



## Section 3.22 EP&A Act submission

### Part A. Council to complete

#### Subject:

**Cowra Local Environmental Plan 2012 (Amendment No. 6)**

Report requesting the making of amending local environmental plan under sections 3.22 and 3.36(2).

#### Background:

Cowra Council proposes to amend Cowra Local Environmental Plan 2012 and requests that the Minister for Planning and Public Spaces make the plan under sections 3.22 and 3.36(2) of the *Environmental Planning and Assessment Act 1979*.

The draft amending plan is attached.

The land to which this amendment applies is Lots 3 and 4 DP 1013135 (see attached map).

This matter was considered by Council at its Ordinary Meeting held 23.03.2020 and the following resolution was passed

*That Council requests the NSW Minister for Planning and Public Spaces to rezone Lots 3 and 4 DP 1013135 from E3 Environmental Management to IN2 Light Industrial in accordance with provisions of Sections 3.22 and 3.36(2) of the Environmental Planning and Assessment Act 1979.*

#### Why there is a need for the amendment:

##### Zoning History

As part of the drafting of Cowra Local Environmental Plan 2012, a comprehensive land-use analysis was completed by Council and this identified Lots 3 and 4 DP 1013135 for rezoning to the IN1 General Industrial zone. The IN1 zoning was the same zoning that was being applied to the land immediately adjoining to the south. A copy of the Draft LEP Map, marked up to show the subject land, is included as an attachment to this 3.22 submission. The Department is asked to note that the Draft LEP was exhibited in this manner without any concerns raised by the community (or landowners) with regards to the proposed zoning for the subject land.

As part of Council's (legislated) consultation with relevant NSW Government Agency stakeholders in relation to the Draft Cowra Local Environmental Plan 2012, written advice was received by the NSW Department of Environment & Heritage that Council should incorporate all Crown Land Travelling Stock Routes (TSR's) into an E3 Environmental Management zoning. Council was subsequently provided with a GIS map dataset identifying all of the sites to which the E3 zoning should be applied and this included Lots 3 and 4 DP 1013135.

Cowra Local Environmental Plan 2012 was eventually gazetted on 25 January 2013. Lots 3 and 4 DP 1013135 were zoned E3 Environmental Management and this zoning still applies to the land. A copy of the Gazetted LEP Map, marked up to show the subject land, is included as an attachment to this 3.22 submission.

**Ownership history**

Lot 3 and 4 DP 1013135 was created as the result of an acquisition and road closure under a plan registered with the NSW Land & Property Information on 21 August 2000. At this point in time, the land was owned by NSW Crown Lands.

In January 2009, K M & B F Tomlin commenced enquiries with Crown Lands to purchase Lots 3 and 4 DP 1013135. The purchase of the land by K M & B F Tomlin was eventually finalised in August 2012.

The purchase of the land was finalised about the same time the drafting of Cowra Local Environmental Plan 2012 was drawing to conclusion. The result of this timing was that the proposal to zone the land E3 Environmental Management was carried through to gazettal of Cowra Local Environmental Plan 2012, despite Council being unaware that the land no longer formed Crown Land TSR. K M & B F Tomlin remain the current owners of the land.

**Summary**

The E3 Environmental Management zone was applied to the land on the understanding that the property was a Crown Land owned TSR. Given the land is no longer Crown Land and is instead owned in fee simple by K M & B F Tomlin, the E3 zone does not adequately provide for the highest and best possible use of the land. There are no special environmental qualities of the land which would qualify the land for an environmental zoning. The proposal is to rezone the land to a IN2 Light Industrial zone, which is consistent with adjoining land-use and other parcels immediately to the north also owned by K M & B F Tomlin. The zoning of this land for industrial purpose would not result in any significant adverse impacts on the environment or on adjoining land.

**What the amendment does:**

Changes the zone of the land from E3 Environmental Management to IN2 Light Industrial under Cowra Local Environmental Plan 2012.

**Why the amending plan is suitable to be made in accordance with section 3.22:**

The E3 Environmental Management zone was applied to the land on the understanding that the property was a Crown Land owned TSR. Given the land is not Crown Land and is instead owned in fee simple by K M & B F Tomlin, the E3 zone does not adequately provide for the highest and best possible use of the land. There are no special environmental qualities of the land which would qualify the land for an environmental zoning. The proposal is to rezone the land for industrial purposes, which was originally proposed prior to changes made as a result of government agency consultation for Draft Cowra LEP 2012. Changing the land-use zone would not result in any significant adverse impacts on the environment or on adjoining land.

Council requests that the Minister agree to make draft Cowra Local Environmental Plan 2012 (Amendment No. 6)

Signed: .....

Date: .....

Name: .....

Position: .....

On behalf of: COWRA SHIRE COUNCIL

## Part B. Department use only

**Date of referral to Gateway:** ..... (Insert date)

### Department position:

The draft LEP amendment has been considered by the Department and it is satisfied that the amendment can be considered as a minor amendment under section 3.22 (see advice tagged 'A').

### Parliamentary Counsel opinion:

The Parliamentary Counsel has provided an opinion indicating that the plan may legally be made (tagged 'B').

### Recommendation:

It is recommended that the Minister:

(a) under sections 3.22 and 3.36(2) of the *Environmental Planning and Assessment Act 1979* make ..... (tagged 'B')  
(Name of LEP)

(b) authorise the Department to advise council of the Minister's decision.

Date: .....

Signed: .....

Name: .....

Position: .....

for Secretary