

11. PLANNING AND ENVIRONMENTAL SERVICES

11.9 PLANNING PROPOSAL TO AMEND THE GUNNEDAH LOCAL ENVIRONMENTAL PLAN 2012 – PLANNING PROPOSAL TO REZONE PRIVATE OWNED E3 ENVIRONMENTAL MANAGEMENT ZONED LAND TO RU1 PRIMARY PRODUCTION

AUTHOR Team Leader Building and Strategic Projects

MOTION *Moved Councillor M O'KEEFE*
Seconded Councillor OC HASLER

20.02/21 COUNCIL RESOLUTIONS:

That Council resolve to:

1. Endorse the draft planning proposal, prepared pursuant to Section 3.33 of the Environmental Planning and Assessment Act 1979 for an amendment to the Gunnedah Local Environmental Plan 2012 so that all privately owned agricultural land currently zoned E3 Environmental Management and located more than 5 kilometres from Gunnedah, is zoned RU1 Primary Production, consistent with the historical 1(a) Rural (Agricultural Protection) zone of the Gunnedah Local Environmental Plan, 1998.
2. Forward the draft planning proposal to the Department of Planning, Industry and Environment requesting a Gateway Determination, and exhibit the proposal in accordance with that determination, pursuant to Sections 3.34-3.35 of the Environmental Planning and Assessment Act 1979; and
3. Request that the Secretary of the Department of Planning, Industry and Environment issue a Written Authorisation to Council to Exercise Delegation of the plan making functions under Section 3.36 of the Environmental Planning and Assessment Act 1979 in respect of the planning proposal.

ITEM 9	Planning Proposal to Amend the Gunnedah Local Environmental Plan 2012 - Planning Proposal to rezone privately owned E3 Environmental Management zoned land to RU1 Primary Production
MEETING	Ordinary Meeting – 17 February 2021
DIRECTORATE	Planning and Environmental Services
AUTHOR	Team leader Building and Strategic Projects
POLICY	Nil
LEGAL	An amendment to the Gunnedah Local Environmental Plan 2012 will alter the zoning for the subject land.
FINANCIAL	Nil
STRATEGIC LINK	<p>Community Strategic Plan</p> <p>1.2.1 Foster a strong organisational culture which strives for best practice and continued improvement in all operations.</p> <p>1.3.2 Build relationships with all levels of Government, seek to contribute to decision making and strongly advocate our local interests.</p> <p>Operational Plan</p> <p>1.2.1.5 Develop and review the Directorate's Policy and strategic planning framework ensuring effective planning, strategic direction, budget management and control of operations for the Directorate.</p> <p>1.3.2.1 Identify opportunities to advocate our interests with local community groups, regional organisations and the State and Federal Government on issues such as planning, development and the provision of services and facilities</p>
ATTACHMENTS	Planning Proposal Report and Attachments

OFFICER'S RECOMMENDATIONS:

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3. Request that the Secretary of the Department of Planning, Industry and Environment issue a Written Authorisation to Council to Exercise Delegation of the plan making functions under Section 3.36 of the Environmental Planning and Assessment Act 1979 in respect of the planning proposal.

PURPOSE

The purpose of this report is to seek Council's endorsement for the preparation of a planning proposal to amend the *Gunnedah Local Environmental Plan 2012* (GLEP 2012) in relation to the subject lands identified in table 1. The planning proposal aims to amend the Gunnedah Local Environmental Plan, 2012 so that all privately owned agricultural land, located more than 5 kilometres from Gunnedah, is zoned for Primary Production, consistent with the historical agricultural protection zone of the Gunnedah Local Environmental Plan, 1998.

Table 1: Subject Site Particulars

Lot	DP	Lot	DP	Lot	DP	Lot	DP
3	114885	19	751005	1	1167192	46	755526
1	131921	51	751005	1	1172362	23	755526
1	178083	49	751005	2	1172362	9	755515
1	190411	38	751005	1	1173869	12	1092911
2	233387	118	751012	3	1191178	24	755526
1	235444	119	751012	4	1204650	10	1080724
2	235444	123	751012	2	1208347	46	755531
5	254903	109	754938	21	1236157	47	755531
1	360982	14	754942	2	1236158	45	755531
2	376630	105	754946	2	1241472	53	755531
B	389059	98	754946	2	1249799	127	755522
C	389059	101	754946	15	754938	50	755531
C	389060	73	754946	157	754938	502	852397
A	389060	76	754946	3	1174342	56	755531
B	389060	104	754946	65	755481	57	755531
1	390814	75	754946	2	1165343	55	755531
A	405391	106	754946	39	755493	51	755531
1	437075	93	754946	16	755493	48	755531
A	438667	107	754946	1	388007	B	359450
2	533052	109	754946	3	376572	1	1230949
1	533052	108	754946	1	713805	1	1251854
31	591761	78	754946	4	255612	2	1251854
12	611349	109	754950	2	255612	1	1097532
11	611349	99	754955	3	255612	2	1146441
72	705059	65	754955	2	713805	46	755493
26	751005	96	754955	1	776803	53	1128024
14	751005	91	754955	5	255612	2	880853
34	751005	67	754955	2	776803	1	1152805
35	751005	8	755514	4	376572	65	755532
15	751005	2	825588	143	755500	94	755532
10	751005	1	871548	68	755521	75	755532
18	751005	1	1130616	103	755473	106	652574
60	751005	1	1138400	11	1080724	64	755532

COMMENTARY

The subject land was zoned 1(a) Rural (Agricultural Production) or 1(b) Rural (General) in the Gunnedah Local Environmental Plan, 1998. This zoning is equivalent to the RU1 Primary Production zoning in the GLEP, 2012. The land was rezoned to E3 Environmental Management in 2012 under the GLEP, 2012. The E3 zoned is equivalent to the previous zone 7(d) Environmental Protection Scenic Zone. This planning proposal would essentially be rezoning the agricultural land back to the previous zoning equivalent.

The Gunnedah Shire land zoning is based on the recommendations of the Gunnedah Rural Strategy, prepared by EDGE Land Planning in March 2007. The addendum to the rural strategy outlines in the justification for the environmental management zone that it is:

“to protect the integrity and natural values and features of the total landscape, the strategy identified an area around Blackjack Mountain as being a scenic landscape that requires protection via the use an environmental management zoning.”

The protection of scenic hills was a clear objective of the zone 7(d) in the GLEP, 1998. The E3 Environmental Management zone objective is to protect areas with special ecological, scientific, cultural and aesthetic value by limiting the range of development on the land so there are no adverse effects on those values.

The rural strategy clearly identifies Blackjack Mountain as having scenic value and the hills around the town of Gunnedah, which are visible from residential areas, are considered to have scenic/aesthetic value.

The methodology adopted in this Rural Strategy for defining the Environmental Management Zone boundary is the 450m contour. The strategy notes that this methodology captures the significant hills in the shire.

The application of the 450 metre contour line as defining the environmental management zoned land is not in keeping with the original intent or objective of this recommendation in the Rural Strategy. It is understood the intent of applying this zone was to maintain significant hillscares, which provide scenic amenity and natural values throughout the shire in areas where agricultural activities are not carried out.

The addendum to the Gunnedah Shire Rural Strategy, prepared by EDGE Land Planning in 2008, states the following E3 zoning justification *“by applying this environmental management zone, Council will ensure that existing agricultural activities are not affected, yet recognize the importance of the landscape and have a mechanism to maintain its integrity”*.

The Gunnedah Rural Strategy has recommended that the E3 Environmental Management zoning be used to maintain the natural integrity and scenic amenity of heavily vegetated hillscares, such as Blackjack Hill. There are large areas, currently zoned E3, particularly in the north of the shire, which can be described as undulating country generally with scattered woodland vegetation. These areas have a long standing agricultural/primary production land use, with the predominate 2017 land use mapped as being grazing in native vegetation. This land is not considered to provide special aesthetic value. There have been no studies conducted to map this land as having special ecological, scientific or cultural value when compared to adjacent RU1 zoned land and therefore no basis to conclude the land meets the objectives of the E3 Environmental Management zone.

This planning proposal has maintained the E3 Environmental Management zone on all land currently zoned E3 Environmental Management in the GLEP, 2012 within a 5 kilometre radius of the town of Gunnedah. It is also proposed to maintain the E3 Environmental Management zone on all crown

owned land in the Gunnedah Local Government area. This covers significant hillsides which provide aesthetic and scenic value including Blackjack Mountain, Porcupine Lookout Reserve, Blackjack Forest near the town of Gunnedah and other significant hills including Mullaley Mountain, Kingjack Mountain and Haystack Mountain.

All privately owned land which is identified as agricultural land in the Gunnedah Rural Strategy located more than 5 kilometres from the town of Gunnedah is proposed to be rezoned to RU1 Primary Production.

Gunnedah Shire Council is not aware of any studies being carried out over any of the land which was rezoned from 1(a) Rural (agricultural protection) and 1(b) Rural (General) in the GLEP, 1998 to E3 Environmental Management in the GLEP, 2012 to classify this land as having special ecological, scientific, cultural or aesthetic values. The land zoned 7(d) Environmental Protection (Scenic Zone) in the GLEP, 1998 is considered to have scenic/aesthetic value and therefore any land which was previously zoned 7(d) Environmental Protection (scenic zone) and is currently E3 Environmental Management will be maintained.

Consultation in 2019 between Gunnedah Shire Council, Stewart Surveys and the NSW Office of Environmental and Heritage (OEH) has indicated that land mapped as High Environmental Value (HEV) land in the New England North West Regional Plan 2036 (NENWRP, 2036) should be considered for protection under the E3 Environmental Management zone. The HEV mapping in the NENWRP, 2036 is noted as 'potential high environmental value' and the Department advised that not all HEV land has been ground truthed or identified in an ecological study. Further, HEV land is mapped scattering across the Gunnedah and surrounding shires in varying land zones.

The planning assessment for proposed development under the Environmental Planning and Assessment Act, 1979 and other legislation including the Biodiversity Conservation Act 2016, Local Land Services Act 2013, State Environmental Planning Policy (Koala Habitat Protection) 2020, will maintain and protect areas of high environmental value regardless of the zoning.

Figure 1 shows an example of the land characteristics between the E3 and RU1 Zone along with the tree matrix cover layer provided by OEH. The diagram clearly shows that land zoned E3 and RU1 has similar characteristic and HEV tree cover.

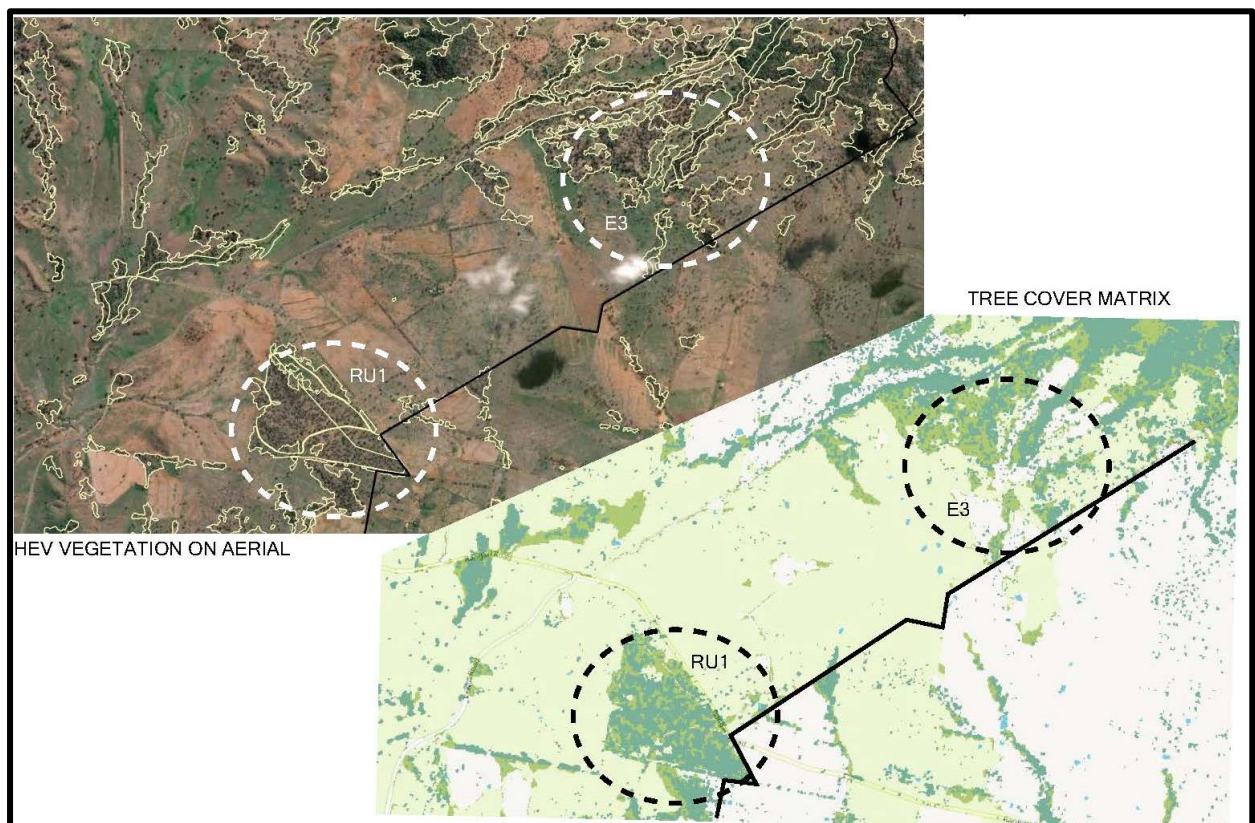


Figure 1: Example of Land characteristics between E3 and RU1 zones

HISTORY

15 May 2019 a Planning Proposal to rezone a number of properties in Gunnedah Shire zoned as E3 Environmental Management to RU1 Primary Production was reported to Council for consideration. Council resolved to defer the matter until further workshops and consultation was undertaken with stakeholders.

26 September 2019 a meeting was held between Council staff and a number of state government agency representatives. The outcome of the meeting was that Council would undertake a desktop analysis of spatial data to identify cleared agricultural land, and land with an ongoing agricultural land use. It was also recognised at the meeting that 'ground truthing' may be required on areas that have been legally cleared since 2012.

18 December 2019 council resolved to undertake a desktop analysis.

June 2020 a desktop analysis was completed by Stewart Surveys. The outcome of the analysis was a recommendation that land mapped as class 3 to 5 (agricultural land uses) and land mapped as class 2 grazing in native pasture, that is not mapped as HEV land, be rezoned from E3 to RU1.

The desktop analysis was provided to the Department of Planning, Industry & Environment (DPIE) for comment. The Biodiversity Conservation Division of DPIE did not support the analysis recommendation and only supported rezoning of areas not identified as high environmental value and not mapped as native vegetation.

2 December 2020 a workshop was held with Councillors for the purpose of providing an update on the progress of the rezoning process. The outcome of the workshop was that the matter be reported to Council with a recommendation that we seek extensive back zoning such that all privately owned agricultural land currently zoned E3 Environmental Management, and located more than 5

kilometres from Gunnedah, is zoned RU1 Primary Production, consistent with the historical 1(a) Rural (Agricultural Protection) zone of the Gunnedah Local Environmental Plan, 1998.

SUMMARY

Based on the planning proposal report commentary can be summarised as follows:

- The RU1/E3 zone boundaries were delineated by the 450m contour line with little or no ground-truthing.
- Objectives of E3 zone (outlined in the Rural Strategy) do not meet current or previous land uses.
- Current and past land uses over the proposed rezoning land is agricultural production.
- Site characteristics and topography do not match the intent of the change in zone to E3 Environmental Management zone, to protect significant hillsclapes, as outlined in the rural strategy.
- All scenic hills which were protected under the 7(d) zone in the GLEP, 1998 will be maintained as E3 Environmental Management.
- Current zoning is restricting land holders from conducting their agricultural businesses
- Current zoning is reducing land values
- Current zoning does not reflect zoning of adjoining land in other shires.
- Environmental protections for native vegetation and areas of high environmental value are protected through other legislation regardless of the zoning.
- Environmental assessment of any proposed development remains a requirement regardless of zoning.

It is requested that the Department rezone all privately owned E3 zoned agricultural land more than 5 kilometres from the town of Gunnedah, in the Gunnedah Local Government Area to RU1 Primary Production to reflect the current and historic land uses in this area and revert back to the previous (GLEP 1998) equivalent zoning.

The outcome of the proposed amendment will permit the land use which is also consistent with the Primary Production zone which generally joins the E3 Environmental Management zone on the subject land. The details of the report are outlined below:

- A. Existing conditions of the planning proposal & Proposed changes in E3 Environmental Management zone
- B. Consideration of the planning proposal against applicable local and regional plans and strategies.

This planning proposal has been written in accordance with the Department of Planning's '*A Guide to preparing Local Environmental Plans*' and '*A Guide to preparing Planning Proposals*' as a requirement for the preparation of the gateway determination by the *Department, Planning, Industry and Environment*.

A. Existing conditions of the planning proposal & Proposed changes in E3 Environmental Management zone

The subject land is located across the entire shire, Figures 2 to 7 show the existing GLEP, 2012 land zoning maps and the proposed changes in the E3 Environmental Management zone.

The subject land is identified as agricultural land and is privately owned.

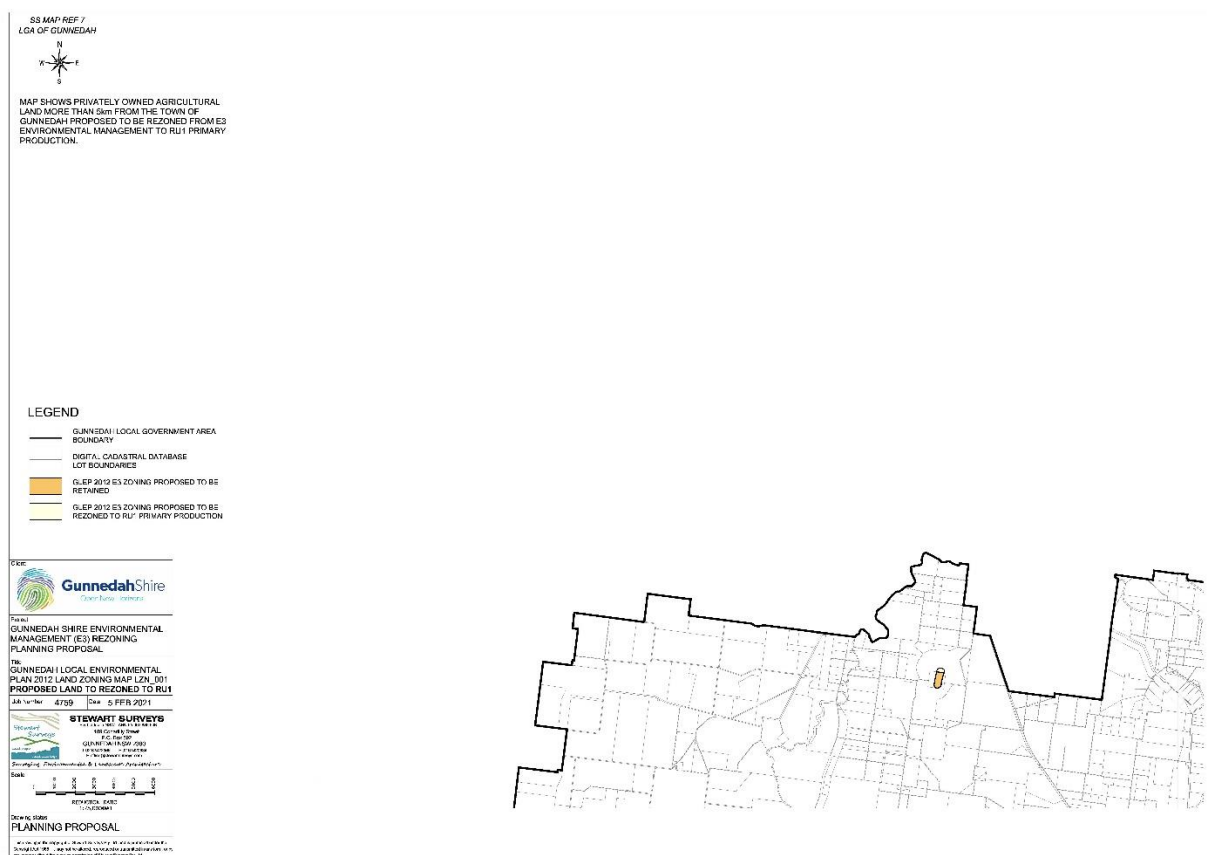
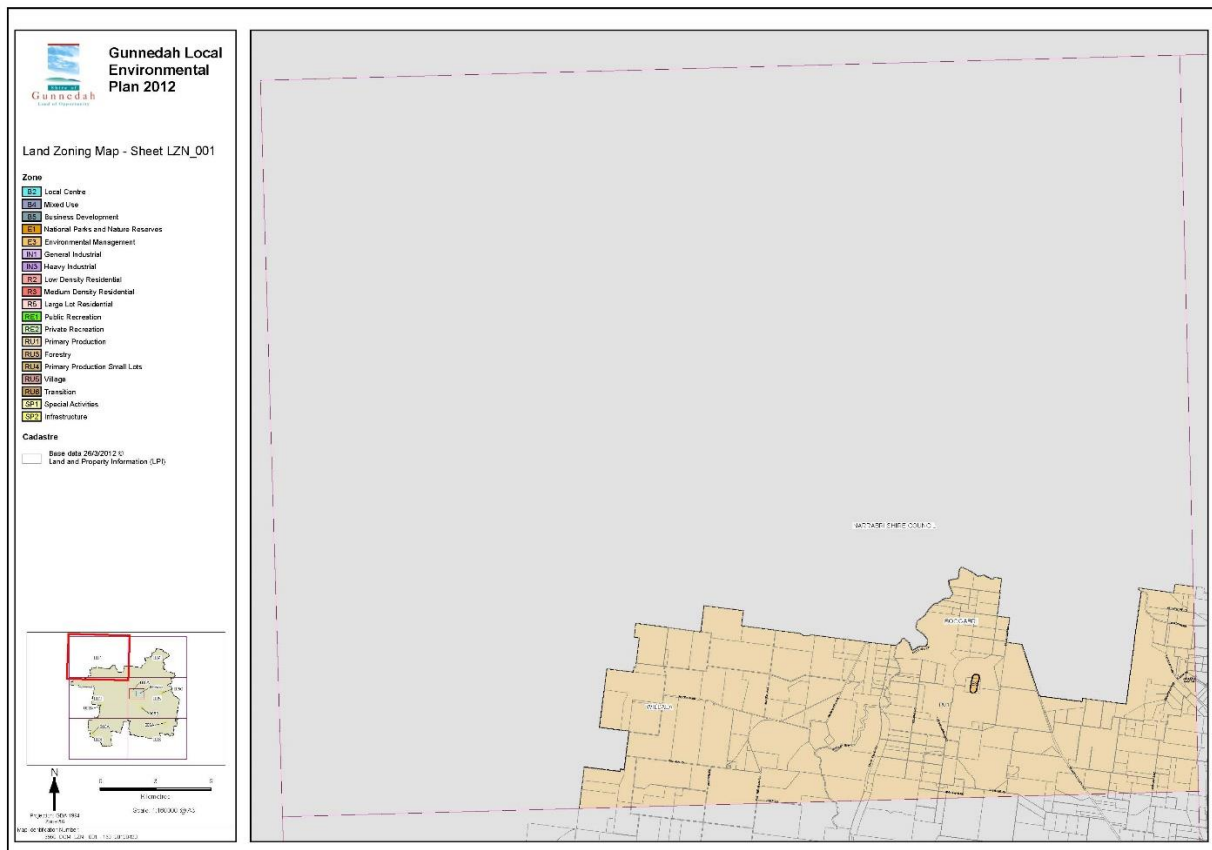


Figure 2: Existing Map Land Zoning Map – Sheet LZN_001 & Proposed Rezoning of E3 zoned land

The planning proposal is consistent with the aims and objectives of the applicable local and regional plans and strategies. Below is a brief outline of the planning proposals consistency with the applicable local and regional plans and strategies.

New England North West Regional Plan 2036

The rezoning outlined in this planning proposal will meet the key agricultural objective of Goal 1: A strong and dynamic regional economy of the New England North West Regional Plan, 2036 by allowing existing agricultural operations, permissible land uses which enable improved efficiencies and intensive agriculture, while not fragmenting land or reducing protection of the environment and water resources.

As outlined in the justification section of this report environmental protection of natural resources and potential high value environmental land is maintained by the NSW planning approval process regardless of the land's zone. Therefore, we do not believe this planning proposal will impact any area of potential high environmental value and we believe this planning proposal is aligned with the New England North West Regional Plan, 2036.

Gunnedah Community Strategic Plan 2017-27

This report outlines the actions required to build the shire's economy and improve the productivity, quality, profitability and sustainability of Australia's agriculture. The strategy outlines the existing nature of the agricultural industry in the Gunnedah shire, trends and strategic considerations. It states that our farming industry has contributed to our lifestyle and values and remains a pillar of the shire's future. It is believed that the rezoning of these lands back to primary production will allow farmers greater opportunity to manage and possibly expand their agricultural operations and potentially improve profitability. The strategic plan also aims to balance between development and environmental protection we believe the proposed rezoning does not place any additional impacts on the environment. All development requires environmental assessment as part of the approval process and this will safeguard the natural environment on the subject site from development which is not suitable or within the carrying capacity of the environment.

CONCLUSION

It is recommended that the subject land be rezoned from E3 Environmental Management to RU1 Primary Production.

In order to amend the GLEP 2012, Council is required to submit the planning proposal to the *Department of Planning, Industry and Environment* for a Gateway Determination. The proposal has been written in accordance with the Department of Planning, Industry and Environment's '*A Guide to preparing Local Environmental Plans*' and '*A Guide to preparing Planning Proposals*'. Council will also request the Minister for Planning and Environment to exercise their planning powers under Section 3.22 of the *Environmental Planning and Assessment Act 1979* and grant Council delegated authority to amend the GLEP 2012. Should the Gateway Panel approve the public exhibition of the Planning Proposal, it is anticipated that the proposal would be exhibited during April 2021.

The planning proposal is the first step in the 'gateway' plan-making process and explains the effect of and justification for the initiative. If approved, the Minister will provide a determination regarding the procedure and whether further studies are required, and resources allocated for the preparation of the Proposal as well as any specific requirements for public exhibition. The planning proposal is consistent with the *New England North West Regional Plan 2036*, and the *Gunnedah Community Strategic Plan 2017-2027*. Therefore, it is recommended that the planning proposal to amend the *Gunnedah Local Environmental Plan 2012* be referred to the *Department of Planning, Industry and Environment* for a Gateway determination to initiate the process.

Andrew Johns

DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES