

## Planning Proposal - PP2023-2603 -92 Strathvale Road Berrigan

Author:	Brendan O'Loan
Strategic Outcome:	1. Sustainable natural and built landscapes
Strategic Objective:	1.1. Support sustainable use of our natural resources and built landscapes
Delivery Program:	1.1.1. Coordinate strategic land-use planning
Council's Role:	<b>Regulator:</b> The Council has legislated roles in a range of areas which it is required to fund. The application fee is for partial cost recovery.
Appendices:	Planning Proposal to Berrigan Shire Council prepared by Blue Print Planning.

### Summary

Applicant:	James Laycock from Blue Print Planning
Owner:	McNaught's Grain and Fertilisers Pty Ltd
Proposal:	Amend Land Zoning Map and Minimum Lot Size Map within the Berrigan Local Environmental Plan 2013
Location:	92 Strathvale Road Berrigan

### Division:

In Favour:

Against:

### Recommendation

That Council support the Council Officers recommendation for PP2023-2603 to submit the Planning Proposal to Department of Planning and Environment (DPE) for Gateway Determination.

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### Purpose

The purpose of this report is to assist Councils decision making of whether to send PP2023-2603 to the DPE for a Gateway Determination.

## Background

This is a proponent-initiated Planning Proposal. The application prepared by Blue Print Planning outlines the proposal and provides justification for its outcome. For proponent initiated Planning Proposals, Berrigan Shire Council has the option to support the Planning Proposal and submit it to DPE for Gateway Determination. The decision whether to support the Planning Proposal by Council and submit for Gateway determination is Stage 2 of 6 in the Planning Proposal process. If Council does not support the Planning Proposal, the applicant can request that an independent Planning Panel evaluates if the proposal should progress to gateway determination.

### Stage 1- Pre-lodgement

### Stage 2- Council to support or reject the Planning Proposal

**Stage 3- Gateway Determination.** Submit planning proposal to DPE, DPE confirms administrative requirements.

**Stage 4- Post Gateway.** Conditions prior to public exhibition.

### Stage 5- Public exhibition and Assessment

**Stage 6- Finalisation.** DPE will make recommendations to Minister.

This Planning Proposal is considered a standard LEP amendment. This means the LEP amendment is an LEP amendment for a specific site seeking a change in planning controls that is consistent with the existing strategic planning framework. As this report will outline, the LEP amendment is relatively consistent with the Berrigan Land Use Strategy 2018.

Council will act as the Local Plan Making Authority (LPMA) for Standard LEP amendments. This is important as Council can withhold finalisation of the LEP amendment until it is completely satisfied with the outcome.

## Proposal

Lot 2 DP1222893 (92 Strathvale Road Street) is 16.19 hectares in total. The proposal is to rezone the site from R5 (Large Lot Residential) to IN1 (General Industry). This rezoning will facilitate the development of the site for bulk storage and integrate the land with the grain bunker which is located adjacent to the west. The R5 zone prohibits the use of this land for rural industry so a rezoning is one of two ways that this land could be used for grain storage. The rezoning will assist McNaught's Grain and Fertilisers Pty Ltd to expand on their operation.

The definition of rural industry is:

***rural industry*** means the handling, treating, production, processing, storage or packing of animal or plant agricultural products for commercial purposes, and includes any of the following—

- (a) agricultural produce industries,
- (b) livestock processing industries,
- (c) composting facilities and works (including the production of mushroom substrate),
- (d) sawmill or log processing works,
- (e) stock and sale yards,
- (f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise.

**Note—**

*Rural industries are not a type of **industry**—see the definition of that term in this Dictionary.*

The Planning Proposal will require an amendment to the Land Zoning Map 006A of the Berrigan Local Environmental Plan from R5 to IN1. To ensure the minimum subdivision lot sizes are consistent with the underlying zone, the Minimum Lot Size would also change from 2ha to 10ha. This will also require an amendment to the Lot Size Map 006A of the Berrigan Local Environmental Plan.

There are no proposed changes to the Berrigan LEP instrument with regard to specific clauses and provisions. The intent of the amendment is to allow better and more efficient use of the area for agricultural production and rural industry.

Rural Industry is permissible in IN1 (Industry), RU5 (Village) and RU1 (Primary Production). The question should be, 'which one of these zones is more appropriate than the others'?

**IN1 Zone:** The land immediately west of the subject site is industry land, though it is used for rural industry by McNaught's Grain and Fertilisers Pty Ltd. There is not a lot of demand for genuine industrial zones in Berrigan, so if McNaught's were not initiating this change, then the IN1Z would not be the preferred zone.

**RU5 Zone:** The edge of the RU5 zone is to the south-west. RU5 Zone is the Village Zone. The lack of mains sewer is a reason to not re-zone this site as RU5.

**RU1 Zone:** RU1 would be an acceptable zone for this rural industry use, but it would be back zoning from an urban use to a rural use. There may be financial implications by doing this, and not recommended.

IN1 Zone is therefore the most logical rezoning.

The alternative option to a rezoning is to add rural industry to Schedule 1 of the Berrigan LEP 2013 which is "**additional permitted uses for particular land**". For example if Rural Industry is added to Schedule 1 then it is a land use which is permitted with or without development consent (and with or without conditions) on the subject site being Lot 2 DP1222893. The underlying zone would remain as R5 (Large Lot Industry) but Rural Industry is no longer prohibited.

This can be a better option as it safeguards the land for future R5 use. The proponent in this case is wanting a rezoning of the land to IN1 Zone rather than using the "additional permitted uses" provision. Rezoning is the preferred option when there is:

- confidence that the land should be used ongoing as industrial;
- the chances of reverting back to residential are low;
- the additional permitted use may compromise the underlying zone by use of contaminants.

McNaught's Grain and Fertilisers Pty Ltd are well established in this area, so the rezoning would appear to be the preferred option.



Figure 1: Subject site





Figure 2: Current Land Zoning Map 6A (R5)



Figure 3: Current Minimum Lot Size Map 6A (2ha)

## Assessment

### Environmental Planning and Assessment Act, 1979

The Objects of the Act at Section 1.3 are supportive of this proposal particularly:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment*
- (c) to promote the orderly and economic use and development of land.*

### Berrigan Local Environmental Plan 2013

The Aims of the Plan at Section 1.2 are supportive of this proposal particularly:

- 2 (b) to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Berrigan in a way that allows the needs of present and future generations to be met by implementing the principles of ecologically sustainable development.*

### State Environmental Planning Policies

The consolidated SEPPs in particular SEPP (Primary Production), SEPP (Employment and Industry) and SEPP (Housing) are quiet on the prospects of rezoning from R5 (Large Lot Residential) to IN1(Industrial).

### Constraints of the site.

Flooding- The site is not known to have any flooding.

Bushfire- The site is not identified as having bushfire risk. This can be interrogated more at development application stage.

Contamination- There is no known contamination of the site. Similar to bushfire, this can be interrogated further at the development application stage.

Infrastructure- The site is adjacent to Strathvale Road which is an existing sealed council road. The land also has access to reticulated water electricity, telecommunications.

### Berrigan Shire Local Strategic Planning Statement 2020-2040

#### **Planning Priority 1 – Agriculture and Agribusiness.**

The Planning Proposal is facilitating agriculture and agribusiness in a round-a-bout way by rezoning land that allows rural industry.

#### **Planning Priority 2 – Enabling Infrastructure.**

No impact.

### **Planning Priority 3 – Transport and Logistics.**

By rezoning the land and facilitating rural industry, this will expand grain storage in areas close to existing transport routes and rural towns.

### **Planning Priority 4 – Visitor Economy.**

No impact

### **Planning Priority 5 – Urban Amenity.**

The proposed industry expansion is encroaching on Large Lot Residential land. If this residential land was already developed then this Planning Proposal would likely get a different response from a Council Officer perspective. However, this northern most R5 land in Berrigan is undeveloped and only has a few scattered rural properties.

### **Planning Priority 6 – Protect and Enhance Cultural and Natural Environmental Assets**

No impact

### **Draft Berrigan Shire Strategic Framework and District Plans- Local Environmental Plan Review April 2023**

The Framework and District Plans have not yet been finalised however significant work did go into its preparation to this stage.

- 60% of respondents to the Community feedback said Council should set aside more land for industry.
- 80% of respondents cited a lack of industry and employment as a key community issue.
- The General Industry Berrigan section, speaks about the importance of providing employment and economic growth and that the industrial zones are firmly tied to transport networks to facilitate incoming and outgoing of goods.
- The Plan states there is demand for more industry land in Finley and Barooga.
- The Plan states there is slow growth in Berrigan and although there is some demand for Large Lot Residential in Finley, the lack of housing development in Berrigan for this product may show that there is an over supply.
- The Planning Proposal generally supports the Draft Berrigan Shire Strategic Framework and District Plans by:
  - Acknowledging the lack of industrial land in the Shire.
  - Acknowledging the growth of the other three towns for residential populations and the lack of residential growth in Berrigan.

The Berrigan District Plan did not include this site as a potential site of rezoning.



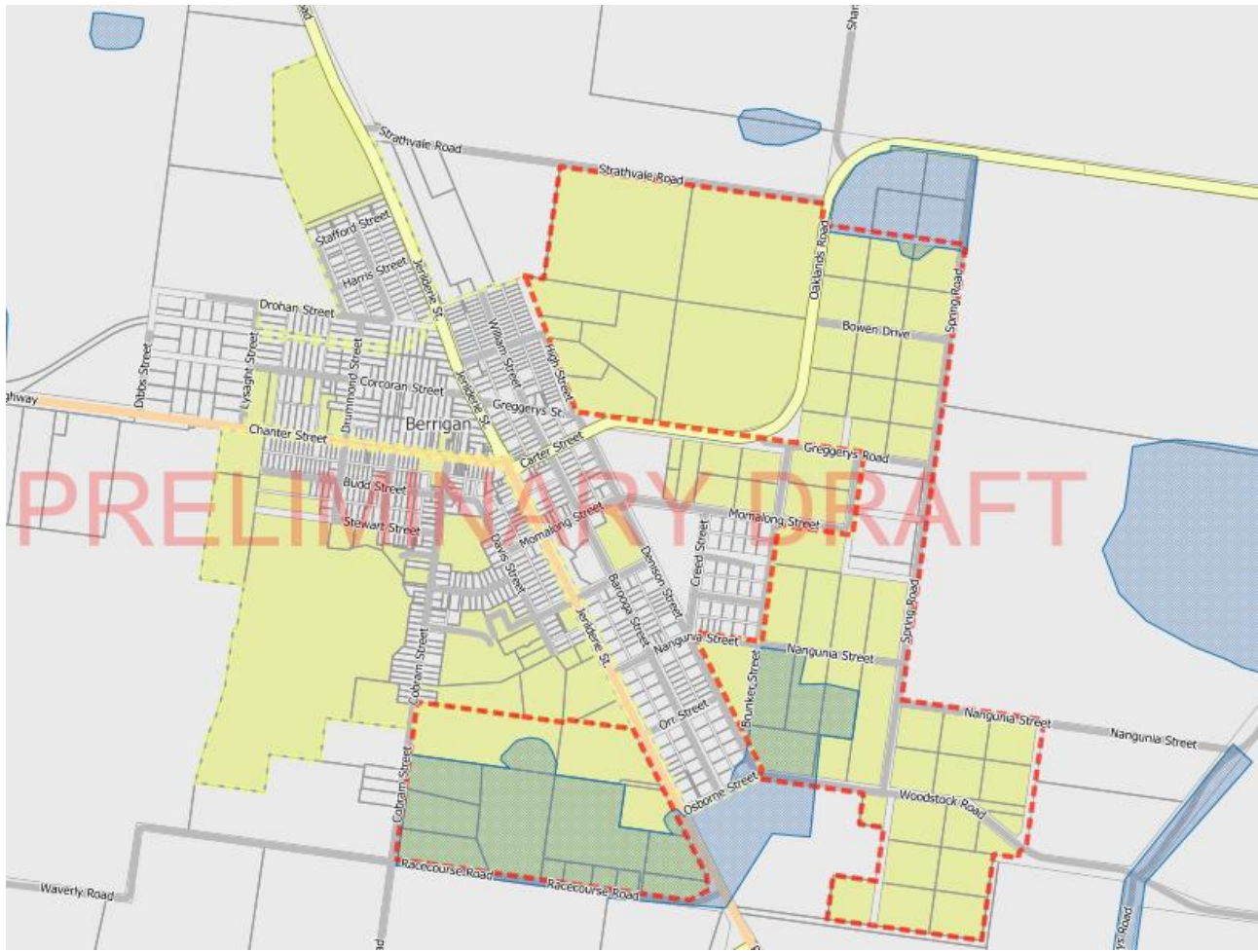


Figure 4: From Draft Berrigan Shire Strategic Framework and District Plans

### Final Questions

**Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?**

The planning proposal has not come from an explicit direction of a strategic study. There is some community feedback in the Draft Berrigan Shire Strategic Framework and District Plans that has requested more industrial land in the Shire. The population and approvals data are also showing a lack of housing development in Berrigan, so the reduction of the R5 zoning is not concerning.

The Berrigan Shire Local Strategic Planning Statement 2020-2040 prioritises agriculture, and this rezoning will facilitate a rural industry that will assist in the agricultural production of the Shire.

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

This report has outlined an alternative way to achieving the desired outcome by using the 'additional permitted uses for particular land' to not prohibit rural industry in a R5 Zone. The possibility for contaminants on the land, the faith in McNaught's Grain and Fertilisers Pty Ltd ongoing presence in the area and the lack of housing demand in Berrigan, means a rezoning is the preferred option.

## Options

1. Support the recommendation to send the planning proposal for gateway determination to rezone the land from R5 to IN1 Zone and amend the Minimum Lot Size from 10ha to 2ha.
2. Apply the land at Lot 2 DP1222893 to Schedule 1 of the 'additional permitted uses for particular land', and allow development for the purpose of Rural Industry.
3. Set aside one of both recommendations. If the decision is to not support the planning proposal, then the proponent can go directly to the Planning Panels for a rezoning review and gateway determination.

## Conclusion

That Council officers support the Planning Proposal for an amendment to the Berrigan LEP. The amendments will be to the Land Zoning Map (R5 to IN1) and the Lot Size Map (2ha to 10ha).

## Appendix 1

Planning Proposal by Blue Print Planning