

**RP-9 PLANNING PROPOSAL FOR B6 ENTERPRISE CORRIDOR
(SOUTHERN PORTION) ON STURT HIGHWAY, GUMLY GUMLY**

13/073 RESOLVED:

On the Motion of Councillors G Conkey OAM and A Brown

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**

RECORD OF VOTING ON DEVELOPMENT OR PLANNING MATTERS - SECTION 375A(3) LOCAL GOVERNMENT ACT 1993

For the Motion

The Mayor, Councillor R Kendall
Y Braid
A Brown
G Conkey
P Funnell
G Hiscock
J McLaren
K Pascoe
A Negline
K Poynter
D Tout

Against the Motion

CARRIED

**RP-9 PLANNING PROPOSAL FOR B6 ENTERPRISE CORRIDOR
(SOUTHERN PORTION) ON STURT HIGHWAY, GUMLY GUMLY**

Author: Grant, Ian
Director: Crakanthorp, Andrew

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**

Executive Summary

This report provides Council with the Planning Proposal to amend the Wagga Wagga Local Environmental Plan 2010 (WWLEP 2010) to rezone land in Gumly Gumly south of the Sturt Highway between Tasman Road and Bakers Lane, from RU1 Primary Production to B6 Enterprise Corridor and land north of the Sturt Highway between Bakers Lane and Pioneer Avenue, from RE1 Public Recreation and B1 Neighbourhood Centre to B6 Enterprise Corridor. The proposed B6 Enterprise Corridor precinct will not be assigned a minimum lot size.

The subject land forms part of a larger B6 Enterprise Corridor precinct on the Sturt Highway. The rezoning of the northern portion of the larger B6 Enterprise Corridor precinct received Gateway determination on 2 November 2012.

This report was presented to the Policy and Strategy Committee meeting held on 11 February 2013, and at that time the Committee deferred consideration of the report seeking an updated report based on Option 2 (reduced area) as identified in the Flood Impact Assessment prepared by WMA Water. This report discusses in further detail Option 2 and indeed, recommends modification to the Planning Proposal to incorporate Option 2 as the preferred basis for future zones in that area.

Report

At its Ordinary Meeting held 27 February 2011 Council resolved to forward the planning proposal for the change of zone over the land in Gumly Gumly north and south of the Sturt Highway (the proposed B6 Enterprise Corridor precinct mentioned above) to the Department of Planning and Infrastructure to request “Gateway determination” allowing the planning proposal to proceed.

However, the Department of Planning and Infrastructure recommended a separate planning proposal for the northern portion of the proposed Enterprise Corridor, between Eunony Bridge Road and Bakers Lane, because the provided Flood Impact Study did not cover the whole of the precinct for which Council sought the Gateway determination. The Department directed that the land to the east of the northern portion and south of the Sturt Highway and not covered by the Flood Impact Study should be subject to another planning proposal that would be considered when additional information regarding flood risk could be provided. Furthermore, the

Department requested additional investigation regarding to the presence of the Bush Stone-Curlew.

As recommended by the Department the amended Planning Proposal for the northern portion was forwarded to the Department of Planning and Infrastructure on 19 September 2012. Gateway determination was received on 2 November 2012 and proceeding with rezoning the Planning Proposal was exhibited from 17 December 2012 to 8 February 2013.

Earlier discussions with the proponent on an indicative draft Master plan – and as a result of introductory discussion with the then RTA - focussed on ensuring a number of controls for development on the subject site such as:

- Preferred vehicle access from Tasman Road and Bakers Lane;
- Including provisions in the DCP for the development to represent a component of new entry point to Wagga Wagga with appropriate high quality urban design and to achieve a high level of streetscape presentation 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 the remainder of Gumly Gumly precinct for rezoning to B6 Enterprise Corridor, by Council. The land to be re-zoned south of the Sturt Highway corresponds with option 2 (reduced area) of the WMA Flood Impact Assessment. 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 south of the Sturt Highway is currently zoned RU1 Primary Production and carries a minimum lot size of 200ha. The land north of the Sturt Highway is currently zoned RE1 Public Recreation and B1 Neighbourhood Centre ("Gumly Gumly Trading Post").
- 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:

The area considered for rezoning is subject to flooding, being located on the Murrumbidgee River floodplain. A Flood Impact Assessment for the eastern and southern portion of the proposed Gumly Gumly Enterprise Corridor has been prepared. The study considers the flood related impacts of raising land within the subject site for two options in addition to the raising of land already assessed as part of the study undertaken for the area north of the Sturt Highway. Option 2 of the study involves raising the ground level of a portion of the southern precinct for approximately 300m south of the Sturt Highway as well as a small portion of land

north of the highway. The hydraulically modelled Option 2 is considered to have minimal impacts and not be unacceptable in terms of flood risk. On the remaining portion of land considered for rezoning the application of appropriate development controls could potentially limit development to low risk uses such as car parking. However it is considered that a more appropriate planning response is to exclude this portion from the Planning Proposal.

Although the main recognised mechanism for flooding in Wagga Wagga is the Murrumbidgee River, flooding can also be caused by local rainfall. The design flood results of the Wagga Wagga Major Overland Flow Study indicate that the area south of the highway is liable to flooding following intense rainfall (1% AEP event). The approximate flood extends show partial inundation of the area which corresponds with the portion of land that is excluded from the Planning Proposal.

Stormwater runoff from the developed B6 Enterprise Corridor can be expected to increase as a proportion of the site will become impervious; therefore storm water infrastructure will be required for onsite retention and release at predevelopment flow rates (e.g. retention pond, water tanks, basement storm water storage). Given the volume of water needed to be retained on each lot and the limited potential to reuse the captured water, additional cost and design requirements on prospective developments will be significant.

Further, raising the developed area may also cause drainage problems for the areas that run onto the site as the raised areas will change the existing drainage profile from both the natural areas and the existing buildings therefore additional stormwater infrastructure may need to be implemented at cost to the developer to compensate for the impacts of the development. Appropriate conditions of consent for the B6 Enterprise Corridor zone will have to be adopted in the DCP.

The land is a strip of “residual” rural land along the Sturt Highway, which because it is located in a flood plain, contains little vegetation and no significant trees. The changes will not affect any critical habitat or threatened species, populations or ecological communities or their habitats. A biodiversity assessment with reference to the presence of the Bush Stone-curlew (NGH Environmental, August 2012) determined that no breeding habitat is considered present due to the past, present and likely future disturbance and land-use regimes. The site is unlikely to provide any potential habitat for the Bush Stone-curlew.

Investigations extending to the whole of the proposed B6 Enterprise Corridor (as represented in the previous reports for the proposed precinct) determined that sewerage can service the identified precinct by connecting to the Council main using a combination of gravity and pressurised pipes.

A traffic impact assessment determined that the development of the site for business enterprise purposes could be supported from a traffic viewpoint. In relation to proposed traffic management, on the basis of preliminary discussions with RMS main vehicle access to the southern precinct should be primarily through Tasman Road and Bakers Lane. Regarding the development of the whole Enterprise Corridor precinct, highway improvements such as a roundabout and/or slip lanes may be considered. The extent of necessary roadwork will be the subject of more detailed traffic studies at future DA stages.

For further information, a large portion of the area considered for rezoning is currently in the rate category Business Village; however the affected residential properties are rated as Residential Village or Residential Rural (one lot). Properties are rated according to the primary use of the land. Rezoning will not change this unless Council receives an application for development in accordance with the new zoning. The land is valued by the Valuer General at its potential use and any land value supplied by the Valuer General would be applied to the property on the appropriate rate category at the time of striking the rate and charges. The next Revaluation base date will be 1/7/2013 effective 1/7/2014.

Budget

N/A

Policy

Wagga Wagga Local Environmental Plan 2010, as amended.
Wagga Wagga Development Control Plan 2010, as amended.

Impact on Public Utilities

In relation to the provision of sewerage to the identified site initial discussions have taken place with staff from Infrastructure Services who are amenable to the proposal and advise that whilst sewerage does not currently extend to the identified precinct, such infrastructure can be extended 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	The precinct has the potential to increase the diversity of jobs in the locality	The proposal will have the impact of altering the zoning context of the existing dwellings on the Sturt Highway and Bakers Lane 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 as the entry point to Wagga Wagga proper. It will also	N/A

	Positive	Negative
	result in clarity of flood management in this location as well as improved local sewerage infrastructure.	
Economic	The proposed zoning change has the potential to contribute to increasing the viability of business in the locality as a result of the multiplier effect of increased local area visitation and spending.	N/A
Governance	N/A	There may be a need for flood impact monitoring in the initial period after development.

Risk Management and Work Health and Safety 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 it was resolved to endorse the preparation of a Planning Proposal for the rezoning of the land on both sides of the Sturt Highway between Tasman Road and the Riverina Marine Centre / Gumly Gumly Store to B6 Enterprise Corridor, devise a comprehensive consultation strategy with the community and that the strategy be communicated to Councillors.

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 was prepared which extended beyond the customary public notification requirements. A public notice was placed in the local press before the Planning Standing Committee of 14 February 2012, advising of the proposal to rezone the land.

Stakeholder consultation concerning this planning proposal is intended to be undertaken for a minimum period of 28 days should the planning proposal receive approval from the Department of Planning to proceed "through the Gateway".

Public consultation concerning the rezoning of the northern portion of the proposed B6 Enterprise Corridor precinct was undertaken from 17 December 2012 to 8 February 2013. Following that period and after consulting with public authorities, the Office of Environment and Heritage (OEH) informed Council that OEH does not support the Planning Proposal for the northern portion of the B6 Enterprise Corridor due to a number of outstanding issues relating to flood modelling and the cumulative impacts of development on the Gumly Gumly floodplain. OEH have advised that following the last two major flood events there is likely to be a shift in the 'Rating Curve' for the gauging station on the

Murrumbidgee River at Wagga. Early indications are that the 1% and 5% AEP design flood levels may rise significantly. OEHL is of the view that the northern planning proposal should be deferred until remodelling is completed.

Recognising the concerns of OEHL and the potential impact on Council's Planning Proposal for the southern section of land (the subject of this report), a meeting involving OEHL, the Department of Planning and Council staff has been scheduled for the week commencing 18 March. It is expected that the issues can be worked through and that Council's desire to have an improved entrance corridor for Wagga Wagga can still be achieved by way of the rezoning of the northern and southern section of the Sturt Highway as previously identified.

An update on this important issue will be provided at the Council meeting. Again, it should be remembered that Council's consideration of this report and endorsement of the recommendation will have the effect of referring the planning proposal to the Department of Planning and, if approved through the gateway, then be advertised for comment.

Attachments

1. Planning Proposal to rezone land on Sturt Highway Gumly Gumly
2. Attachment A - Proposed Land Zoning Map
3. Attachment B - Proposed Minimum Lot Size Map
4. Flood Impact Assessment
5. Habitat Assessment
6. Gateway Determination - Northern Section

PLANNING PROPOSAL

Rezoning of Land on the Sturt Highway, Gumly Gumly from RU1 Primary Production, RE1 Public Recreation and B1 Neighbourhood Centre to B6 Enterprise Corridor

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

The purpose of this Planning Proposal is to amend the Wagga Wagga Local Environmental Plan 2010 (WWLEP 2010) by making the following changes:

Rezone Land north and south of the Sturt Highway, Gumly Gumly, as shown in Attachment A from RU1 Primary Production, RE1 Public Recreation and B1 Neighbourhood Centre to B6 Enterprise Corridor. This will alter the WWLEP 2010 zoning map by removing the indicated extent of land coloured and zoned RU1 Primary Production, RE1 Public Recreation and B1 Neighbourhood Centre, and by replacing it with the colour indicating the B6 Enterprise Corridor zone. The subject land forms part of a larger B6 Enterprise Corridor precinct on the Sturt Highway.

The rezoning of the northern portion of the larger B6 Enterprise Corridor precinct received Gateway determination on 2 November 2012.

The minimum lot size map will be amended by removing the minimum lot size applicable to the existing RU1 Primary Production zone. The proposed B6 Enterprise Corridor precinct will not be assigned a minimum lot size.

Note: Part of the proposal is to rezone 5 lots of RE1 Public Recreation land north of the Sturt Highway to a B6 Enterprise Corridor Zone. As stated in the Section 117 Directions this land is privately owned land and as such these sites do not require a reclassification.

PART 2 – EXPLANATION OF PROVISIONS

Amend the WWLEP 2010 as set out below:

Amend the WWLEP 2010 land zoning map as shown in attachment A. Attachment A shows the extent of the adjusted zone boundaries from RU1 Primary Production, RE1 Public Recreation and B1 Neighbourhood Centre to B6 Enterprise Corridor.

Amend the WWLEP 2010 Minimum Lot Size map as shown in attachment B. Attachment B shows the adjusted Minimum Lot Size from 200 hectares to no minimum lot size for the B6 Enterprise Corridor zone.

PART 3 – JUSTIFICATION

Section A – Need for the planning proposal

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

No. The land which is the subject of this Planning Proposal has not been subject to specific strategic reports or studies. However, the land falls within the whole of local

government area which was the subject of the Wagga Wagga Floodplain Risk Management Plan 2008 and further detailed study has been undertaken in relation to north side sites.

This Proposal is consistent in principle with a previous draft Wagga Wagga Local Environmental Plan 2008 submission. That submission to rezone the subject land was first made at the time of the exhibition of the draft Wagga Wagga LEP in 2009, but the submission sought to rezone the land to IN2 Light Industrial. Following subsequent more detailed discussion on the most appropriate future development in the locality, a recent approach to Council sought rezoning of the land to B6 Enterprise Corridor rather than the initial IN2 proposal. This was the subject of the Planning Proposal that received Gateway determination for the northern portion of Council's proposed larger B6 Enterprise Corridor precinct on the Sturt Highway. The investigations for the northern section extend to the Gumly Gumly precinct

The land was identified as flood prone land under the Wagga Wagga Floodplain Risk Management Plan, May 2009. In accordance with the Department of Planning and Infrastructure request that additional flood study was required in relation to the subject land, WMA Water was commissioned on the basis of its capability to review the findings of its Floodplain Risk Management Plan, which is attached to the Planning Proposal.

On request of the Department of Planning and Infrastructure for additional study into the Bush Stone-curlew a bio diversity assessment was undertaken by NGH Environmental.

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

Yes. Without the proposed rezoning the intended use for the larger proposed precinct (including the lots north of the Sturt Highway that are currently being rezoned to B6 Enterprise Corridor following Gateway determination on 2 November 2012) cannot be achieved. The land is not considered to be of appropriate size for sustainable agricultural uses. Further, because of the presence of both a large retail centre and a significant number of typical residential lots, the character of the precinct as a whole, while traditionally rural, has been urbanised for a considerable time. The proposed rezoning would result in the land being better used on a whole of precinct basis as an Enterprise Corridor precinct and will provide a key entry statement into the City of Wagga Wagga. No other standard instrument zone can as readily meet this objective.

Part of the highway frontage land north of the Sturt Highway is currently zoned as RE1 Public Recreation with one lot as B1 Neighbourhood Centre. This part of the site was considered part of the 'village green' but lots along the highway (mainly dwellings) are better suited included in the Enterprise Corridor precinct as gateway to the city. The remaining section of the RE1 Public Recreation zone serves as public park / sporting facility for the locality of Gumly Gumly. The current zoning reflects the public use even though the land is privately owned.

Section B – Relationship to strategic planning framework

3. 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 Regional Action Plan (December 2012) and is relevant to priority 1 – Support economic growth (NSW 2021 Goal 3 – Drive economic growth in regional NSW).

The objective of the land use change of the land on both sides of the Sturt Highway at Gumly Gumly is to allow for the development of an Enterprise Corridor at the eastern entrance to Wagga Wagga with potential future functional links with the airport precinct and the Bomen Industrial area.

4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The planning proposal is consistent with the Wagga Wagga Community Strategic Plan 2011-2012 and is relevant to:

5.2 Attract a range of industries via connected business hubs.

The objectives of the proposed rezoning of the land on both sides of the Sturt Highway at Gumly Gumly are:

- To alter the zoning to a zone which will allow Council to condition development to create a high quality built form as the eastern entry point to Wagga Wagga. The subject land forms a part of the proposed larger precinct.
- In relation to the above objective to rationalise the currently disparate land uses, the proposed precinct is expected to provide consistency of future development opportunity for the locality as a city entry point.
- While rezoning the land, to ensure that the rezoned land allows for the establishment of a bona fide new "business hub" – with potential future functional links with the Bomen Industrial area – rather than allowing for the further eastward spread of the traditional light industrial ribbon development. Introduction of the proposed B6 Enterprise Corridor zone in this location effectively draws a line in the sand and focuses future light industrial development to either the already large area of land zoned for that purpose, west of Tasman Road, or to Bomen.

5.6 Provide employment opportunities for all.

The proposed zoning change has the potential to contribute to increasing the viability – and thus employment creation – of business in the locality as a result of the multiplier effect of increased local area visitation and spending.

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

The proposal is consistent with relevant State Environmental Planning Policies (SEPP's).

State Environmental Planning Policy No. 55 – Remediation of Land.

The SEPP requires the planning authority to consider whether land is contaminated, and if so whether it is, or can be made, suitable for the proposed use. If land is found to be potentially contaminated or previously contaminated, a preliminary contamination assessment can be prepared for the site.

On review of Council's Potentially Contaminated Land Register, Council can confirm that the subject land is not on Council's Potentially Contaminated Land Register.

State Environmental Planning Policy (Rural Lands) 2008

The aims of this State Environmental Planning Policy are to:

- facilitate the orderly and economic use and development of rural lands for rural and related purposes,
- identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,
- implement measures designed to reduce land use conflicts,
- identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.

This is discussed further under the heading Ministerial Section 117 directions below.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Direction 1.1 Business and Industrial Zones

The Planning Proposal is consistent with this direction as it will encourage employment growth in suitable locations without adversely affecting the primacy of the Central Business District; it is considered that while the B6 zone permits business premises and garden centres, it should be noted that the wider locality accommodates a garden centre and the retailing activity of the Riverina Marine Centre without causing adverse impacts on the City Centre. It is anticipated that the future use of the subject land and within the proposed precinct, will be of similar small scale and of different character to the city centre.

Direction 1.2 Rural Zones

The Planning Proposal is inconsistent with this direction because it is rezoning rural land to Enterprise Corridor land. The subject land is not of a size typically required to support sustainable agricultural uses, is located in an essentially urbanised context, has not been used for agriculture for a considerable amount of time and, given its location at the turn off to the increasingly significant Bomen Industrial Estate, is currently characterised by an unattractive scatter of unrelated developments.

Direction 1.5 Rural Lands

The Planning Proposal is inconsistent with this direction.

The Proposal is inconsistent with this direction as it will alter the current RU1 Primary Production Zone. However, as detailed in the response to the Minister's Section 117 Direction 1.2 above, this inconsistency is of minor significance as the land is no longer

used for the purposes of Primary Production because of its isolated location size and recent history of use.

The Proposal is not consistent with the Rural Planning Principles contained in the *State Environmental Planning Policy (Rural Lands) 2008* as follows:

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

However as detailed above, the inconsistency is of minor significance.

Furthermore, the location of the proposed new zone within an established largely urbanised 'village' context, and in a location where it can form part of a precinct which will contain any further light industrial 'ribbon' development along the Sturt Highway, can be achieved without causing fragmentation of rural land or resulting in any land use conflicts.

Direction 2.1 Environment Protection Zones

Not applicable. The Subject land is not zoned environmental protection.

Direction 2.3 Heritage Conservation

Not applicable. The proposal does not affect the conservation of items, areas, objects or places of environmental heritage significance or indigenous heritage significance.

Direction 3.4 Integrating Land Use and Transport

The Proposal is inconsistent with this direction as it will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. However, this inconsistency is addressed by the attached RPS Planning Consultancy study prepared in support of the planning proposal, which gives consideration to the objective of this direction.

The RPS study notes that "*The proposal satisfies the principles of the Improving Transport Choice – Guidelines for planning and development as:*

- the B6 zone would accommodate businesses with significant freight movements and low to medium employment density;
- the site is ideally located adjacent to an established industrial area and approximately close to the Wagga Wagga CBD;
- the site has sufficient area to accommodate well designed car parking facilities both now and into the future;
- There are opportunities to extend the city's bike path network to this site;
- An increase in business activity to the precinct will facilitate justification for improved public transport options to the Gumly area by making public bus scheduling viable.
- The study's Traffic Impact Assessment (Appendix B) concludes that the proposal can be supported on traffic grounds.

The Right Place for Business and Services – Planning Policy aims to ensure that trip generating activities can be co-located where there is transport choice and is also aimed to protect existing centres. The predominant types of uses expected to locate in the precinct are agricultural based sales and service industries and other light industries. Council has provided as part of this Planning Proposal (Item 3) created a proposed land use table which aims to limit the type of retailing and other service uses that could occur on the site to ensure the integrity of the CBD is maintained".

Direction 3.5 Development near Licensed Aerodromes

Not applicable. The proposed B6 precinct is located four kilometres from the Wagga Airport which is not within the immediate vicinity of the airport and as such falls well outside of the ANEF noise contours.

Direction 4.3 Flood Prone Land

The Planning Proposal is inconsistent with this direction as it seeks to create, remove or alter a zone or a provision that affects flood prone land. However, the inconsistency is considered of minor significance as the accompanying Flood Impact Assessment by WMA Water identifies this area as suitable for development as proposed form of development on the southern and northern side of the highway and that appropriate land raising would result in only minor flood impacts and only minor changes to flood risk. The land subject of this Planning Proposal is consistent with Option 2 for the development area considered for land raising. Although the impact extent is much the same as Option 1, the increases in flood levels are less. In addition, the design flood results of the Wagga Wagga Major Overland Flow Study indicate that the area south of the highway is liable to flooding following intense rainfall (1% AEP event). The approximate flood extends show partial inundation of the area which corresponds with the portion of land that is not included in this Planning Proposal.

The provisions of the B6 Enterprise Corridor zone will ensure that only low impact commercial development will occur within the proposed B6 precinct. As a result, the form of proposed development can proceed and the provisions of the Planning Proposal that are inconsistent are of minor significance.

Furthermore the proposed rezoning encourages redevelopment of existing premises for land uses that result in less vulnerability to life as a result of flood risk. Through planning

controls it is also easier to impose requirements for flood plans and evacuations from commercial and industrial uses. In relation to these specific uses, floor level controls can be used to reduce flood damage and commercial and industrial properties can also be required to be flood proofed.

Direction 4.4 Planning for Bushfire Protection

The Planning Proposal is consistent with this direction as the area is not identified as "bush fire prone" land.

Direction 6.2 Reserving Land for Public Purposes

The Planning Proposal is consistent with this direction as the proposal does not seek to create, alter or reduce existing land reserved for public purposes.

The items within this Planning Proposal are consistent with all other Section 117 directions.

Section C – Environmental, social and economic impact.

7. 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?

No. The land is a narrow strip of "residual" rural land between the Murrumbidgee River and the Sturt Highway, which because it is located in a flood plain, contains little vegetation and no significant trees. The changes will not affect any critical habitat or threatened species, populations or ecological communities or their habitats. These other items do not affect any critical habitat or threatened species, populations or ecological communities, or their habitats.

Furthermore, a biodiversity assessment, undertaken at the request of the Department of Planning and Infrastructure, with reference to the presence of the Bush Stone-curlew (NGH Environmental, August 2012) determined that no breeding habitat is considered present due to the past, present and likely future disturbance and land-use regimes. The site is unlikely to provide any potential habitat for the Bush Stone-curlew.

8. 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 other known environmental affects that could arise from the Planning Proposal.

9. Has the planning proposal adequately addressed any social and economic effects?

The economic impact of the Planning Proposal has been considered and allows for better use of the land without impacting on existing retail hierarchy. A B6 Enterprise Corridor zoning along the Sturt Highway will expand the range of permissible uses in the locality and thereby accommodate more employment generating uses.

Section D – State and Commonwealth Interests.

10. Is there adequate public infrastructure for the planning proposal?

Stormwater infrastructure will be required for onsite retention and release at predevelopment flow rates. As the raised areas will change the existing drainage profile from both the natural areas and the existing buildings that run onto the site, additional infrastructure may need to be implemented at cost to the developer to compensate for the impacts of the development. Appropriate conditions of consent for the B6 Enterprise Corridor zone will have to be adopted in the DCP.

The detailed sewer investigation accompanying the application substantiates that appropriate, significant upgrade will occur locally to accommodate the scale of development resulting from the rezoning. The locality can otherwise be connected to other utility services.

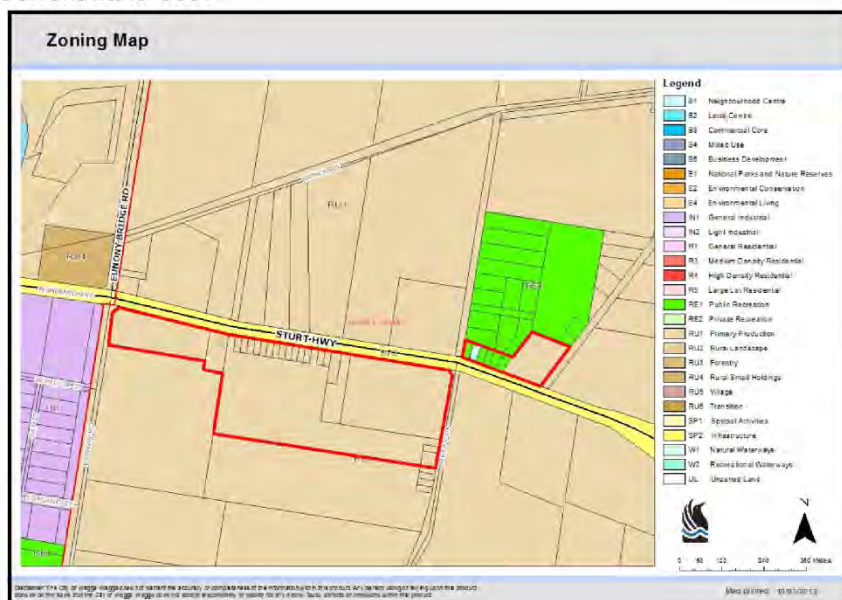
12. What are the views of the State and Commonwealth public authorities?

The former Roads and Traffic Authority (now Roads and Maritime Services) has been involved in earlier informal discussions in relation to the former rezoning proposal mentioned previously. These discussions informed the current RPS study for the subject land.

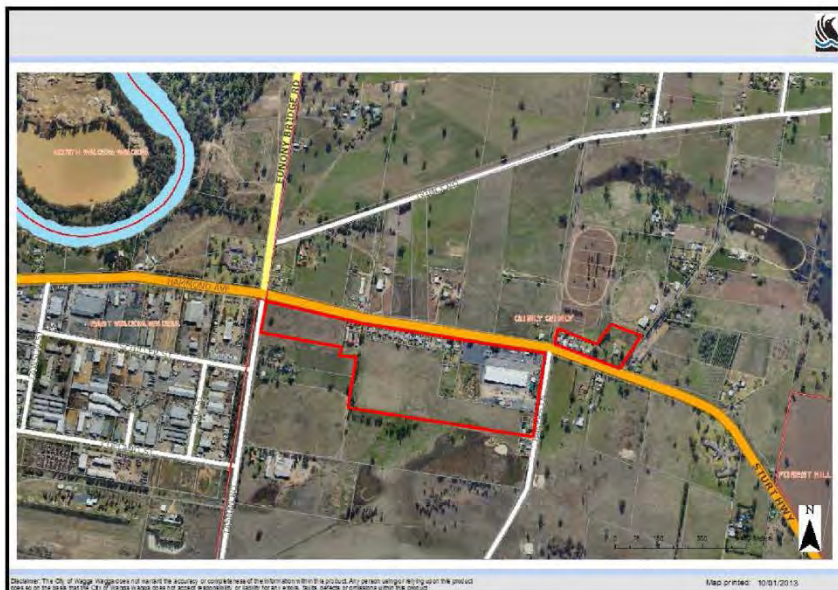
Apart from that, no State or Commonwealth public authorities have been consulted in the process of preparing this Planning Proposal. However, consultation will occur as directed by the Gateway Determination.

PART 4 – MAPPING

Current Land Use:

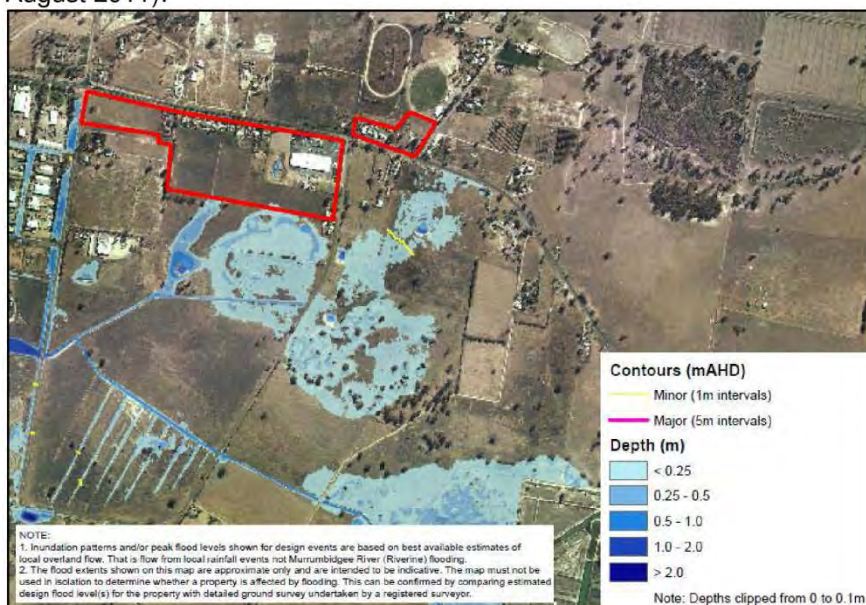


Aerial photograph (June 2012):



The land subject to the Planning Proposal is shown on the WWLEP 2010 land zoning map in attachment A and the WWLEP 2010 Minimum Lot Size map as shown in attachment B.

Flood depth and contours 1% AEP Design Flood (Major Overland Flow Flood Study, August 2011):



Relevant maps illustrating the flood impacts are included in the accompanying Flood Impact Assessment by WMA Water.

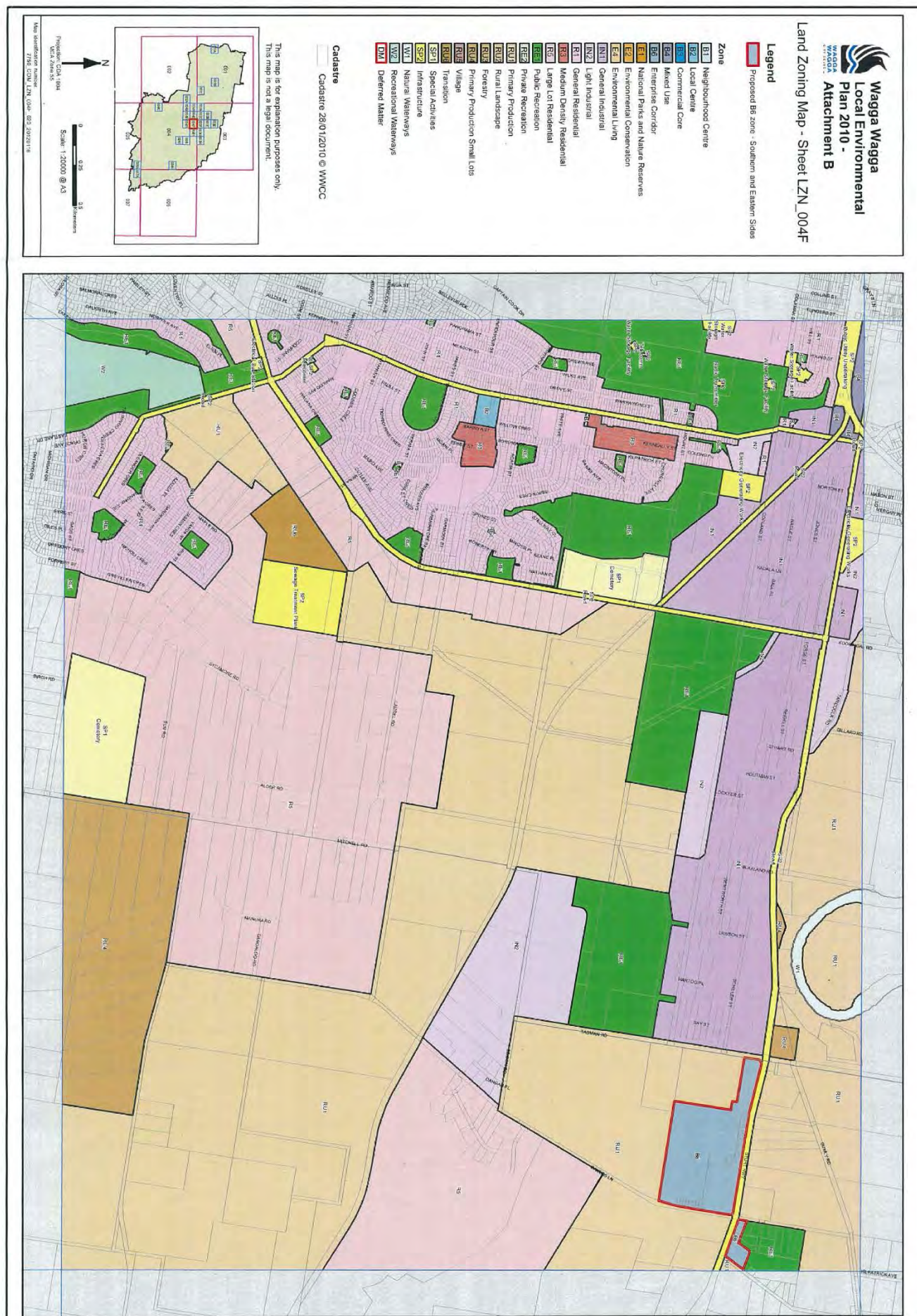
PART 5 - COMMUNITY CONSULTATION

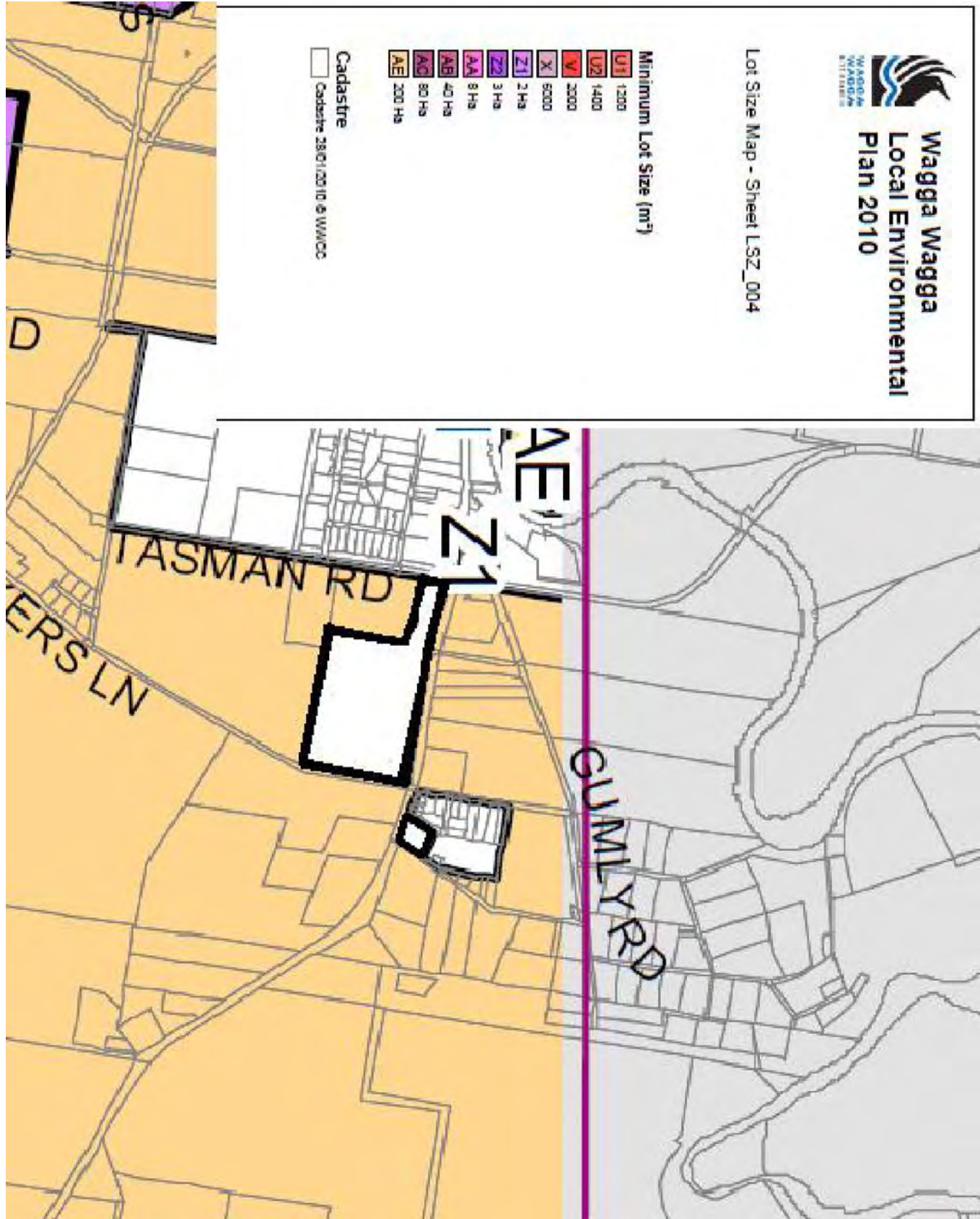
A detailed community consultation strategy has been prepared in relation to the proposed zoning of both sides of the Sturt Highway at Gumly Gumly and information has already been provided to Wagga Wagga City Council Councillors in the matter. Public Exhibition of the Planning Proposal for at least 28 days will commence when advised that the proposed rezoning should proceed. However, any further requirements for community consultation will remain at the discretion of the Department of Planning and Infrastructure as allowed for at the time of Gateway determination.

The Planning Proposal for the zoning of the northern portion of the proposed Enterprise Corridor precinct was on Public Exhibition from 17 December 2012 to 8 February 2013.

PART 6 – PROJECT TIMELINE

STAGE	TIMING
Anticipated commencement date	March 2013
Anticipated timeframe for completion of required technical information	April 2013
Timeframe for government agency consultation	May 2013
Commencement and completion dates for public exhibition period	May 2013
Dates for public hearing	N/A
Timeframe for consideration of submissions	June 2013
Timeframe for consideration of a proposal post exhibition	June 2013
Date of submission to the department to finalise the LEP	July 2013
Anticipated date RPA will make the plan	July 2013
Anticipated date RPA will forward to the department for notification	July 2013







Wagga Wagga City Council
PO Box 20
WAGGA WAGGA NSW 2650

11100702/L121113_GumlyFIA

13 November 2012

Attention: Mr Ian Grant

Dear Ian,

**Re: Flood Impact Assessment –
Eastern and Southern Portion of the Proposed Enterprise Corridor, Gumly Gumly**

1. Executive Summary

This Flood Impact Assessment has been prepared in relation to the proposed rezoning of land at Gumly Gumly where Council seeks to rezone a precinct of land from RU1 Primary Production to B6 Enterprise Corridor. In doing so, it is likely that ground levels will need to be raised to meet floor level and planning requirements. To assess the impacts of the raised ground levels hydraulic modelling was undertaken.

The existing hydraulic model for the Murrumbidgee River at Wagga Wagga, originally prepared as part of the Murrumbidgee River Model Conversion Project 2010, was re-established so that two concept designs could be run to identify the significance of the proposed rezoning in terms of flood risk. This study considers the flood related impacts of raising land within the Subject Site in addition to the raising of land already assessed as part of a previous Flood Impact Assessment undertaken for an area of land north of the Sturt Highway (Reference 1). The modelling undertaken found that appropriate land raising in the rezoning area would result in only minor flood impacts and minor changes to flood risk.

2. Background

Council seeks to rezone a precinct of land at Gumly Gumly from RU1 Primary Production to B6 Enterprise Corridor. The precinct fronts both the north and south sides of the Sturt Highway and is adjacent to existing residential and commercial development (see Plate 1 over and also Figure 1). The precinct would be inundated during mainstream flooding of the Murrumbidgee River 1% AEP event and has been classified with varying degrees of provisional hydraulic hazard. Council is required to submit a Planning Proposal to the Department of Planning and Infrastructure. The proposal is required to meet the conditions set out under the S117 Directions for Flood Prone Land to assess the potential impact of the land rezoning.

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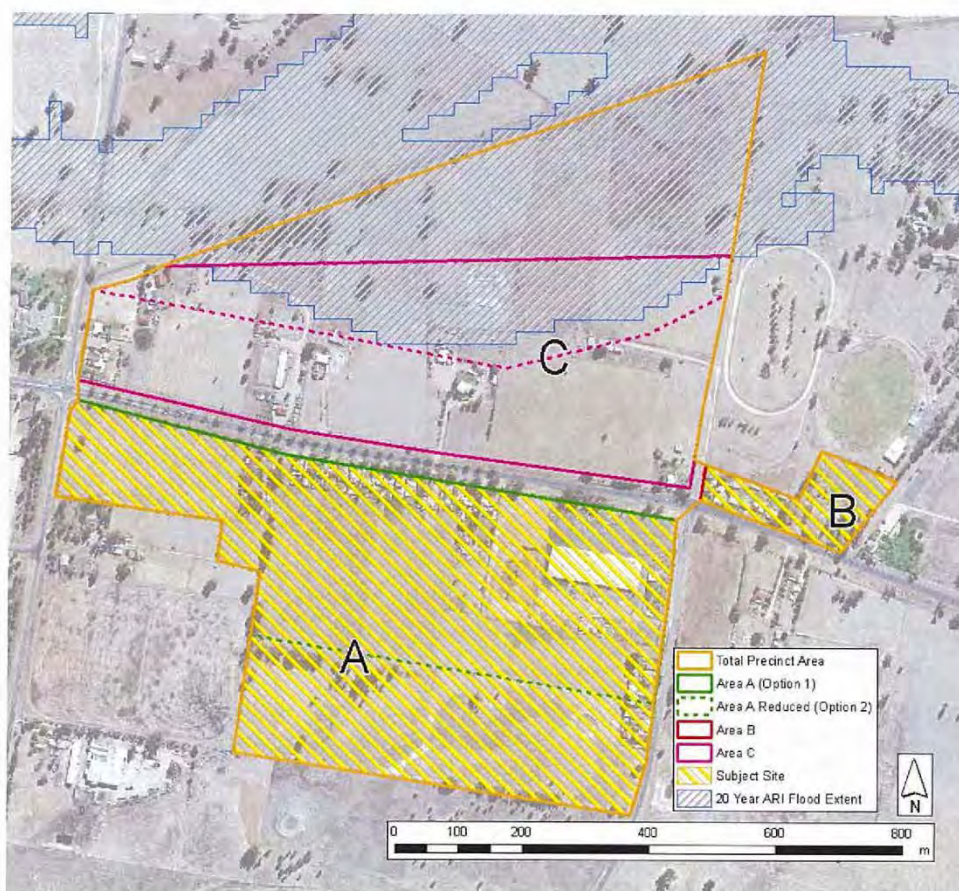


Plate 1: The Subject Site and Total Rezoning Precinct Area

Development controls are often used to stipulate minimum floor level requirements in order to reduce flood risk and consequences. However, where ground levels are low so that simple building raising would not be feasible due to issues over property access, suitable construction, building usability etc., then ground levels may need to be raised also. Ground level raising also assists in enforcing the appropriate floor level controls on future development. Such controls are applied to the adjacent Eastern Industrial Area, where a 5% AEP flood level plus 0.5m floor level control applies. As part of the proposed rezoning, the site would likely require land raising in order to achieve minimum floor levels for development.

Ground level raising is likely to have some impact on flood levels due to reducing available volume in the floodplain and altering the existing directions of flood flows. Therefore this Flood Impact Assessment has been prepared to investigate the potential impacts of land raising in the precinct and to assess whether these impacts are not unacceptable in terms of flood risk to the site itself and the surrounding area.



The precinct area consists of three sites on both sides of the highway. WMAwater have previously investigated the proposed rezoning (land raising) of the land within the precinct north of the Sturt Highway as part of Reference 1. The Flood Impact Assessment for the northern portion of the precinct found that rezoning, including land raising of some of the site, would not be unacceptable in terms of flood risk given the minimal flood level impacts and proximity to the East Wagga Wagga Industrial Area and associated flood risk.

Council now seeks to also rezone the land to the south of the Sturt Highway; the Subject Site. In accordance with Council's proposed B6 precinct mentioned above, Council has requested a study of the southern portion of the proposed precinct, so that a complete picture of the appropriateness of the precinct for the uses proposed, in terms of flood risk, can be obtained. The current study is required to assess the potential flood level impacts of rezoning, and subsequent land raising, of the portion of land to the south of the Sturt Highway and the smaller portion in the north of the highway in addition to the land north of this highway.

Figure 1 shows the precinct area for proposed rezoning. For the purposes of this Flood Impact Assessment the precinct has been sub-divided into three areas; A, B and C, each of which are likely to be raised above current ground levels to achieve appropriate floor level controls for flood risk management. The triangle of land north of site C is to be left at existing ground levels as per the conclusions of the previous Flood Impact Assessment for the northern precinct only (Reference 1) as filling within this flood runner area is likely to result in greater changes to flood behaviour. This portion of the precinct could be utilised for activities at ground level such as car parking or open space.

2.1. Existing Flood Situation

During a mainstream flood event the Murrumbidgee River first spills from the river meander to the east of the subject precinct. Out of bank flows then spread towards the precinct. Secondly the River spills near Brehour through a flood runner to the north of the precinct. The two flows combine to inundate the precinct.

The precinct is currently fully inundated by the 1% AEP flood event (100-year ARI) while the 5% AEP flood event (20-year ARI) affects part of the area to the north of Sturt Highway to depths of up to a maximum 0.7m. Existing flood depths in the 1% event are above 0.5m and can reach up to 2m in isolated areas (Figure 2). Modelled peak flood levels during the 1% AEP flood event generally reach 183.1 mAHD.

Provisional hydraulic hazard across the precinct under present conditions is a mix of high and low with the majority of the precinct south of the Sturt Highway classified as high hazard largely due to the flood depths at this location (Figure 3). The Sturt Highway between the north and south precinct is largely classified as low hazard as far as east Wagga Wagga Industrial Area although the surrounding area is high hazard.



2.2. Change of Use

Current land use in the precinct is RU1 Primary Production. It is proposed that the precinct is rezoned to B6 Enterprise Corridor. The allowable development in each zone is described below (as per Wagga Wagga LEP).

RU1 Primary Production

Permitted without consent:

Environmental protection works; Extensive agriculture; Home businesses; Home occupations; Roads

Permitted with consent:

Bed and breakfast accommodation; Cellar door premises; Dual occupancies; Dwelling houses; Extractive industries; Farm buildings; Farm stay accommodation; Hardware and building supplies; Home industries; Intensive livestock agriculture; Intensive plant agriculture; Markets; Open cut mining; Roadside stalls; Rural supplies; Rural workers' dwellings; Secondary dwellings; Timber yards; Any other development not specified in item 2 or 4

B6 Enterprise Corridor zone

Permitted without consent:

Roads

Permitted with consent:

Animal boarding or training establishments; Bulky good premises; Business premises; Community facilities; Depots; Garden Centres; Hardware and building supplies; Hotel or motel accommodation; Industrial retail outlets; Industrial training facilities; landscaping material supplies; Light industries; Liquid fuel depots; Passenger transport facilities; Plant nurseries; Recreation facilities (indoor); Rural supplies; Service stations; Signage; take away food and drink premises; Timber yards; Vehicle sales or hire premises; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Wholesale supplies; Any other development not specified in item 2 or 4

Residential development is more vulnerable to flood risk than uses such as light industry or commerce. Flooding of residential properties can cause the loss of all belongings and pose significant risk to life. Furthermore through planning controls it is easier to impose requirements for flood plans and evacuations from commercial and industrial uses. In relation to these specific uses, floor level controls can also be used to reduce flood damages. Commercial and industrial properties can also be required to be flood proofed. The change of use will remove the possibility of development of further residential properties within the precinct. This can be seen as beneficial for the reasons stated above.



3. Methodology

3.1. Hydraulic Modelling

As mentioned previously, in order to rezone the precinct and allow for development, there is likely to be some fill on the site so that finished floor level requirements can be met and potential flood risk reduced. Hydraulic modelling is required to assess the impacts of topography changes within the floodplain.

The 2D hydraulic model established for Wagga Wagga City Council as part of the Murrumbidgee River Model Conversion Project 2010, was used for this study. This model was established using TULFOW, a widely used hydraulic modelling software package in Australia and internationally. Initially the existing model was re-established to create a base case for the site to represent current conditions. This became the scenario against which all flood level impacts were calculated.

Having established the base case, two model scenarios representing land raising options were assessed.

3.2. Development Area Options

A previous Flood Impact Assessment was undertaken for the full precinct area north of the Sturt Highway. It initially looked at the option of filling the whole area north of the highway, but found that raising land in the flood runner would result in significant impacts and high hazard in potential development areas. Due to significant impacts caused by raising the whole area north of the highway, the raised area was reduced to "Option B". Under Option B, the northern most portion of the precinct which becomes a flood runner under 5% AEP flood event conditions was left at existing ground levels so as not to obstruct or impact on flows through the north of the site. Land not affected by the 5% AEP flood event was raised 300 mm above ground levels while land within the periphery of the 5% AEP flood extents was raised to 0.5m above the 5% AEP event flood level (approximately 182.1mAHD) as a minimum. The raised ground levels were tied into the existing ground levels in the flood runner to the north, and the ground levels raised 300 mm above exiting to the south. The reduced site (Option B) aligns better with the area subject to low provisional hydraulic hazard under existing conditions and maximises the use of the low provisional hydraulic hazard land while minimising flood impacts on the high provisional hydraulic hazard areas through the north of the precinct and the surrounding area.

To appropriately assess the cumulative impacts of land raising in the north precinct (Area C) with the combined land raising in the south precinct (Areas A and B) the "Option B" reduced area is also considered in this Flood Impact Assessment. The area north of the Sturt Highway is shown in Figure 1 and named as area C in this Flood Impact Assessment.



Two options were considered:

Area	Option 1	Option 2
A	Raised 0.3 m above ground levels for approx. 480 m south of Sturt Highway	Raised 0.3 m above ground levels for approx. 300 m south of Sturt Highway
B	Raised 0.3 m above ground level	
C	Area within 5% AEP flood extent raised to 5% AEP flood level plus 0.5 m. Area north of highway and outside the 5% AEP flood extents raised 0.3 m above ground level. (as modelled as Option B in the previous Flood Impact Assessment)	

Area B is not flood affected in the 5% AEP event so was raised 0.3 m above ground levels. Likewise area A was also raised 0.3 m above ground levels. The two options considered different extents of Area A; Option 1 raising land to a distance of approximately 480 m from the Highway (the entire land parcel to the south) and Option 2 raising land a distance of approximately 300 m south of the highway (Figure 1).

For Option 2, the reduced area of raised land south of the Sturt Highway was refined based on a review of model results from the existing scenario and Option 1. Option 2 reduces the area of raised land in Area B. The area removed is at the south of the land parcel where model results showed flood depths to be in excess of 1 m and hydraulic hazard to be high under the both existing and Option 1 scenarios.

4. Development Impacts for 1% AEP event

Each of the options was considered in terms of impacts on flood levels as well as provisional hydraulic hazard for the 1% AEP event (100-year ARI event). A series of figures attached to this letter report show the impacts of each of the options. Provisional hydraulic hazard is assigned based on a value determined from the product of depth and velocity and gives no other consideration to other factors that contribute to flood risk.

4.1. Option 1

Impacts from Option 1 are shown in Figure 4. The greatest impact occurs at the east boundary of Area A where ground, if raised as per Option 1, would reduce the width of the existing flow path south of the Sturt Highway. This causes increases in flood levels of up to 0.06 m. This is a localised impact and generally impacts are not higher than 0.05 m.

Flood depths on the raised area are generally less than 0.8 m apart from the southernmost portion of Area A where flood depths reach up to 1.4 m (Figure 6). In this location provisional hydraulic hazard is also classed as high (Figure 8) due to the flood depths occurring.



4.2. Option 2

Option 2 reduces the raised area in Area A south of the Sturt Highway to a lesser extent chosen following a review of the flood depths and flood hazard in this location. The raised area removed from Area B was subject to high hazard and flood depths of over 1 m in Option 1. Land within Area B which was generally only low hydraulic hazard and subject to flooding to depths less than 1 m in the Option 1 scenario was included in the raised area for Option 2.

Impacts of Option 2 are shown in Figure 5. Although the impact extent is much the same as Option 1, the increases in flood levels are less, particularly to the east of Area A. All off site impact is less than 0.05 m. Impacts over the East Wagga Wagga Industrial Area are a maximum of 0.025 m and therefore considered to be negligible.

Flood depths on the raised areas of the precinct are generally less than 0.8 m. In area C the northern portion of the site is flooded to depth of up to 0.8 m although the south of the site fronting the Sturt Highway is flooded up to a maximum of 0.6 m. Area A is generally only flooded to a depth of less than 0.8 m. On Area B, part of the site actually becomes no longer flooded in the 1% AEP event with maximum flood depths on the flooded portion of the site up to 0.3 m.

All the raised areas generally become low hazard due to the reduced flood depths and velocities over the raised land (Figure 9).

5. Flood Risk Management Guidance

During the 1% AEP event peak flood levels fronting the site on Sturt Highway are approximately 183.1 mAHD. Available warning time is in excess of two days however, the site could become inaccessible for more than two days following inundation although it should be noted that times will vary depending on the duration of the event. The available flood warning time is considered suitable for the implementation of a Flood Plan allowing strategies to have the potential to significantly reduce damages to property and allow for evacuation of people from the site if undertaken properly.

The areas surrounding the site are generally identified as high hazard with the exception of the industrial area of East Wagga Wagga.

Option 2 would be the most appropriate for adoption in terms of flood risk considering the hazard classification of proposed development areas and the impacts from any land raising. Currently the precinct contains some residential dwellings. Rezoning the precinct as a commercial or industrial use will mean that over time residential dwellings will be removed from the area. It is considered that a commercial or industrial development is less vulnerable to flood risk compared to residential development. Commercial and industrial development is more likely to have flood evacuation plans and is not likely to have people sleeping overnight on the premises.



The previous Flood Impact Assessment for the northern precinct suggested that in the high hazard portion of the site (the area in the 5% AEP flood runner that has not been raised) it is not recommended to allow development of buildings where concentrations of people, stock and machinery may be present. Instead, in this area, development should be compatible with the high level of flood hazard and the flood depths likely to occur and therefore a lower risk usage such as car parking. Car parking at existing ground levels would not result in any adverse flood level impacts and given the length of warning time available it would be likely that evacuation of vehicles can take place prior to peak flood levels occurring. Should anything be stored in this area it should be removed before the onset of flooding so as not to obstruct flood flows and also as a measure to avoid increased flood risk by large floating debris picked up in the flood runner. These recommendations can also be applied to the southern portion of Area A which is not raised above existing levels.

For the rest of the precinct classified as low hazard suitable flood planning controls can be used to set minimum floor levels and flood proofing height.

Although raising the areas of land will reduce the flood depths on the site, it will not entirely eliminate flood risk and flood depths of up to 1m could still occur on site in the 1% AEP event. Suitable floor level controls should be used to reduce flood risk. Councils often define a flood planning level of 0.5 m above the 1% AEP flood level and stipulate that finished floor levels should be set at this level. However, in this area it would mean the floor levels are required to be between approximately 183.5 mAHD and 183.2 mAHD and in some areas of the site over 0.9 m above ground levels. As an alternative option where floor levels at such a height above ground levels is not feasible, flood proofing of a building to the flood planning level (ie the 1% AEP flood level plus 0.5 m) would be recommended. In all instances of development within the floodplain it is recommended that floor levels are built above ground to some degree. This can be used in conjunction with raised floor levels and is only appropriate for development which is less vulnerable to flood risk.

Planning controls can also be used to ensure that any development in a flood prone area has suitable flood evacuation and contingency plans in place. As a condition of a development approval, properties would need a comprehensive flood evacuation plan including details on evacuation of people and vehicle as well as consideration with regards to moving stock and machinery if necessary.

B6 land use allows for hotel or motel accommodation to be permitted with consent. This is potentially a higher risk land use due to the numbers of itinerant people using the building. It is recommended that stricter controls such as floor levels and flood proofing are placed on higher risk development, or that this use is not allowed within the newly rezoned precinct. Likewise, liquid fuel depots, can be high risk development in flood prone areas and additional controls such as flood proofing or consideration to storage of fuels above the flood levels may be appropriate.



The proposed rezoning, and subsequent land raising does have impacts in terms of flood levels but these can be considered minor. Rezoning would also reduce the vulnerability of the type of development in the precinct by replacing residential properties with new commercial industrial properties as well as allowing for development controls on new development to reduce flood risk. Option 2 is therefore considered appropriate in terms of flood risk.

6. Conclusions and Recommendations

The following conclusions and recommendations are drawn from the study:

1. Flood impacts have been assessed for the 1% AEP flood event for two potential land raising options within the precinct. Earthworks undertaken which raise additional areas or do not raise land to the levels modelled in this hydraulic modelling assessment will likely result in different impacts to those described and discussed in this study.
2. Land raising would be required to enable appropriate floor levels to reduce flood risk for any development in the newly rezoned area.
3. Land raising will have flood level and hydraulic hazard impacts. The hydraulically modelled Option 2 is considered to have minimal impacts and not be unacceptable in terms of flood risk.
4. Option 2 involves raising a portion of the southern precinct 300 mm above ground levels for approximately 300 m south of the Sturt Highway (Area A) as well as a small area of land north of the highway (Area B). This is considered in addition to the Option B already found to be appropriate in the January 2012 Flood Impacts Assessment (Reference 1) as it is assumed both portions of land would be raised as part rezoning.
5. Development controls should include requirements for setting finished floor levels and flood proofing of buildings.
6. Development controls should be used to ensure flood evacuation and contingency plans for all development in the precinct.
7. On the portion of Area B not raised appropriate development controls are recommended to limit development to low risk uses such as car parking which can be readily evacuated and those uses where significant flood depths would not cause substantial damage.

Yours Sincerely,

WMAwater

A handwritten signature in blue ink, appearing to read "Erin Askew", written over a light blue horizontal line.

Erin Askew
Associate



Enc.

- Figure 1: Location Plan
- Figure 2: Existing 1% AEP Depth and Flood Level Contours
- Figure 3: Existing 1% AEP Flood Hazard
- Figure 4: Option 1 – Impacts
- Figure 5: Option 2 – Impacts
- Figure 6: Option 1 – Flood Depths
- Figure 7: Option 2 – Flood Depths
- Figure 8: Option 1 – Provisional Hydraulic Hazard
- Figure 9: Option 2 – Provisional Hydraulic Hazard
- Figure 10: Option 2 – Developable Ground Level Contours

References

- Reference 1 - WMAwater, January 2012, Flood Impacts Assessment Proposed Rezoning of Rural Land at Gumly Gumly, for J Howard and R Allsop

Habitat Assessment

BUSH STONE-CURLEW, GUMLY GUMLY

AUGUST 2012



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1 CONTENTS

2	INTRODUCTION.....	1
2.1	LEGISLATIVE SUMMARY.....	1
3	HABITAT REQUIREMENTS	3
4	HABITAT ASSESSMENT	5
4.1	METHODS.....	5
4.2	RESULTS.....	5
4.2.1	Existing environment	5
4.3	HABITAT ASSESSMENT	6
4.3.1	Critical Habitat	6
4.3.2	Key threatening processes.....	6
5	CONCLUSION	7

FIGURES

Figure 1-1	Layout of the study sites.....	4
Figure 2-1:	View of agricultural cropping land vegetation (Main lot)	5
Figure 2-2:	Natural drainage depression within the Main lot.	6

2 INTRODUCTION

The purpose of this report is to determine the likelihood of the presence of the Bush Stone-curlew (*Burhinus grallarius*) at the study sites. The study relates to three parcels of land within the proposed Gumly Gumly B6 Enterprise Corridor Precinct (Figure 3-1) which are proposed for rezoning. These areas can be defined as the Main area, Old School site and the Western area. A search of the BioNet website (OEH 2012) showed the nearest records of the Bush Stone-curlew to be approximately 10 km south west of the sites, although a historical record exists from the site (WWCC pers comm).

This report has been prepared with reference to the Bush Stone-curlew Recovery Plan (DECC 2006).

2.1 LEGISLATIVE SUMMARY

This report considers issues related to the potential for habitat for the Bush Stone-curlew within the study site and is guided by the intent of the following Acts and Environmental Planning Instruments:

- *Threatened Species Conservation Act 1995* (TSC Act)
- *National Parks and Wildlife Act 1974* (NPW Act)
- *Commonwealth Environment Protection and Biodiversity Act 1999* (EPBC Act)

NSW THREATENED SPECIES CONSERVATION (TSC) ACT 1995

The TSC Act sets out to:

- Conserve biological diversity and promote ecologically sustainable development
- Prevent the extinction and promote the recovery of threatened species, populations and ecological communities
- Protect the critical habitat of those species, populations and ecological communities that are endangered
- Eliminate or manage certain threatening processes
- Ensure proper assessment of activities impacting threatened species, populations and ecological communities
- Encourage the conservation of threatened species, populations and ecological communities through co-operative management

This Habitat Assessment has considered the requirements of the TSC Act in relation to threatened species.

NSW NATIONAL PARKS AND WILDLIFE (NPW) ACT 1974

The objectives of the NPW Act are to conserve nature and objects, places or features (including biological diversity) of cultural value within the landscape, fostering public appreciation, understanding and enjoyment of nature and cultural heritage and their conservation and providing for the management of land reserved under this Act in accordance with the management principles applicable for each type of reservation.

Biodiversity Assessment
Bush Stone-Curlew, Gumly Gumly

The objectives of the Act are to be achieved by applying the principles of ecologically sustainable development. This report has incorporated these principles in its approach to evaluating the impacts of the proposed activities.

ENVIRONMENTAL PROTECTION AND BIODIVERSITY CONSERVATION (EPBC) ACT 1999 (CWTH)

The EPBC Act introduces an assessment and approvals system for actions that have a significant impact on matters of national environmental significance (NES). Approval of the Environment Minister is required if an action is likely to have a significant impact on NES matters including:

- i) World Heritage Properties and place of National heritage
- ii) Wetlands of International Importance
- iii) Commonwealth Listed Threatened Species and Ecological Communities
- iv) Commonwealth Listed Migratory Species
- v) Nuclear action
- vi) Commonwealth Marine areas
- vii) Commonwealth land

3 HABITAT REQUIREMENTS

The Bush Stone-curlew is listed as Endangered on Schedule 1 of the NSW *Threatened Species Conservation Act 1996* (TSC Act). The species is found throughout Australia except for the central southern coast and inland, the far south-east corner, and Tasmania. Only in northern Australia is it still common. In the south-east it is either rare or extinct throughout its former range.

Bush Stone-curlew habitat is described as having broad ground and understorey structural features and is not necessarily associated with any particular vegetation communities. In general, habitat occurs in open woodlands with few, if any, shrubs, and short, sparse grasses of less than 15 cm in height. Scattered fallen timber, leaf litter and bare ground are usually present. The important structural elements of Bush Stone-curlew habitat appear to be:

- a low sparse ground cover
- some fallen timber and leaf litter
- a general lack of a shrubby understory
- open woodlands

Specific habitat requirements for nesting, foraging and roosting appear to be different and the proximity of suitable areas for each activity is likely to influence abundance and distribution of Bush Stone-curlews (Gates 2001, I. Davidson *pers comm*). The presence and abundance of predators or other disturbances reduces the suitability of habitat for particular activities, especially nesting.

Nesting sites are frequently located in relatively open areas, where ground cover is extremely low and/or sparse (less than 15cm). It is likely that visibility across the surrounding area is important as it may reduce the vulnerability of nesting birds to approaching predators. Nests are frequently recorded in areas lacking native vegetation, such as mown lawns, ploughed paddocks and paddocks cut for hay, dirt and gravel roads, and vacant lots. Distance to and availability of adequate foraging resources may also influence nest site selection (Andrews 1997, Price 2004). The presence of fallen tree debris is critical to the selection of day roost sites.

Availability of safe and suitable breeding habitat is likely to be the limiting factor for most Bush Stone-curlew populations, followed by roosting habitat and then foraging habitat (Price 2004).



Figure 3-1 Layout of the study sites

4659 Final

4 HABITAT ASSESSMENT

4.1 METHODS

On 7th August 2012 the site was traversed by **ngh** environmental ecologist, the weather was fine and sunny. Habitat features were identified and recorded using a GPS. The survey effort adopted was specifically chosen only to identify the presence of suitable habitat, and if present, determine its condition. As such, no targeted searches for the species were undertaken.

4.2 RESULTS

4.2.1 Existing environment

The study site is comprised of a highly disturbed landscape where the original vegetation has been extensively cleared and modified. Native vegetation is limited to a small area of remnant River Red Gum within the Main lot; there are also a number of regrowth River Red Gum trees on adjacent land to the south and east of the Main lot site. The drainage depression shown above (Figure 3-1) was inundated and there were a number of waterfowl on adjacent paddocks and dams.

Three broad vegetation communities were identified on and immediately adjacent to the Main and Western lot along with the highly disturbed Old School lot:

- Agricultural lands with (Main lot, Western Lot)
- Remnant mature eucalypt woodland (Main lot)
- Natural drainage depression (Main lot)

Agricultural lands

The agricultural lands comprise of extensively cleared vegetation. A number of mature River Red Gums (*Eucalyptus camaldulensis*) remain with smaller regrowth trees also on site (Figure 4-1).



Figure 4-1: View of agricultural cropping land vegetation (Main lot)

Natural drainage depression

A small area of regrowth River Red Gum Woodland is located on the main lot (**Figure 4-1**) within the drainage depression (**Figure 4-2**).



Figure 4-2: Natural drainage depression within the Main lot.

4.3 HABITAT ASSESSMENT

The patch of remnant River Red Gum is considered the area most likely to provide habitat for the Bush Stone-curlew, however there was a distinct lack of fallen timber. The Old School lot is highly disturbed, with playing fields still clearly evident. Although nest sites have been recorded in areas lacking native vegetation such as mown lawns and playing fields, the clear presence of foxes (scats and dead individuals) on both the Main and Western lot, reduces the suitability of habitat.

The drainage depression also provides potential habitat for the Bush Stone-curlew and to an extent may provide protection from predators. At the time of survey the drainage depression was inundated.

4.3.1 Critical Habitat

To date, critical habitat has not been declared for this species under the TSC Act. Additionally it is unlikely that habitat on the site would be considered critical for the survival of this species.

4.3.2 Key threatening processes

Key threatening processes, as listed under the TSC Act, that are present on site and are relevant to the Bush Stone-curlew include:

- Predation by the European red fox (*Vulpes vulpes*)
- Predation by the feral cat (*Felis catus*)
- Removal of dead wood and dead trees

All of these processes have occurred, are or occurring, and given the nature of the land uses (residential, agricultural and industrial), are likely to continue to occur into the future. This diminishes the value of the area for Bush Stone-curlews.

5 CONCLUSION

Overall, the Western and Main sites provide at best poor quality potential foraging and roosting habitat for the Bush Stone-curlew. No breeding habitat is considered present due to the past, present and likely future disturbance and land-use regimes. Due to the distinct lack of fallen timber and the clear presence of predators (scats and dead individuals) on both the Main and Western lots, the likelihood of providing suitable Bush Stone-curlew habitat being present is considered low.

The Old School lot is highly disturbed and is unlikely to provide any potential habitat for the Bush Stone-curlew.



**Planning &
Infrastructure**

Office of the Director General

Mr Phil Pinyon
General Manager
Wagga Wagga City Council
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WAGGA WAGGA NSW 2650

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Postal: c/- PO Box 5475, Wollongong NSW 2520

Our ref: PP_2012_WAGGA_007_00 (12/07068-1)
Your ref:

Dear Mr Pinyon,

Planning proposal to amend Wagga Wagga Local Environmental Plan 2010

I am writing in response to your Council's letter dated 19 September 2012 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Wagga Wagga Local Environmental Plan (LEP) 2010 to rezone land at Sturt Highway, Gumly Gumly for commercial purposes.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway determination.

It is noted that Council's proposal will prohibit 'commercial premises' which is the group term for 'business premises', 'office premises' and 'retail premises', while making permissible with consent 'business premises' and a range of specific retail uses. The mandated objectives of the B6 Enterprise Corridor Zone include providing a range of employment types, including business, office, retail and light industrial. Council should consider including the term 'office premises' to the land use table to ensure an appropriate range of uses are permitted in keeping with the mandated zone objectives.

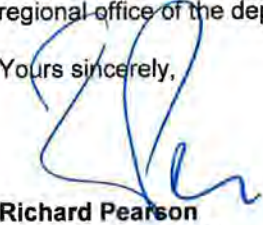
I have also agreed that the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 3.4 Integrating Land Use and Transport and 4.3 Flood Prone Land are of minor significance. In regards to S117 Direction 6.2 Reserving Land for Public Purposes, I have agreed to the reduction of land used for public purposes. No further approval is required in relation to these Directions.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible to meet the 12 month timeframe. Council's request for the department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The NSW State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Meredith McIntyre of the regional office of the department on 02 6229 7900.

Yours sincerely,


Richard Pearson
A/Director General

2/11/12



Planning & Infrastructure

Gateway Determination

Planning proposal (Department Ref: PP_2012_WAGGA_007_00): amend Wagga Wagga Local Environmental Plan 2010 to rezone land at Gumly Gumly for commercial purposes.

I, the Acting Director General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Wagga Wagga Local Environmental Plan (LEP) 2010 to rezone land at Sturt Highway, Gumly Gumly for commercial purposes should proceed subject to the following conditions:

1. Prior to undertaking public consultation, Council is to amend the planning proposal so that all sheets of the Land Zone Map series includes the B6 Enterprise Corridor Zone in the legend.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Murrumbidgee Catchment Management Authority
 - Office of Environment and Heritage
 - Transport for NSW – Roads and Maritime Services

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A 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).
5. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated

2

day of

November

2012


Richard Pearson
A/Director General
Delegate of the Minister for Planning and Infrastructure

WAGGA WAGGA PP_2012_WAGGA_007_00 (12/07068-1)