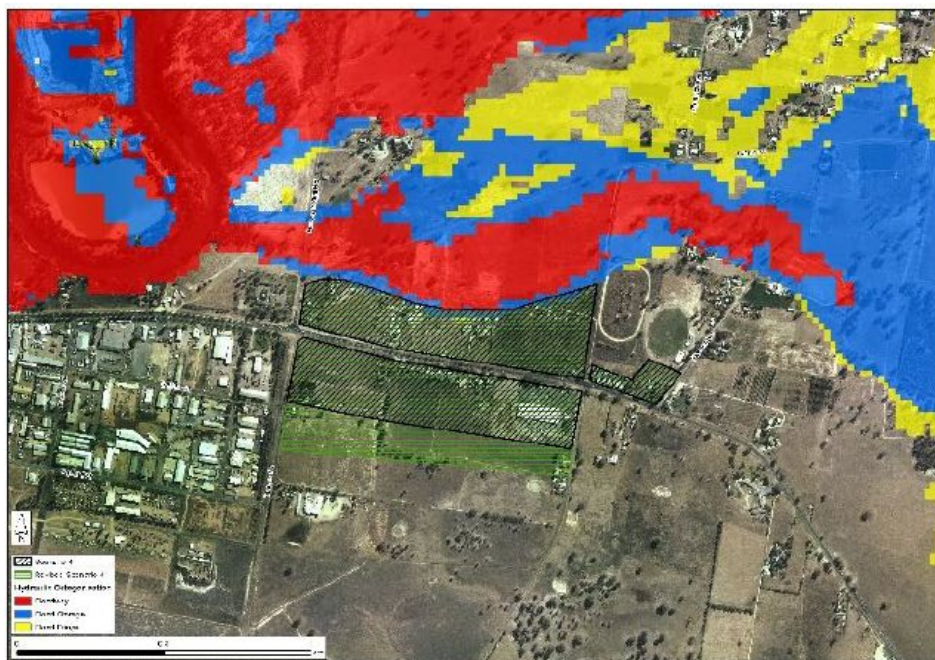
**Scenario 4 - Proposed B6 Enterprise Corridor zoning**



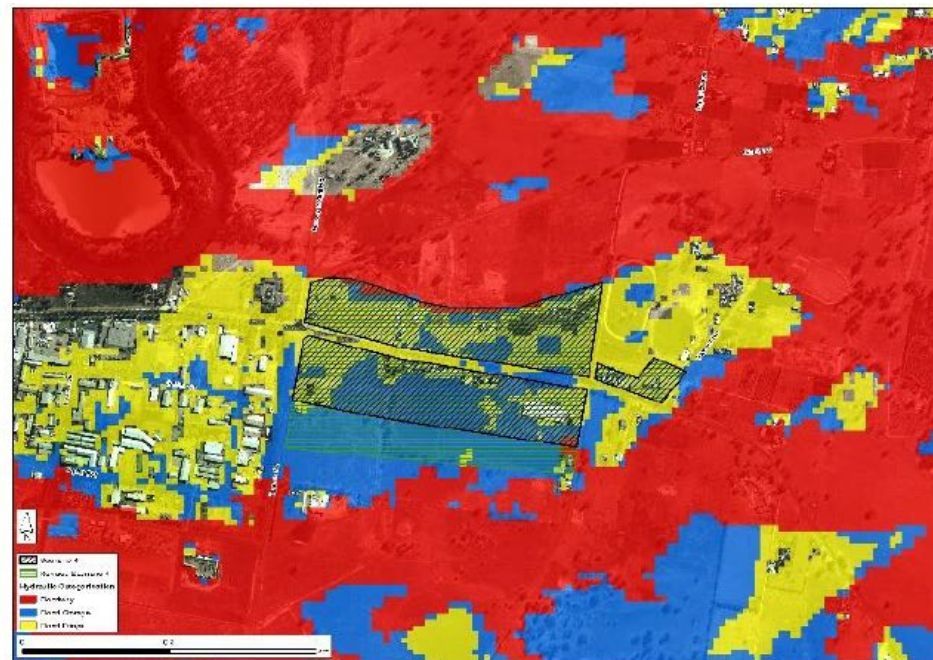
The current Wagga Wagga Development Control Plan 2010 (DCP) applies a range of controls to ensure development is compatible with the existing flood risk. Currently, flood risk on the rezoned land would most appropriately be managed by complying with the criteria currently set for Gumly Gumly, and in particular low impact commercial development. These controls are consistent with the objectives of 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 applicable controls will apply to the subject site. Council is currently undertaking a review of the flood controls in line with the recommendations of the 2018 Revised Flood Risk Management Plan and Study.

### Hydraulic Categorisation 5% AEP Event



### Hydraulic Categorisation 1% AEP Event



Floodway hydraulic categorisation is identified as red colour.

Any minor overlap of the B6 Enterprise Corridor zone with the floodway shown above can be managed through design of development at development application stage.





## **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?**

There are no known critical habitat or threatened species, populations or ecological communities, or their habitats that will be affected as a result of the proposal.

A study (Attachment 3) on the likely presence of Bush Stone-curlew on three sites was undertaken in August 2012. The study concluded that the sites provide, at best, poor quality potential foraging and roosting habitat for the Bush Stone-curlew. No breeding habitat is considered present due to past, present and likely future disturbance and land use regimes.

A patch of River Red Gum has been identified within Lot 2 DP 829057 of the broader precinct. This patch of vegetation is connected to scattered paddock trees to other River Red Gum along the Murrumbidgee River which contain records of a number of threatened species. The Office of Environment and Heritage have recommended this area be zoned E3 Environmental Management. Council's Local Environmental Plan does not apply the E3 Environmental Management zone within the local government area, however, the E2 Environmental Conservation zone will achieve greater protection and prohibit a number of uses that could have the potential to affect the vegetation identified. This revised planning proposal does not propose to apply the B6 Enterprise Corridor zone to the area identified as having significant vegetation.

### **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 other likely environmental affects as a result of the planning proposal.

The key environmental considerations for the site relate to flooding and are addressed throughout the planning proposal. The proposed rezoning configuration avoids identified River Red Gum, high hazard risk flooding areas and floodway areas.

Should there be additional environmental considerations that arise out of the proposed development permitted by this planning proposal, these issues can be addressed at the development assessment stage once a development application has been lodged.

### **How has the planning proposal adequately addressed any social and economic effects?**

This amendment is not considered to have impacts on existing schools or hospitals. There are no known items or places of European or Aboriginal Cultural heritage.

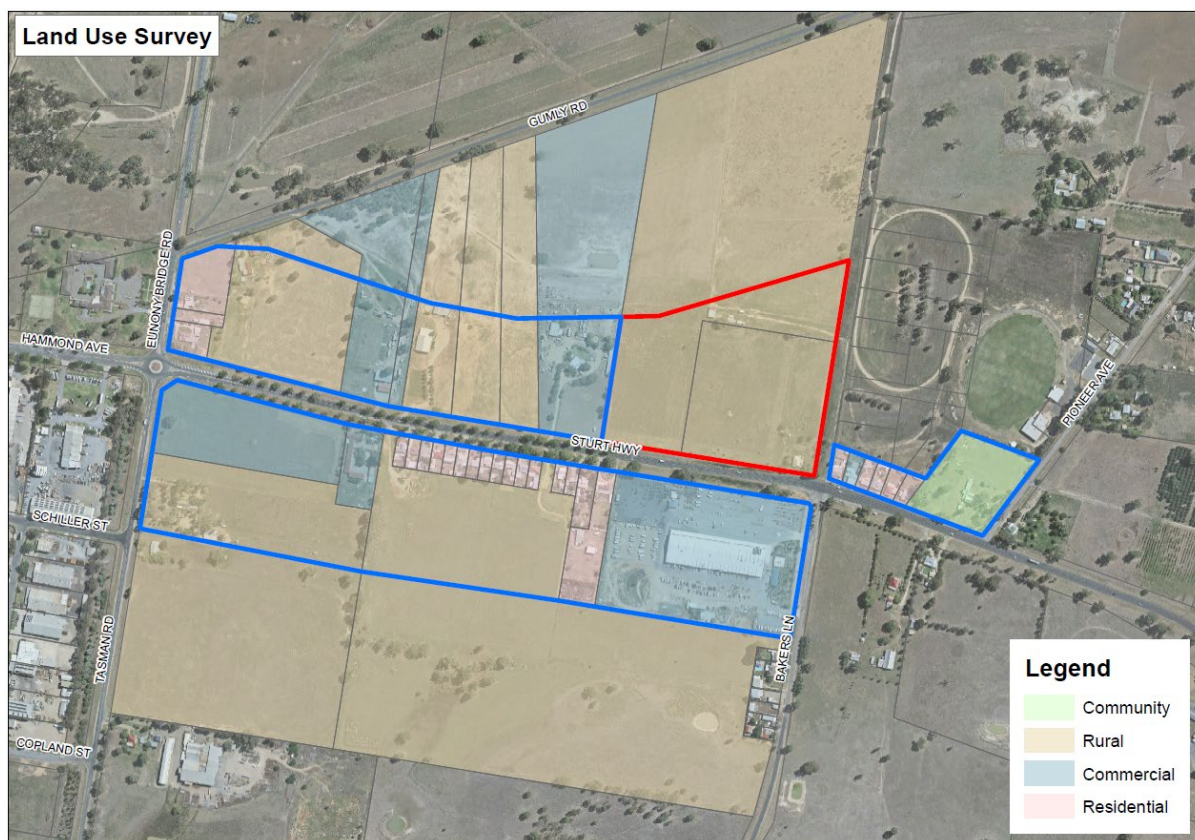
The proposed B6 Enterprise Corridor zone will increase employment opportunities within the city. The Wagga Wagga Local Environmental Plan 2010 currently contains clauses 7.9 and 7.10 to protect the primacy of the B3 Commercial Core zone and provide controls regarding business premises within the B6 Enterprise Corridor zone. These provisions will ensure the economic impact of the additional B6 Enterprise Corridor is minimal on the central business district.

The Wagga Wagga Bomen Industrial Precinct was recently announced as a special activation precinct. The uses likely to occur within the Gumly Gumly B6 Enterprise Corridor

are not that of an industrial nature and will not impact on the importance of Bomen as a key industrial precinct for the State.

As shown in the land use survey below, the area is currently being used for a mix of residential, rural, commercial and community uses.

The area is not currently, nor could it likely be used for rural purposes in the future.



## Section D – State and Commonwealth interests

### Is there adequate public infrastructure for the planning proposal?

The study undertaken by RPS identifies the following:

- The existing Riverina Water network can support the area subject to relevant servicing charges.
- Telecommunication services are present in the area.
- Essential energy network can service the area.
- Gas is available in the vicinity and the area can be accommodated by the existing network.
- An appropriate and significant sewer upgrade is required to accommodate the scale of development resulting from the proposed rezoning.

The area is not currently mapped in Council's Development Servicing Plan (DSP) for Sewerage Services. The DSP does indicate that where there is proposed to be an increased load on the sewerage system, charges will be applied.



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

This planning proposal is a revised planning proposal as a result of consultation with public authorities and the community.

During consultation of the original planning proposal, several submissions were received from public authorities (full submissions provided in Attachment 4). A summary of the submissions and a response is provided 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. 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>
Catchment Management Authority Murrumbidgee	<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</li> </ul>	<p>Agreed.</p> <p>Since the original planning proposal, new biodiversity legislation has been introduced</p>

(CMA)	<p>Vegetation Act 2003. The proposal will remove CMA from the statutory role.</p> <ul style="list-style-type: none"> <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>providing greater protection and changed approval processes. It is considered that the new legislation is adequate enough to provide protection during subsequent development of the site.</p>
Local Land Services (LLS)	<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 species that will also ensure minimal impact on soil erosion and water quality.</li> <li>▪ Consider any threatened communities and threatened species habitat.</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 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>
Roads and Maritime Services (RMS)	<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>

If require, the revised planning proposal can be provided to authorities once the revised Gateway Determination has been issued.

## **PART 4 – MAPPING**

The planning proposal seeks to amend the following maps:

Land Zoning Maps:

- LZN\_004F

Lot Size Maps:

- LSZ\_004F

Council requests the ability to lodge the template maps at S3.36 stage rather than prior to exhibition. The maps provided in as part of the planning proposal are detailed enough for public exhibition purposes.

## **PART 5 – COMMUNITY CONSULTATION**

It is considered that a 28 day exhibition period is suitable for the planning proposal.

The requirement to notify affected and adjoining land owners will be met.

## **PART 6 – PROJECT TIMELINE**

<b>Task</b>	<b>Anticipated timeframe</b>
Anticipated date of Gateway Determination	July 2019
Anticipated timeframe for completion of required technical information	N/A
Timeframe for Government agency consultation	August 2019
Commencement and completion dates for public exhibition.	September 2019
Dates for public hearing	N/A
Timeframe for consideration of submissions	October 2019
Timeframe for the consideration of a proposal post exhibition	October 2019
Date of submission to the Department to finalise the LEP	November 2019
Anticipated date RPA will make the plan	December 2019
Anticipated date RPA will forward to the Department for notification	December 2019