

Gateway determination report

LGA	Upper Hunter Shire
PPA	Upper Hunter Shire Council
NAME	Additional Permissible Uses in R1 General Residential Zone to enable Highway Service Centre and Warehouse / Distribution Centre
NUMBER	PP_2020_UPHUN_001_00
LEP TO BE AMENDED	Upper Hunter LEP 2013
ADDRESS	2912 New England Highway, Scone
DESCRIPTION	Lot 22, DP 1235763
RECEIVED	10/01/2020 and 15/06/2020
FILE NO.	EF20/570
POLITICAL DONATIONS	There are no donations or gifts to the knowledge of the regional team.
LOBBYIST CODE OF CONDUCT	There have been no communications with registered lobbyists to the knowledge of the regional team.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend the *Upper Hunter Local Environmental Plan 2013* to enable the development of a highway service centre comprising:

- Service station (including truck and car refuel areas);
- Fast food and dining restaurant;
- Caravan parking area;
- Truck parking area; and
- Distribution centre and cold storage premises.

The site is currently zoned R1 General Residential under the *Upper Hunter Local Environmental Plan 2013*. Development for the purposes of a highway service centre is prohibited in the R1 General Residential zone.

The highway service centre will take advantage of new road linking Kelly Street into the Scone bypass opening late 2020 as part of the National Highway.

1.2 Site description

The planning proposal (**Attachment A**) applies to Lot 22 DP 1235763, New England Highway, Scone. The 2.5ha site is located 1.5km north of Scone town centre between Kelly Street and the Northern Railway.

The R1 General Residential zoned site adjoins No's 2-14 Makybe Diva Street, part of a general industrial zone to the north.

One of the two access/egress points for the development is proposed on Makybe Diva Street, then via Kelly Street, to the New England Highway Scone by-pass. Another access and egress is on the site's Kelly Street frontage.

1.3 Existing planning controls

The site is zoned R1 General Residential. Planning controls include a 600m² minimum lot size, 8.5m maximum height of building and 0.5:1 floor space ratio.



Figure 1 - The site in its Neighbourhood

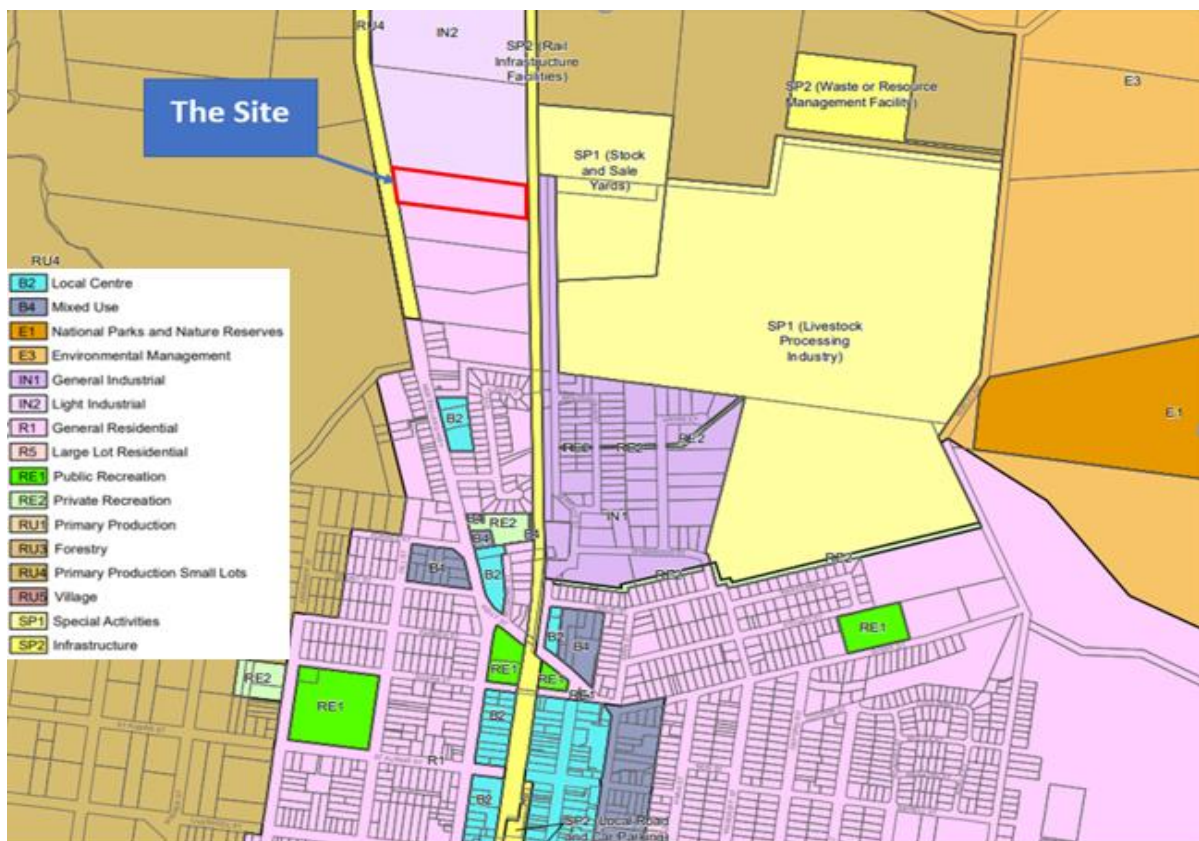


Figure 2 - Existing zoning

1.4 Surrounding area

The locality is a transitional area between the Scone urban area and its rural surrounds. The site has the surrounding land uses:

- *North* - a single lot-depth of 7 light industrial sites on Makybe Diva Street;
- *South* – vacant residential zoned land with subdivision and a proposed new link road link across the railway;
- *East* - The Great Northern Railway- mainly coal-haulage, some passenger services, and special uses zones for stock and sale yards and a meatworks; and
- *West* - The Scone bypass and rural land beyond zoned RU4 Primary Production Small Lots.

Annexure 3 of the planning proposal identifies a potential new road and railway overpass on the adjoining land. This would be a logical and definitive boundary between the residential areas to the south and industrial type uses proposed for the site.

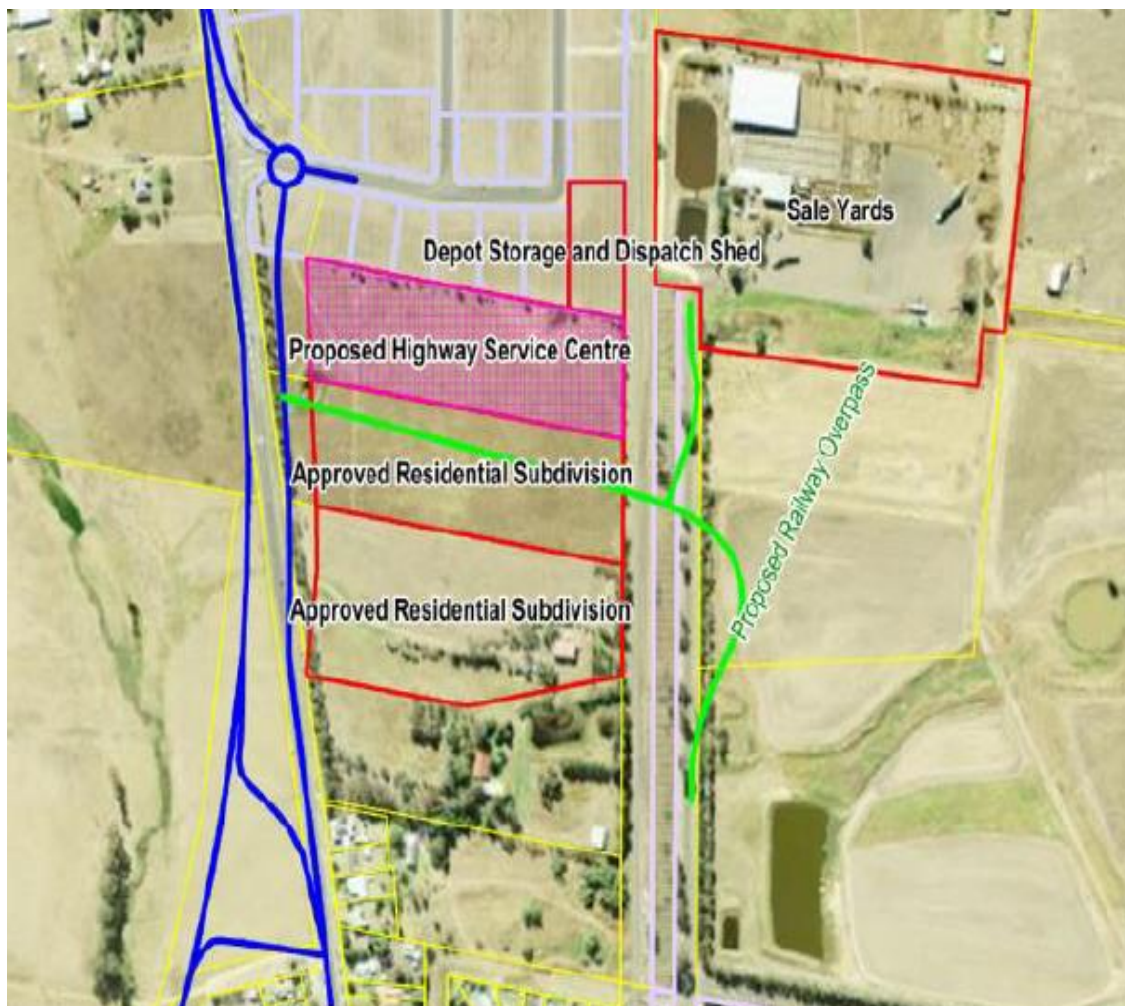


Figure 3 - Proposal railway overpass

The rail overpass was planned to be included in the Scone bypass scope of works. However, did not proceed due to funding. Council resolved in October 2019 to prepare preliminary designs and costs estimates for the project. Council has purchased part of the land required for this purpose and has commenced discussions with other relevant land owners.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objectives of the planning proposal are to make highway service centre, and warehouse or distribution centre, permissible with consent on the site.

2.2 Explanation of provisions

Upper Hunter Council have identified two options to implement the proposed development into the local environmental plan, being:

Option 1: Rezone the land to IN2 Light Industrial consistent with the adjoining land, which permits highway service centres with consent.

Option 2: Retain the existing R1 General Residential zone and add additional permitted use.

Council's preference is option 2. They advise this is due to the risk of industrial uses conflicting with the residential-zoned lots to the south of the site. However, they also advised that option 1 will also achieve the aims of the proposal.

This assessment report recommends the Gateway determination amend the planning proposal to rezone the land IN2 Light Industrial. The reasons are set out in the report. In summary, this approach is considered more appropriate due to:

- Inconsistency with section 9.1 Ministerial direction 6.3 – Site Specific Provisions;
- Surround land uses, railway and bypass impact the amenity of the site as a R1 General Residential zone;
- Other IN2 Light Industrial uses would only be permitted with consent; and
- The proposed railway overpass providing a logical and definitive boundary between the residential areas to the south and industrial uses and is likely to result in greater heavy vehicle movements.

2.3 Mapping

Upper Hunter Council's preferred option to support the proposal through an additional permitted use clause does not require any change to the local environmental plan maps.

The recommended approach to apply an IN2 Light Industrial zone to the site will require a change to the land use zone, minimum lots size and maximum building heights maps consistent with the development standards typically applying to the IN2 Light Industrial zone.

Council may also wish to consider a floor space ratio and height of buildings maps.

3. NEED FOR THE PLANNING PROPOSAL

The *Upper Hunter Land Use Strategy 2017* aims to limit the northward expansion of residential development to minimise future land use conflict with the existing and planned industrial area.

A gateway investigation area was identified in the Strategy (Area 2) in which land uses like a highway service centre were to be explored based on the possible

access arrangements from bypass to town centre. This is yet to be undertaken by Upper Hunter Council.

This gateway area was envisaged as providing 'up to 10ha of land for a mix of tourism and/or commercial uses. Investigations should be undertaken in parallel with broader land use review / strategy for the Town Centre'.

There is no comprehensive planning framework to assess alternative sites for a highway service centre, of which there are currently three in Scone.

The planning proposal offers a convenient alternative off-highway rest and refreshment facilities, particularly for the drivers of heavy vehicles. It is estimated by Transport for NSW that the bypass will take 500 truck movements per day off the streets of central Scone.

Transport for NSW recognises a shortfall of 11 truck-stop parking spaces along the section of New England Highway between Muswellbrook and the Kamilaroi Highway on which the proposal site is located. The planning proposal includes 14 heavy vehicle parking spaces.

4. STRATEGIC ASSESSMENT

4.1 State

While there is a Highway Service Centres policy for the Pacific Highway, there is no comparable policy for the New England Highway.

The below figure shows the proposed development superimposed on the new access arrangements at the northern end of the Scone Bypass.

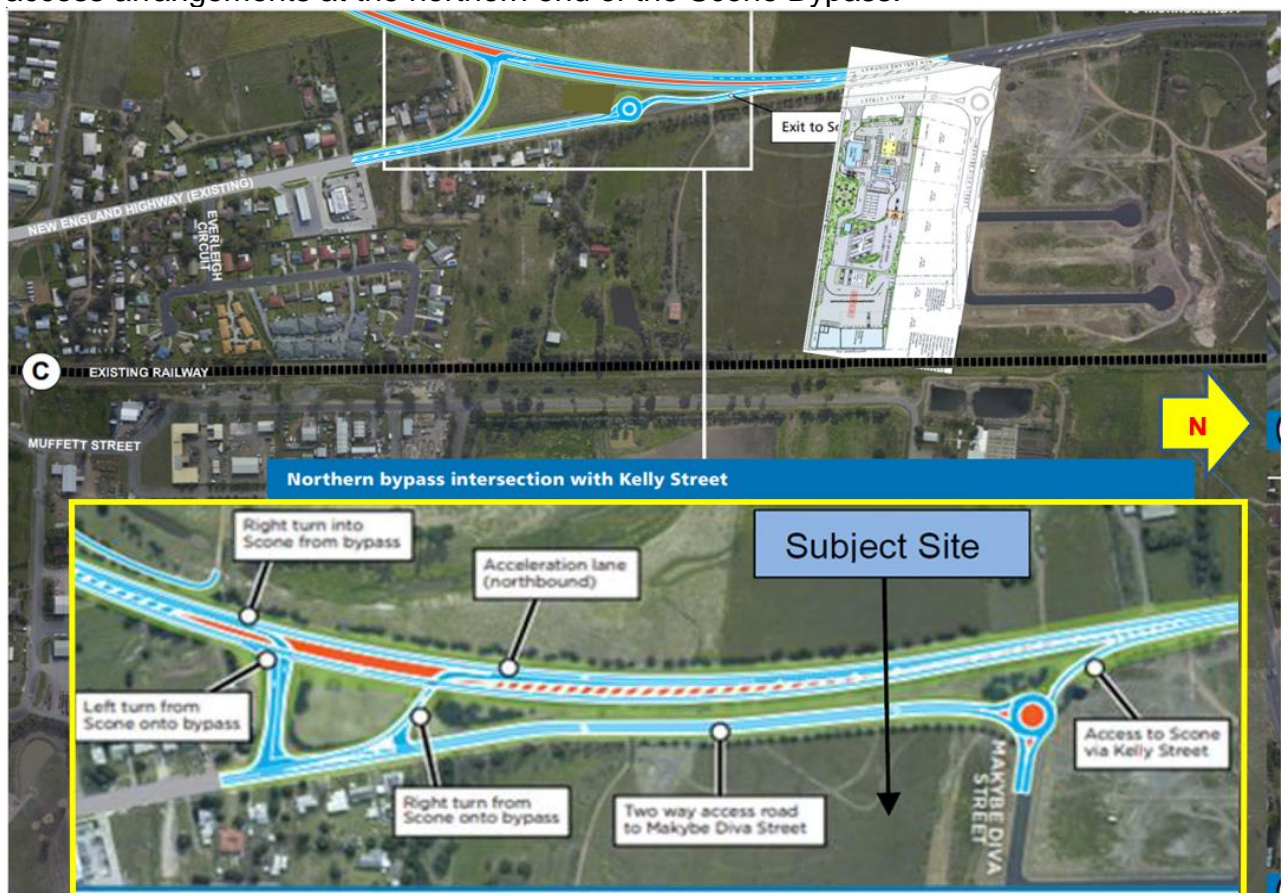


Figure 4 - Development Concept on RMS Aerial Image and (inset) Site Access from Bypass

4.2 Regional

Hunter Regional Plan 2036 (HRP)

Direction 20: Revitalise existing communities

This Direction seeks to revitalise existing communities by concentrating development in urban areas. As highway services centres have the potential to divert business from existing town centres, consideration of the planning proposal's impact on the town centre is necessary.

However, the opening of the Scone bypass has taken substantial numbers of heavy vehicles off the main street of Scone, which has improved the amenity of the town centre and proposed opportunities for revitalisation. The highway service centre will assist in taking off heavy vehicle traffic from the town centre by locating close to the bypass.

On balance, the planning proposal is considered consistent with Direction 20 of the *Hunter Regional Plan 2036*.

Upper Hunter Economic Diversification Strategy and Action Plan

The facilities proposed for highway users are generally supportive of the strategies and implementation priorities in the Diversification Strategy and associated Action Plan. The proposal is considered consistent with the *Upper Hunter Economic Diversification Strategy and Action Plan*.

4.3 Local

Upper Hunter Land Use Strategy 2017 (UHLUS)

Scone, with its population exceeding 5,600, is the largest settlement in Upper Hunter and largest concentration, and diversity, of businesses and jobs. The subject site adjoins Scone's main industrial precinct on the northern edge of the town centre focused around Muffett Street.

The *Upper Hunter Land Use Strategy 2017* recommended that a Scone Town Centre review be undertaken in which a precinct at the southern end of the bypass be investigated for tourist information and mixed businesses to support Scone town centre in anticipation of the bypass. In the intervening 3.5 years the Scone town centre review has not commenced.

The strategy notes: 'The change in traffic flows arising from completion of the Scone bypass (expected from 2019) will influence the role and function of the Town Centre during the Strategy timeframe'. The majority of directions in the local strategy refer to the revitalisation of the town centre and increasing residential densities near the town centre.

The strategy identifies a 5ha area to the south of town that responds to the influence of the Scone bypass, aimed at providing employment-generating uses in and around the town centre. The strategy recommends that the investigation of this area be undertaken in parallel with a broader land use review/ strategy of the town centre, which is yet to commence.

As the subject site is to the north of the town centre, it is potentially inconsistent with the strategy as this planning proposal may not have been envisaged at that time. In addition, the strategy recognises the low residential amenity and potential land use

conflict between residential uses and the railway to the east, the bypass to the west, industry to the north and sale yards and abattoir to the north-east.

The zoning of the land to an IN2 Light Industrial zone is considered generally consistent with the intent of the *Upper Hunter Land Use Strategy 2017*.

Upper Hunter Community Strategic Plan (Draft)

The CSP Strategies relevant to the planning proposal are to encourage retail and commercial business to locate and prosper within or adjacent to town centres. The proposal is considered consistent with the Draft Upper Hunter Community Strategic Plan.

Upper Hunter Local Strategic Planning Statement 2019 (LSPS)

The LSPS identifies areas in which development opportunities are to be investigated, which does not include this site. Bypassing of the town centre is anticipated by the LSPS to affect businesses and change its role and function. The capacity of land, such as the subject site, to the north of Muffett Street for employment-generating uses is reinforced in the LSPS.

The planning proposal is generally consistent with the LSPS Planning Priorities of diversifying experiences and lifestyles, providing services relevant to urban and rural communities, and facilitating tourism. It is noted that the highway service centre would provide 24/7 refreshment and bathroom facilities for tourists and long distance commuters.

4.4 Section 9.1 Ministerial directions

1.1 Business and Industrial Zones

The objectives of this Direction are to:

- a) Encourage employment growth in suitable locations
- b) Protect employment land in business and industrial zones, and
- c) Support the viability of strategic centres.

In accordance with the objectives listed above:

- a) the planning proposal clearly justifies the site as a suitable site for a highway service centre given its accessibility to the bypass and encourages employment growth in a suitable location. The site also directly adjoins industrial land directly to the north and forms a logical extension to the existing industrial area.
- b) The planning proposal does not reduce the area or locations of existing business or industrial zones.
- c) An analysis of current undeveloped industrial lands around Scone shows there is sufficient IN2 Light Industrial zoned land and additional land is not necessarily needed. The planning proposal is considered to not have a significant impact on the viability of the Scone town centre because of its location, accessibility and limited functions. Further analysis may demonstrate consistency with this Direction.

While the planning proposal is consistent with the objectives of the Ministerial direction, the proposed new employment area is not in accordance with a strategy that is approved by the Secretary of the Department.

The planning proposal is not identified as an investigation area for a new business zone in the Scone Town Centre review and is not justified by a strategy or study. The investigation area is not considered suitable for a highway service centre and warehouse and distribution centre due to the configuration of the bypass into Scone link road and the proximity to existing residential areas.

In this case, the application of an IN2 Light Industrial zone to the site is considered to justify inconsistency as it is consistent with the objectives of the Ministerial direction and is in accordance with the *Hunter Regional Plan 2036*.

2.6 – Remediation of Contaminated Land

This Direction requires Upper Hunter Council to have considered the risk of the land being contaminated, and if so, the prospects for remediation appropriate to the use, in this case the ongoing residential zoning. Council commissioned a preliminary assessment, which concluded that there were risks of contamination from minerals processing and construction depot uses of the land. The report also concludes that the prospects of remediation to residential standards are good.

The planning proposal is considered consistent with Direction 2.6 Remediation of Contaminated Land.

3.1 Residential Zones

The Direction aims to encourage variety and choice of housing types.

Applying an IN2 Light Industrial zone will reduce the amount of land zoned residential by 2.49ha, or approximately 20 residential lots. As previously discussed, Scone has an oversupply of residential land and in more appropriate locations than this site given the poor amenity due to proximity to the New England Highway, railway line, sale yards and existing industrial area.

Furthermore, Upper Hunter Council has acquired the land directly to the south for the purpose of a new link road to the saleyards and industrial area on the eastern side of the rail corridor. These existing and future uses are likely to result in greater heavy vehicle traffic in the locality.

The reduction in land for residential purposes is considered of minor significance and appropriately justified.

3.4 - Integrating Land Use and Transport

As a highway service centre does not improve access to housing, jobs and services by walking, cycling or public transport, Upper Hunter Council acknowledges it is inconsistent with this Direction.

Public benefit tests have been undertaken by Council against guidance in *The Right Place for Business and Services* and in *Improving Transport Choice* (proposal Annexure 4) that shows a net public benefit.

Transport for NSW has also confirmed it had no objection to the planning proposal.

Therefore, the planning proposal is considered consistent with this Direction.

3.5 - Development Near Regulated Airports and Defence Airfields

The site is 2.5km north-east of the Scone Airport runway with broadly similar east-west orientation. As the lighting configuration of development near an airport is a listed controlled activity, Upper Hunter Council should consult the lessee/ operator of the airport and incorporate any recommended air navigation or airspace operational risk mitigation measures into the planning proposal.

5.10 - Implementation of Regional Plans

The planning proposal is consistent with the *Hunter Regional Plan 2036* as it would value-add to regional infrastructure and facilitate safer, more efficient transport of freight, along the New England and Golden Highways in particular, also on long-haul routes generally.

The logistics element of the site, for warehousing and distribution, may diversify the economy to a modest degree and support other local businesses with their inputs and product shipping.

The planning proposal is considered consistent with this Direction 5.

6.3 - Site specific provisions

The objective of this Direction is to discourage unnecessary restrictive site specific planning controls.

The planning proposal outlines Council's preference for a site specific development outcome over existing residential zoned land, which is inconsistent with this Direction.

Given the other alternative is to zone the land the same of the adjoining land (IN2 Light Industrial) that permits the proposed development, it is difficult to justify the inconsistency with this Direction. Hence, it is recommended to zone the land IN2 Light Industrial, consistent with Upper Hunter Council's other option to enable the development outcome.

4.5 State environmental planning policies (SEPPs)

Further documentation and analysis will need to be undertaken at the development application stage for SEPP (Infrastructure) 2007 and SEPP No.33 Hazardous and Offensive Development.

SEPP 55 Remediation of Land

A preliminary contamination assessment report has been undertaken for the site. The report identified two sources, of soil contamination, identified including recent use of an unbunded part of the site for mineral processing, and use of part of the site as a depot and plant storage area. Both uses may have involved plant maintenance and fuelling activities. Earlier the site was used for agriculture, principally grazing, which is a use scheduled under the SEPP. Section 9.1 Ministerial direction 2.1 Remediation of Land applies, noting that clause 6 of the SEPP was recently repealed.

A detailed contamination assessment and remediation plan should be undertaken at the development application stage to ensure consistency with this SEPP.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal responds to the Scone Bypass being opened. The bypass has taken off the main street significant levels of heavy vehicle traffic (500 trucks daily) which had an impact on the amenity of the area. A highway service centre at this location will provide a convenience service for travellers and also contribute to removing heavy vehicles from the main street.

The residential zoned land to the south will be impacted by the development activities which may possibly include 24 hour operations. These impacts can be more carefully assessed at the development application stage, noting that the existing industrial zoned land a further 80-100m north also has the potential to accommodate a highway service centre.

5.2 Environmental

The site is a clear flat paddock site devoid of any significant vegetation or habitat.

The planning proposal has the potential for adding to the cumulative impact of land use conflict in this northern precinct between residential and other uses. This will be a matter for Council to consider in how it manages this impacts through design and setbacks.

The planning proposal and its intended development outcomes are compatible with the non-residential land uses in the vicinity.

Detailed environmental assessment will be undertaken at development application stage, acknowledging there are no known environmental issues at the strategic level.

5.3 Economic

An economic impact assessment has been prepared by Hill PDA, which provides justifications for the proposed additional uses.

The report does not estimate jobs lost to the Scone Town Centre or other economic impacts from diverted spending to the highway service centre businesses, for example from existing filling stations, cafes, food take-aways and restaurants. The bypass may have had these impacts regardless of this planning proposal. However, the impact on the Scone Town Centre is unknown.

Upper Hunter Council is encouraged to consider the economic impacts of the proposal on Scone town centre in its current circumstances and how these may be avoided or mitigated.

5.4 Infrastructure

The planning proposal is reliant on the provision of state infrastructure for access and egress. It also needs suitable links with local traffic generators, particularly for heavy vehicles.

Upper Hunter Council has acknowledged, based on discussions with Transport for NSW, significant alterations are required to state infrastructure to accommodate the proposed land uses and their traffic generation.

Further detailed consultation is required with Transport for NSW in the design of the proposal for the development application to arrive at an appropriate traffic, transport, parking and operational plan for the site, including for example suitable rest facilities for long-distance truck drivers.

6. CONSULTATION

6.1 Community

Community consultation is proposed by Upper Hunter Council to be 28 days. A 28-day exhibition period is considered appropriate.

6.2 Agencies

Upper Hunter Council has undertaken consultation with Transport for NSW in June 2019 and further information was provided to TfNSW as a result.

On 21 November 2019, Transport for NSW confirmed it had no objection to the planning proposal.

Other appropriate agencies to be consulted are:

- Scone Airport lessee/operator

7. TIME FRAME

Upper Hunter Council's proposed time frame for completing the local environmental plan is ten months from Gateway to Gazettal. The Department considers a 18 month time frame for finalisation is appropriate.

8. LOCAL PLAN-MAKING AUTHORITY

Upper Hunter Council has requested to be the local plan-making authority. It is recommended that Council be authorised as local plan-making authority.

9. CONCLUSION

The site has strategic merit being located on the national highway network, on a section with an acknowledged deficit of driver facilities, especially for long-haul truck drivers. It is afforded a high degree of accessibility by the new bypass.

The loss of housing capacity as a result of this proposal is not considered to be significant as there are other residential development opportunities in the higher-amenity areas south-east and west of the town.

Social impacts of the proposal and economic impact on Scone are likely to be acceptable in the circumstances, acknowledging the low levels of information to fully assess impacts. Further consideration of these impacts can be considered at development application stage when the levels of details will be better known.

The planning proposal is supported to proceed with conditions to rezone the land to IN2 Light Industrial and to ensure inconsistency with Section 9.1 Ministerial directions are addressed before the plan is finalised.

10. RECOMMENDATION

It is recommended the delegate of the Secretary:

1. agree that any inconsistencies with the following section 9.1 Ministerial directions from applying an IN2 Light Industrial zone are minor or justified:
 - 1.1 Business and Industrial Zones; and
 - 3.1 Residential Zones
2. note that the consistency with section 9.1 Ministerial direction 3.5 Development near licenced aerodromes is unresolved and will require justification.

It is recommended the delegate of the Minister determine the planning proposal proceed subject to conditions:

1. The planning proposal be amended to:
 - Change the description of the proposal to 'rezone from R1 General Residential to IN2 Light Industrial, Lot 22 DP 1235763, New England Highway, Scone'; and
 - include land use zone, maximum building height, minimum lot size maps (and floor space ratio and height of building maps if necessary) to ensure consistency with the development standards typically applied to the IN2 Light Industrial zone.
2. The planning proposal be made available for community consultation for a minimum of 28 days.
3. Consultation with the following public authorities:
 - Scone Airport lessee/operator
4. The time frame for completing the LEP be 18 months from the date of the Gateway determination.
5. Council be authorised as the local plan-making authority to make this plan.



08/09/2020

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