

## Planning Services

IRF19/507

### Gateway determination report

<b>LGA</b>	Cootamundra-Gundagai
<b>PPA</b>	Cootamundra-Gundagai Regional Council
<b>NAME</b>	Cootamundra Local Environmental Plan – various amendments (25 homes, 0 jobs)
<b>NUMBER</b>	PP_2019_CGREG_001
<b>LEP TO BE AMENDED</b>	Cootamundra Local Environmental Plan 2013
<b>ADDRESS</b>	Identified lots in Cooper Street, Adam Street, Murray Street, Back Brawlin Road, Salt Clay Road & 358 Jugiong Road Cootamundra.
<b>RECEIVED</b>	7 <sup>th</sup> January 2019
<b>FILE NO.</b>	EF18/171
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## INTRODUCTION

### Description of planning proposal

The proposal involves multiple sites and components - described below:

**Item 1** rezones land at Cooper Street from B3 Commercial Core to R1 General Residential with a minimum lot size of 450m<sup>2</sup>.

**Item 2** rezones land at Adam Street/Murray Street from B3 Commercial Core and R1 General Residential to R3 Medium Density Residential with a minimum lot size of 300m<sup>2</sup>; and makes “restaurant or Café” and “takeaway food and drink premises” permissible with consent in the R3 zone.

**Item 3** introduces the E4 Environmental Living zone to the Cootamundra Local Environmental Plan 2013 and applies that zone to land at Back Brawlin Road (currently RU1 Primary Production) with a minimum lot size of 5ha (currently 200ha).

**Item 4** rezones land at Back Brawlin Road & Salt Clay Road from RU1 Primary Production to RU4 Primary Production Small Lots with a minimum lot size of 5ha (currently 200ha).

**Item 5** amends Schedule 1 - Additional Permitted Uses to permit a feedlot at 358 Jugiong Road Cootamundra.

## Site description & Surrounding area

**Item 1** – The subject land is located on the eastern side of Cooper Street. The site is currently zoned B3 and consists of 13 lots containing a mixture of professional offices and historic homes. It adjoins land zoned B3 Commercial Core Zoning and R1 General Residential (Figures 1 & 2).



Figure 1

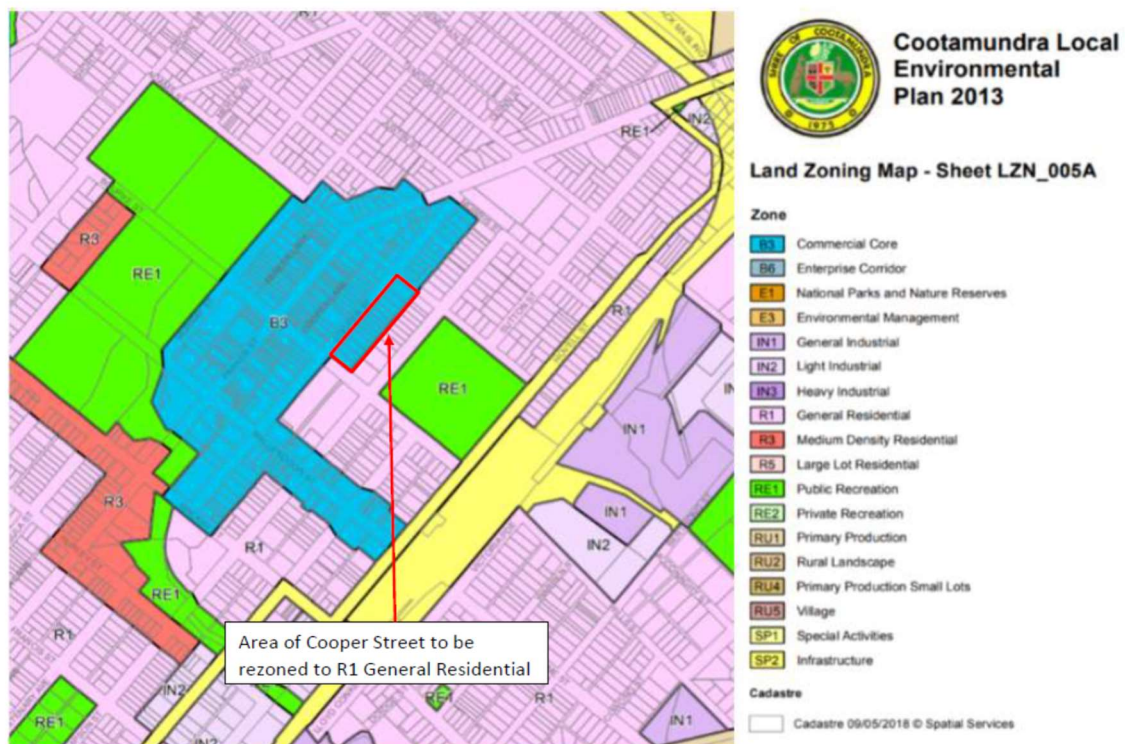


Figure 2



**Item 2-** The subject site known colloquially as the “Old Mitre 10 Site” is currently disused and located on the corner of Adam & Murray street on the fringe of the Central Business District of Cootamundra (Figure 3). The site is currently zoned part B3 Commercial Core and part R1 General residential (Figure 4).



Figure 3

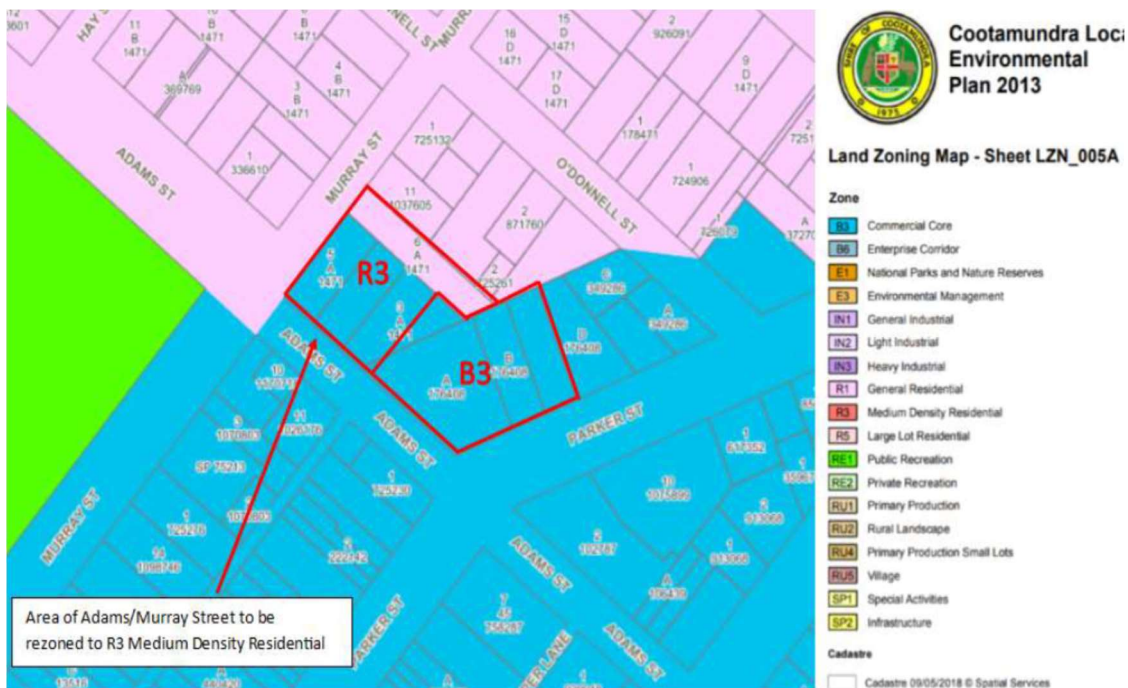


Figure 4

**Item 3** – The subject site is fragmented RU1 Primary Production land which does not meet the minimum lot size of 200ha (Figure 5). The agricultural use of the land is restricted by adjoining uses and the current lot sizes. The subject site adjoins land zoned RU4 Primary Production to the north and the east and E3 Environmental Management to the west (Figure 6).



Figure 5

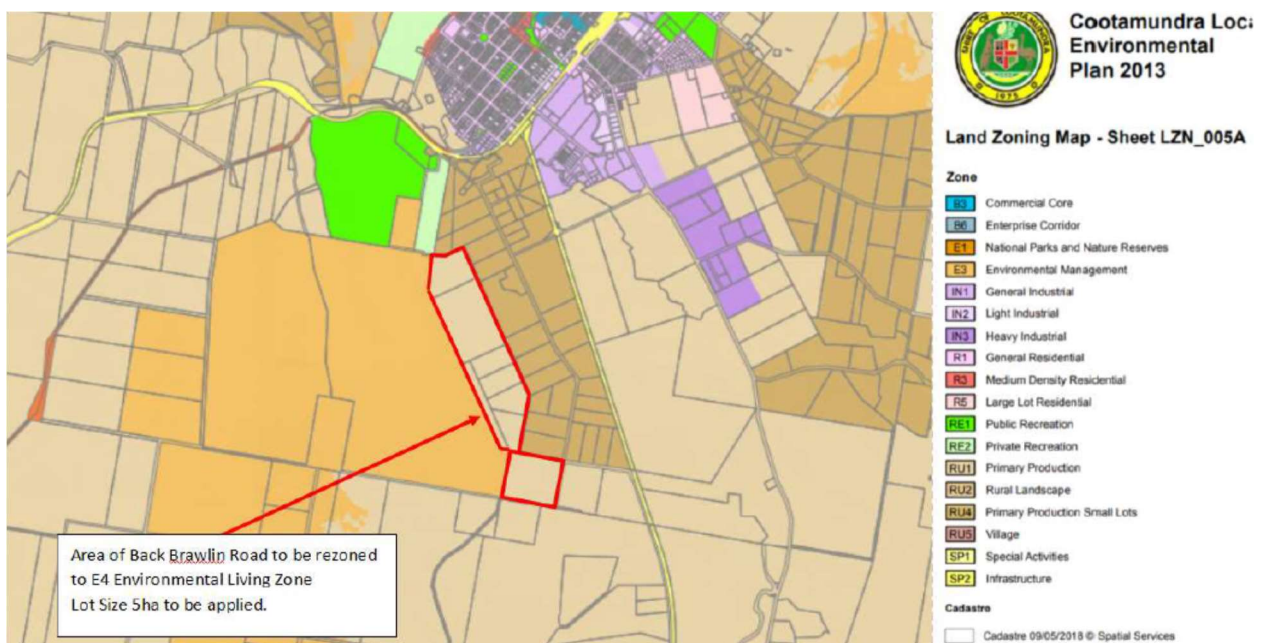


Figure 6



**Item 4** - The subject land on Back Brawlin Road is fragmented RU1 Primary Production land which does not meet the minimum lot size of 200ha (Figure 7).



Figure 7

The subject site on Salt Clay Road is a part lot zoned RU1 and does not meet the minimum lot size of 200ha (Figure 8).



Figure 8

The subject site on Back Brawlin Road adjoins land zoned RU4 Primary Production Small Lot to the north and RU1 Primary Production to the east, west and south (Figure 9).

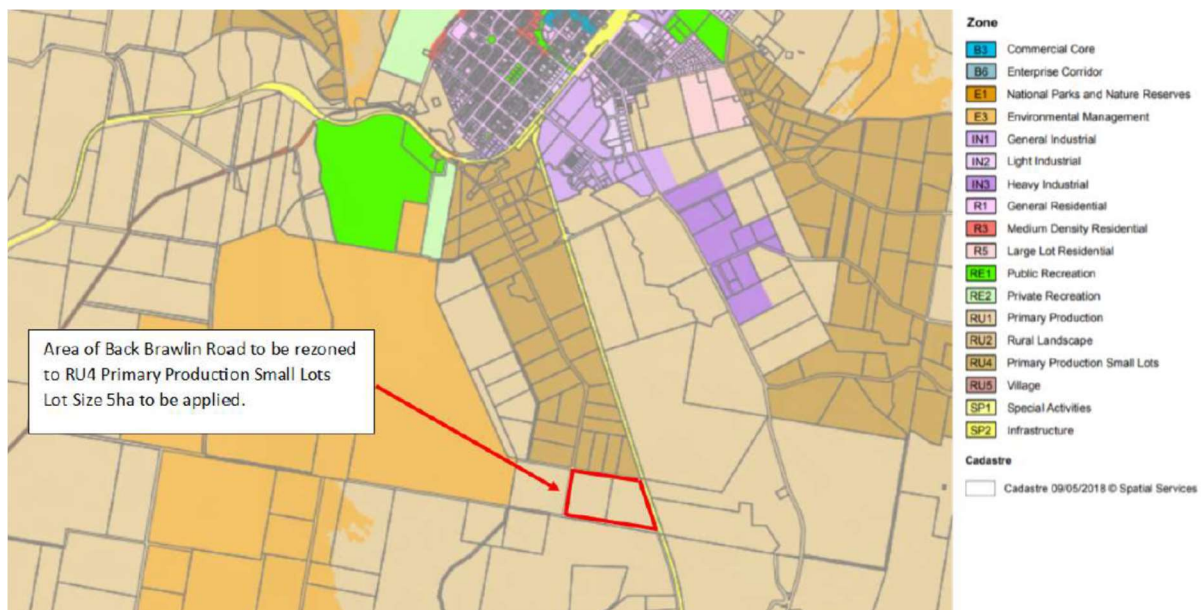


Figure 9

The subject site on Salt Clay Road adjoins land zoned RU4 Primary production Small Lot zone to the north and RU1 Primary Production land to the south (Figure 10).

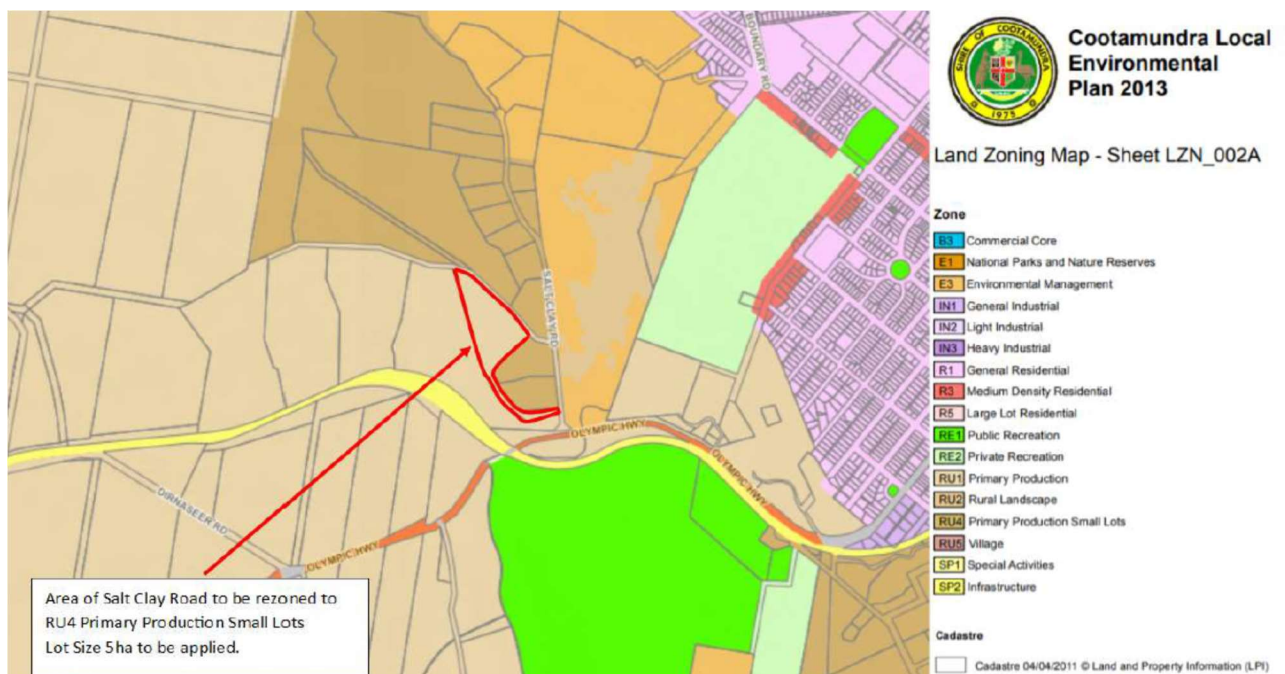


Figure 10



**Item 5** – The subject site is located at 358 Jugiong Road. There is an existing feedlot on the property. The rural residential receptor property boundaries are located approximately 650m to the north/west of the site (Figure 11).



Figure 11

The subject site is zoned a mix of RU1 Primary Production and RU4 Primary Production small lots (Figure 12).

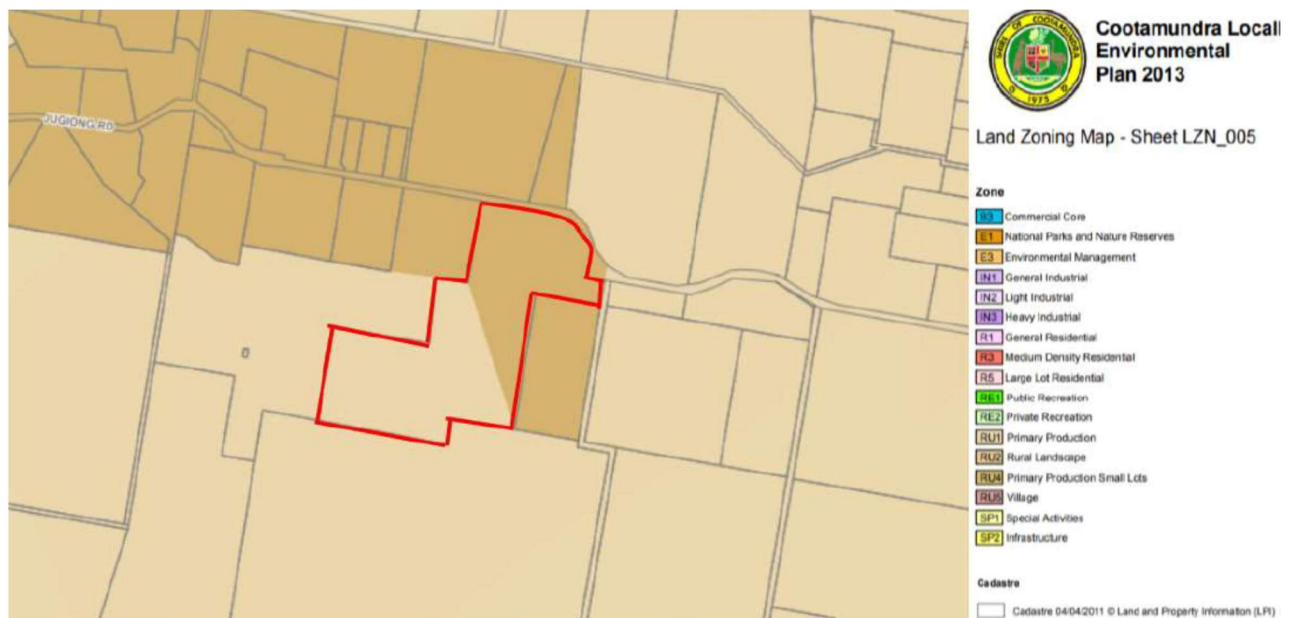


Figure 12

## Summary of recommendation

Proceed as submitted.

## PROPOSAL

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### Objectives or intended outcomes

**Item 1** – Rezones land in Cooper Street from B3 Commercial Core to R1 General Residential and applies a minimum lot size of 450m<sup>2</sup>.

This will allow for increased residential accommodation on the fringe of the CBD which will improve access to services, community facilities, employment and retail outlets in Cootamundra.

**Item 2** – Rezones land in Adam street from B3 Commercial Core to R3 Medium Density Residential and rezones a section of Murray Street from R1 General Residential to R3 Medium Density Residential with a minimum lot size of 300m<sup>2</sup>. This will allow for the redevelopment of the site for residential accommodation which is prohibited under the current zoning.

This component of the proposal also makes “restaurant or café” and “takeaway food and drink premises” permissible with consent in the R3 Medium Density Residential.

**Item 3** – Introduces the E4 Environmental Living zone to the Cootamundra Local Environmental Plan and applies this zone to certain land at Back Brawlin Road with a minimum lot size of 5ha.

**Item 4** – rezones land at Back Brawlin Road & Salt Clay Road from RU1 Primary Production to RU4 Primary Production Small Lots with a minimum lot size of 5ha (currently 200ha).

**Item 5** – amends Schedule 1 of the Cootamundra Environmental Plan 2013 to allow to permit a feedlot on land at 358 Jugiong Road Cootamundra to allow the relocation of an existing feedlot to a more appropriate area within the site.

### Explanation of provisions

The planning proposal clearly outlines the changes to maps and the written instrument required to achieve each of the item objectives. Changes include:

- Changes to zone and lot size maps;
- Introduction of the E4 Environmental Living zone – including objectives land use tables;
- Adding ‘restaurant or café’ and ‘takeaway food and drink premises’ as permissible with consent in the R3 Medium Density zone; and
- Amending Schedule 1 to permit a feedlot on land at 358 Jugiong Rd Cootamundra.

### Mapping

The maps provided with the proposal adequately identify the proposed changes to land zone and minimum lot size maps.



## **NEED FOR THE PLANNING PROPOSAL**

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### **Item 1 - Rezone land from B3 Commercial Core to R1 General Residential**

This proposed change results from a need to consolidate the CBD of Cootamundra. The subject site is currently a mixture of historic homes and professional offices.

When the Cootamundra LEP was made in 2013 Council anticipated that professional offices were an expanding land use, however this has not eventuated. The R1 General Residential Zone is considered the best fit for the subject site as this would permit residential accommodation on the fringe of the Central Business District whilst allowing the current professional offices to operate through existing land uses.

### **Item 2 – Rezone land from B3 and R1 to R3 Medium Density Residential**

The subject site is a currently vacant commercial site – known locally as the Old Mitre 10 site – requiring redevelopment. The R3 Medium Density Residential Zone is considered the best fit for the subject site as it would permit residential accommodation within close proximity to services and amenities. There is currently a development proposal for the site comprising medium density residential and commercial uses.

### **Item 3 – Introduce and apply E4 Environmental Living zone**

Council has identified an area of land in Back Brawlin Road that is currently zoned RU1 Primary Production but which is not suitable for agricultural uses due to surrounding zones/uses and the size of the lots which are significantly smaller than the applicable minimum lot size. Council considers that the objectives and uses under an E4 zone should be applied to this area. The E4 zone is not currently available in the Cootamundra LEP.

Introducing the Environmental Living Zone will provide additional housing options whilst maintaining environmental protection, this will also create a softer transition between the E3 Environmental Protection zone and the RU4 Primary Production Small Lots zone.

### **Item 4 – Rezone land from RU1 Primary Production to RU4 Primary Production Small Lots**

In relation to the Back Brawlin Road site, Council considers that the RU4 zone better aligns with the controls that applied to that area under the Cootamundra Interim Development Order. The boundaries of the IDO were inaccurately applied when the Cootamundra LEP 2013 was made resulting in the RU1 zone being applied to the site instead of the more appropriate RU4 zone.

The rezoning of land at Salt Clay Road site is required to facilitate the consolidation of the RU1 zoned land (which is significantly smaller than the 200ha minimum lot size) with adjoining land zoned RU4 Primary Production Small Lots. This proposal will tidy up the RU4 zone boundary and is supported by Council.

### **Item 5 – Amend Schedule 1 to permit feedlot at 358 Jugiong Road**

The subject land is zoned a mix of RU1 Primary Production and RU4 Primary Production Small Lots. Feedlots are permitted in the RU1 zone but not the RU4 zone. There is an existing feedlot operating on this site within the RU1 zoned area. However, it is considered that the feedlot would be more appropriately located within

the RU4 part of the lot due to the topography of the land and the distance from nearby rural residential areas.

An amendment to Schedule 1 would allow the relocation of the feedlot to the RU4 part of the property. Council prefers not to change the zone to RU1.

## **STRATEGIC ASSESSMENT**

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### **Regional**

The Riverina Murray Regional Plan 2036 is a 20 year blueprint for the future of the Riverina Murray.

As the proposal will provide new housing and rural employment opportunities it is considered to be consistent with the overall objectives of the Plan and will support the following goals:

- Goal 1 – A growing and diverse economy – by providing additional employment opportunities
- Goal 4 – Strong, connected and healthy communities – by providing greater housing choice.

### **Local**

Council has advised that the proposal is consistent with the Cootamundra-Gundagai Regional Council Community Strategic Plan 2018-2028, specifically:

- Our built environments support and enhance liveability
- The natural environment is valued and protected
- Develop and implement land-use plans and design practices which complement the character of our communities, are considerate of heritage, support sustainable design practices and respond to changing needs
- Ensure a variety of housing options are made available.

The department agrees that the proposal is consistent with Council's Community Strategic Plan.

## **Section 9.1 Ministerial Directions**

Council has identified the applicable Directions and identified minor inconsistencies as follows:

### **Direction 1.1 - Business and Industrial Zones**

The objectives of this Direction are to encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the viability of identified strategic centres.

The Direction states that a proposal must retain existing commercial areas and must not reduce the potential commercial floor space.

Items 1 and 2 of the proposal will reduce the extent of the B3 Commercial Core zone and are inconsistent with this direction.

However, the proposed rezoning is due to a high commercial vacancy rate within the relatively large commercial core and a need for additional residential lots close to the CBD. Creating a more compact CBD will improve the function and viability of the



existing businesses and is supported by the Department's *Planning for the Future of Retail discussion paper* April 2018.

The Secretary's delegate can be satisfied that any inconsistency with this Direction is of minor significance as the affected area only comprises a small portion of the commercial core (the affected area of the old Mitre 10 site is approximately 1600m<sup>2</sup> and the Cooper street rezoning is one street block).

### **Direction 1.2 – Rural Zones**

The objective of this Direction is to protect the agricultural production of rural land. The Direction states that a proposal must not increase the permissible density within a rural zone.

Items 3 and 4 are inconsistent with this Direction as both the E4 and RU4 zones will permit greater development density than what is currently permitted under the RU1 zone.

However, Council has identified that the land being rezoned is not suitable for primary production due to nearby land-uses and the existing subdivision pattern in the area. In addition, the schedule 1 entry to allow a feedlot will increase the intensity of primary production on that land. The proposal will not undermine the objective of this Direction.

The Secretary's delegate may be satisfied that any inconsistency with Direction 2.1 Rural Zones is of minor significance.

### **Direction 4.4 - Planning for Bushfire Protection**

This Direction applies when a planning proposal will affect land mapped as bushfire prone and requires consultation with the commissioner of the NSW Rural Fire Service (RFS). This consultation must occur prior to public exhibition and any comments from the commissioner must be taken into account.

Part of Back Brawlin Road is mapped as bushfire prone. Council will need to consult with the RFS to satisfy this Direction.

The Secretary's delegate may be satisfied that the Gateway determination requirement for consultation with the RFS prior to exhibition will ensure consistency with this Direction.

The proposal is considered to be consistent with other applicable Directions, most notably:

2.1 Environment Protection Zones – the introduction of the E4 zone will assist to protect the environmental values of that land.

3.1 Residential Zones – the proposal will provide additional housing opportunities in a number of locations.

### **State environmental planning policies (SEPPs)**

Council has identified the following SEPPs as being applicable and showing consistency with:

- SEPP Affordable Rental Housing 2009
- SEPP BASIX 2004

- SEPP Exempt & Complying Development Codes 2008
- SEPP Housing for Seniors or People with a Disability 2004
- SEPP Infrastructure 2007
- SEPP Miscellaneous Consent Provisions 2007
- SEPP 1 Development Standards
- SEPP 55 Remediation of Land
- SEPP 65 Design Quality of Residential Apartment Development

In regard to SEPP 55, the planning proposal states that Council's records indicate potential contamination of item 2 from past industrial activity (former hardware store – chemical storage, fertilizer and paint).

Clause 6 of the SEPP states that certain land – being land that is within an investigation area or land upon which uses identified in Table 1 of the Contaminated Land Planning Guidelines have been carried out - cannot be rezoned without considering whether the land is potentially contaminated.

The former use of the site as a 'Mitre 10' store, which meets the standard instrument definition of 'hardware and building supplies' and is a form of retail premises, is not listed in Table 1 and so does not trigger the need for additional investigation at this stage.

It is noted that Council has indicated that it will require further information on this issue at the development application stage.

This approach is considered appropriate.

The proposal is considered consistent with other relevant State environmental planning policies.

## **SITE-SPECIFIC ASSESSMENT**

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### **Social**

The planning proposal will have no adverse social impacts.

The proposal will assist with the provision of a range of housing types, locations and lot sizes.

In relation to item 5, the proposed relocation of the feedlot will reduce the potential amenity impacts on neighbouring properties. The feedlot will have to operate within the legislature to comply with licencing requirements.

### **Environmental**

The proposal is not expected to have negative environmental effects.

The proposal does not reduce environmental protection or increase development in environmentally sensitive areas.

The application of the E4 Environmental Living zone over land currently zoned RU1 will encourage and improve land management. Various lands are mapped as containing terrestrial biodiversity and/or groundwater sensitivity so environmental constraints will need to be considered through any future development application process.



In relation to item 5, Council has identified that potential odour and visual impacts will be improved through the relocation of the feedlot.

### **Economic**

The economic impacts of the proposal are considered positive.

The proposal will allow the redevelopment of unused or underutilised commercial land for medium density residential development on the edge of the CBD with good access to retail, commercial and community services. It will also allow other housing opportunities providing the potential for employment.

The relocation will allow for the expansion of the feedlot providing employment opportunities.

## **CONSULTATION**

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### **Community**

Council has not specified the consultation period.

A 28-day exhibition period is considered appropriate.

### **Agencies**

It is recommended that Council consult with the following agencies:

- NSW Rural Fire Service
- Office of Environment and Heritage
- Department of Primary Industries – Agriculture

## **TIME FRAME**

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Council anticipates a 6-month time frame to finalise the LEP. It is recommended that a 12-month period be provided in case issues arise during consultation or there are other unforeseen delays.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to be the local plan making authority. This is considered reasonable due to the minor nature of the proposal.

## **CONCLUSION**

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This proposal addresses a number of local planning matters and it is recommended that the proposal be supported as it is consistent with the strategic planning framework.

## **RECOMMENDATION**

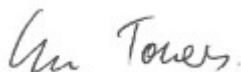
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It is recommended that the delegate of the Secretary:

1. Agree any inconsistencies with Section 9.1 Directions 1.1 Business and Industrial Zones and 1.2 Rural Zones are minor; and that the proposal will be consistent with Direction 4.4 Planning for Bushfire Protection following consultation with the Rural Fire Service.

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
  - NSW Rural Fire Service
  - NSW Office of Environment and Heritage
  - Department of Primary Industry-Agriculture
3. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be authorised to be the local plan making authority.



5/2/19

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06/02/2019

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