

Addendum to Council Assessment Report – Response to Draft Conditions

In response to the developer providing comments to submissions Council has reviewed the evaluation of Section 4.2C of the Gunnedah Local Environmental Plan 2012 and provides the following in assessment.

4.2C(2) – the development site is located within the RU1 Primary Production Land Zone

4.2C(3) – the development site consists of two allotments being Lot 48 DP 755474 and Lot 2 DP 254189, which directly adjoin each other. The two lots proposed to be created will be less than the minimum lot size being 15.31Ha (proposed Lot 1) and 35.63Ha (proposed Lot 2).

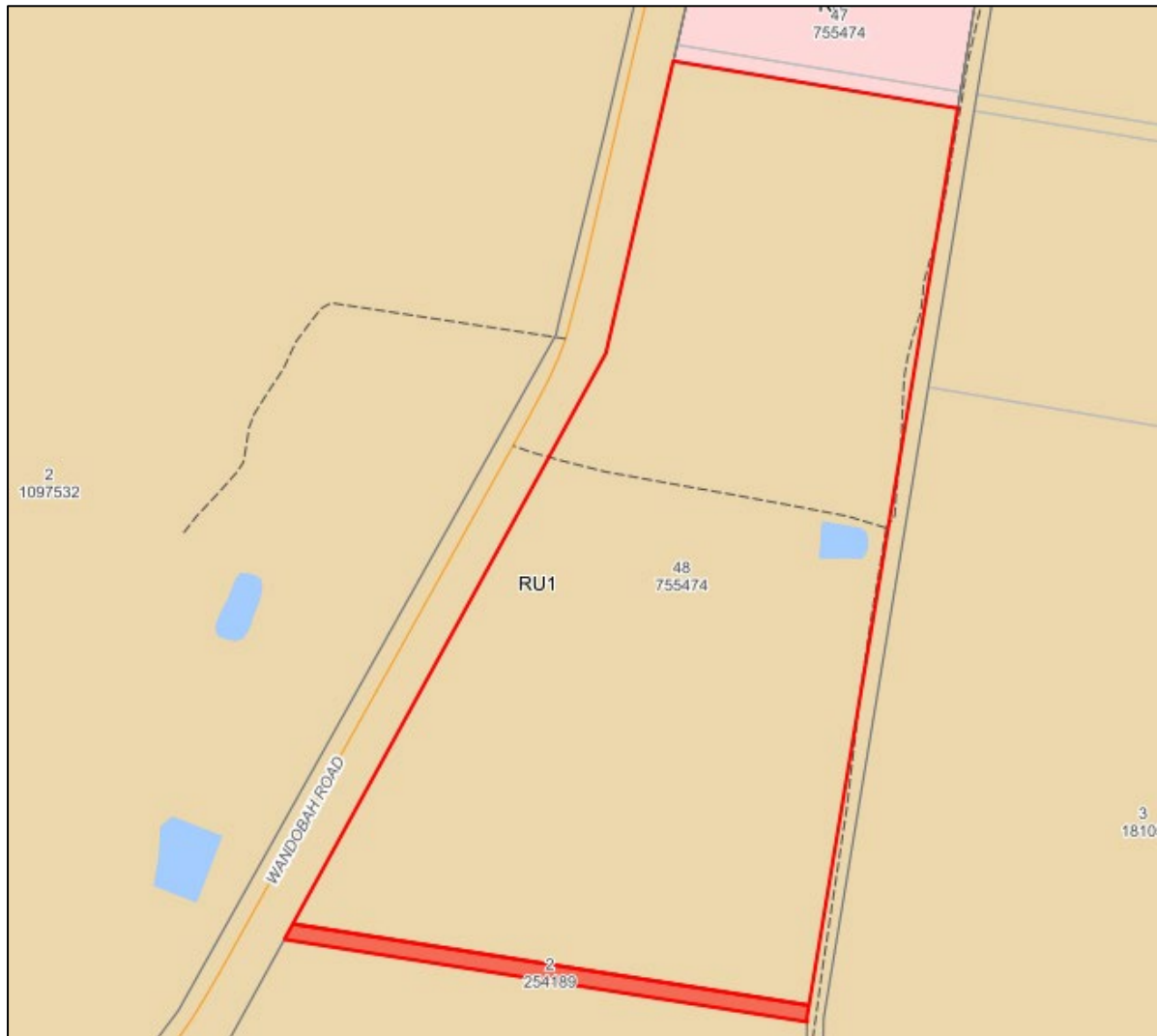


Figure 1 – Extract Gunnedah GIS (development site marked in red)

The development would result in the retention of the two allotments. There would be no increase in the number of allotments that was to be created. The development contains an existing Dwelling House on proposed Lot 2. This dwelling house has a historic land use approval and does not require consent to be retained onsite. The Dwelling will be retained on proposed Lot 2, but does not increase the number of dwellings that may be erected on the allotment. On review of Section 4.2A(3), the development would not satisfy section 4.2A(3)(c) or align with legal advice previously considered by Gunnedah Shire Council as the erection of a dwelling house on proposed Lot 1 would fail consideration under this clause in the future as any such development application would not be made on a lot created by subdivision for which development consent was granted before the Gunnedah Local

Environmental Plan 2012 commenced (29 June 2012). Council Assessment Report concluded that a dwelling house would not be permitted on proposed Lot 1 under any other control within Section 4.2A without an application to vary the standard through Section 4.6. Hence, the creation of the allotment in accordance with the Gunnedah Local Environmental Plan 2012 by Section 4.2C would retain the inability to create a dwelling unless development was made and demonstrated compliance with Section 4.6 of the LEP, which would currently be an opportunity based on current lot configurations.

4.2C(4)(a) – as per the assessment under Section 4.15(1)(b) of the *Environmental Planning Assessment 1979* within Council's assessment report, the development site is currently occupied for agricultural purposes and includes an existing 5MW Electricity Generating Works (Solar Farm), which is placed on the northern portion of the development site. The area around the site is agricultural land use, noting that the lot to the north of the site is zoned R5 and has a minimum lot size of 9,000m² based on the Gunnedah LEP 2012. There has been no subdivision consent granted for this lot or residential development to date despite the potential of the lot.

4.2C(4)(b) – the subdivision would create two lots which are less than the minimum lot size. The pre-existing Lot 2 DP 254189 has an area of 1.28ha as it was a closed crown road portion. The current area of this lot is not sufficient for any individual agricultural activity. The proposed subdivision would create an allotment that has small lot agricultural potential and closer aligns to the land use that is being conducted in the broader area.

The reduction in area for Lot 48 DP 755474 as a consequence of the boundary adjustment (subdivision) reduces the agricultural capacity of the lot. However, the resulting creation of two allotments that have small lot agricultural potential achieves an outcome which is believe to be more in line with the objectives of the RU1 Primary Production (RU1) land zoning and the objectives of Section 4.2C.

The adjoining lot the north has approval for residential development with a lot size of 9,000m². The reduced lot area for this site does not cause an adverse impact to the locality as the lot could create a transition between the residential zoned land and the agricultural allotments and the greater agricultural holdings surrounding further to the south, which have a lot size of 40ha and greater.

4.2C(4)(c) – the subdivision is not considered to be incompatible based on the assessment as above. Council initial concern with the creation of the subdivision was due to the initial development assessment completed by assessment staff and the perceived resulting potential increase in number of dwellings which would create a land density which is greater than the objectives of the RU1 land zone. The review considers that this is unlikely to occur.

4.2C(4)(d) – the assessment as above concludes that the subdivision may achieve a more positive outcome with regards to the final allotment configuration and its proximity to adjoining land zones which achieve a greater density of lot creation. The creation of the two lots within this development may act as a lot configuration that transitions between the 40ha minimum lot size RU1 zone and the 9,000m² minimum lot size R5 zone directly to the north of the site.

4.2C(4)(e) – the development should consider that the allotment has adequate capacity for vehicle movements to occur within the allotment. Council previously sought amended subdivision plans which showed sufficient area for vehicle movements for the largest expected vehicles attending the site, to complete turns within the access handle without entering proposed Lot 2. Council suggests that a condition be imposed which requires an amended subdivision plan be provided prior to the issue of a Construction Certificate which demonstrates that vehicle swept paths can occur entirely within the access handle for proposed Lot 1 for the largest vehicle that is expected to attend the site.

4.2C(4)(f) – the development site is not bound by any physical constraints that could prevent access to any areas of the proposed lots to be created. The proposed lot configuration does not create future development limitations for each of the lots.

4.2C(4)(g) – the proposed subdivision layout is not expected to result in any impacts to environmental value. The creation of the proposed lot layout does not require the removal of any additional vegetation to that of the proposed development works.

4.2C(5) – the proposed development is not for a strata or community title subdivision. Hence, the development is considered to be possible under the provisions of Section 4.2C based on the assessment and matters of consideration as above.