## **PLANNING PROPOSAL**

# AMENDMENT TO DUNGOG LOCAL ENVIRONMENTAL PLAN 2014

### **OLD GRESFORD WORKS DEPOT SITE**

# Lot 1 DP 562046 Durham Road Gresford

Prepared by Planning Services Dungog Shire Council September, 2014

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#### INTRODUCTION

This Planning Proposal (PP) provides an explanation of the intended effect and justification for the amendment to the *Dungog Local Environmental Plan* 2014 (DLEP 2014) by reclassifying land owned by Council known as Lot 1 DP562046 Durham Road Gresford from community land to operational land.

The PP has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act* 1979 and the format specified within the relevant Department of Planning Guidelines including 'A Guide to Preparing Local Environmental Plans' and 'A Guide to Preparing Planning Proposals'.

#### BACKGROUND

The subject site is known as Lot 1 DP 562046 Durham Road Gresford. A copy of the Deposited Plan is attached as **Figure 1**. The site is located along the north western side of Durham Road, eight (8) lots north east of Lostock Road. The site has a frontage of 57.2m to Durham Road and an area of  $8094m^2$ .



Figure 3: Extract of Deposited Plan

The property is occupied by an amenities building, two small sheds, aboveground storage tank, etc and comprises cleared grasslands with a scattering of trees along the frontage of the site.

The subject site is currently zoned IN1 General Industrial pursuant to the *Dungog Local Environmental Plan (DLEP) 2014* and surrounding lands to the west are zoned RU5 Village, the east E3 Environmental Management and immediately to the south a strip of land is zoned SP2 (Waste or Resource Management Facilities). **Figure 2** depicts an extract of the zoning map of Dungog LEP 2014 applying to this area.



Figure 2: Extract of Zoning Map from Dungog LEP 2014

In 2010 Council received an offer to purchase the subject property (known as the old Gresford works depot site). This purchaser intended to relocate an existing Gresford based stock transport business to the property. This sale did not proceed as reclassification of the site was necessary from community to operational land.

Subsequently Council at its meeting of 16 November 2010 resolved to support rezoning of this land from Special Uses 5(a) to Employment 4(a) pursuant to DLEP 2006 and to reclassify the land from community to operational land.

The subject site was then rezoned from Special Uses 5(a) under DLEP 2006 to IN1 General Industrial pursuant to DLEP 2014. The SP2 Infrastructure zone was considered to be too restrictive as it limited potential redevelopment of the site, as for many years the site has not been used as a Council works depot.

Council at its meeting of 28 November 2013 considered a report on draft DLEP 2014 and the subject site was identified as requiring reclassification. It was recommended that:

"Council proceed with this reclassification as a separate Planning Proposal. This will allow for specific consultation with the Gresford community about the reclassification and for the public hearing to be held on this matter."

This revised PP has been prepared to accord with this recommendation and to satisfy the Department of Planning's "*LEP Practice note: Classification and reclassification of public land through a local environmental plan*".

#### PART 1: OBJECTIVE of the PLANNING PROPOSAL

#### Objective

This Planning Proposal seeks to amend Schedule 4 of *Dungog Local Environmental Plan 2014* by reclassifying Lot 1 DP 562046 Durham Road Gresford within the Dungog Local Government Area from community to operational land so as to allow the use of the land for industrial related purposes in accordance with the current zoning.

#### PART 2: EXPLANATION of PROVISIONS

The objective of this PP is intended to be achieved by amending the DLEP 2014.

The PP will amend DLEP 2014 by reclassifying the subject site from community to operational land as follows:

Insert:

#### Schedule 4 Classification and reclassification of public land

#### Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1	Column 2
Lot 1 DP562046 Durham	Operational
Road Gresford	

#### PART 3: JUSTIFICATION of PROVISIONS

#### Section A: Need for Planning Proposal

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

This PP is not a result of a strategic study or report. Dungog Shire Council has identified that this land at Gresford is surplus to its needs and is and will not be used in the future as a Council works depot. The site is considered to be suitable for some type of employment generating development that supports the Village growth.

The Dungog Local Government Area Situational Analysis (SA) and the Dungog Land Use Strategy (LUS) were adopted by Council on 10 February 2010. Figure 20 of this LUS depicts the subject site as proposed Employment 4(a) or SLEP equivalent. Refer to **Figure 3** below for further details. As previously stated, DLEP 2014 rezoned the subject site to IN1 General Industrial. Councils' resolution (Minute No. 34862 – February 2010) resolved to support rezoning of the land and to amend the LUS Gresford Maps to reflect Council's intention to alter the land use in respect to the subject property. A copy of this minute is attached at **Appendix 1** of this PP.

It is noted that Section 4.4.2 Future Character of the Dungog LUS states:

"Infill development will consolidate and strengthen each village. Opportunities to increase local employment, attract passing tourism, or stimulate the local economy through environmentally appropriate commercial or industrial development will be considered. Particular consideration is given to the compatibility of proposed development with historic architecture and as a result historic form and character is preserved."

One of the identified goals in relation to the Gresford Planning District is:

*"Goal 5: To encourage tourism and related economic development opportunities through cellar door, gate sale and other opportunities"* 

Table 40: Gresford Swot Analysis of the LUS also identifies that: "*limited employment opportunities to stimulate employment*"

Consequently this PP will assist in achieving this goal and ensuring that the desired future character of Gresford villages is retained after reclassification as the land can be sold by Council and developed in accordance with its current zoning, therefore providing further economic and employment benefits for the village of Gresford as well as Dungog Local Government area.



Figure 3: Extract from Dungog Land Use Strategy

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

The subject site was purchased by Dungog Shire Council in 2004 and subsequently used as a Council works depot. As previously stated, Council has not used the site as a depot for a number of years and the site is no longer required for this purpose.

The site was rezoned to IN1 General Industrial under DLEP 2014 and to enable the sale of the land, reclassification is now necessary as this is considered the best means of ensuring that the land is available for intended development.

Due to initial potential land contamination concerns, the use of the land was deemed more appropriate for commercial or industrial type activities rather for general residential village developments that may be impacted by contaminants. However the completion of the contamination report identifies that land contamination is no longer considered a constraint in the development of this land.

It is noted that the LUS does not identify the need for provision of further open space within the villages of Gresford or East Gresford only the construction of a cycleway/ footpath link between Gresford and East Gresford villages and the upgrading of Gresford Showground and Church Park to enable river access.

#### 3. Is there a net community benefit

Yes. The subject land was purchased by Council for the purposes of a works depot. There is no record of the land being classified as operational land, hence the land is assumed to be classified as community land. The PP will benefit the community in that reclassification will allow the sale of the land and additional funds being available for other Council projects.

#### Section B: Relationship to Strategic Planning Framework

# 4. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy including exhibited draft strategies)?

Consistent. The Upper Hunter Strategic Regional Land Use Plan was completed in 2012 and covers the Dungog Local Government area. This plan provides a clear strategic framework for the Upper Hunter, delivering the necessary context for Government investment priorities, servicing strategies and local environmental plan making.

This Plan does not identify the subject land as being a coal, gas or agricultural resource. However, the Plan does identify that there is a low demand for industrial land within Dungog, with local Councils being responsible for ensuring that an adequate supply of employment land is available. The site has already been rezoned for industrial purposes and reclassification is necessary to allow future private development of the land in accordance with this zoning.

### 5. Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?

As previously stated, Dungog Shire Council has adopted a SA and LUS in 2010 with details being discussed in the previous section of this PP. The PP is consistent with these Strategic documents as Council resolved in February 2010 to amend the Gresford maps to reflect Council's intention to alter the land use on the subject site. Figure 20 of the LUS (i.e. **Figure 3**) depicts the land as proposed Employment 4(a) zone or SI equivalent. Consequently this PP aims to further facilitate development of the land.

Dungog Shire Council's *Community Strategic Plan 2012 -2030* identifies a Focus Area to be the "*Local Economy*". Priorities for the future of the local economy are identified as:

- "The movement of local consumers away from local retail and business to larger surrounding centres needs to be minimised;
- Economic and agricultural diversity across our shire needs to be expanded;
- Local employment opportunities need to be expanded;
- Land needs to be identified and appropriately zoned for industrial growth."

Reclassification of the subject land will assist in achieving these listed priorities.

### 6. Is the Planning proposal consistent with applicable state environmental planning policies (SEPPs)?

An assessment has been undertaken to determine the level of consistency the PP has with relevant State Environmental Planning Policies (SEPPs). The assessment is provided below:

SEPPs	Relevance	Implications
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	This Policy aims to recognise the importance of mining, petroleum production and extensive industries to NSW.	This PP will not affect the aims and provisions of this SEPP.
SEPP No.44 – Koala Habitat Protection	This Policy encourages the proper conservation of vegetation that provides habitat for koalas	There are no known Koala food tree species located on site, nor is there any evidence to suggest any Koala activity in the locality.
SEPP No. 55 - Remediation of Land	This Policy establishes state-wide planning controls for the remediation of contaminated land	A Phase 1 Preliminary Environmental Site Assessment has been completed for the subject site. This report concludes that site soils comply with Industrial/Commercial land use criteria. No evidence can be found to infer contamination by petroleum related contaminants, heavy metals, PAH type compounds, pesticides or PCBs at the site. Ground water is not expected to have been affected by activities on site. This report states that no further investigation is required and the site is deemed suitable for the intended industrial land use.
SEPP (Infrastructure) 2007	This policy assists local councils by simplifying the process for providing infrastructure in areas such as education, hospitals, roads, railways, emergency services, water supply and electricity delivery.	The draft LEP involves reclassification of the land and development of the site will be considered at DA stage.

# 7. Is the Planning proposal consistent with applicable Ministerial Directions (s117 directions)?

The following assessment of the proposal has been undertaken against the following Section 117 Directions:

Direction	Relevance	Implication
1.1 Business an	d This direction requires that	Consistent. The draft LEP
Industrial Zones	lands are maintained and that new zones are	does not propose to rezone any lands to a business or industrial zone as the
	established in accordance	subject site is currently

	with strategic policy	zoned IN1 General
1.3 Mining, Petroleum Production and Extractive Industries	directions. This direction is to ensure that the future extraction of State or regionally	Industrial under DLEP 2014. Consistent. The draft LEP does not prohibit mining of extractive resources, nor
	significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	does it alter the provisions of the DLEP 2014.
2.1 Environment Protection Zones	This direction is aimed to protect and conserve environmentally sensitive areas.	Consistent The subject site does not contain any environmentally sensitive areas.
2.3 Heritage Conservation	This direction requires that a draft LEP to include provisions to facilitate the protection and conservation of aboriginal and European heritage items.	Consistent There are no known items of heritage or places identified upon the subject land. This PP does nor seek to alter the existing heritage provisions of DLEP 2014.
2.4 Recreation Vehicle Areas	To protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	Consistent The subject land is not identified as being sensitive or of significant conservation value.
3.4 Integrating Land Use and Transport	This direction requires consistency with State policy in terms of positioning of urban land use zones.	Consistent. The subject site is zoned IN1 General Industrial. This PP will not alter the existing industrial zoning. The rezoning will allow further development of the land.
4.1 Acid Sulfate Soils	Applies to land that has been identified as having a probability of containing acid sulphate soils.	Consistent. The subject site is not identified as having acid sulphate soils and the draft LEP does not alter any ASS provisions.
4.2 Mine Subsidence and Unstable Land	This direction is to prevent damage to life, property and the environment on land identified as unstable or	Consistent. The subject site is not located within a proclaimed Mine Subsidence District.
	potentially subject to mine subsidence.	
4.3 Flood Prone Land	potentially subject to mine	Consistent. The subject site is not designated as flood prone land.

Protection	protect life, property and the	identified as bushfire prone
6.1 Approval and	environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and encourages sound management of bush fire prone areas. This direction prevents a	Consistent. The draft LEP
Referral Requirements	draft amendment from requiring concurrence from, or referral to the Minister or a public authority.	will necessitate no concurrence or referrals provisions.
6.2 Reserving Land for Public Purposes	This direction is aimed to facilitate the provision of public services and facilities by reserving land for public purposes, and the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Consistent. The PP involves the reclassification of the land from community to operational land. The subject land was sold to Council by the Water Conservation and Irrigation Commission in 2005. The land is designated as a public place under the LG Act as the land is owned by Council and therefore is considered to be public land under the LG Act. This draft LEP is not reserving land pursuant to Clause 26 (1)(c) of the E.P. & A Act and therefore there is no requirement to specify the authority to acquire such land as no acquisition clauses are necessary in accordance with Clause 27 of the E.P & A Act or clause 10 of the Regulations. The site was formerly used as a works depot, however the land is not used for this purpose and is surplus to Council's needs. The land is zoned IN1 General Industrial under DLEP 2014 and no reservation or acquisition clauses apply to the land. Therefore the draft LEP is not intending to reserve the land for a public purpose or removing any acquisition clauses.

#### Section C: Environmental, Social and Economic Impact

# 8. 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?

The subject site has been significantly cleared of natural vegetation with a scattering of trees being positioned along the frontage of the property and the site comprising predominantly of grasslands. A check of Council records reveals that there are no identified threatened species, habitat or ecological communities are located upon the subject land.

As no record exists of a threatened species or community in this locality, the requirements of Section 5A of the EP&A Act and the Threatened Species Assessment Guidelines have not been used in the assessment of this PP.

### 9. Are there any other likely environmental effects as a result of this planning proposal and how are they proposed to be managed?

The subject site was purchased by Council in 2005 and has been used as a works depot by Council. A preliminary Environmental Assessment has been completed by David Lane Associates. The site contains an above ground storage tank bunded by concrete on site. The tank was used to store and dispense of tar. A waste oil collection facility was also present at the front of the site. Minor oil staining was identified on the surface surrounding the facility. This report concludes that no further investigation is required and the site is deemed suitable for the intended industrial land use. It was also noted that the site also complies with the most sensitive Residential land use criteria generally referred to as Table 5a Column A within the National Environment Protection (Assessment of Site Contamination) Measure 1999.

There are no known Aboriginal or European heritage issues or sites that could impact on this proposed PP upon the site or surrounding locality. Hence no further assessment is considered necessary.

### 10. How has the planning proposal adequately addressed any social and economic effects?

Any proposed land use will be similar in nature to the previous use of the site as a Council's work depot or be of an employment generating land use. The land is presently unused and no existing use provisions under the EP&A Act would apply. The closure of the Council depot would have had a negative economic impact on the village area due to relocation of staff and facilities.

The reclassification of this land will allow Council to sell land that is surplus to its needs. Monies from this sale could be directly to other Council infrastructure projects such as upgrading of roads, bridges, etc. that would benefit the local community.

It is anticipated that positive social and economic impacts will result if this PP is allowed to proceed in that the site may be developed in accordance with its current zoning. Reclassification is likely to facilitate future industrial type development of the site. It is therefore considered that from a socio-economic perspective this will benefit the small community of Gresford, possibly providing additional services and employment.

# 11. If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished.

The PP does not involve the extinguishment of any trusts or interests associated with this land. There are no S88B instruments applicable to this land. For further details refer to Figure 3 being an extract of the Deposited Plan. Council purchased the land from the Water Conservation and Irrigation Commission in 2005 and is the owner of the land. The site has been used by Council for various uses such as a waste oil storage depot, tar storage, etc. An offer was previously made to Council to purchase the land to allow a stock transport enterprise, however this sale did not proceed. Reclassification will allow sale of the property by Council.

### 12. The concurrence of the landowner, where the land is not owned by the relevant planning authority.

Dungog Shire Council is the owner of the subject land.

#### Section D: State and Commonwealth Interests

#### 13. Is there adequate public infrastructure for the Planning Proposal?

The PP will not require any changes to the delivery of public infrastructure within this area.

## 14. What are the views of state and commonwealth public authorities consulted in accordance with the gateway determination?

The Gateway determination will provide direction for Dungog Shire Council on which government agencies are specifically required to be consulted in respect of this proposal. Any necessary consultation can be undertaken as part of the public notification process and this PP will be amended accordingly.

### PART 4: MAPPING

Maps applicable to this PP are attached at Appendix 2.

#### PART 5: COMMUNITY CONSULTATION

### 15. Details of the community consultation that is to be undertaken on the planning proposal

In accordance with section 57(2) of the Environmental Planning and Assessment Act, community consultation is required to be undertaken by Dungog Shire Council after the Gateway determination. The PP is of a low impact given its previous use as a Council depot and as such should be advertised for a period of 14 days.

The following community consultation is recommended:

- Notice of the public exhibition of the PP in the local newspaper;
- Exhibition of maps and relevant consultation documents at the Councils Administration Building and in the local library;
- Maps and consultation documents to be made available on the Councils web site; and
- Letters advising land owners in the Village of Gresford and surrounding land of the proposed reclassification and advice of how to make a submission in relation to this PP.

As a parcel of community land is proposed to be reclassified to operational land a public hearing will need to be organised by Council in accordance with section 29 of the Local Government Act 1993. The details of the public hearing will be published in the local newspaper and forwarded to any person requesting a public hearing, 21 days prior to the public hearing. An independent person will chair such a hearing and complete the necessary report.

After completion of the public exhibition of the PP and the report of the public hearing, Council officers will consider all submissions received and present a report to Council for their endorsement of the proposed reclassification proceeding to finalisation.

Dungog Council at its meeting of 19 February 2013 resolved that it was not in a position to accept delegations for making of LEP's. Therefore LEP delegations are not sought for this PP.

#### PART 6: PROJECT TIMELINE

The project timeline will be updated post Gateway Determination and is subject to the requirements of the Gateway Determination. A preliminary timeline is provided below.

Task	Timeframe
Commencement Date – Gateway Determination	October 2014
Timeframe for completion of technical information	No further technical information is likely required
Government Agency Consultation	November 2014
Commencement and completion Dates for Public Exhibition Period	December 2014/ February 2015
Dates for Public Hearing	February 2015
Timeframe for consideration of Submissions	March 2015
Timeframe for consideration of a proposal post exhibition	April 2015
Submission to Department to finalise LEP	May 2015
Anticipated date RPA will forward to Department for notification	June 2015

### Appendix 1: Council Minute to Rezone Land

#### 2. REAL ESTATE NEGOTIATIONS – DRAFT AMENDMENT TO DUNGOG LEP 2006 PLANNING PROPOSAL REPORT TPA 2141/102

#### Précis:

The proposal seeks to amend the *Dungog Local Environmental Plan 2006* to rezone Lot 1 DP 562046 from Special Uses 5(a) to Employment 4(a). This report recommends supporting the amendment, subject to the submission of an independently drafted planning proposal.

#### \*\*\*\*\*

*Minute No. 34862* 

**RESOLVED** on the motion of Cr Thompson and seconded by Cr McKenzie that:

- 1. Council resolve to support an amendment to *Dungog Local Environmental Plan 2006* to rezone Lot 1 DP 562046, Durham Road Gresford from Special Uses 5(a) to Employment 4(a).
- 2. Pursuant to section 55 of the *Environmental Planning and Assessment Act 1979*, a Planning Proposal be prepared explaining the intended effect of the proposed LEP and setting out the justification for making the proposed instrument.
- 3. Pursuant to section 56(1) of the *Environmental Planning and Assessment Act 1979*, Council forward the Planning Proposal to the Minister for Planning for a Gateway determination.
- 4. The Land Use Strategy (LUS) Gresford Maps be amended to reflect Council's intention to alter the land use on the subject property.
- 5. As both the Applicant and the land owner is Dungog Shire Council, the Planning Proposal (PP) be compiled by an independent and suitably qualified third party.

The Mayor in accordance with Section 375A of the Local Government Act 1993 called for a Division. The Division resulted in 9 for and 0 against, as follows:

For: Crs Wall, Mitchell, Booth, Ainsworth, Johnston, McKenzie, Lloyd, Thompson, Farrow.

## Appendix 2: Mapping

### LOCALITY PLAN



### **DEPOSITED PLAN**



(G)

### **ZONING MAP**



