

Planning and Assessment

IRF19/5401

Gateway determination report

LGA	Temora
PPA	Temora Shire Council
NAME	Rezone land to SP1 Special Activities Zone (Business Premises, Residential, Tourist and Visitor Accommodation Incidental with Aviation) (320 homes) and permit home occupations in the SP1 Special Activities Zone
NUMBER	PP_2019_TEMOR_002_00
LEP TO BE AMENDED	Temora LEP 2010
ADDRESS	Airport Road Temora
DESCRIPTION	Lot 2 DP 209557, Lot 52 DP 1043165, Lots 1111-1112 DP 750587 and Lots 1-5 DP 1015581
RECEIVED	8 August 2019
FILE NO.	IRF19/5401
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal (**Attachment A**) seeks to;

- rezone land near Temora Airport to SP1 Special Activities Zone (Business Premises, Residential, Tourist and Visitor Accommodation Incidental with Aviation),
- apply a 750 square metre minimum lot size, and
- permit *Home Occupations* as permitted without consent in the SP1 Special Activities Zone

1.2 Site description

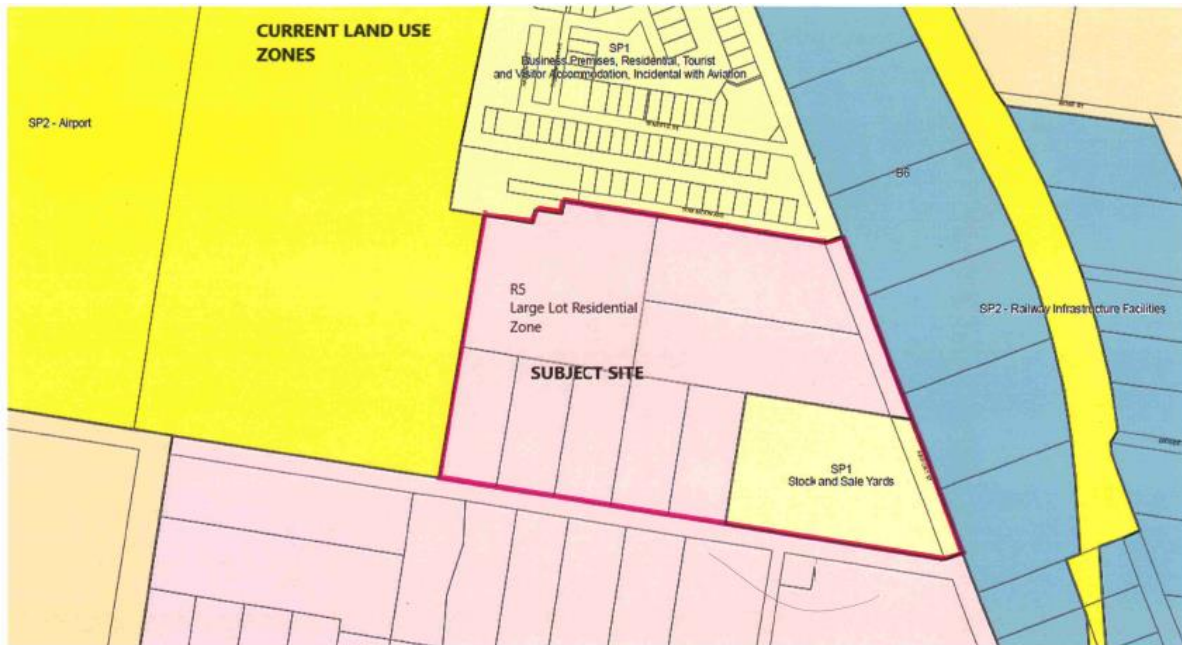
The site is approximately 32 hectares of flat cleared land located south east of Temora Airport.

The land is currently used for rural residential housing and a section of the site (approximately 6 hectares) is was used as a livestock sale yard.

1.3 Existing planning controls

The site is currently zoned R5 Large Lot Residential Zone with a 2-hectare minimum lot size and SP1 Special Activities (Sale Yard) Zone with no minimum lot size (Figure 1)

Figure 1 Existing Planning Controls



1.4 Surrounding area

The site adjoins Temora Airport to the west. Land located to the north is already partly developed as an aviation urban precinct known as Temora Airpark Estate that commenced development in the 1990's.

Temora Airport Estate is zoned SP1 Special Activities (Business Premises, Residential, Tourist and Visitor Accommodation Incidental with Aviation) and meets a unique niche in the housing market for people seeking an aviation-based lifestyle where they have direct taxiway access for their small aircraft from Temora Airport to their own private hangar located at the rear of their dwelling house.

Figure 2 Site Location and Surrounding Area



1.5 Summary of recommendations

The planning proposal has merit because it seeks to extend the Temora Aviation Estate that caters for a unique type of aviation based urban development.

2. PROPOSAL

2.1 Objectives or intended outcomes

The planning proposal clearly states that it seeks to rezone 32 hectares of land to SP1 Special Activities Zone (Business Premises, Residential, Tourist and Visitor Accommodation Incidental with Aviation) with a 750 square metre minimum lot size to enable the expansion of the Temora Aviation Estate.

The planning proposal also states that it seeks to permit home occupations without development consent in the SP1 Special Activities Zone.

2.2 Explanation of provisions

The planning proposal clearly states that it seeks to amend Temora LEP 2010 to;

- Amend the Land Zoning Map to rezone land near Temora Airport to SP1 Special Activities Zone (Business Premises, Residential, Tourist and Visitor Accommodation Incidental with Aviation),
- Amend the Lot Size Map to apply a 750 square metre minimum lot size, and

- Amend the Land Use Table to permit *Home Occupations* as permitted without consent in the SP1 Special Activities Zone

2.3 Mapping

The planning proposal contains images and maps that clearly show the location of the land to be zoned SP1 Special Activities Zone (Business Premises, Residential, Tourist and Visitor Accommodation Incidental with Aviation). The maps also show adjoining land and the proximity of the site to Temora Airport and Temora Aviation Estate.

The planning proposal acknowledges that the draft LEP will need to include map amendments to the Land Zoning Map sheet LZN_004C and Lot Size Map LSZ_004C.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is the only means by which Council can amend Temora LEP 2010 to expand the Temora Aviation Estate for aviation based urban development.

4. STRATEGIC ASSESSMENT

4.1 State

The planning proposal indicates that the proposal is consistent with the Premier's Priority of Creating Jobs.

There are no state policies or issues that prevent the planning proposal proceeding to community consultation.

4.2 Regional

The planning proposal is consistent with the Riverina Murray Regional Plan (see section on Section 9.1 Ministerial Direction 5.10 Implementation of Regional Plans.

4.3 Local

The NSW Government has assisted local councils and their communities to develop 37 Regional Economic Development Strategies across regional NSW.

Temora Aviation Estate project is listed as a priority action in the South West Slopes Regional Economic Development Strategy under 'Continue to develop and grow Visitor Economy'.

The Temora Airport Masterplan prepared by Council includes a goal of expanding the Temora Airpark Estate to the south of the current estate.

The planning proposal is consistent with Council plans and strategies.

4.4 Section 9.1 Ministerial Directions

1.1 Business and Industrial Zones

This Direction applies when a planning proposal affects a business or industrial Zone. The planning proposal has indicated that it is consistent with the Direction because it will encourage employment growth in suitable locations.

The Direction, however, does not apply to the planning proposal because it does not seek to affect land within an existing or proposed business or industrial zone.

2.3 Heritage Conservation

The planning proposal states that it is consistent with this Direction because it does not intend changing heritage provisions under the Temora LEP.

The planning proposal is considered consistent with this Direction. The site is not identified in the Temora LEP as containing any heritage items.

3.1 Residential Zones

The Direction applies to the planning proposal because it will affect land within a zone in which significant residential development is permitted or proposed to be permitted.

The planning proposal is considered consistent with this Direction because the majority of the land (28 hectares) is already rezoned for residential development (R5 Large Lot Residential Zone) and the sale yards (SP1 Special Activities Saleyards Zone) is no longer used for that purpose.

The proposed change of use of the former saleyards to extend the Temora Aviation Precinct also removes a land use conflict between the sale yard (noise/odour) and existing and future urban development.

Development of the land for aviation based urban housing will accommodate future stages of the Temora Airpark Estate to meet the demand for this unique and successful type of serviced urban development.

The planning proposal is consistent with Direction 3.1 Residential Zones.

3.3 Home Occupations

The Direction applies to the planning proposal because Council seeks to allow Home Occupations to be carried out in a dwelling house without the need for development consent.

The Direction states that a planning proposal must permit home occupations to be carried out in dwelling houses without the need for development consent.

The Planning proposal is considered consistent with Direction 3.3 Home Occupations.

3.5 Development Near Regulated Airports and Defence Airfields

This direction applies when a planning proposal will create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.

The planning proposal states that it is consistent with this Direction because Council is the operator of the airport and the planning proposal will not allow development types that are incompatible with the current and future operation of the airport.

The Direction is not considered to be applicable because Temora Airport is not a regulated airport or a defence airfield.

Note: The Temora LEP 2010 also includes clause 6.7 'Development in areas subject to aircraft noise' to:

- prevent certain noise sensitive developments from being located near the Temora Airport and its flight paths,
- assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings, and
- ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impact on the ongoing, safe and efficient operation of that airport.

4.3 Flood Prone Land

This Direction applies to the planning proposal because it will create and alter a zone that affects flood prone land identified by the Temora Flood Study 2019.

The Temora Flood Study indicates that only a small section of land (approximately 6,220 square metres) located to the south west is affected by flooding. The flooding is categorised as Flood Fringe with a Peak Flood Depth at the 1% AEP Event of 15cm or lower (Figure 3).

Council has indicated that the planning proposal is consistent with the Direction because applicants will be required to manage any flood risk associated with development in accordance with clause 6.6 of the Temora LEP 2010.

Figure 3 Flood Prone Land



The planning proposal is inconsistent with this Direction because it seeks to rezone flood prone land to a residential, business, special use or special purpose zone.

The small section of land affected by flooding (Flood Fringe) is already zoned for residential development (R5 Large Residential Zone). Although the reduction in minimum lot size from 2 ha to 750 square metres minimum lot size will increase the density of housing on flood affected land, the flood impacts on future development are likely to be minor because of the low level of flooding (flood fringe) that only affects a small proportion of the site, i.e. approximately 2 percent. Consultation with DPIE Environment, Energy and Science will be required because part of the land is identified as flood prone land.

Recommendation

That the planning proposal be referred to DPIE (Environment, Energy and Science) because part of the site the is flood prone.

That the Secretary does not approve the inconsistency with Direction 4.3 Flood Prone Land at this stage until Council has consulted with the DPIE Environment, Energy and Science to confirm that the flood impacts are of minor significance.

5.10 Implementation of Regional Plans

The Direction requires that the planning proposal is consistent with the Riverina Murray Regional Plan.

The planning proposal states that it is consistent with the Regional Plan, particularly the following Directions:

Direction 4 Promote business activities in industrial and commercial areas

Direction 6 Promote expansion of education and training opportunities

Direction 7 Promote Tourism opportunities

Direction 19 Support and protect ongoing access to air travel

Direction 23 Build resilience in towns and villages

Direction 26 Provide greater housing choice

Direction 28 Deliver healthy built environments and improved urban design.

The planning proposal is generally consistent with the Riverina Murray Regional Plan and Direction 5.10. The development of the aviation based urban precinct in combination with the Temora Airport tourist events (air shows/museum) is particularly consistent with the Local Government Narrative for Temora under the Regional Plan that includes a priority to take advantage of tourist opportunities focusing on heritage, aviation, sport and recreation.

4.5 State environmental planning policies (SEPPs)

SEPP 55 – Remediation of Land

Council has acknowledged that the land used for the former sale yards (6 hectares) is likely to be contaminated with high intensity nutrients from livestock waste and that there may be levels of hydrocarbons (diesel and oil) in the soil from trucks parked as part of livestock transport.

The planning proposal identifies State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) as applicable given the land proposed to be rezoned is likely to have been used for agricultural purposes in the past.

Council has further indicated in the planning proposal that the former saleyards land will require soil testing and rehabilitation prior to being developed in additional stages of the Temora Aviation Estate.

Council has undertaken a Stage 1 preliminary investigation of the site in accordance with the Department's guidelines on 'Managing Land Contamination – Planning Guidelines SEPP 55 – Remediation of Land'. Council has recognised that a more detailed Stage 2 Detailed Investigation will be required for the former sale yards land to identify contaminants and the requirements for the rehabilitation of the site prior to its development for urban development.

Council has stated that it is satisfied that the land will be suitable, after remediation, for future urban development and it is satisfied that the proposed rezoning can proceed.

Council has therefore considered whether the land is contaminated based on its current and known historical use and known history of contamination and is satisfied that the proposed rezoning can proceed. Accordingly, the planning proposal is consistent with requirements of SEPP 55.

Recommendation

The proposal should be referred to the NSW EPA regarding council's comments on land contamination and the proposed remediation of the site for urban development.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

Council has developed guidelines under the Temora DCP that apply to the Temora Airpark Estate that seek to maintain a high level of amenity for residents living in the aviation estate. The objectives of the guidelines are to;

- ensure that the Temora airport's operation is enhanced and not compromised by any development within the subdivision
- provide guidelines/standards to existing owners and prospective purchasers of land, to ensure a satisfactory standard of development is maintained
- assist applicants in the compilation and submission of development applications
- establish overall guidance for environmentally sensitive and sustainable development in this area
- achieve an overall high level of amenity through building design, landscaping and fencing that are compatible with these principles as set out in this Plan.

As the planning proposal seeks to expand a unique urban lifestyle associated with aviation, it is therefore unlikely to create any adverse social impacts.

5.2 Environmental

Most of the site is currently used for rural residential development with a smaller parcel (6 ha) formally used as a livestock sale yard. The planning proposal acknowledges that parts of the site are flood prone and the former sale yards are likely to be affected by land contamination.

Flooding

A small section of the site currently zoned R5 Large Lot Residential Zone is affected by flooding (flood fringe). The area affected by flooding is shown in Figure 3.

The environmental impacts of flooding on future development are minor (see section on section 9.1 Direction 4.3 Flood Prone Land).

It is recommended that Council consult with DPI – Environment, Energy and Science because part of the site is identified by Council as flood prone land.

Land contamination

As per SEPP 55 comments the planning proposal seeks to rezone the former sale yards site for aviation based urban development. The planning proposal acknowledges that contamination from livestock (animal waste) and livestock transport (diesel from parked trucks) is likely to be present and will potentially require remediation prior to development. The planning proposal states that a land contamination investigation and remediation plan will be completed during the public exhibition period.

Council has stated that it is satisfied that the land will be suitable, after remediation, for future urban development and it is satisfied that the proposed rezoning can proceed. The planning proposal is therefore consistent with requirements of SEPP 55.

It is recommended that the Gateway determination include a condition requiring consultation with the NSW Environmental Protection Authority.

5.3 Economic

The planning proposal indicates that the project (Temora Aviation Estate) is listed as a top priority in the South West Slopes Regional Economic Development Strategy 2018-2022. The strategy was developed by five councils, including Temora Shire Council, with the assistance from the NSW Government

The Temora Airport Masterplan prepared by Council states that the airpark estate has brought many new residents to Temora that now contribute to the local Temora economy and support Temora Shire Council in the provision of improved services and facilities.

The masterplan includes a goal of expanding the Temora Airpark Estate to the south of the current estate.

The planning proposal will therefore create unique urban/tourist development that will have a positive economic impact on the area.

5.4 Infrastructure

Temora Airpark Estate is serviced with essential services including reticulated water supply and sewerage and electricity and the site has direct access to a sealed main road.

The Temora LEP 2010 also includes clause 6.5 Essential Services that requires that services essential for development are available or that arrangements have been made to make them available when required.

6. CONSULTATION

6.1 Community

A minimum 28-day period for community consultation recommended by the planning proposal is supported.

6.2 Agencies

The planning proposal proposes consultation with the Department of Primary Industries, Office of Environment and Heritage and Department of Industry.

Council should be required to consult with the NSW Environmental Protection Authority regarding the response in the planning proposal to potential land contamination at the former sale yard site in accordance with SEPP 55 Land Remediation.

Council should also be required to consult with the DPIE – Environment, Energy and Science because part of the site is identified as flood prone land.

7. TIME FRAME

Council has indicated that it will seek to finalise the plan by May 2020 (approximately 10 months). It is recommended that the Gateway determination provide Council a 12-month timeframe for completing the plan

8. LOCAL PLAN-MAKING AUTHORITY

Council has not requested to be the local plan-making authority. Council should be authorised to be the local plan-making authority because;

- the planning proposal is not considered to be inconsistent with any local or regional planning frameworks,
- is not considered to be controversial,
- the planning proposal seeks to extend the Temora Aviation Estate that has already been successfully developed for this unique type of aviation based urban development.

9. CONCLUSION

The proposal has merit because;

- it seeks to increase the supply of land to meet the demand for unique aviation based urban development that accommodates hangars for small aircraft attached to a dwelling house,
- Council is committed to developing the next stage of the Temora Aviation Estate to accommodate demand for this type of serviced urban lifestyle,

- a home occupation can only be carried on in a dwelling or a building ancillary to a dwelling provided it is to be undertaken only by residents, does not involve the sale of items and does not interfere with the amenity of the neighbourhood. It is therefore unlikely that permitting home occupations without consent in the SP1 Special Activities Zone will create any significant impacts.

10. RECOMMENDATION

The Secretary does not approve the inconsistency with section 9.1 Direction 4.3 Flood Prone Land at this stage until Council has consulted with the DPIE Environment, Energy and Science to confirm that the flood impacts are of minor significance.

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - NSW Environmental Protection Authority.
 - DPIE – Environment, Energy and Science
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.



21/08/2019

Luke Musgrave
Team Leader, Southern Region



26/08/2019

Sarah Lees
Director Southern Region
Local and Regional Planning

Assessment officer: Graham Judge
Senior Planner, Southern
Phone: 6229 7906