

Planning Services

Plan finalisation report

EF18/33213

Local government area: Dungog

1. NAME OF DRAFT LEP

Dungog Local Environmental Plan 2014 (Amendment No 7)

2. SITE DESCRIPTION

The planning proposal applies to land at 2 Chapman Street, Dungog (Lot 2 DP 810011) which has a site area of 1,006m² (**Attachment A**). The location of the subject site is shown in Figure 1. The site is a standard sized residential lot for Dungog and contains a dwelling and a carport (Figure 2).

The site is situated at the end of a cul-de-sac where Chapman Street meets the Main Northern Rail Line corridor. The site is zoned SP2 Special Infrastructure - Rail Infrastructure Facility. With the exception of roads, all other land uses are prohibited unless ancillary to the rail infrastructure facilities.



Figure 1: Location map (source Nearmap)



Figure 2: Street view of site (source Google Maps)

3. PURPOSE OF PLAN

The planning proposal seeks to amend the LEP to:

- rezone the site from SP2 Special Infrastructure (Rail Infrastructure Facility) to R1 General Residential zone (Figures 3 and 4).

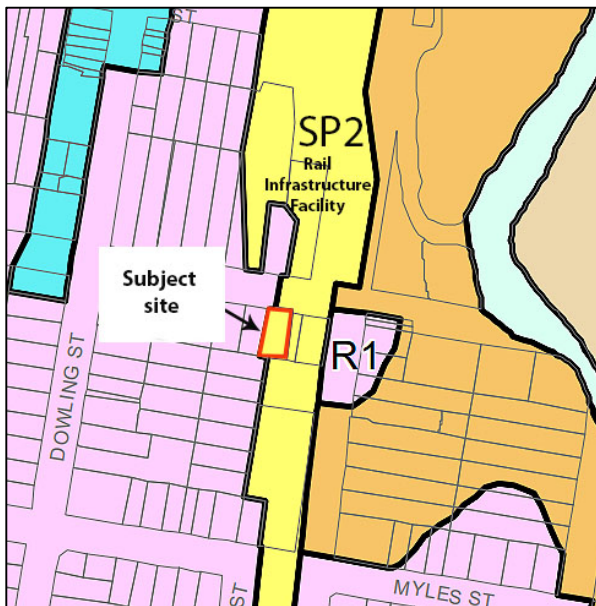


Figure 3: Existing zone

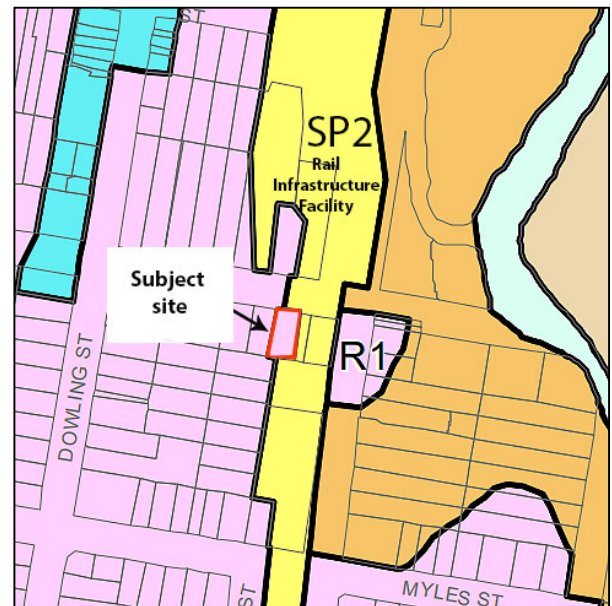


Figure 4: Proposed zone

The rezoning seeks to align the zone with the current use of the site. The site contains the former 'Station Master's Cottage' associated with Dungog Train Station located further north of the site. RailCorp has divested its interests from this former railway asset as it was surplus to its needs and it is now privately-owned.

The dwelling is encumbered by the SP2 Special Infrastructure zone which is no longer appropriate given the private ownership and dwellings are not a permitted use in the SP2 zone.

The site does not have minimum lot size, floor space ratio or height of building control under the Dungog LEP. These development standards are provided in the Dungog Development Control Plan (DCP). This approach is proposed to be retained and no other amendments to the LEP are proposed.

No new dwellings will be created as a result of the proposal.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Upper Hunter State Electorate. Mr Michael Johnsen MP is the State Member for Upper Hunter.

The site falls within the Lyne Federal Electorate. Mr David Gillespie MP is the Federal Member for Lyne.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION

The Gateway determination issued on 2 October 2018 (**Attachment B**) determined that the proposal should proceed subject to conditions. The Gateway determination gave 12 months for the draft LEP to be completed with the proposal is due for finalisation on 2 October 2019.

6. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 7 November 2018 to 22 November 2018. No submissions were received.

7. ADVICE FROM PUBLIC AUTHORITIES

Council was not required to consult with any public authorities in accordance with the Gateway determination.

However, Council consulted Australian Rail and Track Corporation (ARTC) prior to submitting the proposal as ARTC controls the adjoining RailCorp infrastructure for the daily operations of the North Coast Rail Line. ARTC did not have any objection to the proposal providing Council consider any of the findings of the acoustic report (*see Section 9 below*) and noting that that site will continue to adjoin an operational rail corridor. These considerations can be assessed through any future development application on the site.

Advice from ARTC was considered at the Gateway determination which did not require any further consultation or studies. It was also considered as part of the Gateway determination that consultation with RailCorp was not required as it no longer had an interest in the site as it was privately owned.

8. POST-EXHIBITION CHANGES

There were no amendments made to the proposal following public exhibition.

9. ASSESSMENT

The proposal seeks to rezone the former RailCorp Station Master's Cottage, now in private ownership from SP2 Special Infrastructure to R1 General Residential. Any potential impacts are expected to be minimal as the rezoning seeks to reflect the current use of the site.

The site is adjacent to the Main Northern Rail Line and is subject to noise and vibration impacts from passenger and freight trains. A Rail Traffic Noise and Vibration Impact Assessment Report (February 2018) was prepared which found that the internal noise levels of the existing dwelling exceed acceptable levels but recommended that leniency be given as the dwelling already exists. The assessment concluded that the vibration levels would not cause direct structural damage or cause undue annoyance to the occupants. Council agreed that attenuation of noise impacts could be managed under any future development application for a new dwelling and/or additions or alterations to the existing dwelling.

The site is identified as part of the Dungog Residential Precinct Heritage Conservation Area. Neither the building or the site is listed as a heritage item in the LEP. The Victorian era Station Master's Cottage contributes streetscape value to the heritage conservation area however, consultation with the NSW Heritage Office was not required at Gateway. The dwelling will continue to be listed within the heritage conservation area and rezoning the site will not change its status or result in any potential impacts to the site.

No issues were raised during exhibition and there were there any changes to the proposal post-exhibition. Council has satisfied the conditions of the Gateway determination.

It is recommended that the Department supports the finalisation of the Dungog LEP because the rezoning will allow the dwelling to be recognised with an appropriate residential zone and the SP2 zone is no longer considered appropriate.

Section 9.1 Directions

The planning proposal is consistent with the relevant section 9.1 Directions.

State environmental planning policies

The planning proposal is consistent with relevant SEPPs and deemed SEPPs.

State and regional plans

The proposal is minor in nature and scope and is considered consistent with the Hunter Regional Plan as it enables growth in a suitable location consistent with Direction 21 – creating a compact settlement. Whilst the proposal will not result in an additional dwelling, it reinforces the existing residential use of the land.

10. MAPPING

The LEP will be amended through an amendment to the land zoning map (LZN_009AC). The map tile is correct and has been prepared and checked both the Regional Team and the Department's ePlanning Team. The proposed map is provided as **Attachment Map**.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment C**) on 14 May 2019. Council confirmed on 14 May 2019 that it supported the draft LEP and that the plan should be made (**Attachment D**).

12. PARLIAMENTARY COUNSEL OPINION

On 22 May 2019 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. SUMMARY

The proposal to rezone land at Chapman Street, Dungog from SP2 Infrastructure to R1 General Residential is supported because:

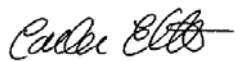
- the proposal is consistent with the Hunter Regional Plan and section 9.1 Ministerial Directions;
- the proposed rezoning is consistent with surrounding zoning and seeks to ensure the existing dwelling is recognised through an appropriate residential zone;
- the SP2 zone is no longer considered appropriate as the dwelling is now in private ownership and not required for rail infrastructure facilities;
- any future development on the site will be managed through a more appropriate residential zone and the protection of heritage values will be maintained; and
- there were no public or agency objections.

14. RECOMMENDATION

That the Director Regions, Hunter as delegate of the Minister:

1. **note** the plan finalisation report (**Attachment Report**), the planning proposal (**Attachment A**) and the Gateway determination (**Attachment B**);
2. **note** Parliamentary Counsel's Opinion that the draft LEP can legally be made and no changes have been made to the draft LEP since obtaining this Opinion (**Attachment PC**);
3. **note** the LEP maps (**Attachment Maps**), which have been approved by the Department's ePlanning Team and provided to Parliamentary Counsel;
4. **make** the draft LEP under section 3.36(2)(a) of the *Environmental Planning and Assessment Act 1979* (the Act) by signing the instrument (**Attachment LEP**) and supporting map cover sheet (**Attachment MCS**); and

5. **sign** the letter to Dungog Shire Council (**Attachment Council**) advising of the decision.



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18/6/2019
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ATTACHMENTS

A	Planning proposal
B	Gateway determination
C	Section 3.36(1) consultation with Council
D	Council comments on draft LEP
PC	Parliamentary Counsel's Opinion
Maps	Draft LEP maps
LEP	Draft LEP
MCS	Map cover sheet
Council	Letter to Council advising of the decision