



Gateway determination report – PP 2023-2603

Rezoning to E4 and lot size increase to 10ha at Strathvale Road, Berrigan

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Strathvale Road Planning Proposal (Version 3) dated 23/12/2023
Council report dated 20/03/2024
Council meeting minutes dated 20/03/2024

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Berrigan
PPA	Berrigan Shire Council
NAME	Rezone to E4 and lot size increase to 10ha (0 homes, unknown jobs)
NUMBER	PP-2023-2603
LEP TO BE AMENDED	Berrigan Local Environmental Plan 2013
ADDRESS	Strathvale Road, Berrigan
DESCRIPTION	Lot 2 DP1222893
RECEIVED	13/04/2024
FILE NO.	IRF24/771
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to:

- Enable the future development of a bulk grain storage facility on this land (a land use currently prohibited under the current R5 Large Lot Residential zoning); and
- Increase the sustainability of local and regional agricultural grain production through providing an additional bulk grain storage area in Berrigan.

The objectives of this planning proposal are clear and adequate for the purposes of assessment and public exhibition.

1.3 Explanation of provisions

The planning proposal seeks to amend the Berrigan LEP 2013 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	R5 Large Lot Residential	E4 General Industrial
Minimum lot size	2 hectares.	10 hectares
Number of dwellings	1	1
Number of jobs	0	Unknown (opportunity for increase)

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

The planning proposal speaks directly to the future intended use of the site as a grain bunker. However, as a rezone of the site to E4 General Industrial is sought (rather than a Schedule 1 Additional Permitted Use) the planning proposal should be updated prior to public exhibition to address the suitability of the site to accommodate the Berrigan LEP 2013 E4 General Industrial Zone more broadly. A recommendation to this effect has been included in the Gateway determination.

1.4 Site description and surrounding area

Lot 2 DP1222893 (the site) is 16.19 hectares of predominantly vacant irrigated agricultural land and is situated on the northern side of the Berrigan township. The land contains a dwelling house in the south-east corner, with access provided from Strathvale Road. The site adjoins Strathvale Road to the north, similar R5 zoned rural residential properties to the east and south, and an existing E4 General Industrial area containing an approved grain bunker storage facility to the west. The land is not known to be affected by natural hazards (flood, bushfire, land slip) and does not contain significant vegetation. The land is not identified to include any items, objects, or areas of heritage significance. The land is represented in Figure 1 and Figure 2 below.



Figure 1 Subject site – Site indicated by red outline (source: Google Maps, 2024)

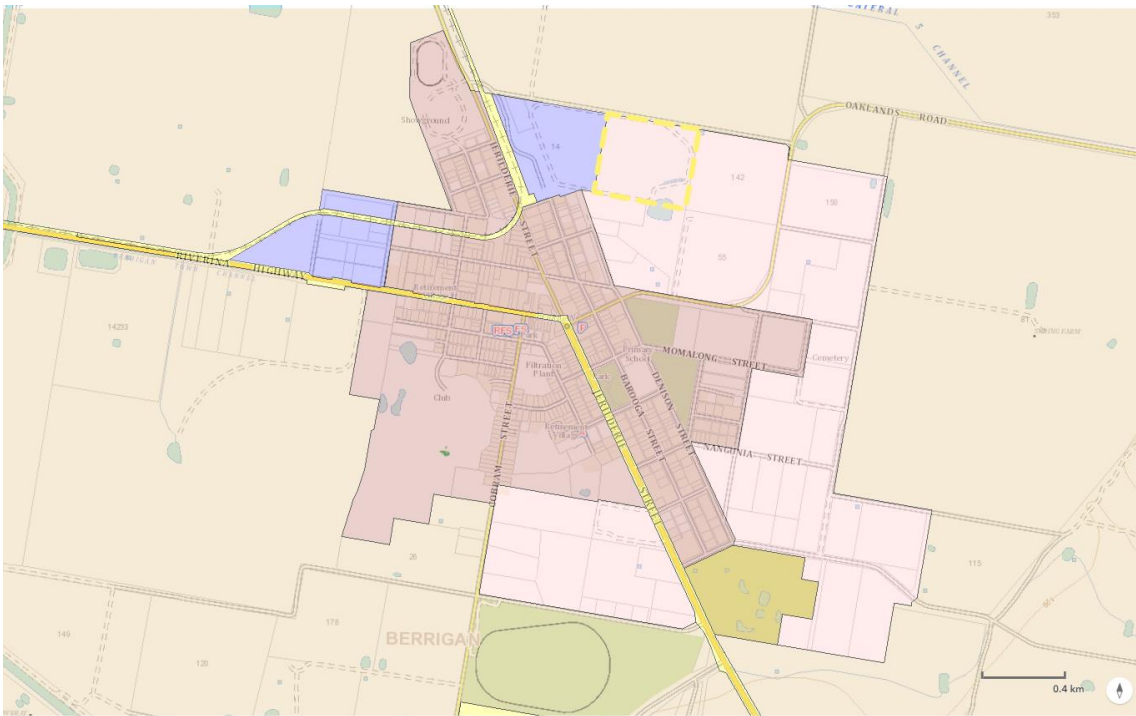


Figure 2 Site context – Site indicated by yellow broken line (source: NSW Planning Portal Spatial Viewer)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the zoning and lot size maps, which are suitable for community consultation.

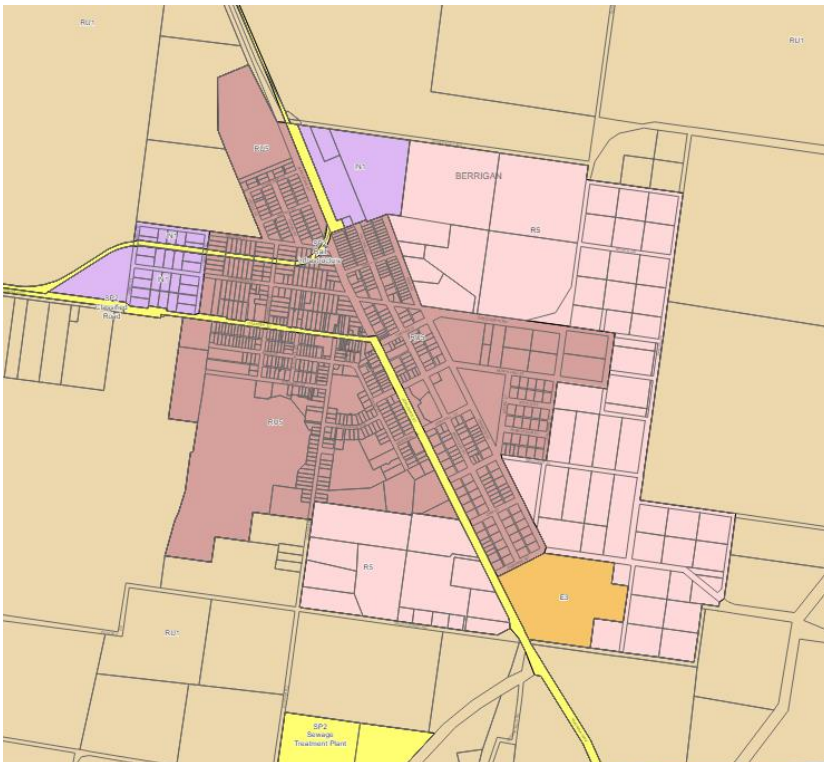


Figure 3 Current zoning map (R5 zoned land)

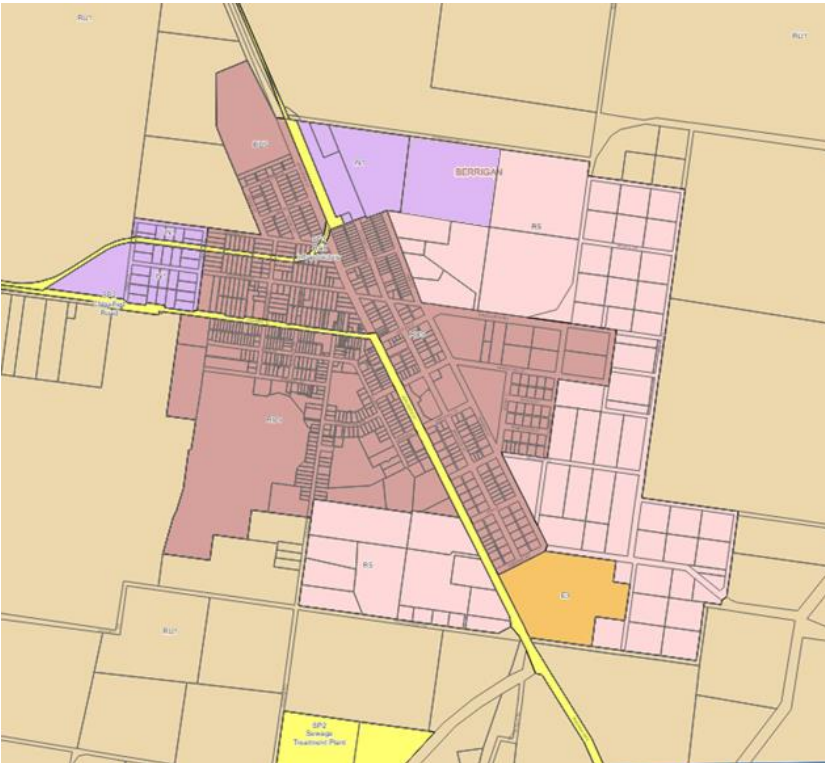


Figure 4 Proposed zoning map (E4 General Industrial)

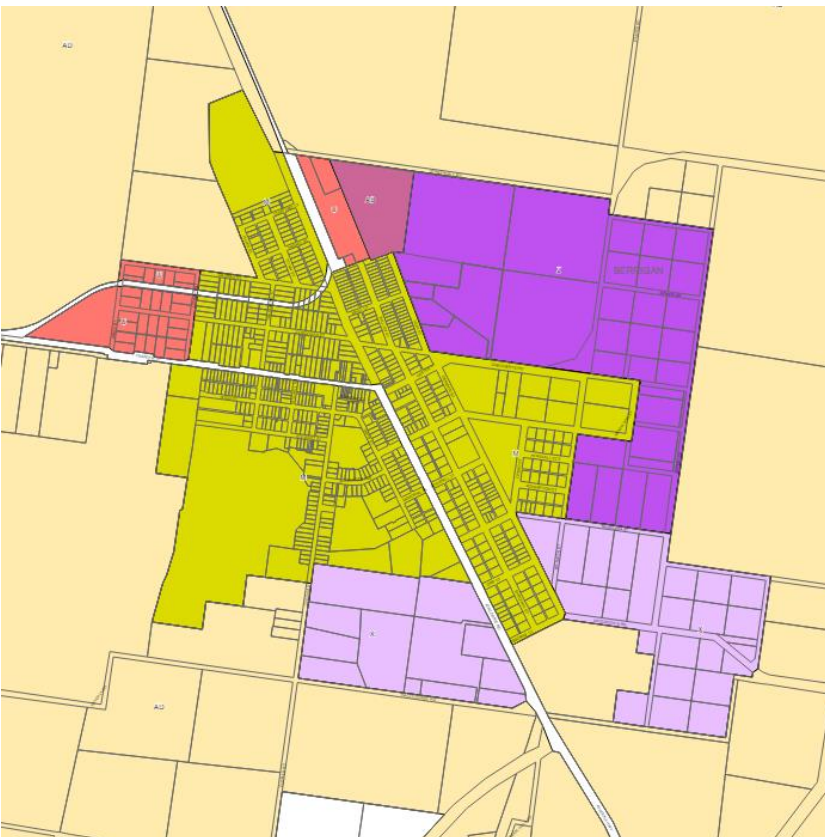


Figure 5 Current minimum lot size map (currently 2-hectare MLS)

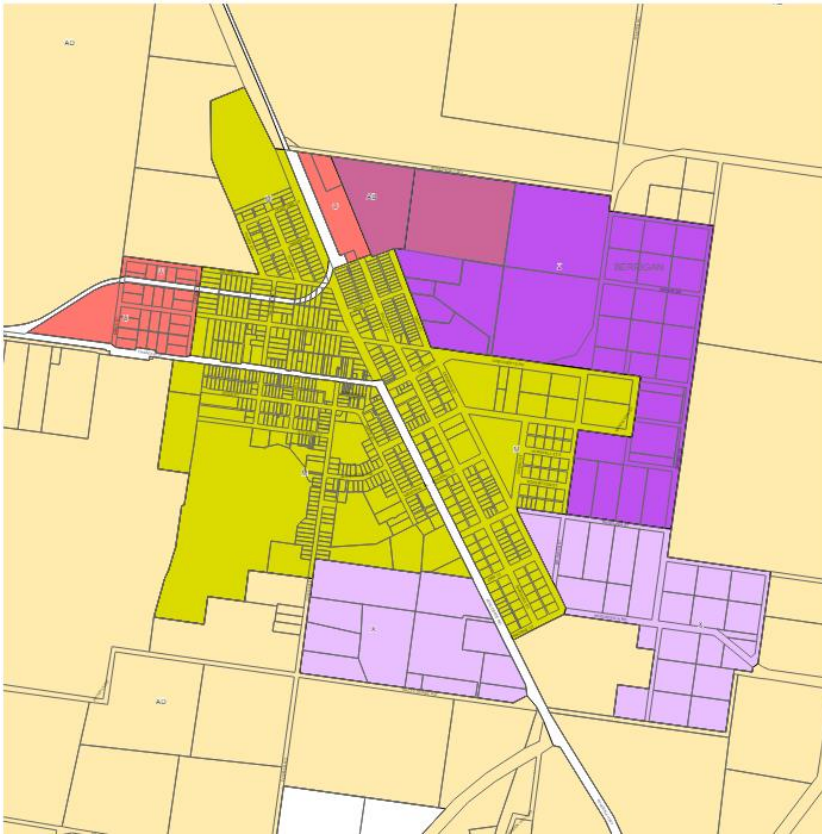


Figure 6 Proposed minimum lot size map (proposed 10-hectare MLS)

1.6 Background

The proposal has been initiated by the proponent of the adjoining grain bunker storage facility. A concept plan has been included with the planning proposal to illustrate the intention to develop a similar facility on the subject site. Berrigan Shire Council has indicated its in-principal support for the proposed use of the site.

2 Need for the planning proposal

The planning proposal is not specified as an action within the Berrigan Local Strategic Planning Statement and is not the subject of any Department approved local strategy for economic land use planning. The planning proposal does not include commentary or analysis regarding supply/demand of employment land and rather, is presented as a proponent driven opportunity to expand the existing grain bunker operations to the west of the site. Given the importance of agriculture to the Berrigan area (and the surrounding region) the proposal is a suitable outcome which will not hinder the realisation of other strategic goals set for the Berrigan region (for example, the supply of housing).

The planning proposal assesses the loss of R5 Large Lot Residential zoned land in this location as being of minor significance. The loss of R5 land would equate to a maximum of 6 lots. From aerial photography, it appears that despite the zoning, additional small lot development has not been undertaken in this area in the last 14 years. Land adjoining the subject land is not being used for 2ha dwelling lots (adjoining small lots are 3, 6 and 16 hectares each). Suitability of the site for residential may also be compromised by the adjoining grain bunker.

The planning proposal notes that vacant land supply for R5 Large Lot Residential zoned land is approximately 32 lots, with demand only around 1 lot every 2 years.

The proposal outlines the suggested rezoning is preferred in place of introducing an additional permitted use (APU) via Schedule 1 of the Berrigan LEP 2013, however does not provide justification for this preference. The associated Council report identifies alternate options (rezoning to either RU5 Village or RU1 Primary Production, or a Schedule 1 APU) and nominates the E4 rezoning as Council's preferred option as:

- There is confidence that the land will be used for industrial purposes.
- The likelihood of the land being used to support additional housing is low.
- An additional permitted use for 'rural industry' will ultimately compromise the suitability of the site as residential zoned land.
- There may be financial implications to back zoning the land to RU1.

Based on the information provided in the supporting Council report, the proposed E4 zoning is the most suitable option to achieve the intended outcomes (subject to further comments being provided in the planning proposal to discuss the suitability of a broad application of the E4 zone to this site).

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Riverina Murray Regional Plan 2041. While the proposal seeks to rezone land from R5 Large Lot Residential, the proposal does not conflict with the broad aims of the Regional Plan to deliver housing supply (see further comments within Section 3.2 of this report).

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
OBJECTIVE 11: Plan for integrated and resilient utility infrastructure	The proposal is consistent with Strategy 11.1 and seeks to focus rural industry expansion around existing infrastructure and servicing.
OBJECTIVE 14: Protecting and promoting industrial and manufacturing land	The proposal is consistent with Strategy 14.2 and will facilitate the expansion of an existing rural industry at a site unencumbered by hazard or environmental constraints, with appropriate access to freight networks.

3.2 Local

The proposal states that it is consistent with the following local plans and strategies:

Table 5 Local strategic planning assessment

Local Strategies	Justification
Berrigan Local Strategic Planning Statement (LSPS)	The proposal is consistent with the broad aims of Priority 1 to support agriculture and agribusiness. No specific actions in that priority are relevant to this proposal. Priority 5 of the LSPS seeks to resolve the conflict between agribusiness, heavy transport, and large lot residential and urban living. While the proposal seeks to

	expand a rural industry in an area surrounded by rural-residential style development it is not anticipated to significantly alter the existing locational situation and any subsequent application lodged to realise the development will be required to address land use conflict associated with the interface of uses.
Berrigan Shire Strategic Framework + District Plans	The subject lot is identified as an industrial investigation site to accommodate the expansion of the adjacent grain handling facility. The proposal is not considered to impact the existing surplus supply of industrial land or surplus rural residential land in the Berrigan township.

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 6 Ministerial Direction assessment

Directions	Consistent	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	As discussed in Table 4, the proposal aligns with the relevant strategies of the RMRP 2041. However, the planning proposal should be updated to reflect the assessment is against the Riverina Murray Regional Plan "2041" not "2036".
4.4 Remediation of Contaminated Land	Yes	The Planning Proposal states the subject land is not being used for a use identified in Table 1 of the contaminated land planning guidelines. However, the site is currently used for agriculture which is a purpose referred to in Table 1 of the guidelines. The planning proposal does note the subject land is not identified or known to be contaminated. A Preliminary Site Investigation has not been obtained but is not required under Direction 4.4(2) as an industrial zoning is proposed.
5.1 Integrating Land Use and Transport	Yes	The proposal is consistent with the objectives of this direction and will reduce travel distance for grain storage services in Berrigan and support the efficient movement of freight.
6.1 Residential Zones	No	The planning proposal did not identify this Direction applies. While the proposal is inconsistent with this direction, the inconsistency is justified as minor significance due to the low demand and high supply of rural residential zoned land. The proposal is also supported by a local strategy that identifies this specific site for industrial rezoning.
7.1 Employment Zones	No	The proposal is consistent with the objectives of the direction however is technically inconsistent with Direction 7.1(e) as the local strategy supporting this proposal has not been approved by the Planning Secretary. The inconsistency is considered of minor significance and poses positive economic opportunities for Berrigan.

While the following listed directions apply to all planning proposals, the proposal does not seek to alter the Berrigan LEP 2013 in a manner inconsistent with the objectives and requirements of the directions. Additional discussion in Table 6 is not required:

- 1.3 Approval and Referral Requirements

- 1.4 Site specific provisions
- 3.1 Conservation Zones
- 3.2 Heritage Conservation
- 3.5 Recreation Vehicle Areas
- 5.2 Reserving Land for Public Purposes
- 6.2 Caravan Parks and Manufactured Home Estates).

Directions not listed in Table 7 or in the preceding dot-points are not applicable to the subject proposal.

3.4 State environmental planning policies (SEPPs)

The proposal is consistent with the aims of SEPP (Resilience and Hazards) 2021- Chapter 4 Remediation of land. Council is satisfied the land will be suitable for the proposal.

The remaining SEPPs in force are either not triggered for application at planning proposal stage, relate to development assessment stage, or relate to specific application areas outside of the subject land.

4 Site-specific assessment

4.1 Environmental

The proposal does not pose significant environmental impact. The land is not known to be affected by natural hazards (flood, bushfire, land slip) and does not contain significant vegetation. The land is not identified to include any items, objects, or areas of heritage significance. Future planning to realise the intent of the proposal will be subject to further assessment and responses to avoid, mitigate and minimise environmental impact.

4.2 Social and economic

The proposal is anticipated to produce a positive economic impact by expanding grain storage services and increase agricultural employment opportunities available to Berrigan and surrounds. Measures to avoid, mitigate and minimise social impacts associated with expansion of industrial activity in vicinity of existing rural residential development will be subject to further assessment at development application stage.

4.3 Infrastructure

The planning proposal identifies that adequate road, water, power, and telecommunication infrastructure is available to service the proposal.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days. The Local Environmental Plan Making Guideline (August 2023) recommends a “standard” planning proposal be exhibited for a minimum of 20 working days. An exhibition period of 20 days is considered appropriate and has been included as a condition of the Gateway determination.

The Gateway determination will include a condition requiring adjoining landholders to be directly notified in writing as part of community consultation.

5.2 Agencies

The proposal does not specifically identify which agencies will be consulted and it is not specifically recommended that any agencies be consulted. Transport for NSW is likely to be interested in the potential traffic impacts of the proposed grain storage facility and should be consulted at the development application stage.

6 Timeframe

Council proposes a 7 month (approximate) time frame to complete the LEP.

The LEP Making Guideline (August 2023) establishes maximum benchmark timeframes for planning proposals by category. This planning proposal is categorised as standard.

The Department recommends an LEP completion timeframe of 225 working days in line with its commitment to reducing processing times aligned with benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

It is recommended the project timeline contained in Section 7 of the planning proposal be updated prior to public consultation.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

As the site is private land, the proposal is identified in local strategy, and the title does not contain any Council interests it is recommended that Council be authorised to be the local plan-making authority for this proposal.

8 Recommendation

It is recommended the delegate of the Secretary:

- agree that any inconsistencies with section 9.1 Directions 6.1 Residential Zones and 7.1 Employment Zones are minor, and

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. Prior to exhibition, the planning proposal is to be updated to:
 - address the suitability of the site to accommodate the Berrigan LEP 2013 E4 General Industrial Zone more broadly than the proposed land use;
 - amend the digital zoning mapping rather than Map Sheet LZN_006A;
 - reflect its assessment is against the Riverina Murray Regional Plan “2041” not “2036”;
 - reflect a timeline for planning proposal completion in line with the Gateway determination timeframe.
2. The planning proposal should be made available for community consultation for a minimum of 20 working days.
3. A public hearing is not required.

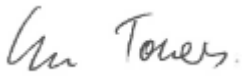
Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority.

The timeframe for the LEP to be completed is on or before 13 March 2025



16/05/2024

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