

RP-7 PLANNING PROPOSAL REZONING OF LAND ON THE STURT HIGHWAY, GUMLY GUMLY

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Recommendation**That Council:**

- a receive and note the report**
- b forward the planning proposal for the change of zone over the subject land to the Department of Planning and Infrastructure under section 56(1), requesting that the Minister issue a 'gateway determination' that will allow the planning proposal to proceed**

Summary

This report provides Council with the detailed Planning Proposal to amend the Wagga Wagga Local Environmental Plan 2010 (WWLEP 2010) to rezone land both sides of the Sturt Highway between Tasman Road and the Riverina Marine Centre / Gumly Store, Gumly Gumly from RU1 Primary Production to B6 Enterprise Corridor and to change the Minimum Lot Size from 200 hectares to No Minimum Lot Size.

Background

Council at its Ordinary Meeting held 12 December 2011 resolved to endorse the preparation of a Planning Proposal for the rezoning of the land both sides of the Sturt Highway between Tasman Road and the Riverina Marine Centre / Gumly Gumly Store to B6 Enterprise Corridor. This report represents the next phase of the Planning Proposal process as required by the Environmental Planning and Assessment Act.

An earlier report in this business paper (RP6) is also related to this Planning Proposal and indeed this report supports the intent of the rezoning that is sought in RP6.

The subject land is currently zoned RU1 Primary Production and is surrounded by RU1 Primary Production zoned land and RE1 Public Recreation zoned land on the eastern boundary. The land contains rural residential or semi rural dwellings.

A proposal to rezone 3870 Sturt Highway, Gumly Gumly to IN2 Light Industrial was considered by the Wagga Wagga City Council Planning Panel during the formal exhibition of the WWLEP 2010. A meeting with land holders, the Department of Planning and Council resulted in the suggestion by the Department of Planning to examine the suitability of B6 Enterprise Corridor zoning for the Gumly Gumly precinct.

Gateway determination for the rezoning of both sides of the Sturt Highway between Tasman Road and the Riverina Marine Centre / Gumly Gumly Store is required before the proposal for 3870 Sturt Highway to proceed.

In relation to identified constraints, Council further clarified what merit issues needed closer examination including; the need for a detailed sewage strategy and detailed investigation, support for water and other infrastructure, detailed flood study and stormwater strategy, access, traffic management, road safety and efficiency investigations and appropriate urban and landscape designs. The Planning Proposal includes technical assessments on flood risk, infrastructure services assessment and traffic assessment taking into account the outstanding issues identified.

Earlier discussions on an indicative draft Master plan focussed on ensuring a number of controls for development on the subject site:

1. On-site parking would be most appropriately located on flood exposed land to the northern part of the site;
2. Preferred vehicle access from Eunony Bridge Road;
3. It is vitally important for the development to represent a component of new entry point to Wagga Wagga with appropriate high quality urban design as an integral consideration of any site development. It is intended to include provisions in the DCP to bring results similar to the area to the west which features street tree planning, wide grass verges and transparent property fencing.

Planning Proposal

The elements of the attached Planning Proposal (Attachment 1) are as described below:

- The extent of the proposed rezoning represents Gumly Gumly precinct for rezoning to B6 Enterprise Corridor, by Council. The map known as attachment A of this report compares the area of land subject of this planning proposal, it is not intended that the land zoned B6 Enterprise Corridor, will extend any further to the east in the future.
- The land to be re-zoned is currently zoned RU1 Primary Production and carries a minimum lot size of 200ha.
- Part of the Planning Proposal includes a change in the Minimum Lot Size from 200 hectares to No Minimum Lot Size. This is to achieve consistency with the adjoining Industrial Land.

Considerations

There are a number of issues relating to this proposal which are reflected in the extent of the area being recommended for rezoning in the attached formal Planning Proposal. They are:

- A detailed sewerage and drainage strategy needed to be created to ensure servicing of the subject site. The servicing of 3870 Sturt Highway was investigated and found to be able to successfully connected to the Council main using a combination of gravity and pressurised pipes. Due to the flat and low lying nature of the topography, stormwater is proposed to be managed on site by constructing adequate storage at each site using a combination of water tanks and paved areas. The investigations extend to the Gumly Gumly Precinct.

- The subject site is subject to flooding, being located on the Murrumbidgee River floodplain. A precinct specific flood impact study was prepared for 3870 Sturt Highway by WMA water. The report concluded that the proposed development could be supported across the central and southern portion of the site with filling of the site to 5% AEP event also warranting a reduction in the flood risk classification to medium flood risk. The report extends to the Gumly Gumly Precinct.
- A traffic impact assessment has been undertaken by McClaren Engineering forecasting traffic at a worst case scenario to understand the traffic implications for the precinct. It was determined that from a traffic viewpoint that the development of the site for business enterprise purposes could be supported. In addition, a number of site access options and intersection treatments were considered and appropriate options for the future vehicular access condition presented in the report.

LOCAL PLANNING DIRECTIONS

The purpose of Section 117(20) of the *Environmental Planning and Assessment Act 1979*

- (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005*, and
- (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

Where this direction applies

- (2) This direction applies to all relevant planning authorities that are responsible for flood prone land within their LGA.

Where this direction applies

- (3) This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

What a relevant planning authority must do if this direction applies

- (4) A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005* (including the *Guideline on Development Controls on Low Flood Risk Areas*).

The most pertinent considerations in this instance are:

- (5) A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.

- (6) A planning proposal must not contain provisions that apply to the flood planning areas which:
- (a) permit development in floodway areas,
 - (b) permit development that will result in significant flood impacts to other properties,
 - (c) permit a significant increase in the development of that land,
 - (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or
 - (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.
- (7) A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).
- (8) For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the *Guideline on Development Controls on Low Flood Risk Areas*) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).

Consistency

- (9) A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Director-General (or an officer of the Department nominated by the Director-General) that:
- (a) the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or
 - (b) the provisions of the planning proposal that are inconsistent are of minor significance. **Note:** “flood planning area”, “flood planning level”, “flood prone land” and “floodway area” have the same meaning as in the *Floodplain Development Manual 2005*. **Direction 4.3 – issued 1 July 2009.**

Fundamentally, and taken in isolation this element of the Section 117 direction effectively means that no rezoning of land within the area identified in this report as described can take place.

Reference is made to the Wagga Wagga City Council “Murrumbidgee River Model Conversion Project Final Report” prepared by WMA in September 2010 and the attached flood modelling data which indicates that the land is flood prone.

Section 117 4.3 (9) states “A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Director-General (or an officer of the Department nominated by the Director-General) that:

- (a) the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or
- (b) the provisions of the planning proposal that are inconsistent are of minor significance. **Note:** “flood planning area”, “flood planning level”, “flood prone land” and “floodway area” have the same meaning as in the Floodplain Development Manual 2005. **Direction 4.3 – issued 1 July 2009.**

Recently Council representative met with the Regional Director of the Department of Planning, Brett Whitworth to discuss this issue. The Departments response was encouraging in so far as they are amenable to a Planning Proposal that supports the development of the land as their initial view is that Section 117 4.3(9) provides flexibility to overcome the requirements of Section 117 4.3 (5).

The Department of Planning suggested that Council in preparing its Planning Proposal for 3870 Sturt Highway examine the potential adverse impact on other properties in the vicinity. Rundles Auctions Ltd have recently lodged a Planning Proposal for their site and engaged WMA Water (who undertook the modelling for the Wagga Wagga Floodplain Management Plan 2010) to address the issue raised by Section 117. It is suggested that Council work collaboratively with the two other developers to undertake a localised flood study to ascertain if Section 117 4.3 (9) can be applied and that Council is able to submit a Planning Proposal to the Department.

Budget

N/A

Policy

Wagga Wagga Local Environmental Plan 2010
Wagga Wagga Development Control Plan 2010

Impact on Public Utilities

There will be issues related to the provision of sewerage to the identified site and initial discussions have taken place with staff from Infrastructure Services who are amenable to the proposal and advise that whilst sewerage does not currently service the identified precinct, that such infrastructure can be installed as part of future capital works programs.

Link to Strategic Plan

6. A sustainable environment

6.4 Develop sustainable built and natural environments for current and future generations through effective land-use management and planning

QBL Analysis

	Positive	Negative
Social	N/A	The proposal will have the impact of altering the zoning context of the dwellings on the southern side of the Sturt Highway opposite the site and of attracting increased traffic volumes to the locality.
Environmental	The proposed zoning will allow for the highway frontages in the locality to conform to a single urban design theme and so increase the attractiveness of the Highway adjacent to the Tasman Road roundabout. It will also result in clarity of flood management in this location as well as improved local sewerage infrastructure.	The proposal will result in less open views to the rural land further north.
Economic	The proposed zone will bring increased trade to the Gumly store and potentially to the nearby Carriage House Motel.	N/A
Governance	N/A	N/A

Risk Management Issues for Council

The Development of any land falling within an identified floodplain has the potential to cause increased levels of alertness for Council and emergency services.

Internal / External Consultation

An initial report outlining this request was considered before the Planning Standing Committee on the 29 November 2011, where the resolution stated:

- a receive and note the report*
- b endorse the preparation of a Planning Proposal for the rezoning of the land both sides of the Sturt Highway between Tasman Road and the Riverina Marine Centre/Gumly Gumly Store to B6 – Enterprise Corridor*
- c devise a comprehensive consultation strategy with the community and that the strategy be communicated to Councillors*

Stakeholder consultation is intended to be undertaken for a minimum period of 28 days after receipt of the Gateway Determination.

As resolved by Council in relation to the Director Planning's report in relation to the 'Rezoning of Land Both Sides of the Sturt Highway' at Gumly Gumly, a comprehensive consultation strategy has been prepared which goes beyond the customary public notification requirements. Council has undertaken to place a public notice in the local press on the weekend that the proposal is included on the Agenda for the February Planning Standing Committee, advising of the proposal to rezone the land. Further, advice about the proposal has been included in the Councillor's Bulletin of week ending 13 January 2012.

Attachments

1. Planning Proposal.
2. Attachment A - Current Zoning.
3. Attachment B - Extent of proposed B6 Enterprise Corridor land (subject of separate Planning Proposal), identifying the extent of the subject land and proposed B6 Enterprise Corridor within that zone, within WWLEP Land Zoning Map.
4. Planning Proposal - Section 117 Directions.
5. Proposed Land Zoning Map LZN 004F.
6. Proposed Minimum Lot Size Map LSZ 004.
7. Public Consultation Strategy.