

Planning and Assessment

IRF20/3555

Gateway determination report

LGA	Bland
PPA	Bland Shire Council
NAME	Residential subdivision of rural land at 50 Mid Western Highway, West Wyalong (1 home, 0 jobs)
NUMBER	PP_2020_BLAND_001_00
LEP TO BE AMENDED	Bland Shire Local Environmental Plan 2011
ADDRESS	50 Mid Western Highway, West Wyalong
DESCRIPTION	Lot 2 DP 62598650
RECEIVED	26 March 2020, adequate 24 July 2020
FILE NO.	IRF20/3555
POLITICAL DONATIONS	There are no known donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no known meetings or communications with registered lobbyists with respect to this proposal

1. INTRODUCTION

1.1 Description of planning proposal

Amendment to the Bland Shire Local Environmental Plan (LEP) 2011 to permit subdivision and erection of a dwelling house at Lot 2 DP 62598650, 50 Mid Western Highway, West Wyalong. This will be achieved through:

- Rezoning from RU1 Primary Production to R5 Large Lot Residential.
- Reduction of Minimum Lot Size (MLS) from 200ha to 2ha.

1.2 Site description and surrounding area

The subject site is 3.8ha lot, which has been cleared of native vegetation and already contains two dwellings and a dam, shown in Figure 1 (p. 7) planning proposal. The subject site is bounded by the Mid Western Highway to the south, Cootamundra – Lake Cargelligo Railway to the east and is located on the urban edge of West Wyalong as shown in Figure 4 (p. 10) of the planning proposal.

The subject site is one of a larger group of undersized RU1 zoned lots (the study area) on the urban edge of West Wyalong (**Figure 1**). These lots all have the same development controls as the subject site and range in size from 2-14ha. All but three of these lots contain a dwelling and the land use is more aligned to rural residential than agricultural purposes.

East and north of the study area is the urban centre of West Wyalong which contains R5 Large Lot Residential with a MLS of 2ha. West of the study area are larger lots (20-200ha) which have a lower density of dwellings and are primarily used for

agricultural grazing. South of the study area is a mixture of agricultural and industrial uses, as well as the West Wyalong Sports Club, Golf Course, and Airport.



Figure 1: Local context and zoning of the subject site (yellow outline) and study area (blue outline).
Source: Bland Council, Supporting Information, Planning Proposal, PP2020/002

1.3 Existing planning controls

The subject site is zoned RU1 Primary Production, with a MLS of 200ha. There are no constraints (including biodiversity, heritage, bushfire, groundwater vulnerability and flood prone land) mapped for the subject site under the Bland LEP as discussed under Section 4 (p. 9-12) of the planning proposal.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objective of the proposal is identified in Section 6 (p. 20) of the planning proposal clearly articulates the objective and does not require amendment prior to community consultation; being, to allow the subdivision of Lot 2 DP 62598650 into two allotments and permit the construction of an additional dwelling on the newly created vacant lot.

2.2 Explanation of provisions

The planning proposal proposes to achieve the intent of the proposal through a Schedule 1 Additional Permitted Use (APU) amendment as identified in Section 7 (p. 20) of the planning proposal. Following further consultation with Council and the proponent, the planning proposal will be amended to achieve the intent of the

proposal through rezoning and reduction of MLS, see condition 1 in the listed conditions.

2.3 Mapping

Mapping will need to be prepared to include the above amendment to the planning proposal. Amendments to LEP map sheets LZN_007D and LSZ_007D will be required to ensure Lot 2 DP 62598650 will be:

- rezoned from RU1 Primary Production to R5 Large Lot Residential; and
- the MLS will reduce from 200ha to 2ha.

3. NEED FOR THE PLANNING PROPOSAL

The proposal is not the result of a strategic study and has been instigated by a sole landholder. Additional information prepared by Council and received on 16 July 2020 has reviewed the suitability of residential uses at the subject site and study area at a strategic level through:

- Supply and demand of R5 land across West Wyalong and Wyalong.
- Fragmentation and existing residential uses of the study area.
- Consistency with the Bland Local Strategic Planning Statement (LSPS) 2020.
- Consistency against State policies and Ministerial Directions.

Evidence provided by Council indicates the study area is suitable for residential uses. However, Council will not pursue any LEP amendments until a future land use plan is created for the Shire indicating the best use of the study area. Given the site and strategic merit of the study area for residential uses, the subject site is also considered suitable for rezoning to R5. Reduction of MLS to 2ha is consistent with the MLS of surrounding R5 areas and will achieve the intent of the proposal.

Rezoning and reduction of MLS is preferred to the original APU proposal as there are no unique circumstances of the land which make it unsuitable for rezoning. The intent of the proposal is achieved through a rezoning without creating a precedent for site specific provisions to allow the subdivision and erection of a dwelling to occur.

4. STRATEGIC ASSESSMENT

4.1 State

A discussion paper on 'A Housing Strategy for NSW' (May 2020) is currently on exhibition and is relevant to this proposal.

The proposal will provide one additional dwelling on the western fringe of West Wyalong. Development of this proportion is of minor significance and not inconsistent with the Strategy.

4.2 Regional / District

An assessment against the Riverina Murray Regional Plan (RMRP) 2036 is provided in Section 8.2.1 (p. 22-24) of the planning proposal. Given the minor nature of the proposal, it is agreed that the planning proposal is consistent with the following Directions:

- 25 - Build housing capacity to meet demand.
- 26 - Provide greater housing choice.

- 27 - Manage rural residential development.

4.3 Local

The Bland LSPS 2020 identifies between 2016 and 2036, the population of Bland LGA is expected to decrease by 1,105 people (DPIE, 2018). Despite this, the growth in mining and renewable energy industries near West Wyalong and Wyalong will require additional housing is provided near these two centres. The proposal will provide one additional dwelling on the western fringe of West Wyalong. The proposal is unlikely to respond to this local need for temporary industry accommodation, however, is of minor significance and is not inconsistent with the Bland LSPS.

4.4 Section 9.1 Ministerial Directions

The proposal is consistent with the following section 9.1 Directions as demonstrated in the supporting information provided by Bland Council;

- 3.1 Residential Zones as the proposal will increase housing choices and make more efficient use of the land within the city boundaries.
- 3.3 Home Occupations as the proposal will continue to permit home occupations to be carried out in dwellings without development consent.
- 3.4 Integrating Land Use and Transport as the land is already accessible to transport options.
- 5.10 Implementation of Regional Plans as the proposal is consistent with the RMRP as previously discussed.
- 6.1 Approval and Referral Requirements as the proposal will not require any additional consultation, concurrence or referrals for development.
- 6.3 Site Specific Provisions as the proposed amendment permit the development occur through existing development controls without the need for site specific development controls.

The planning proposal is inconsistent with the following 9.1 Directions:

Direction 1.2 Rural Zones

The proposal is inconsistent with this Direction as the proposal will rezone a rural lot to a residential zone. The inconsistency is considered justified, as per Bland Councils supporting Information p. 5) as the proposal is of minor significance due to the subject site being already used for residential purposes only, is within a larger fragmented, unofficial rural-residential study area and is unlikely to increase land use conflict with nearby rural zones.

Direction 1.3 Mining, Petroleum Production and Extractive Industries

The proposal is inconsistent with this Direction as the proposal will rezone the land to R5, which prohibits mining and other extractive activities. To justify this inconsistency, consultation with the Division of Resources and Geoscience is required to determine if the inconsistency is of minor significance, see Gateway condition 3.

Direction 1.5 Rural Lands

This Direction applies as the planning proposal will reduce the MLS of an existing rural zone; however, it is agreed that this is of minor significance, as per Council's supporting information (p. 5). The proposal is justified as it is consistent with the

RMRP 2036, is unlikely to interfere with agricultural activities or right to farm, is unlikely to impact on environmental values and is in an existing fragmented, unofficial rural-residential study area.

Direction 2.6 Remediation of Contaminated Land

This Direction applies as the proposal will rezone land for residential purposes and it is unknown if development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out. To rectify this inconsistency, Council is required to review the historical uses of the land to determine likelihood of the land being contaminated and the proponent is to prepare an initial site contamination investigation report in accordance with the contaminated land planning guidelines, see Gateway condition 2.

4.5 State environmental planning policies (SEPPs)

The proposal is generally consistent with the relevant SEPPs.

The aim of the *State Environmental Planning Policy (Primary Production and Rural Development) 2019* is to balance the needs of primary production, residential development and protection of biodiversity. Loss of 3.8ha of unused agricultural land for residential purposes is consistent with the aims of this SEPP as the subject site being already used for residential purposes only, is within a larger fragmented, unofficial rural-residential study area and is unlikely to increase land use conflict with nearby agricultural practices.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal has considered the social impacts in Section 8.6 of the planning proposal (p. 30). It is agreed that the proposal is unlikely to have social impacts which affect the local community.

5.2 Environmental

The planning proposal has considered the environmental impacts in Section 8.6 of the planning proposal (p. 30). The subject site has been previously cleared and there are no known environmental constraints including biodiversity, heritage, bushfire, groundwater vulnerability and flood prone land. Further site investigations such as land contamination will occur to ensure there are minimal environmental impacts from the proposal.

5.3 Economic

The planning proposal has considered the social impacts in Section 8.6 of the planning proposal (p. 30). The lot is serviced with reticulated water, electricity, telecommunications and roads. Any economic impacts would be restricted to the private owners of the proposal.

6. CONSULTATION

6.1 Community

☐ none, ☐ 14 days, ☒ 28 days – as the proposal is a spot rezoning which is inconsistent with the pattern of surrounding land use zones of the study area. Therefore, the proposal is not classified as a low impact proposal which is suitable for reduced public exhibition periods.

6.2 Agencies

No agency consultation has been proposed by Council. It is recommended for the Division of Resources and Geoscience to be consulted to resolve inconsistency with Direction 1.3 Mining, Petroleum Production and Extractive Industries.

7. TIME FRAME

Council has requested four months to complete the LEP. This is a short timeframe with little room for delays. A nine month timeframe is recommended to allow for additional time for agency consultation and preparation of an initial site contamination investigation report.

8. LOCAL PLAN-MAKING AUTHORITY

☒ yes, ☐ no – Council has requested to be the local plan-making authority, which is supported as Council has no interests in the land.

9. CONCLUSION

Preparation of the planning proposal is supported to proceed with conditions as:

- Additional information provided by Council has indicated there is sufficient site and strategic merit for rezoning the subject site for residential uses.
- The proposal is consistent with the Riverina Murray Regional Plan 2036, Bland Local Strategic Planning Statement 2020 and relevant SEPPs.
- Outstanding inconsistencies with section 9.1 Directions are likely to be resolved through additional agency consultation and studies.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions [1.2 Rural Zones and 1.5 Rural Lands] are minor or justified; and
2. note that the consistency with section 9.1 Directions [1.3 Mining, Petroleum Production and Extractive Industries and 2.6 Remediation of Contaminated Land] is unresolved and will require justification.

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

1. Prior to public exhibition, the planning proposal and any other exhibition material are to be amended to reflect a rezoning of Lot 2 DP 62598650 from RU1 Primary Production to R5 Large Lot Residential, and reduction of minimum lot size from 200ha to 2ha.
2. Prior public exhibition, Council is to satisfy the requirements of section 9.1 Ministerial Direction 2.6 Remediation of Contaminated Land. A preliminary review and initial site contamination investigation report is to be prepared in accordance with the contaminated land planning guidelines. Both documents are to be placed on public exhibition with the amended planning proposal.

3. Prior public exhibition, Council is to submit updated documents which demonstrate conditions 1 and 2 of the Gateway determination have been met and request for permission to proceed to public exhibition.
4. The planning proposal should be made available for community consultation for a minimum of 28 days.
5. The letter in response to the Department of Planning, Industry and Environment is to be made available with the planning proposal through the community consultation period.
6. Consultation is required with the Division of Resources and Geoscience under section 3.34(2)(d) of the Act. name of public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 40 days to comment on the proposal.
7. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
8. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.
9. Given the nature of the planning proposal, Council should be the local plan-making authority.



29.7.20

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30.7.20

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