

Planning and Assessment

Gateway determination report

LGA	Wagga Wagga
PPA	Wagga Wagga City Council
NAME	Planning Proposal to rezone land at Gumly Gumly from RU1 Primary Production to E2 Environmental Conservation and B6 Enterprise Corridor with no minimum lot size
NUMBER	PP_2019_WAGGA_004_02
LEP TO BE AMENDED	Wagga Wagga LEP 2010
ADDRESS	Sturt Highway, Gumly Gumly
DESCRIPTION	Lot 1 DP 780669 Lot B DP 162204 Part Lot C DP 162204 Part Lot 11 DP 879776 Part Lot 2 DP 829057 Part Lot 1 DP 1210237 Part Lot 1 DP 842774 Part Lot 2 DP 842774 Part Lot 3 DP 842774 Part Lot 4 DP 842774 Part Lot 2 DP 1036955
RECEIVED	21 June 2019
FILE NO.	IRF19/4798
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 seeks to rezone land at Gumly Gumly to E2 Environmental Conservation and B6 Enterprise Corridor with no minimum lot size.

1.2 Site description

This Gateway determination report applies to the land labelled 'new areas' in **Figure 1**.

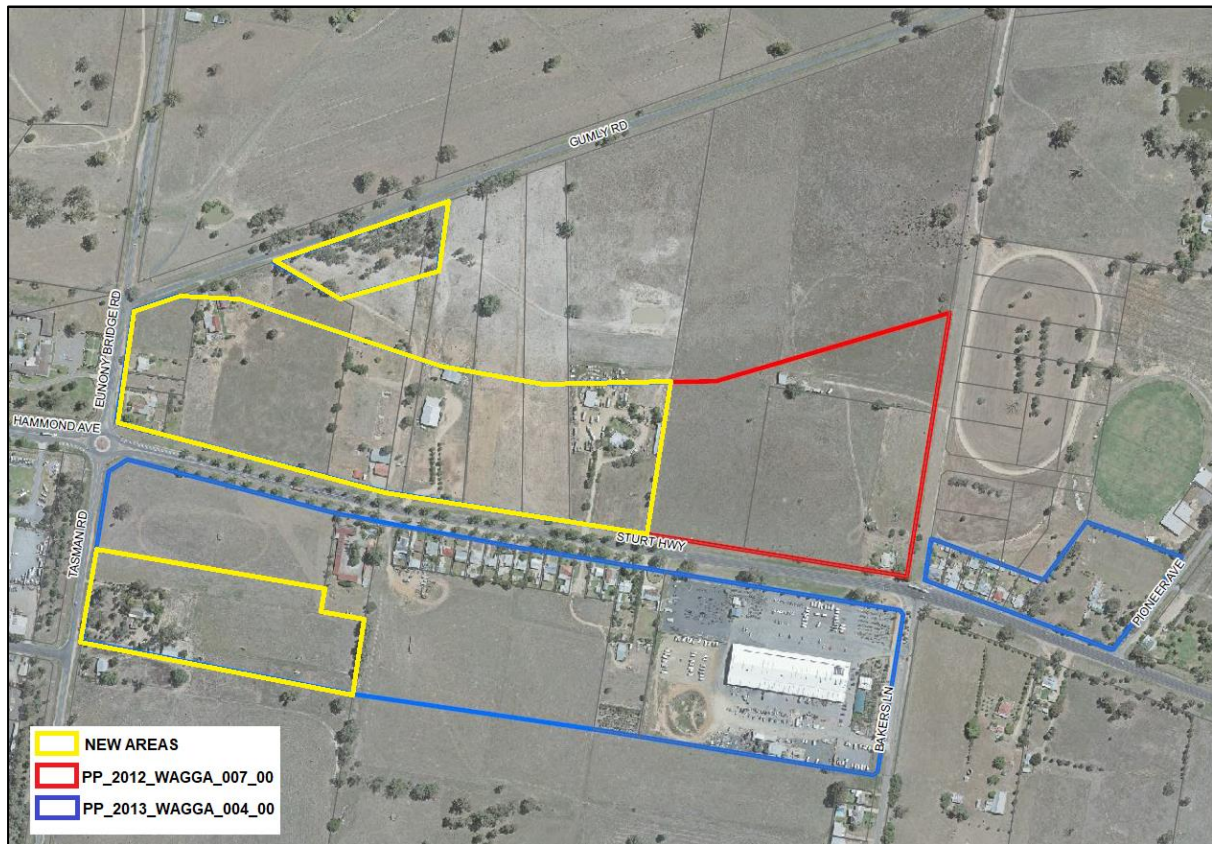


Figure 1: Aerial photograph of the proposed enterprise corridor precinct

Source: Wagga Wagga City Council

The planning proposal also applies to land south of the Sturt Highway and land at the corner of the Sturt Highway and Pioneer Avenue identified in **Figure 1** as 'PP_2013_WAGGA_004_00'. This land is subject to an existing Gateway determination and is not assessed as part of this report.

The planning proposal indicates the areas proposed to be rezoned comprise a mix of rural, commercial and residential land uses. A small patch of vegetation adjoins the northern boundary of Lot 2 DP 829057 but the land is otherwise mostly cleared.

1.3 Existing planning controls

The areas proposed to be rezoned are zoned RU1 Primary Production with a minimum lot size of 200 hectares under the Wagga Wagga LEP 2010.

1.4 Surrounding area

The areas proposed to be rezoned are roughly 4km east of the Wagga Wagga Central Business District. As illustrated in **Figure 2**, the surrounding area is predominantly zoned RU1 Primary Production.

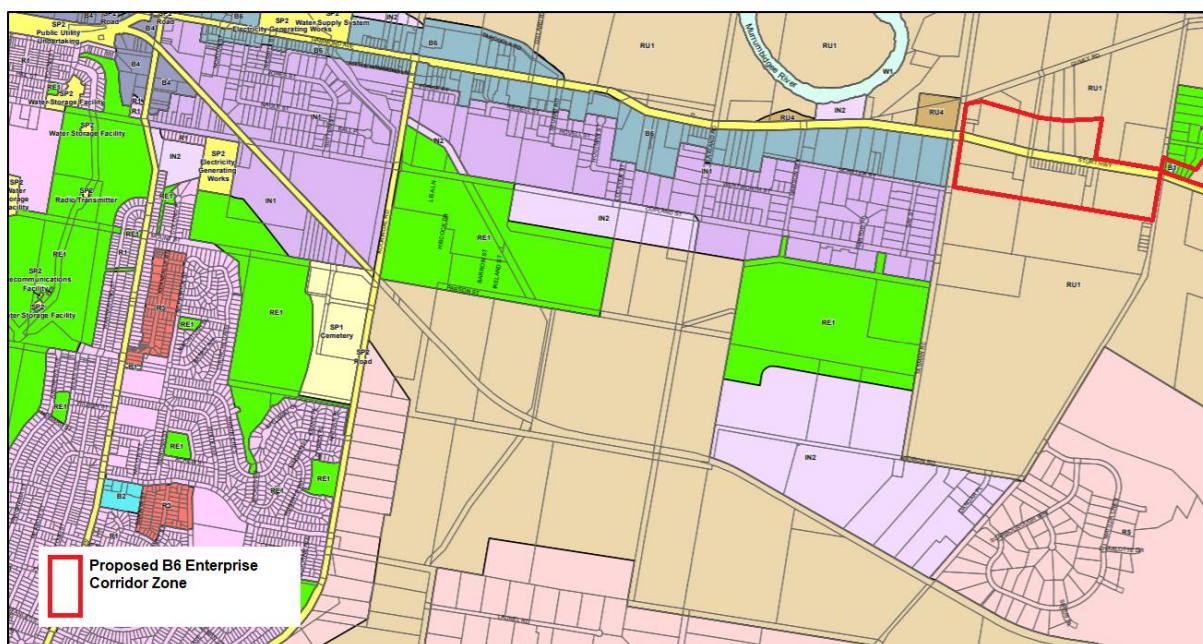


Figure 2: Land Zoning Map of the site and surrounding area

Source: legislation.nsw.gov.au

The planning proposal seeks to rezone additional land with the intention of establishing an Enterprise Corridor precinct adjoining the Sturt Highway. The proposed zoning is consistent with the land use pattern west of the site with a mix of Enterprise Corridor, and General Industrial land adjoining the southern boundary of Hammond Avenue, which extends from the Sturt Highway to the eastern edge of the Wagga Wagga CBD.

1.5 Summary of recommendation

It is recommended that the revised planning proposal proceed subject to the conditions set out in the attached alteration of Gateway determination for planning proposal PP_2013_WAGGA_004_00.

2. PROPOSAL

2.1 Objectives or intended outcomes

The intended outcome of the planning proposal is to extend the proposed B6 Enterprise Corridor Zone originally proposed to facilitate the development of an enterprise corridor precinct adjoining the Sturt Highway.

2.2 Explanation of provisions

The planning proposal seeks to achieve the intended outcome by amending the Wagga Wagga LEP 2010 as follows:

- Amend Land Zoning Map LZN_004F to rezone land zoned RU1 Primary Production to E2 Environmental Conservation and B6 Enterprise Corridor; and
- Amend Lot Size Map LSZ_004F to change the minimum lot size applying to the proposed B6 Enterprise Corridor Zone from 200 hectares to no minimum lot size.

Figures 3 and 4 illustrate the proposed amendments to the Land Zoning and Lot Size Maps.

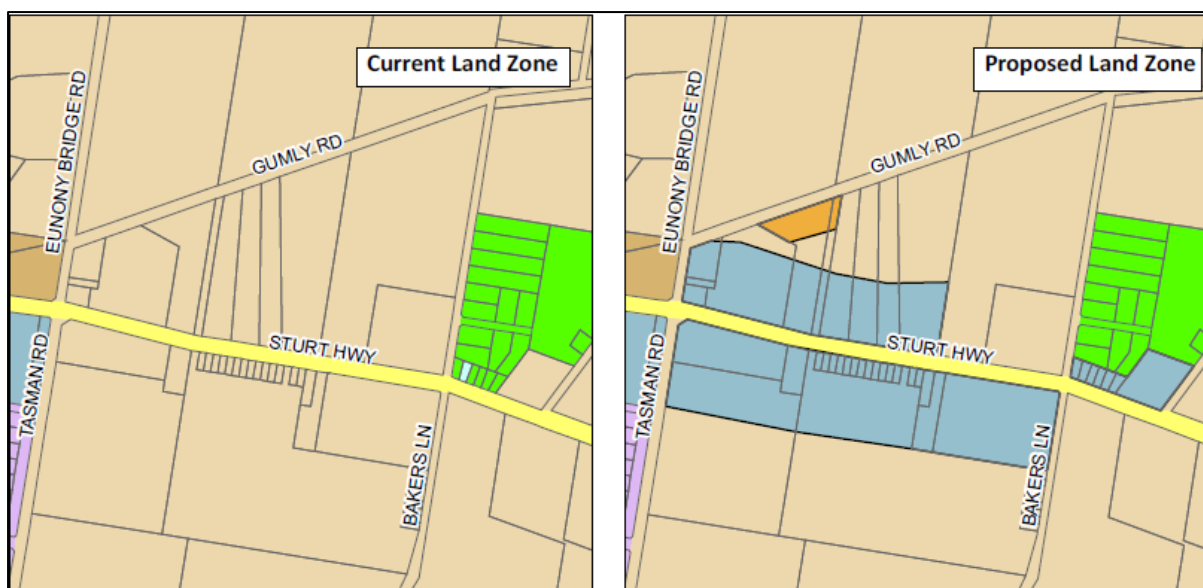


Figure 3: Current and proposed Land Zoning Maps

Source: Wagga Wagga City Council

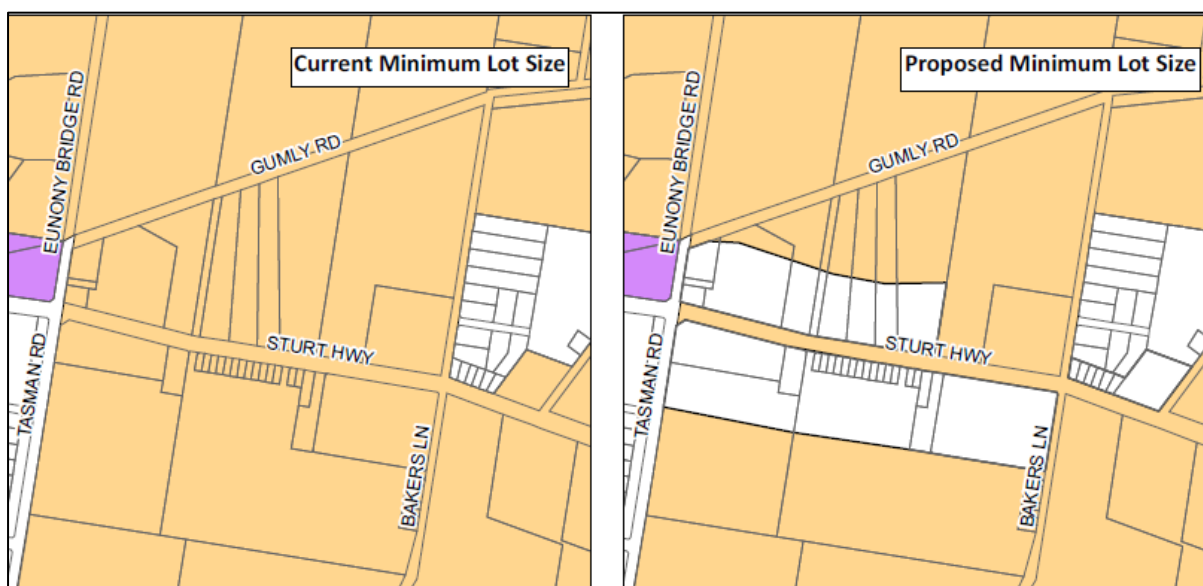


Figure 4: Current and proposed Lot Size Maps

Source: Wagga Wagga City Council

2.3 Mapping

The planning proposal includes maps which illustrate the proposed amendments to the Land Zoning and Lot Size Maps. The maps are considered suitable for community consultation.

3. NEED FOR THE PLANNING PROPOSAL

As noted above, the planning proposal applies to land which is subject to an existing Gateway determination. The planning proposal has been revised to include additional land proposed to be rezoned B6 Enterprise Corridor and E2 Environmental Conservation.

The planning proposal states the new areas proposed to be rezoned B6 were always intended to be incorporated into the proposed enterprise corridor precinct, which is identified as potential employment land in the Wagga Wagga Spatial Plan 2013/43.

Due to concerns about the impacts of overland flow flooding in the area, investigations regarding the cumulative impacts of development on the land were required prior to determining whether the planning proposal should proceed.

The zone and lot size boundaries now proposed have been determined in accordance with the findings of a cumulative flood impact assessment undertaken in support of the planning proposal. An assessment of the proposal's consistency with Section 9.1 Ministerial Direction 4.3 Flood Prone Land is provided in section 4.4 of this report.

The proposal to rezone additional land to B6 Enterprise Corridor is consistent with Council's strategic planning framework and existing proposals to rezone adjoining land for employment generating use. Accordingly, it is recommended that the revised planning proposal proceed to consultation with public authorities and the community in accordance with attached alteration of Gateway determination for planning proposal PP_2013_WAGGA_004_00.

4. STRATEGIC ASSESSMENT

4.1 State

There is no applicable state strategic planning framework.

4.2 Regional / District

The Riverina Murray Regional Plan 2036 applies to land within the Wagga Wagga LGA. The planning proposal identifies Direction 22: Promote the growth of regional cities and local centres as applicable.

The planning proposal states that it is consistent with Direction 22 as the proposed rezoning will increase the amount of employment land in Wagga Wagga and provide future investment and job opportunities for the community.

In addition to Direction 22, the following Directions are also applicable to the planning proposal:

- Direction 15: Protect and manage the region's many environmental assets
- Direction 16: Increase resilience to natural hazards and climate change

The planning proposal seeks to protect an area of significant native vegetation by proposing to rezone the land E2 Environmental Conservation. For this reason, the planning proposal is considered to be consistent with Direction 15.

As noted above, the land proposed to be rezoned B6 Enterprise Corridor is affected by overland flow flooding. The planning proposal is consistent with Direction 16 as the proposed zone boundary has been designed to avoid land subject to a high flood hazard.

As the planning proposal seeks to rezone additional land for employment generating uses, the proposal supports the intent of Direction 22 to support the growth of regional cities such as Wagga Wagga.

4.3 Local

The planning proposal notes that the land proposed to be rezoned is identified as potential employment land in the Wagga Wagga Spatial Plan 2013/43. For this reason, the planning proposal is considered to be consistent with Council's local strategic planning framework.

4.4 Section 9.1 Ministerial Directions

1.1 Business and Industrial Zones

Direction 1.1 Business and Industrial Zones applies as the planning proposal will affect land within a proposed business zone. The planning proposal states that it is consistent with the direction as it is not reducing the amount of land zoned for business purposes.

The planning proposal seeks to facilitate additional enterprise corridor development in a dedicated precinct which is identified in the Wagga Wagga Spatial Plan 2013/43 as potential employment land. Accordingly, the planning proposal is considered to be consistent with this Direction.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with this Direction.

1.2 Rural Zones

Direction 1.2 Rural Zones applies as the planning proposal affects land within an existing rural zone. The planning proposal states that it is inconsistent with the direction as it seeks to rezone land in a rural zone to a business zone.

The planning proposals inconsistency with the direction is justified by the Wagga Wagga Spatial Plan 2013/43, which identifies the area proposed to be rezoned as potential employment land. The Wagga Wagga Spatial Plan 2013/43 was endorsed by the Director General of the Department of Planning and Infrastructure in February 2014.

Recommendation: The Secretary's delegate can be satisfied that the planning proposals inconsistency with the direction is justified by an endorsed strategy.

1.5 Rural Lands

Direction 1.5 Rural Lands applies as the planning proposal affects land within an existing rural zone. The planning proposal states that it is inconsistent with the direction as it seeks to rezone land in a rural zone to a business zone.

As noted above, the planning proposal is consistent with the Wagga Wagga Spatial Plan 2013/43, which identifies the area proposed to be rezoned as potential employment land.

The planning proposal notes the size of the individual land holdings is below what would be required to maintain sustainable agricultural land uses. In addition, the planning proposal also notes the existing land use pattern includes other non-rural land uses.

The planning proposal also seeks to protect known environmental values by proposing to rezone a portion of the site containing a patch of significant native vegetation to E2 Environmental Conservation.

In addition, the planning proposal applies a zone boundary consistent with the flood hazard on the land.

For the above reasons, the planning proposal is considered to be consistent with this direction.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with this Direction.

3.4 Integrating Land Use and Transport

Direction 3.4 Integrating Land Use and Transport applies as the planning proposal creates a zone relating to urban land. The planning proposal states that it is consistent with the direction as it will increase access to jobs in Wagga Wagga and the land is accessible via a variety of transport modes.

The planning proposal seeks to facilitate additional enterprise corridor development in a Gateway location with access to essential infrastructure and services. Accordingly, the planning proposal is considered to be consistent with this Direction.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with this Direction.

3.5 Development Near Regulated Airports and Defence Airfields

The planning proposal identifies Direction 3.5 Development Near Regulated Airports and Defence Airfields as applicable.

The direction is not applicable to the planning proposal as it does not apply to land within the ANEF contour for Wagga Wagga airport.

4.3 Flood Prone Land

Direction 4.3 Flood Prone Land applies as the planning proposal seeks to create a zone that affects land subject to overland flow flooding. The planning proposal states that it is inconsistent with the direction. However, the inconsistency is considered minor as the proposed rezoning is consistent with Council's Flood Risk Management Plan and Study 2018, which was prepared in accordance with the Floodplain Development Manual 2005.

The Department of Planning, Industry and Environment's Environment, Energy and Science Division (EES), formerly the Office of Environment and Heritage, did not support Planning Proposal PP_2012_WAGGA_007_00 to rezone adjoining land at 3870 Sturt Highway to B6 Enterprise Corridor due to concerns about the extent to which overland flow flooding affected the area. It is understood these concerns extended to PP_2013_WAGGA_004_00.

Accordingly, Council deferred both planning proposals while preparing its Flood Risk Management Plan and Study and subsequent Gumly Gumly Cumulative Impact Assessment.

The completed flood modelling indicates that the proposed B6 Zone boundary avoids areas identified as a floodway and development of the land would result in no on or off-site flood impacts during a 5% AEP flood event. The flood modelling also indicates only marginal flood level increases during 1% and 0.2% AEP flood events.

The Gateway determination for PP_2013_WAGGA_004_00 includes a condition requiring the planning proposal to be updated prior to public exhibition to include additional information to justify the proposal's inconsistency with the direction and to take into consideration any comments made by EES.

Although the revised planning proposal has been prepared in accordance with Council's Floodplain Risk Management Study and Plan and the findings of a cumulative flood impact assessment, it is recommended that the proposal's inconsistency with the direction remain unresolved pending further consultation with EES.

Recommendation: It is recommended that the planning proposal be subject to consultation with the Department of Planning, Industry and Environment's Environment, Energy and Science Division prior to determining the proposals consistency with the direction.

5.10 Implementation of Regional Plans

Direction 5.10 Implementation of Regional Plans applies as the planning proposal relates to land subject to the Riverina Murray Regional Plan 2036.

As noted above, the planning proposal is consistent with Directions 15, 16, and 22, and the overall intent of the Riverina Murray Regional Plan 2036. A full assessment of the proposals consistency with the Regional Plan is provided above in the Strategic Assessment section.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with this Direction.

4.5 State environmental planning policies (SEPPs)

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 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 considered to be consistent with requirements of SEPP 55.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal does not identify any negative social impacts likely to occur as a result of the proposed rezoning.

The land proposed to be rezoned has been strategically identified as potential employment land and the proposed B6 Enterprise Corridor Zone is consistent with the zoning proposed for adjoining land under PP_2012_WAGGA_007_00 and the existing proposal under PP_2013_WAGGA_004_00.

The planning proposal states the proposed B6 Enterprise Corridor Zone will increase employment opportunities in Wagga Wagga by creating additional land on which employment generating development may occur.

Although the land is zoned rural, the planning proposal notes the land use pattern in the area is in transition and currently comprises a mix of commercial, residential and rural uses. Land uses which are not permissible in the B6 Zone will continue to operate under existing use rights in accordance with Division 4.11 of the *Environmental Planning and Assessment Act 1979*.

5.2 Environmental

As noted above, the areas proposed to be rezoned are affected by overland flow flooding.

In accordance with the cumulative flood impact assessment undertaken to inform the revised planning proposal, the zone and lot size boundaries avoid areas identified as a floodway. The flood modelling indicates that development of the proposed B6 Zone will result in no on or off-site flood impacts during a 5% AEP flood event. The flood modelling also indicates only marginal flood level increases of between 0.01 and 0.05 metres during 1% and 0.2% AEP flood events. **Figures 5 and 6** illustrate the flood impacts associated with development of the site during 5% AEP and 1% AEP flood events.

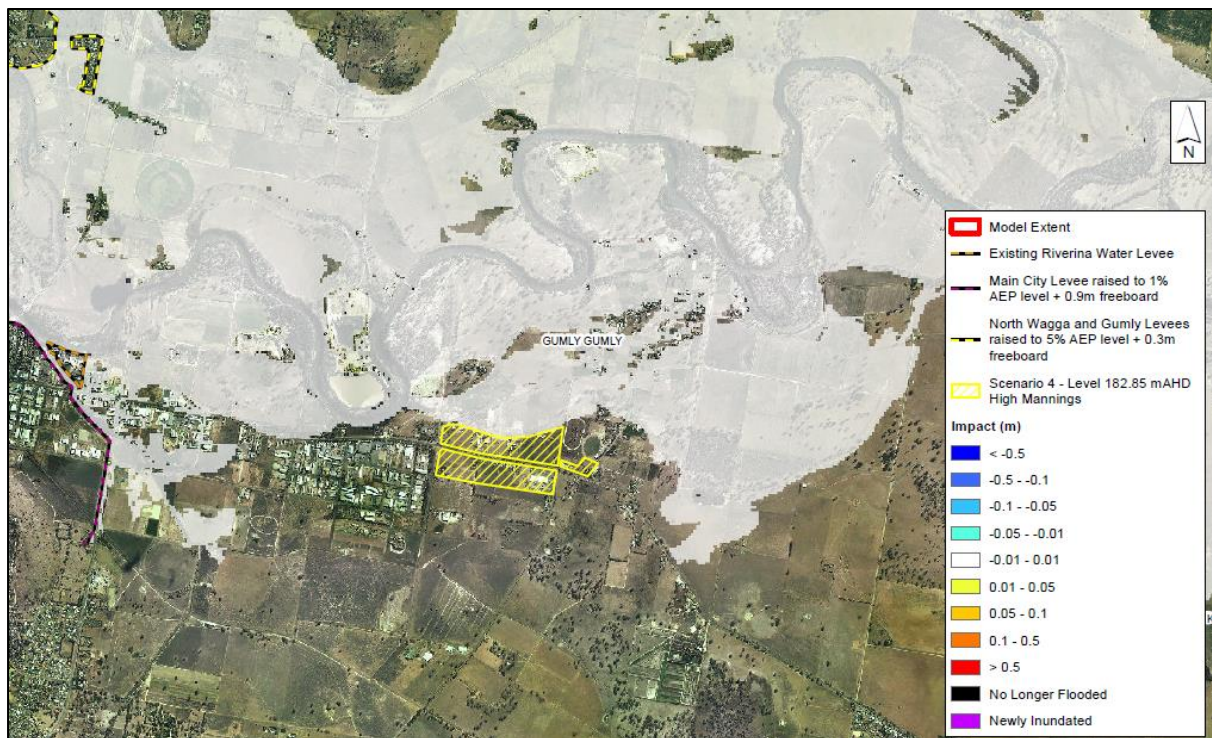


Figure 5: Peak flood level impact (5% AEP event)

Source: Gumly Gumly Cumulative Impact Assessment, WMAwater 2018

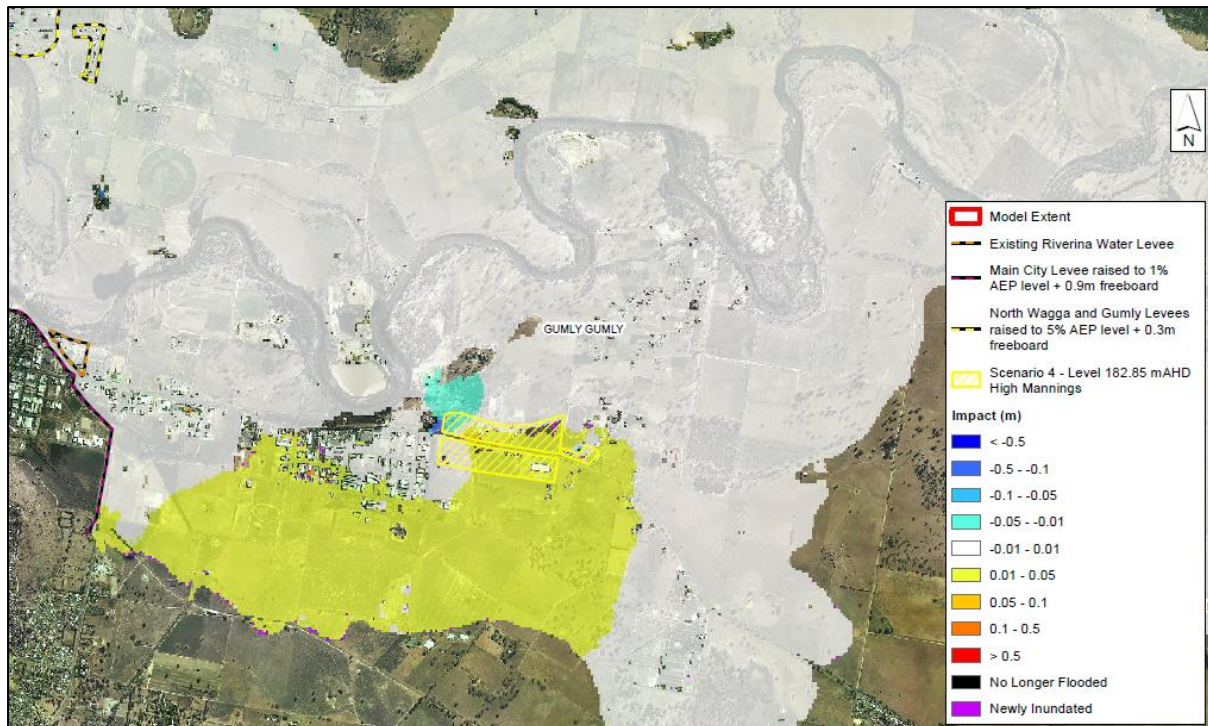


Figure 6: Peak flood level impact (1% AEP event)

Source: Gumly Gumly Cumulative Impact Assessment, WMAwater 2018

In accordance with the Gateway determination for PP_2013_WAGGA_004_00, Council is required to consult with EES regarding the planning proposal. As noted above, it is recommended that the proposal's inconsistency with the Section 9.1 Ministerial Direction 4.3 remain unresolved pending further consultation with EES.

In addition to rezoning additional land to B6 Enterprise Corridor, the planning proposal also seeks to rezone an area of River Red Gum situated on part Lot 2 DP 829057 from RU1 Primary Production to E2 Environmental Conservation. This is in response to comments from the former Office of Environment and Heritage received during the exhibition of planning proposal PP_2012_WAGGA_007_00 to rezone adjoining land at 3870 Sturt Highway, Gumly Gumly.

5.3 Economic

The proposed rezoning will increase employment opportunities within Wagga Wagga by creating additional enterprise corridor land. The planning proposal states these additional employment areas will not impact the primacy of the CBD and Bomen Special Activation Precinct due to legislative protections in the Wagga Wagga LEP and the Activation Precincts SEPP.

The planning proposal indicates that the land proposed to be rezoned has access to existing infrastructure and services with the exception of reticulated sewerage infrastructure. The planning proposal notes that augmentation of existing sewerage infrastructure can be provided in accordance with Council's Development Servicing Plan.

6. CONSULTATION

6.1 Community

Council recommends community consultation be undertaken for a minimum of 28 days. It is recommended that Council's proposed consultation period be supported.

6.2 Agencies

The planning proposal notes that the former Office of Environment and Heritage and Roads and Maritime Services were formally consulted during the exhibition of Planning Proposal PP_2012_WAGGA_007_00 for adjoining land at 3870 Sturt Highway.

While Council has had ongoing discussions with these agencies about extending the rezoning to a larger precinct, including detailed discussions regarding flooding hazards, formal consultation in accordance with the Gateway determination for planning proposal PP_2013_WAGGA_004_00 has not occurred.

Accordingly, the Gateway determination does not need to be altered to require additional government agency consultation.

7. TIME FRAME

Council has indicated the LEP can be completed within 5 months from the date an altered Gateway determination is issued.

The current timeframe for completing the LEP is 9 July 2019. It is recommended that the timeframe for completing the LEP be extended by 8 months to account for any unexpected delays in the plan making process.

8. LOCAL PLAN-MAKING AUTHORITY

The Gateway determination for planning proposal PP_2013_WAGGA_004_00 authorised Council to be the local plan making authority. Accordingly, no additional authorisation under section 3.36 of the Act is required.

9. CONCLUSION

The proposal to rezone additional land to B6 Enterprise Corridor and E2 Environmental Conservation is supported to proceed. The planning proposal demonstrates that the land proposed to be rezoned is strategically identified as potential employment land, is consistent with the proposed zoning of adjoining land and can be developed in a manner which minimises on and off site flood hazards.

It is recommended that the revised planning proposal proceed subject to the conditions set out in the attached alteration of Gateway determination for planning proposal PP_2013_WAGGA_004_00.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistency with section 9.1 Direction 1.2 Rural Zones is justified; and
2. note that the consistency with section 9.1 Direction 4.3 Flood Prone Land is unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the revised planning proposal should proceed subject to the conditions set out in the attached alteration of Gateway determination for planning proposal PP_2013_WAGGA_004_00.



26/7/19

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31/7/19

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