



IRF 24/42

Gateway determination report – PP-2023-884

Rezone site at Lynch Street, Cowra, from SP2
Infrastructure to E3 Productivity Support.

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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
1. Planning Proposal (November 2023)
2. Council Assessment Report (14 November 2023)
3. Council Resolution (18 December 2023)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Cowra
PPA	Cowra Shire Council (Council)
NAME	Rezone site at Lynch Street, Cowra from SP2 Infrastructure to E3 Productivity Support.
NUMBER	PP-2023-884
LEP TO BE AMENDED	Cowra LEP 2012
ADDRESS	Lynch Street Cowra
DESCRIPTION	LOT 2 DP 1028751
RECEIVED	21/12/2023
FILE NO.	IRF24/42
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
DWELLINGS/JOBS	0/Unknown
PCO and/or MAP ONLY	Map only

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 amend the Cowra LEP 2012 to:

- facilitate development at the subject site by rezoning the land from SP2 Infrastructure to E3 Productivity Support.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Cowra LEP 2012 to rezone the subject site from SP2 Infrastructure to E3 Productivity Support.

A map-only amendment would be required to achieve the rezoning, amending the NSW Planning Portal Digital EPI at Lot 2 DP 1028751 from the zone SP2 to E3 (for reference the PDF map sheet is LZN_002G).

A 'map-only' amendment would not need to be drafted by the Parliamentary Counsel Office (PCO) prior to finalisation.

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

1.4 Site description and surrounding area

The site is located on Lynch Street (which forms part of the Mid-Western Highway) Cowra, NSW 2794. The land is privately owned and legally described as Lot 2 DP 1028751 (**Figure 1**). It has a total area of 5037m² (0.50 ha). The land is currently vacant and there are no existing land uses on site, with no existing connections to urban services or utilities. The land is adjacent to the rail corridor.

The site is on the eastern edge of Cowra CBD, across the road from a hotel and low-density residential development (R1 General Residential zoning). Following Lynch Street south west, towards the CBD, are commercial uses; including automotive retail and a supermarket (within 500m of the site), Lynch Street turns into Kendal Street (also part of the Mid-Western Highway) which forms the local centre (E1 Local Centre zoning) and continues west over the Lachlan River (**Figure 2**).



Figure 1 - Subject site and immediate context (source: Council Assessment Report, 2023)



Figure 2 - Site context (source: Nearmap, January 2024)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the zoning map. This indicative mapping does not require updating prior to exhibition.

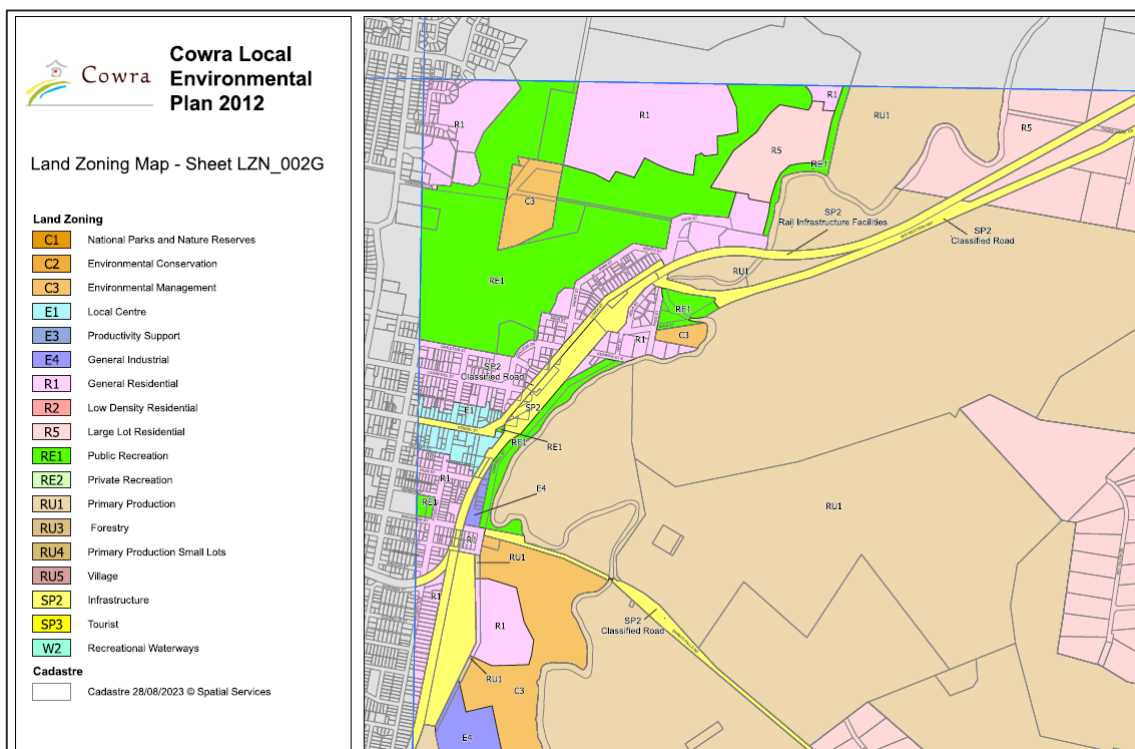


Figure 3 - Current zoning map, context (Cowra LEP, 2012)

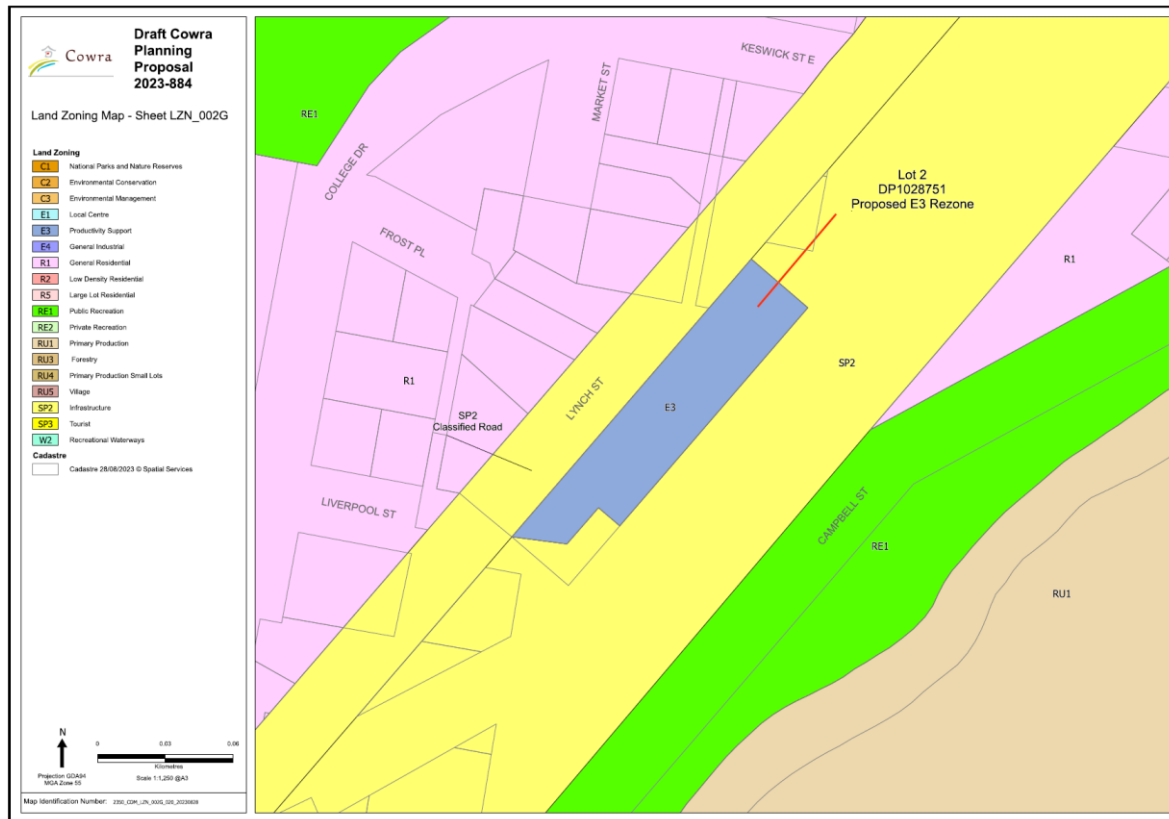


Figure 4 Proposed zoning map (Planning Proposal, 2023)

1.6 Background

Council has provided a history of the proposal as follows:

- there were multiple planning proposals lodged between 2022 and 2023, which were rejected by Council who requested further information,
- Council identified various gaps in information or issues related to; the consistency of the proposal with State and regional studies or strategies, lack of assessment of 9.1 Ministerial Directions, the adequacy of connections to public infrastructure and owner's consent,
- these issues were subsequently addressed in the proposal, with Council accepting the version and additional information provided in early November 2023. The final version was assessed by Council and included in a report and submitted to the Department to support the proposal.

The Department has undertaken an assessment of all documents submitted by Council to support the proposal, which includes Council's assessment report. The Council assessment report includes key details regarding strategic and site-specific merit and other issues that the planning proposal document omits. While the planning proposal document provided by the applicant contains sufficient merit to issue a Gateway determination, a condition has been included in the Gateway determination to update the planning proposal to reflect Council's assessment report.

2 Need for the planning proposal

The proposal is not a result of any strategic planning study or an endorsed Local Strategic Planning Statement (LSPS). However, the site is well-located on the Mid-Western Highway and near the Cowra CBD and on vacant private land. The proposal also implements outcomes of various strategic documents and is consistent with Objective 7 and 20, and Part 5 Cowra Council

priorities within the Central West Orana Regional Plan 2041. While the proposal does not align directly with the LSPS it is not inconsistent and broadly relates to various priorities and actions within the Statement.

The proposed zoning change to E3 Productivity Support will allow the subject land to be developed within the permitted uses under the Cowra LEP 2012, it is currently unused and not able to be developed as it is privately owned but zoned as SP2. An alternative pathway could be achieved through an Additional Permitted Use (APU), a feasible alternative, which would allow Council and the Department to assess a defined land use. However, this would only allow a single use on site, and therefore the E3 Productivity Support zone is supported as it would allow flexibility on the site, to permit a variety of uses, responding to other factors such as community need and market demand.

The broader reactivation of the area is also a possibility with the potential for a reopening of the Blayney-Demondrille railway line. The applicant has identified this as being a key reason for the need of the proposal. The reactivation is also identified in Council's strategic plans and the Department's regional plans however no work has begun. Consultation with Transport for NSW, prior to public exhibition (TfNSW), will assist with gauging the strategic merit of the proposal in the context of this.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the proposal against relevant aspects of the Central West and Orana Regional Plan 2041. It is noted that no detailed studies or specialist reports have been provided to demonstrate consistency with the Regional Plan, however the proposal demonstrates that the rezoning of land would not cause any major inconsistencies with the Regional Plan. Further assessment is provided in the table below (**Table 3**).

Table 3 Regional Plan assessment – Central West and Orana Regional Plan 2041

Regional Plan Objectives	Justification
Objective 18 – Leverage existing industries and employment areas and support new innovative economic enterprises	<p>Not inconsistent</p> <p>The proposal highlights the economic potential of the land and its strategic location, the proposal argues the current zoning is under-utilised as the land is unlikely to be developed for rail purposes in the future. It is located to the east of commercially zoned land and near several hotels and government agencies.</p> <p>However, the proposal lacks analysis of the potential impacts to the surrounding community and how it might support new economies. It would be beneficial for the proposal to further consider these factors, along with a demand and supply or feasibility study for the proposed land use.</p>
Objective 20 – Protect and leverage the existing and future road, rail and air transport networks and infrastructure	<p>Consistent</p> <p>The site is in a strategic position on the Mid-Western Highway (Lynch Street), connecting to Cowra and access to transport connections throughout the state and Country. The site may also be a benefit to and benefit from the potential reopening of the rail line.</p>

Part 5 Cowra Council's priorities	<p>Consistent</p> <p>Cowra Council's priorities include:</p> <ul style="list-style-type: none"> • Innovation, technological, advancement, and investment in the growing agricultural, industrial and manufacturing sectors • Potentially reopening the Blayney-Demondrille rail line • Identifying opportunities for the LGA as the wider region's economy diversifies. <p>The proposal identifies Cowra is important for freight and logistics infrastructure with easy access to markets in Canberra, Sydney, Adelaide, Melbourne, Brisbane and Western Australia.</p> <p>The potential reopening of the railway line must be considered strategically with this proposal and the site may be needed for future rail operations or similar activities. Further consultation with TfNSW is required to determine land use need/conflict.</p>
<p>Collaboration Activity 2 – identify potential housing and land use planning opportunities from the Parkes SAP, Collaboration Activity 12 – Surplus TfNSW land for tourism facilities, Collaboration Activity 25 – investigate future uses of the Cowra rail corridors</p>	<p>Consistent</p> <p>The land is adjacent to the disused Blayney-Demondrille railway line and a major highway and is located near the town of Cowra. It is currently zoned as SP2 Rail Infrastructure Facilities, which restricts its use to railway related development. However, the railway line is non-operational limiting the land's development potential.</p> <p>Reopening of the line is considered in strategic documents and a connection to the inland rail network may further enhance its value, though as Council points out, discussion of how the E3 zoning would support this reopening is lacking.</p>

3.2 Local

The proposal discusses the following local plans and endorsed strategies, strategic direction, and objectives. As stated in the table below:

Table 4 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	<p>The site is not specifically identified in the Cowra LSPS. The proposal is not inconsistent with the Cowra LSPS, and broadly relates to various priorities and actions within the LSPS. The proposal relates to Planning Priority No.1 to provide for growth and new economic opportunities, Specific Action 1.4 committing Council to an investigative process to reviewing the LEP, Priority 5 to align infrastructure with community needs and Action 5.6 whereby Council will lobby for the reopening of the Blayney-Demondrille rail line. The proposal states the site is in a strategic location and there are opportunities for economic growth and development.</p>

Cowra CBD
Masterplan

The CBD Masterplan does not specifically identify the subject site and emphasises that any development beyond the CBD Commercial Core should not undermine the CBD's role and function. Whilst it is not identified in the master plan it is in close proximity to the CBD.

The proposed zoning (E3 Productivity Support) is designed to ensure new developments are compatible with but do not compete with surrounding land uses in local and commercial centres, such as the Cowra CBD, whilst maintaining the economic viability of these centres by limiting certain retail and commercial activity.

3.3 Section 9.1 Ministerial Directions

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

Table 5 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Consistent	Complies, assessment against the Central West and Orana Regional Plan has been included.
3.2 Heritage Conservation	Consistent	<p>The proposal will not alter the existing provisions within the Cowra LEP 2012 to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>There are no heritage items listed on the subject land, however the proposal is nearby the Cowra Railway Station and yard group, which is listed locally within the Cowra LEP and on the State Heritage Register.</p> <p>The proposal includes limited discussion of heritage, however, has the potential to impact views and setting. Council has provided a Heritage Advisor Report to supplement their assessment but does not address the potential visual impacts on the State heritage listed item. Consultation with Heritage NSW should provide further insight into the potential heritage impacts of the proposal, and any further impacts can be addressed and appropriately mitigated in a subsequent DA.</p>

4.4 Remediation of contaminated lands	Inconsistent and investigation required	<p>It is noted that the likelihood of significant contamination occurring at the site is low, as demonstrated by the desktop search undertaken by the proponent and land use history assumptions by Council.</p> <p>However, Direction 4.4 requires a Preliminary Site Investigation to be completed prior to rezoning of the land. Therefore, a Gateway condition requiring a preliminary site investigation, prior to exhibition has been included with the findings to be included in the proposal prior to public exhibition.</p>
5.1 Integrating Land Use and Transport	Consistent or minor justified inconsistencies	<p>This direction applies as the proposal will create land zoned for employment purposes. The site adjoins the Mid-Western Highway. Any inconsistencies can be viewed as of minor significance given the scale of the proposal.</p>
7.1 Employment zones	Inconsistent	<p>Council has noted an inconsistency with this Direction as the rezoning proposes new employment land that is not in accordance with a strategy approved by the Planning Secretary. Therefore, the PP must satisfy the Planning Secretary that the inconsistency is justified.</p> <p>Council states that the inconsistency is justified as it is of minor significance, arguing the rezoning is only for a single-lot and a small holding that is well-located (however not identified as employment land) in proximity to the CBD.</p> <p>Notwithstanding, discussion on the need for additional employment land at this site is required as a Gateway condition to justify the inconsistency.</p>

3.4 State environmental planning policies (SEPPs)

Except for SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land, the planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 6 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Biodiversity and Conservation) 2021	The SEPP prescribes the specific circumstances when a permit may be required before undertaking the clearing of native vegetation in non-rural areas of the State.	Not inconsistent	<p>The proposal has not assessed how the rezoning would be capable of addressing the requirements of this SEPP and has not been supported by any specialist studies or reports which assess the potential biodiversity on the site.</p> <p>Council has stated they do not have a permit system in place for clearing of native vegetation in non-rural areas. This could be further addressed at Development Application stage.</p>
SEPP (Resilience and Hazards) 2021	<p>Clause 4.6 of the SEPP requires a consent authority to consider whether a site is potentially contaminated before determining a development application to carry out development that would involve a change of use of the land.</p> <p>Within rezoning there are no provisions as part of the SEPP which require further consideration of this.</p>	Not inconsistent	At this stage the proposal is not inconsistent with the SEPP. However, contamination must be assessed as part of Ministerial Direction 4.4, and a condition has been recommended to require a preliminary site investigation prior to public exhibition.

SEPP (Transport and Infrastructure) 2021	<p>The provisions of the SEPP relating to infrastructure are relevant for consideration. In certain circumstances the SEPP prescribes when consultation with a public authority may be required.</p> <p>Clause 2.98 Development adjacent to rail corridors would likely apply at the development application stage.</p> <p>Clause 2.11 Development with frontage to classified road would also likely apply at the development application stage.</p>	Not inconsistent	<p>A condition has been included to require consultation with Transport for NSW (TfNSW), the Transport Asset Holding Company as owner of this section of the railway line and UGL Region Linx as operator of the railway line.</p> <p>Future development will need to consider the SEPP as the site is located adjacent to an existing rail corridor, triggering consultation requirements with TfNSW.</p>
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4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 7 Environmental impact assessment

Environmental Impact	Assessment
Bushfire and flooding	The site is not identified as prone to bushfire or flooding.
Biodiversity	<p>The site is not mapped as containing significant sensitive biodiversity and is highly disturbed. It is noted that there are no specialist studies, reports or investigations to determine impacts on critical habitat, threatened species or ecological communities.</p> <p>This would need to be considered again during any subsequent DA, however the level of assessment seems appropriate at this stage.</p>
Land contamination	<p>As discussed above in sections related to the SEPP and Ministerial Directions; Land Contamination has not been fully investigated. Council records do not indicate the site to be in an investigation area, however the site was previously used for rail infrastructure purposes, with an old access road traversing the site. From the desktop findings provided in the PP and Council's own investigation the site is considered low risk for contamination.</p> <p>A condition has been recommended requiring a preliminary site investigation.</p>

Heritage (Aboriginal and non-Aboriginal)	<p>Immediately West of the site is the Cowra Railway Station & Yard Group which is both locally listed and on the State Heritage Register (SHR 01122, Plan 2767). Council provided a preliminary heritage report.</p> <p>A search of the Aboriginal Information System reports there are no AHIM's sites within 100m of the land.</p> <p>Further detail would be required at a future DA stage to comply with heritage requirements, at this stage there is adequate consideration to issue a Gateway determination that requires consultation with Heritage NSW.</p>
Water	<p>A small part of the land is mapped in the Cowra LEP 2012 as containing vulnerable groundwater resources, likely to be associated with the nearby Waugoola Creek. This can be assessed further at development application stage.</p>
Traffic and Transport	<p>No specialist study has been included in the report that relate to traffic and transport. The development will likely require direct access to the classified road system leading to change in traffic conditions and the potential for traffic generation and associated impacts such as noise. The Gateway determination requires consultation with TfNSW.</p>

4.2 Social and economic

The planning proposal states anecdotally that there is a shortage of commercial and industrial land in Cowra. Council states that at a broad level the rezoning could:

- increase the development potential of the land, by enabling a greater range of permissible land-use activities on the land.
- stimulate interest in the land from private developers.
- encourage privately led infrastructure investment at the site and within the surrounding location.
- enable the land to be utilised for potential employment generating activity.
- result in positive social and / or economic development for the Cowra Township through the development of the site for suitable purpose.

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 8 Infrastructure assessment

Infrastructure	Assessment
Services and utilities – Water, Sewer, Electricity and Stormwater	<p>The site is vacant and not serviced by any existing connections to utilities or services. Council has indicated that connection from the site to water, sewer and stormwater are operationally possible.</p> <p>Council has confirmed that the subject land is located within the gravity sewer network catchment and a connection is available approximately 160m to the north. The land does not currently have an existing connection to grid electricity. Council has stated this is the responsibility of Essential Energy.</p> <p>The site can be feasibly serviced to support the proposal, with provisions possible via multiple methods. Further details of connections to services and utilities can be considered at DA stage. This is appropriate for the proposal to proceed.</p>
Road and transport	<p>The site fronts a classified road; Lynch Street (Mid-Western Highway). It is noted that the proposal does not provide an assessment of likely access needs for a future development proposal. A condition has been included to consult TfNSW who can provide advice about access from the classified road.</p>

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days, as per the Cowra Community Participation Plan 2020. This also aligns with the “standard” planning proposal exhibition requirement of 20 working days as per the LEP Making Guidelines (August 2023).

The exhibition period proposed is considered appropriate, and forms a condition on the Gateway determination.

5.2 Agencies

Council has nominated various public agencies to be consulted about the planning proposal. Considering other issues raised it is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Transport for NSW (and Transport Asset Holding Entity)
- UGL Regional Linx
- Heritage NSW

6 Timeframe

Council proposes an 8 month timeframe to complete the LEP.

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

The Department recommends an LEP completion date of 17 February 2025 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has not advised that it would like to exercise its functions as a local plan-making authority.

The Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- the site is largely unconstrained by biodiversity and hazard, and potential heritage issues can be further assessed and mitigated if necessary,
- the site has a low likelihood of contamination however a further preliminary site investigation will be required to confirm,
- the proposal seeks to activate underutilised land and there would be no loss of significant agricultural land,
- further assessment of demand and supply of the E3 zone is required as the proposal is inconsistent with Ministerial Direction 7.1 Employment zones,
- the site is within the Blayney-Demondrille Railway Corridor, a disused railway line, which has been identified for reactivation. The impact of the proposal on any future potential reactivation is still not clear. However, further consideration of the impacts of the rezoning will be clarified with consultation with TfNSW as required by the Gateway determination,
- the site can likely be serviced with all required utilities and infrastructure for an E3 Productivity Support zone.

9 Recommendation

It is recommended the delegate of the Secretary:

- agree that any inconsistencies with section 9.1 Direction 5.1 Integrating Land Use and Transport are minor and justified and
- note that the consistency with section 9.1 Directions 4.4 Remediation of Contaminated Land and 7.1 Employment Zones are unresolved and will require further justification.

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

1. Prior to public exhibition, and after agency consultation the planning proposal is to be updated to reflect the findings of Council's Assessment Report and include findings and assessment following agency consultation. The proposal must also include:
 - a preliminary site investigation (including requirements for remediation, as appropriate)
 - discussion of demand and supply for E3 zoned land, with a consideration of likely uses desired for the site once it has been rezoned,
 - an amendment to the project timeline to reflect the milestones to complete the proposal.

The updated planning proposal (and associated documents) is to be forwarded to the Department via the Planning Portal for review and approval prior to commencing community consultation.

2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the Local Environmental Plan Making Guideline (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 20 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Local Environmental Plan Making Guideline (Department of Planning and Environment, August 2023).
3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:
 - Transport for NSW
 - UGL Regional Linx
 - Heritage NSW

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 working days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that an LEP completion date of 17 February 2025 be included on the Gateway.



14/3/24

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