

## Planning Services

EF19/12111

### Gateway determination report

<b>LGA</b>	Upper Hunter
<b>PPA</b>	Upper Hunter Shire Council
<b>NAME</b>	Proposed rezoning at Muffett Street and Philip Street, Scone (0 homes, 4 jobs)
<b>NUMBER</b>	PP_UPHUN_2019_002_00
<b>LEP TO BE AMENDED</b>	Upper Hunter LEP 2013
<b>ADDRESS</b>	2-4 Philip Street and 2 Muffett Street, Scone
<b>DESCRIPTION</b>	Part Lots 101 and 102 DP 1074572 Lot 2 and Lot 3 DP 29080
<b>RECEIVED</b>	11 March 2019
<b>FILE NO.</b>	EF19/12111
<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

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The proposal seeks to rezone and an area covering four lots on the corner of Muffett Street and Philip Street, Scone (**Figure 1**). The proposal seeks to:

- rezone part of Lot 101 DP 1074572 from R1 General Residential and RE2 Private Recreation to entirely IN1 General Industrial;
- rezone Lot 2 DP 29080 from R1 General Residential to IN1 General Industrial;
- rezone Lot 3 DP 29080 from R1 General Residential to part IN1 General Industrial and part RE2 Private Recreation;
- rezone part of lot 102 DP 1074572 from RE2 Private Recreation to IN1 General Industrial and RE2 Private Recreation; and
- amend the lot size, floor space ratio and height of building maps for the subject site to reflect the proposed rezoning, consistent with Council's existing controls.

In summary, the proposal seeks to rezone land zoned predominantly residential to industrial and reconfigure the land zoned private recreation to provide a buffer for the new industrial interface with the existing residential areas.

## 1.2 Site description

The subject site covers an area of 0.27ha over four lots as shown in Figure 1 and is located on the northern edge of Scone town centre.

The site comprises of three vacant residential lots (Lots 2, 3 and 101) that front Philip Street and part of industrial lot (Lot 102) that fronts Muffett Street. The subject site is substantially cleared and contains a small shed as shown in Figure 1.



Figure 1: Subject site

The industrial lot, Lot 102 and part of Lot 101 includes a 9m-wide private recreation zone on the southern boundary of the industrial area. This private recreation corridor provides a buffer between the existing residential and industrial land uses. The corridor/buffer continues along the length of Philip Street to Noblet Street and is a 1.3km long corridor (Figure 2). As the buffer is in private ownership and forms part of the industrial land, it is not publicly accessible.

## 1.3 Existing planning controls

Under the Upper Hunter LEP 2013, the subject site comprising of four lots is zoned:

- R1 General Residential; and
- RE2 Private Recreation.

Figure 2 illustrates the split zoning across the subject site. The residential zoned portion of the site has a maximum height limit of 8.5m, a floor space ratio of 0.5:1 and a minimum lot size of 600m<sup>2</sup>. The private recreation portion of the site does not have a height, floor space or minimum lot size control.

The site adjoins land zoned IN1 General Industrial to the north, SP2 (Rail Infrastructure Facilities) to the west and a mix of B2 Local Centre and B4 Mixed Use to the south across Philip Street.

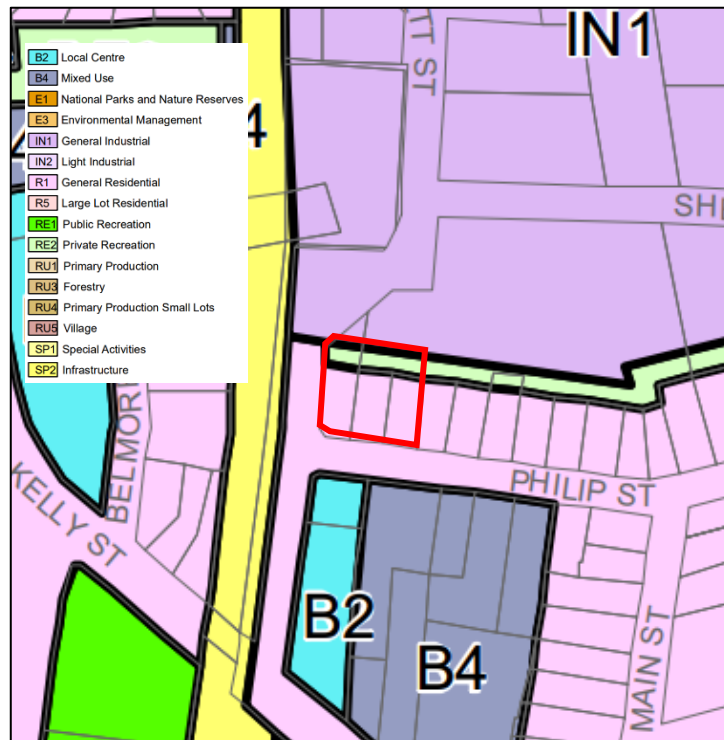


Figure 2: Existing zoning

#### 1.4 Surrounding area

The site is located on the northern edge of Scone town centre and is located 300m north of the Scone railway station (Figure 3). The southern side of Philip Street is zoned local centre and mixed use and comprises generally of rural farm and equine supply stores.

To the east of the site, the R1 General Residential zone continues and comprises predominantly of detached single dwellings along Philip Street. The adjoining residential lot to the east is currently vacant. At the rear of the residential properties (within the industrial and special uses zoned land) is a 1.3km long private recreation corridor between Muffet Street and Noblet Road in the east. This corridor provides a buffer to the industrial and livestock processing industries to the north and is privately owned. The corridor is not publicly accessible however it is understood that parts of the corridor may be informally used for pedestrian access in parts.

To the north, the site is located directly adjacent to the Scone industrial area which covers an area of 20ha and provides services for Scone and the surrounding areas. Approximately 1.5km north-east of the site is JBS Australia, a livestock processing works. The SP1 zoning extends to the boundary of the residential lots along Philip Street, however the SP1 area closest to the residential area is undeveloped.

Muffett Street is a key entrance road for the industrial area and includes frequent heavy vehicle movements. Muffett Street intersects with the New England Highway, approximately 100m south of the site. Beyond Muffett Street to the west is the Hunter Valley Northern Railway Line. It is understood that there are approximately 38 rail movements through Scone every 24 hours. The rail line is approximately 30m from the site.





Figure 3: Surrounding area

## 1.5 Summary of recommendation

The planning proposal should proceed, subject to conditions. Conditions are required regarding community consultation, agency consultation and completion timeframe.

The subject site adjoins an existing industrial area and is significantly impacted by noise from the adjacent rail line and heavy vehicle movements along Muffett Street accessing the industrial area. Retaining the site as residential is not considered appropriate as the site is significantly impacted by the surrounding land uses. The proposed rezoning would reflect the existing character of the area and is a logical extension to the existing industrial area.

The importance of the RE2 Private Recreation corridor to provide a buffer between industrial and residential uses is recognised. The proposed reconfiguration of the buffer is considered appropriate to reflect the proposed rezoning and will achieve the same objective and minimise potential land use conflict.

It is recommended that the planning proposal is updated prior to exhibition with a number of amendments and minor corrections. The amendments are detailed further in the report.

## 2. PROPOSAL

### 2.1 Objectives or intended outcomes

The objective of the planning proposal is to amend the Upper Hunter LEP 2013 to rezone the site from residential to industrial and to reconfigure the private recreation

zone. It also seeks to amend the relevant development standards to reflect the proposed rezoning.

It is recommended that the planning proposal be updated prior to exhibition to:

- remove references to the land owner aspirations for the site as the proposal would permit a much wider range of industrial uses; and
- update the proposal to include a site identification map that clearly identifies the site to be rezoned.

## **2.2 Explanation of provisions**

The provisions are clear and include the following:

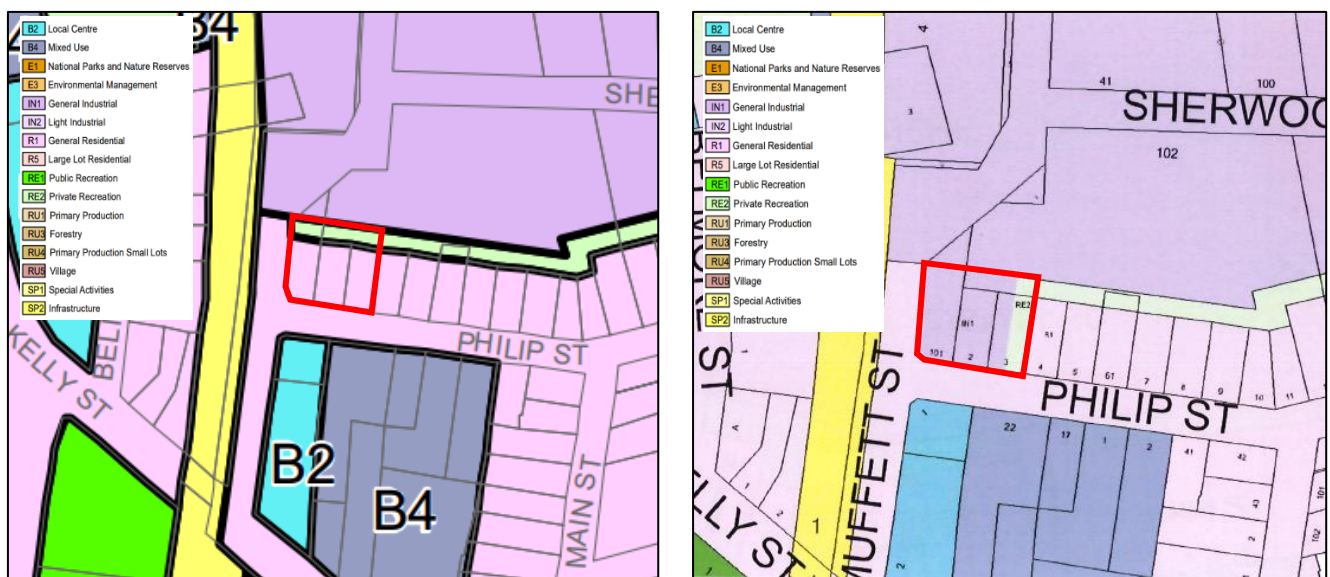
- rezone part of Lot 101 DP 1074572 from R1 General Residential and RE2 Private Recreation to entirely IN1 General Industrial;
- rezone Lot 2 DP 29080 from R1 General Residential to IN1 General Industrial;
- rezone Lot 3 DP 29080 from R1 General Residential to part IN1 General Industrial and part RE2 Private Recreation;
- rezone part of lot 102 DP 1074572 from RE2 Private Recreation to IN1 General industrial and RE2 Private Recreation;
- for land proposed to be zoned IN1 General Industrial, to update the following development controls:
  - height of building – remove existing control
  - lot size – 1,000m<sup>2</sup>
  - floor space ratio – 1:1
- for land proposed to be zoned RE2 Private recreation, to update the following development controls:
  - height of building – remove existing control
  - lot size – remove existing control
  - floor space ratio – remove existing control.

## **2.3 Mapping**

The proposal seeks to amend the following LEP maps:

- land use zoning (LZN\_008A);
- minimum lot size (LSZ\_008A);
- floor space ratio (FSR\_008A); and
- maximum height of building (HOB\_008A).

Figures 4a and 4b provides a comparison of the existing and proposed zoning for the subject site.



Figures 4a and 4b: Existing and proposed zoning

Prior to exhibition, the draft LEP maps are to be updated to clearly to identify the subject site. This has been included as a Gateway determination condition.

### 3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is not the result of a strategic study or report. The proposal has been initiated by the landowner.

The proposal considers that the existing R1 General Residential zone is not appropriate for the subject site given its location at the entrance to the Scone industrial area. The site is subject to significant noise and amenity impacts from the main Northern Railway line (30m from the site) and heavy vehicles accessing the industrial area on Muffett Street.

Whilst the site is currently zoned residential, the site has not been developed. It is considered that future residential uses of the land would be undesirable given current impacts on site and would potentially create further land use conflict. The proposed industrial rezoning reflects the industrial and commercial character of the area and is considered a logical extension of the industrial area.

To minimise the proposed impact on adjoining residential land, a buffer zoned RE2 is proposed to be established along the eastern boundary, consistent with the existing buffer to the north that separates the industrial and residential uses. Amendments to development controls will ensure consistency with the adjoining industrial area.

Council acknowledges that the local government area (LGA) has a 5 to 10 year supply of industrial land, and therefore there is not an immediate need for industrial land in the LGA. However, given the site constraints associated with rail noise and traffic impacts, the proposed industrial zoning is justified.



Council is however encouraged to undertake an analysis of the industrial and residential areas in northern Scone to identify the future supply and demand of industrial land and also the interface and buffers between the two zones when preparing Councils' Local Strategic Planning Statement (LSPS).

## **4. STRATEGIC ASSESSMENT**

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### **4.1 Regional**

#### The Hunter Regional Plan (HRP) 2036

*Direction 5 - aims to transform the productivity of the Upper Hunter* and is relevant to the proposal. The Direction seeks to leverage regional advantages of the Upper Hunter to create a diverse, thriving and prosperous economy built upon industry growth and investment. Whilst the proposal, does not specifically build upon regional advantages of the area, it does respond to local employment needs and provides for additional jobs. The proposal is considered consistent with this Direction.

*Direction 13 - Plan for greater land use compatibility also provide guidance on the avoidance or resolution of land use conflict which could compromise the Upper Hunter in diversifying and in preserving local residential amenity* is relevant to the proposal. Specifically, action 13.2 is to limit urban and rural housing encroachment into identified agricultural and extractive resource areas, industrial areas and transport infrastructure when preparing local strategies.

The proposal responds to Direction 13 as it provides for demand in industrial land whilst appropriately addressing potential land use conflict by providing a buffer between residential and industrial land uses. Whilst the proposal is considered consistent with this Direction, Council is encouraged to undertake an analysis of the industrial and residential areas in Scone to define the boundary and improve interfaces and buffers between the two areas when preparing its LSPS.

*Direction 23 – Grow centres and renewal corridors* is relevant to the proposal. Scone is identified as a regional centre and the HRP seeks to concentrate growth in strategic centres. In terms of encouraging residential growth, the proposal is inconsistent with this Direction as it will be rezoning residential land. However, the inconsistency is justified as due to site specific constraints, the site is not considered suitable for residential development.

It should be noted that the proposal states that it was consistent with *Direction 24 – Protect the economic functions of employment land*. However, as the site does not currently contain land zoned for employment, this Direction is not relevant to the proposal.

### **4.2 Local**

#### The Upper Hunter Land Use Strategy 2017

The Upper Hunter Land Use Strategy was prepared in 2017. The Strategy states that Scone and Aberdeen have sufficient supply of industrial lands, and demand for additional urban industrial land is uncertain. It also states that existing supplies are expected to be capable of meeting demands for the next 5-10 years, however some rationalisation of established industrial areas could improve interfaces to residential areas.

The Strategy acknowledges that Scone's industrial area is located in the north of the town and centred around Muffett Street and offers further capacity to accommodate industrial-related uses on lands fronting the New England Highway and accessible to the heavy rail line. The take-up of industrial land in Scone is considered to be influenced by transport connectivity as well as other economic drivers.

The Strategy acknowledges that the location of new industrial areas will need to consider impacts arising from growth in the adjoining residential area to the south. The proposal is consistent with the Strategy, as it proposes a logical extension of the existing industrial area, with close proximity to the New England Highway. The proposal also considers the interface with the existing industrial area and proposes to retain the existing RE2 Private Recreation corridor and a reconfigured location.

#### Upper Hunter Shire Council Community Strategic Plan (CSP)

The proposal is consistent with broad CSP policies for encouraging investment, a diversity of jobs and a range of services. The planning proposal is likely to result in an additional 4 jobs and will contribute towards the establishment of new employment opportunities in Scone.

### **4.3 Section 9.1 Ministerial Planning Directions**

The proposal is consistent with the relevant Ministerial directions except the following which require further discussion:

#### Direction 1.1 Business and Industrial Zones

The Direction aims to ensure commercial activity and jobs are suitably located and support the viability of identified centres and is relevant as the proposal extends the existing industrial area.

The Direction states that it must ensure any new employment areas are in accordance with a strategy that is approved by the Secretary. Whilst the HRP doesn't specifically identify the site for future industrial area, the proposal is considered generally consistent with both the HRP and local planning strategy and it is consistent with the objectives of the Direction. In addition, given the site specific constraints (detailed in Section 5.2), the site is considered appropriate for industrial use. The inconsistency with this Direction is considered minor and can be justified.

#### Direction 3.1 Residential Zones

The planning proposal is inconsistent with this direction as it will prohibit residential development in this location.

It is agreed that, in terms of loss of future dwelling potential, the inconsistency is minor. Based on current planning controls and the size of the site, the subject site could potentially yield four dwellings.

With demand averaging 50 new dwellings per year across the Upper Hunter LGA, the proposal represents an 8% loss of potential annual housing supply. The HRP identifies a number of areas for future housing and urban renewal including Scone Heights and Kurrajong Estate which are considered more appropriate to accommodate future residential demand.

In conclusion, the loss is considered minor and given site specific constraints (Section 5.2), the site is not considered appropriate for residential development. The inconsistency with this Direction is considered minor and can be justified.



#### **4.4 State Environmental Planning Policies (SEPP)**

##### **SEPP 55 - Remediation of Land**

The proposal confirmed that the rezoning of land does not trigger the need for any remediation or further investigation as the proposed rezoning will not permit uses that are more sensitive than the current uses permitted under the R1 General Residential zone and RE2 Private Recreation zone.

Council confirmed that it does not hold any information that suggests the land is contaminated or is specified as containing previous activities specified in clause 6(4) of the SEPP.

#### **5. SITE-SPECIFIC ASSESSMENT**

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##### **5.1 Social**

There are no known social impacts associated with the proposal.

##### **5.2 Environmental**

###### **Noise and vibration**

As previously identified the site fronts Muffett Road which is the main access road to the Scone industrial estate and also JBS (livestock processing works). It intersects with New England Highway which is located 100m south of site. The proposal does not provide details on how many vehicles use this road daily, however states that it is significantly impacted by heavy vehicle traffic accessing the industrial area.

In addition, the Hunter Valley Northern Railway line is located approximately 30m to the west of the site. It is understood that there are approximately 38 rail movements through Scone every 24 hours. The majority of the rail movements are coal trains and the proposal states that the site is significantly impacted by rail movements. As a result, due to the proximity to both the rail line and Muffett Street, the site is subject to significant noise, vibration and amenity impacts. If the site was to be developed for residential development, specific noise-attenuation measures and design would need to be incorporated to address these impacts.

It is considered, that an industrial use would be more suitable for the site given the existing constraints and it is in keeping with the industrial character of the adjoining area. Despite this, any future development application would still need to address the potential noise impacts on the site and consultation with the Environment Protection Authority would be required.

###### **Land use conflict**

The proposal acknowledges the potential land use conflict between the industrial and residential land uses. As a result the proposal seeks to retain the existing RE2 Private Recreation 9m buffer, however realigning the buffer so it is located on the eastern boundary of Lot 3, the only common boundary with the existing residential area.

The proposed buffer along the eastern boundary is considered an appropriate between the industrial and residential land uses. Separation distances from

surrounding properties, compatibility with adjoining development and the streetscape would all need to be considered at the development application stage for any future development.

### **5.3 Economic**

There are no known negative economic impacts associated with the proposal as the proposal will contribute towards local job growth.

### **5.4 Infrastructure**

The proposed zoning is unlikely to have a significant impact on the existing local and regional road network. It is noted that the New England Highway bypass of Scone is currently under construction and may impact on existing travel patterns.

Given the busy nature of Muffett Street and significant regional road works underway in Scone, it is recommended that consultation with RMS is undertaken.

## **6. CONSULTATION**

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### **6.1 Community**

The planning proposed does not specify the proposed length of the exhibition period. A minimum period of 14 days is recommended.

### **6.2 Agencies**

It is recommended that Council consult with the Roads and Maritime Services.

## **7. TIME FRAME**

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Council nominates seven months to complete the planning proposal. Given the scope of the proposal, a nine month period is recommended.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Given the nature of the planning proposal, it is recommended that Council be authorised as the local plan-making authority to make this plan.

## **9. CONCLUSION**

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The progression of the proposal is supported as it is generally consistent with both the HRP and the local planning strategy.

Given the site specific constraints and location adjacent to existing industrial areas, the proposal is considered a logical extension to the existing industrial area and responds to the existing setting. The proposed land use is consistent with the character of the area, and an appropriate buffer is provided to the adjoining residential area to minimise and potential land use conflict.

As identified, it is recommended that Council as part of their work on the Upper Hunter LSPS undertake an analysis of the existing industrial area including supply and demand and the interface with the adjoining residential area.

Notwithstanding, a number of updates are required to the proposal prior to exhibition. These are detailed in the Gateway determination conditions.

## **10. RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. Agree that any inconsistencies with section 9.1 Directions; 1.1 Business and Industrial zones and 3.1 Residential Zones are minor and have been justified.

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

1. The planning proposal is to be updated to:
  - (a) include the correct site boundary in Figure 1 of the proposal;
  - (b) remove references to the conceptual development plans for the site including Appendix F;
  - (c) include a legend and the site boundary for all maps within the proposal;
  - (d) include an assessment of Directions 5, 13 and 23 in the Hunter Regional Plan and remove reference to Direction 24.
2. The planning proposal should be made available for community consultation for a minimum of 14 days.
3. The timeframe for completing the LEP is to be nine months from the date of Gateway determination.
4. Consultation is required with the following public authorities:
  - Roads and Maritime Services.
5. Given the nature of the planning proposal, Council should be the local plan-making authority.



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