

Wagga Wagga City Council

Planning Proposal

Amendment to the Wagga Wagga Local Environmental Plan 2010

LEP20/0005

Rezoning of lands at Cartwrights Hill and Byrnes Road to Zone
RU6 – Transition

Increase in the minimum lot size applying to lands at
Cartwrights Hill and Byrnes Road to 200 hectares

Date of Planning Proposal:

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PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of the planning proposal is to eliminate opportunities for additional residential development at the periphery of the Wagga Wagga Special Activation Precinct, to avoid exacerbating any potential land use conflict at this location in future.

The land within the Wagga Wagga Special Activation Precinct is of high strategic importance. This land:

- is to become one of the largest employment hubs in Australia;
- provides direct access to freight rail and to road networks supporting Higher Mass Limit road vehicles;
- has large undeveloped and underdeveloped tracts of land, which provide opportunities for large industrial lots;
- is home to cornerstone industrial enterprises including Teys, Heinz Watties, Austrak and Southern Oil Refining;
- is located within a major regional centre, with the benefits that location offers to enterprise, but has a limited number of sensitive residential receptors in the immediate surrounds.

These attributes have been recognised by State and Federal Governments who have both directed supporting funding and policy development to the land where the Wagga Wagga Special Activation Precinct is to be located.

An intensification of residential land use will result in placement of sensitive land uses adjacent to Special Activation Precinct lands. To avoid increased land use conflict in that situation, the outcome would be to inhibit the functionality of the Special Activation Precinct for industrial and enterprise purposes. This would be inconsistent with the strategic intent of the Wagga Wagga Special Activation Precinct and the important role it has within the broader region. This would not be in the public interest.

Technical studies undertaken for the Wagga Wagga Special Activation Precinct, and other previous studies undertaken by Wagga Wagga City Council, identify that two areas of land adjoining the Wagga Wagga Special Activation Precinct boundary at Cartwrights Hill and Byrnes Road have the potential to be the site of land use conflict with existing and future development in the Wagga Wagga Special Activation Precinct.

In order to support the ongoing operation and success of the strategically important Wagga Wagga Special Activation Precinct, it is proposed to amend the planning controls for the areas shown in **Figure 1** to prevent further intensification of residential uses on certain sites. This will be achieved through:

- ensuring that secondary dwellings will not be permissible on the subject lots; and
- preventing subdivision of additional lots and dwellings made permissible on the additional lots.

In the instances where there is an existing dwelling on a lot, the erection of a single replacement dwelling will still be permitted.

The proposed amendments to the Wagga Wagga LEP 2010 for the subject land would maintain the rural landscape of these existing small residential clusters while preventing further intensification. The intent is to provide a balance between allowing existing residents to remain in the area whilst preventing further development for residential purposes.



It is noted that some other areas of land surrounding the Special Activation Precinct (zoned RU1 Primary Production) are also identified as not recommended for intensification. As these areas of land comprise large lots with an existing minimum lot size of 200ha, the potential for intensification is minimal and so changes to the existing controls in these areas are not considered necessary.

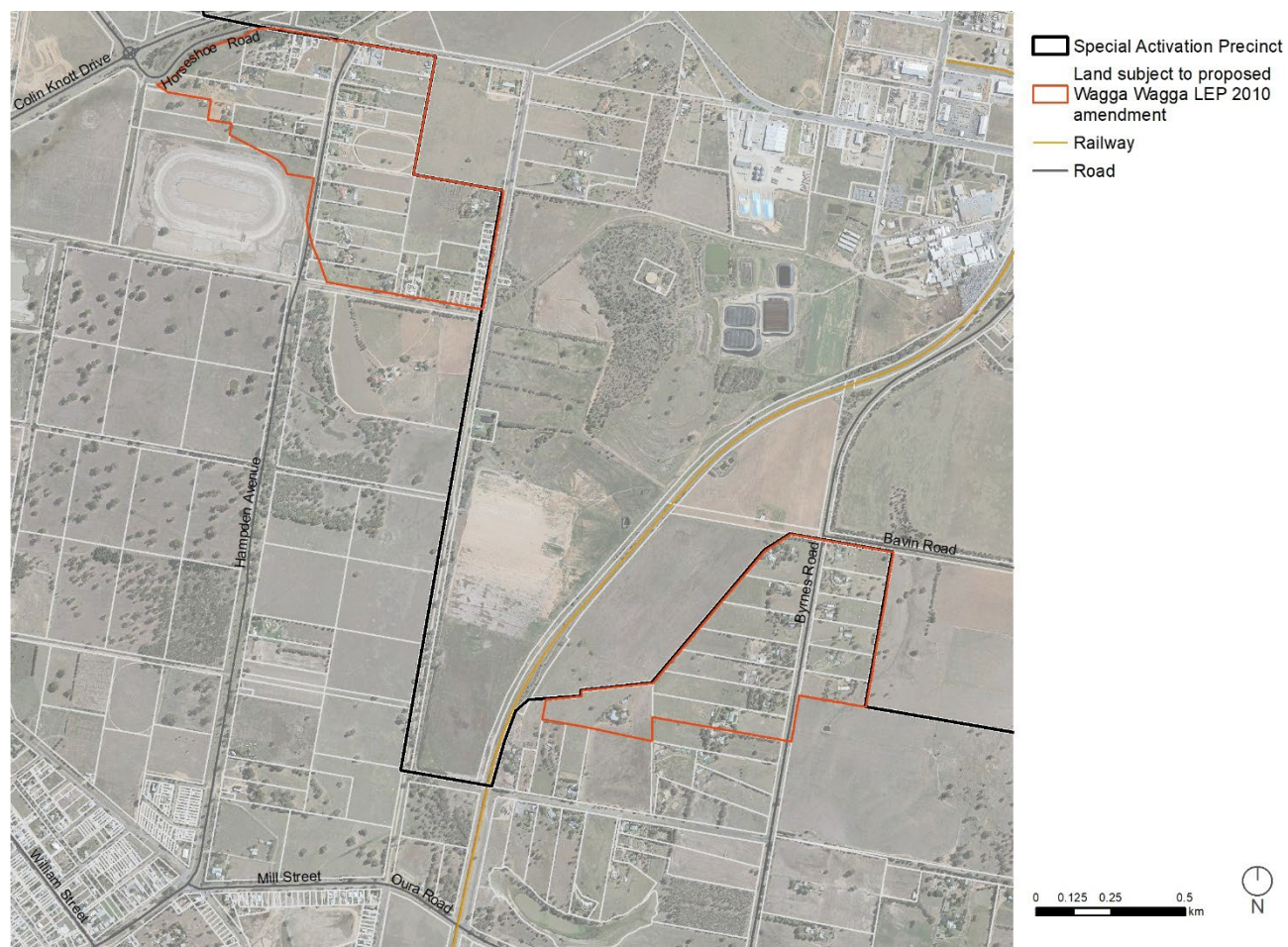


Figure 1 – Subject land area for the planning proposal

PART 2 – EXPLANATION OF THE PROVISIONS

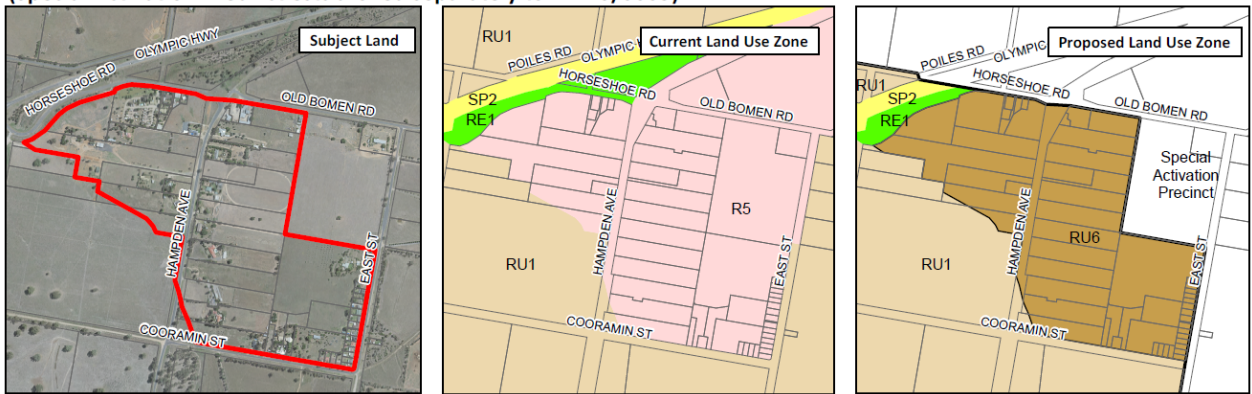
The proposed outcome will be achieved by:

1. Rezoning land that adjoins the Wagga Wagga Special Activation Precinct at Cartwrights Hill from R5 Large Lot Residential to RU6 Transition (refer to **Figure 2**).
2. Rezoning land that adjoins the Wagga Wagga Special Activation Precinct at Byrnes Road from RU4 Primary Production Small Lots to RU6 Transition (refer to **Figure 2**).
3. Increasing the minimum lot size within these same subject land areas from 1ha and 2ha respectively to 200ha (refer to **Figure 3**), with the exception of subject lands within Lot 101 DP 1095889.
4. Increasing the minimum lot size of subject lands within Lot 101 DP 1095889 from 2ha to 4ha (refer to **Figure 3**).

(Figures 2 and 3 overleaf)



LEP20/0005 - Proposed change to land use zone - Cartwrights Hill
(Special Activation Precinct established separately to LEP20/0005)



LEP20/0005 - Proposed change to land use zone - Byrnes Road area, North Wagga Wagga
(Special Activation Precinct established separately to LEP20/0005)

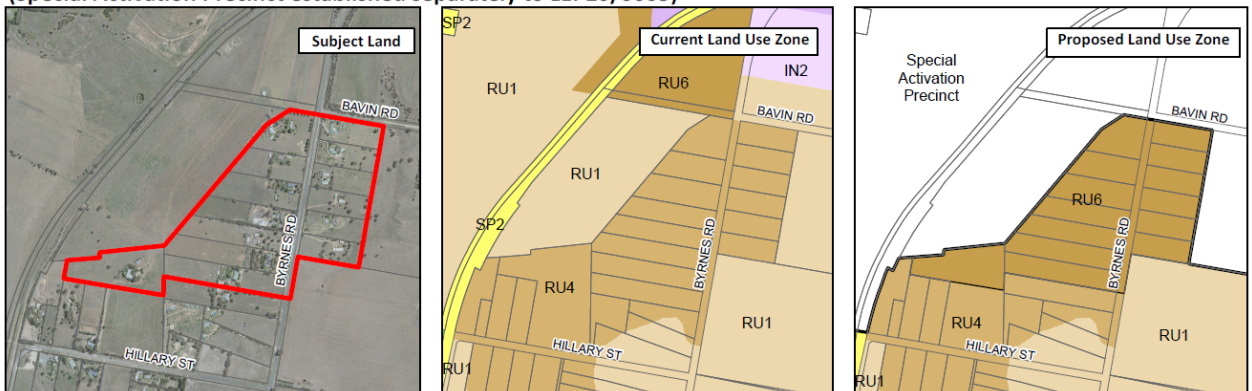
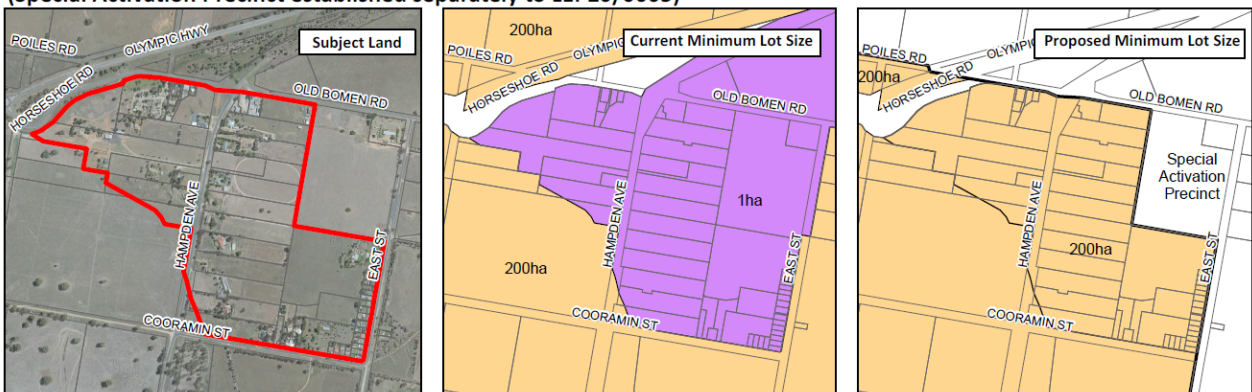


Figure 2 – Existing and proposed Land Zoning Maps

LEP20/0005 - Proposed change to minimum lot size requirement - Cartwrights Hill
(Special Activation Precinct established separately to LEP20/0005)



LEP20/0005 - Proposed change to minimum lot size requirement - Byrnes Road area, North Wagga Wagga
(Special Activation Precinct established separately to LEP20/0005)

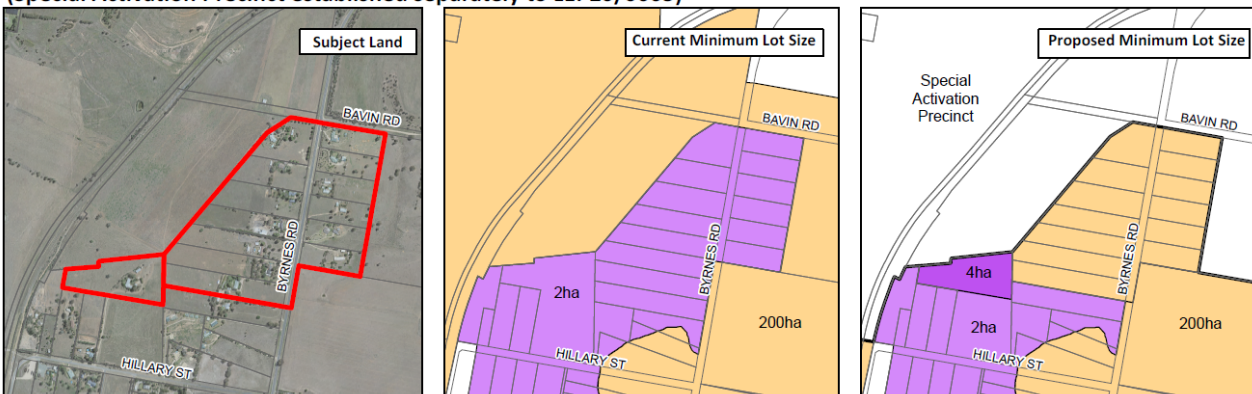


Figure 3 – Existing and proposed Minimum Lot Size Map

Land use permissibility changes

The change in zoning will restrict and prohibit new development of certain land uses.

Of particular relevance to the intended outcomes of this planning proposal, secondary dwelling and dual occupancy development will be prohibited within the RU6 – Transition zone.

Existing development will be permitted to remain, even if not a permitted use within the land use table for RU6 – Transition.

Notable changes in land use permissibility include:

Current RU4 zoned land

- Extensive agriculture will become permitted without consent (currently consent is required).
- Industrial retail outlets and depots will become permitted with consent (currently prohibited).
- Dual occupancies, group homes, secondary dwellings, bed and breakfast accommodation, farm stay accommodation, cellar door premises, hardware and building supplies, markets, plant nurseries and rural supplies will become prohibited (currently permitted with consent).

Current R5 zoned land

- Extensive agriculture will become permitted without consent (currently prohibited).
- Intensive plant agriculture, animal boarding facilities, farm buildings, forestry, veterinary hospitals and depots will become permitted with consent (currently prohibited).
- Boarding houses, dual occupancies, group homes, hostels, some forms of tourist and visitor accommodation such as bed and breakfast accommodation, hardware and building supplies, rural supplies, neighbourhood shops, timber yards and vehicle sales or hire premises will become prohibited (currently permitted with consent).

Existing constraint to development potential of subject lands at Cartwrights Hill

At present additional development to the subject land at Cartwrights Hill is assessed against the provisions of Wagga Wagga LEP 2010, Clause 7.8 Cartwrights Hill Precinct – odour and noise assessment:

- (1) The objective of this clause is to ensure that any odour and noise impacts from the Bomen industrial area and the Bomen sewage treatment facility are considered in determining the suitability of development within the Cartwrights Hill Precinct.*
- (2) This clause applies to land identified as the “Cartwrights Hill Precinct” on the Cartwrights Hill Precinct Map.*
- (3) Development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the potential impacts of odour and noise from the Bomen industrial area and the Bomen sewage treatment facility on the development.*

This Clause requires consideration of noise and odour impacts to any new development in the Cartwrights Hill Precinct (the same lands as the subject land for this planning proposal at Cartwrights Hill). In view of findings of noise and odour studies conducted to date, it is arguable that if proper consideration per Clause 7.8 was given, no sensitive development should receive consent at Cartwrights Hill Precinct. Despite this, at no point does Clause 7.8 expressly prohibit development which would result in the placement of sensitive land uses – and therefore sensitive receptors –



nearby the Wagga Wagga Special Activation Precinct at Cartwrights Hill. This results in the outcome of such development assessment considerations being somewhat contestable under present provisions.

The intent of the planning proposal is to prohibit intensification of development which leads to placement of additional sensitive receptors nearby the Wagga Wagga SAP. This aligns the Wagga Wagga LEP 2010 zoning and minimum lot size to the strategic intent for the area. The issue is placed beyond any doubt for the purposes of development permissibility through this action.

Forfeited development potential of lots at Cartwrights Hill and Byrnes Road

The planning proposal will have implications for the development potential of the subject lands as implied by the current zoning and minimum lot size requirement. Development potential in practice is curtailed by application Clause 7.8 of the Wagga Wagga Local Environmental Plan 2010. The effect of the planning proposal is to alter zoning and minimum lot size to reflect proper consideration of odour and noise assessment for the area on a permanent basis within the zoning and lot size provisions, preceding consideration of individual development applications.

The specific impact upon development potential of lots as a result of this change is detailed in several categorisations below. The lots subject to each category of impact to development potential are listed at the Appendix.

Cartwrights Hill – Category 1

These are lots which do not have a dwelling on the lot at present. These lots will retain permissibility for a dwelling under provisions at Clause 4.2A of the Wagga Wagga LEP. Notwithstanding this, the ability to obtain consent for a dwelling by virtue of that permissibility will be subject to the full and proper consideration of Clause 7.8 of the Wagga Wagga LEP 2010. Refer to the appendix for lots within this category.

Cartwrights Hill – Category 2

These are lots which do not satisfy the current minimum lot size requirement. Replacement dwellings will be permissible by virtue of the existing approved dwelling. Subdivision is not permissible now and will not be permissible following the planning proposal. Dual occupancies are permissible presently where there is an existing dwelling but will not be permissible within the new RU6 Transition zone. Refer to the appendix for lots within this category.

Cartwrights Hill – Category 3

These are lots that are larger than the current 1 Ha minimum lot size requirement, but they are not large enough to achieve further subdivision at present. These lots do have an existing dwelling house on the site. These lots will not satisfy the new 200 hectare minimum lot size requirement. Following the planning proposal, these lots will be able to receive a replacement dwelling, but not a dual occupancy. Refer to the appendix for lots within this category.

Cartwrights Hill – Category 4

These are lots greater than twice the area of the current 1 Ha minimum lot size requirement, meaning that subdivision is permissible at present. These lots will not satisfy the new 200 hectare minimum lot size requirement. These lots will no longer be eligible for subdivision. These lots will be able to receive a replacement dwelling if there is an existing approved dwelling. Dual occupancies will not be permissible in the new RU6 Transition zone. Refer to the appendix for lots within this category.

Byrnes Road area – Category 3



These lots achieve the current 2 Ha minimum lot size requirement but are not large enough to achieve further subdivision. These lots do have an existing dwelling house on the site. These lots will not satisfy the new 200 hectare minimum lot size requirement. Residential development potential of these lots will be for a replacement dwelling only. Dual occupancies are currently permissible but will not be permissible in the new RU6 Transition zone. Refer to the appendix for lots within this category.

Byrnes Road area – Category 5

This is a single lot at 59 Hillary Street greater than twice the area of the current 2 Ha minimum lot size requirement, but with a large southern portion of the lot outside the subject land area for the planning proposal and not intended to be affected by this planning proposal. As a result, a minimum lot size of 4 Ha is applied to the northern portion of the lot within the subject land area for this planning proposal. This would allow the northern portion to be subdivided off in future, without affecting subdivision and development potential of the southern portion of the lot, which is not intended to be affected by the planning proposal. This lot is illustrated in the figure below.

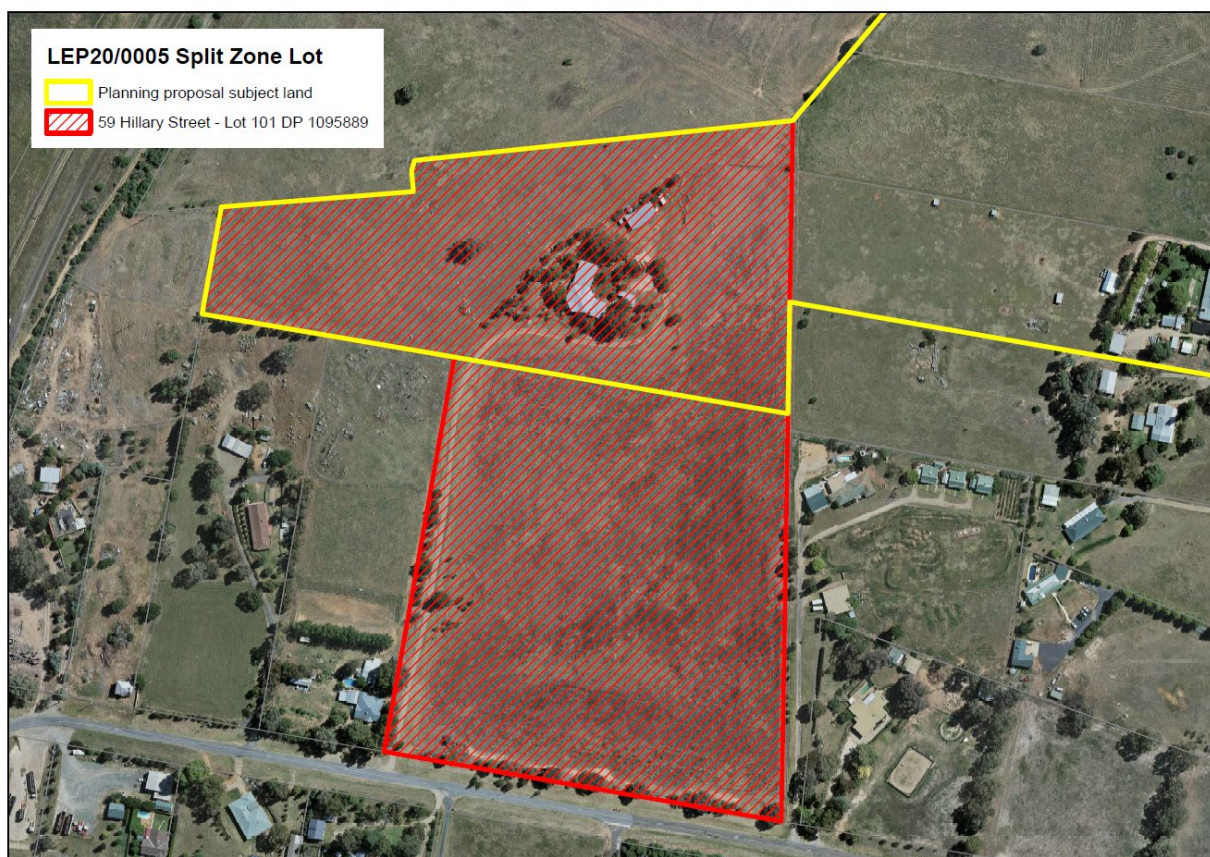


Figure 4 – Split zone lot outcome at 59 Hillary Street, near Bomen Road

The part of the lot that is within the subject land area is of sufficient area to be subdivided to achieve one additional lot at present under the current 2 hectare minimum lot size requirement. This will not be possible under the new 4 hectare minimum lot size requirement. The southern part of the lot outside the subject land area can be subdivided to achieve additional lots now, and this development potential will be retained by this portion of the lot after the planning proposal. Dual occupancies will not be permissible within the RU6 Transition zone applying to the northern portion of the lot.

Additional considerations

In addition to the categorisations of affected lots above, the following observations about the affected lots are notable:



- The statements made in respect of each category of lots refer to the development permissibility that is suggested by minimum lot size and zoning provisions, notwithstanding the proper consideration of Clause 7.8 of the Wagga Wagga Local Environmental Plan 2010 as is required for lands at Cartwrights Hill. The minimum lot size and zoning changes sought by this planning proposal reflect the intent for the subject land in view of the prevailing constraints referenced by Clause 7.8, which current zoning and minimum lot size do not do.
- One lot within Category 1 is owned by a charity organisation.
- Two lots within Category 1 are occupied by businesses.
- One lot within Category 1 is owned by Wagga Wagga City Council.
- One lot within Category 3 is operated as a caravan park.
- Three lots within Category 4 straddle land use zone and minimum lot size boundaries. The categorisation and discussion applying to these lots assumes that development consent for lots additional to that otherwise possible on a prima facie basis may be obtained through use of Clause 4.6 of the Wagga Wagga Local Environmental Plan 2010.
- A part of the subject land within the north-eastern corner of the harness racing track at 92 Cooramin Street is too small to be subdivided and receive residential development

Aggregate reduction in potential new residential development as a result of the planning proposal

There is presently potential for development at Cartwrights Hill and at Byrnes Road as per the lot categorisations described earlier in this document. This includes the subdivision of land to create additional lots as illustrated by the figure below. This potential for development intensification is removed by the planning proposal.

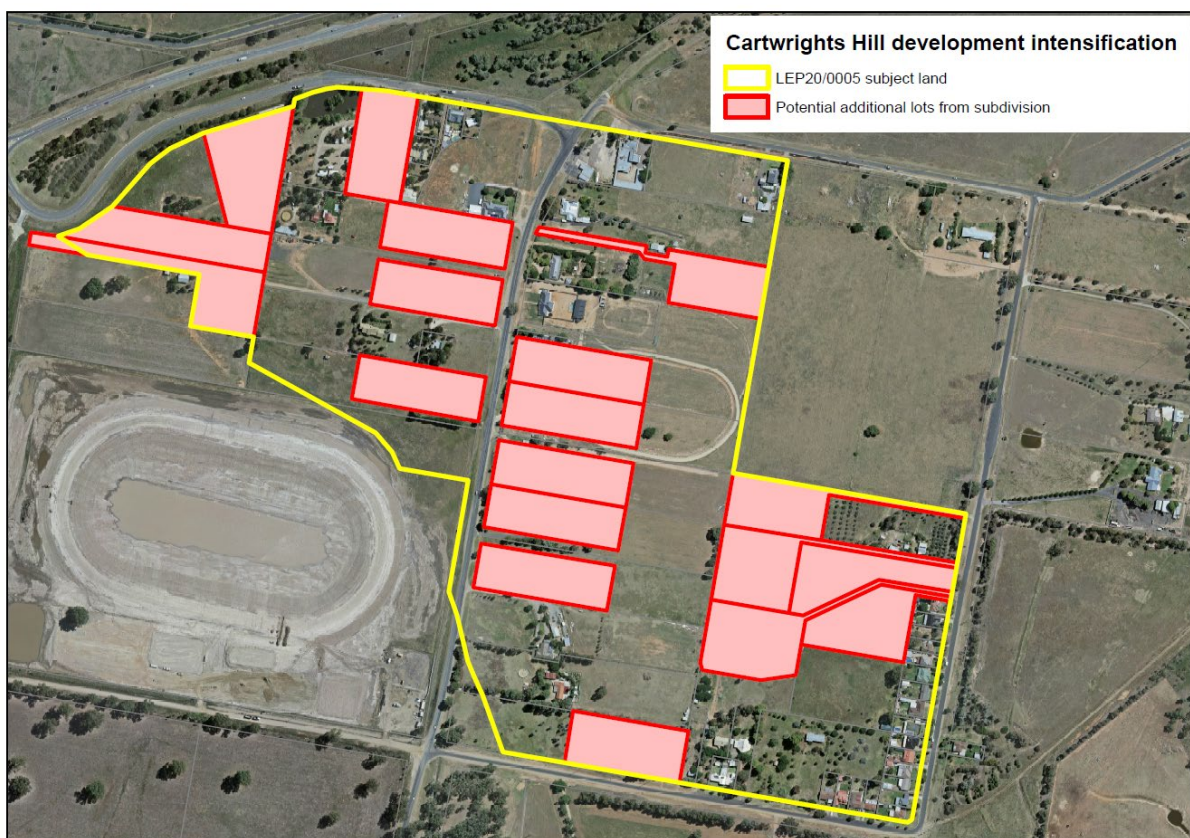


Figure 5 – Cartwrights Hill development intensification

At Cartwrights Hill the current zone and lot size provisions could yield:

- Up to 19 additional lots with dwellings permissible by consent;
- Dual occupancy development permissible by consent on existing lots with dwellings and 19 additional lots – 70 lots with dual occupancy use permissible with consent;
- This assumes that WWLEP Clause 7.8 is satisfied, which may not be achievable, and the use of WWLEP Clause 4.6 is pursued in some cases where lots overlap zone boundaries.

At the Byrnes Road area, within the subject land area, the current zone and lot size provisions could yield:

- 1 additional lot with a dwelling permissible by consent within the subject land area;
- Dual occupancy development permissible by consent on existing lots with dwellings and 1 additional lot – 15 lots with dual occupancy use permissible with consent.

PART 3 – JUSTIFICATION

Section A – Need for the planning proposal

Is the planning proposal a result of any strategic study or report?

The planning proposal responds to the findings of the air, noise and odour technical study undertaken in developing the Wagga Wagga Special Activation Precinct Master Plan (Planning Considerations for Air, Noise and Odour, Todoroski Air Sciences, 2019). This study demonstrates a need to protect industrial lands and minimise the number of sensitive receptors in the peripheral area. These areas now comprise the subject land for this planning proposal.

The Master Plan and its component noise and odour technical study are the culmination of multiple strategic directions for planning in Wagga Wagga and the Riverina-Murray. The NSW Premiers 20-year vision for Regional Economic Development identified Wagga Wagga as a regional city with a population set to grow beyond 100,000. To support the required economic growth and employment in the city and region, the Riverina-Murray Regional Plan seeks to protect industrial land from potential land use conflicts arising from inappropriate and incompatible surrounding land uses. It specifies Bomen, the site of the Wagga Wagga Special Activation Precinct, for this consideration. The NSW State Government has now invested a significant amount in the Bomen Business Park and surrounds in support of strategic objectives. These investments further the capability of the Special Activation Precinct. They include;

- Bomen Enabling Roads \$35m
- Fixing Country Rail, RIFL Hub 2, \$14.4m
- Growing Local Economies, RIFL Hub 3, \$29.8m
- Technology Choice Area Switch \$1.67m
- Special Activation Precinct Master Plan funding

Achieving an appropriate return on these investments for the community relies upon land within the Wagga Wagga Special Activation Precinct reaching its potential as an enterprise area, with a broad range of industrial activities being enabled and existing industries being able to expand. Intensification of residential development to the south west and south of the precinct would jeopardise the success of these investments.



Considered in isolation, current zoning and minimum lot size provisions applying to the subject lands provide opportunities for subdivision and increased residential development in those locations. This not aligned with the strategic imperatives for the city, region and state. Despite the need for industrial uses to be constructed and operate in accordance with EPA licences and planning policies to ensure residential uses will not be unreasonably impacted, the proximity of the two residential clusters to the existing General Industrial Zone (which is to become the Regional Enterprise Zone under the Activation Precincts SEPP) presents challenges for managing ongoing land use conflict.

The proximity of the subject land to existing and proposed industrial uses means additional residential development may undermine strategic objectives for the Wagga Wagga Special Activation Precinct. The Wagga Wagga Special Activation Precinct Structure Plan prepared by Jensen Plus (2019) therefore identifies the RU6 -Transition Zone as an appropriate zoning for these two areas of land.

There is an existing clause within the Wagga Wagga Local Environmental Plan 2010 (Clause 7.8 Cartwrights Hill – Odour and Noise Assessment) which requires consideration of odour and noise impacts from the Bomen industrial area and the Bomen sewage treatment facility when determining the suitability of any proposed development within Cartwright’s Hill. This clause responds to previous work undertaken by Todoroski Air Sciences, demonstrating potential odour and noise impacts at Cartwrights Hill from industrial lands at Bomen. Clause 7.8 of the Wagga Wagga LEP 2010 already act to provide restriction on any additional residential development in the Cartwrights Hill area. Specifically, subclause (3) requires that:

Development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the potential impacts of odour and noise from the Bomen industrial area and the Bomen sewage treatment facility on the development.

The impact of this clause on development outcomes is evident in Council’s refusal of applications for subdivision and residential development in Cartwrights Hill, upon consideration of this clause.

In view of this, the current RU5 – Large Lot Residential zone and 1 ha minimum lot size control is misleading with respect to the development opportunities that are genuinely viable in the Cartwrights Hill area. These provisions, in particular the zone objectives, would imply a level of support for residential development which is not present within local and regional strategy or the complete provisions of the Wagga Wagga LEP 2010. The proposed amendment to the Wagga Wagga LEP 2010 will continue the intent of Clause 7.8, by aligning the land use zone and minimum lot size controls to the strategic intent of planning in the correct fashion. This approach provides a greater level of certainty to members of the residential and business communities in and nearby Cartwrights Hill.

In addition to this, the changes provided by the planning proposal have the effect of mitigating land use conflict arising from additional residential development at Byrnes Road. This has not been accounted for to this time via the provisions discussed above, further demonstrating the need for the planning proposal.

The proposed changes to zoning and lot size will provide mitigation of land use conflict arising from noise and odour. This will occur by minimising the presence of sensitive receptors in subject land areas at both Cartwrights Hill and Byrnes Road. The changes do not affect the existing residential development at these locations remaining in place, or the provision of replacement dwellings via existing use rights. It will also then be readily apparent to users of the Wagga Wagga LEP 2010 that further intensification of residential land uses, as previously implied by the objectives and land use tables of the R5 Large Lot Residential and RU4 – Primary Production Small Lots zoning, will not be approvable, nor are they supported by planning strategy for the locality, city or region.



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

Alternative approaches to achieving the intended outcomes were considered, in order to determine the most appropriate method by which to address the identified planning issues.

Consideration was given to the following alternative methods:

Extension of the application of Clause 7.8 of the Wagga Wagga LEP 2010 to the Byrnes Road area.

This method would serve to provide additional protection to the Special Activation Precinct at the Byrnes Road area in the same manner presently operating at Cartwrights Hill. Despite this, it does not provide certainty and transparency for residents or businesses about what can be developed on the land. For example, although subdivision would be permissible, it is likely that it would not meet the amenity standards required under Clause 7.8 and would not be supported. The zoning of lands should be reflective of the actual strategic planning intent for the location and this approach does not achieve this.

Increase the minimum lot size at Cartwrights Hill to 2 Ha and retain the current R5 Large Lot Residential zone

This method would reduce the potential for new lots to be created with dwelling permissibility relative to the current lot size provisions. Only three such additional lots would be able to be subdivided. This approach does not adequately address other issues. 54 lots in the area would retain permissibility for the development of dual occupancies. The objectives of the R5 Large Lot Residential zone would continue to provide notional support for the development of additional residential land uses. In view of these factors, this method does not satisfactorily achieve the intent of the planning proposal.

Increase the minimum lot size at Cartwrights Hill to 5 Ha and retain the current R5 Large Lot Residential zone

This method would remove the potential for new lots to be created with dwelling permissibility. Despite this 51 lots in the area would retain permissibility for the development of dual occupancies. The objectives of the R5 Large Lot Residential zone would continue to provide notional support for the development of additional residential land uses. In view of these factors, this method does not satisfactorily achieve the intent of the planning proposal.

Increase the minimum lot size at Byrnes Road to 5 Ha and retain the current R5 Large Lot Residential zone

This method would not alter the potential for new lots to be created with dwelling permissibility relative to current minimum lot size provisions. The potential for one additional lot in the area would remain. Permissibility for the development of dual occupancies would extend to 15 current and potential lots within the current. satisfactorily achieve the intent of the planning proposal.

Increase the minimum lot sizes of both areas independent of zoning change to 200ha.

This method would prevent further intensification through subdivision but would still allow for secondary dwellings, and thereby the potential doubling of dwellings in the precinct. In addition, the areas would have minimum lot sizes that are inconsistent with other such zoned land across the Wagga Wagga Local Government Area and broadly incompatible with the stated objectives of the zones. This is not sound planning practice and would continue the existing situation where the zone of the lands is not reflective of the actual strategic intent for the location.

Rezone both areas to RU6 Transition independent of change to minimum lot size.



Although the zone objectives would be more suitable for the strategic intent of planning at this location, and this approach would prevent further intensification as a result of multiple dwellings being permitted on a single lot, it would still allow for subdivision and therefore intensification of development.

The proposed amendments to the Wagga Wagga LEP 2010 are the most robust and transparent means of minimising land use conflicts that would result from future intensification of residential uses in the identified areas adjoining the existing Bomen Business Park and proposed Wagga Wagga Special Activation Precinct.

The proposed RU6 Transition zone objectives and permitted uses better reflect the land's proximity to strategically important industrial land with non-replicable advantages (such as Inland Rail) and also to the surrounding RU1 Primary Production lands in the surrounds. This zone entirely removes the potential for development of dual occupancy.

The proposed minimum lot size of 200 ha is consistent with other land in the RU6 – Transition Zone in the Wagga Wagga LGA, including the RU6 zoned land that adjoins the subject sites. It is also consistent with the minimum lot size of the RU1 – Primary Production zoned land surrounding the subject sites.

Section B – Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Yes. The proposed amendment to the Wagga Wagga LEP 2010 is consistent with the objectives and actions of the *Riverina Murray Regional Plan 2036* (2017). In particular, the proposal supports Action 4.3 of the Plan to 'Protect industrial land, including in the regional cities (Bomen, Nexus and Tharbogang) from potential land use conflicts arising from inappropriate and incompatible surrounding land uses.

Continuing to develop and protect the Special Activation Precinct at Bomen as a designated area for specialisation in industrial activities is further supported by the following actions of the Regional Plan:

- Encourage co-location of related advanced and value-added manufacturing industries to maximise efficiency and infrastructure use, decrease supply chain costs, increase economics of scale and attract further investment.
- Encourage the sustainable development of industrial land to maximise the use of infrastructure and connectivity to the existing freight network.
- Promote specialised employment clusters and co-location of related employment generators in local plans.
- Monitor the supply and demand of employment and industrial land in regional cities to inform the planning and coordination of utility infrastructure to support new development.

Is the planning proposal consistent with the council's local strategy or other local strategic plan?

Yes. The Bomen Business Park features within the *Wagga Wagga Spatial Plan* (a Ministerially-endorsed document) as a key area for the future development of Wagga Wagga. The Spatial Plan notes that the supply of well located, competitively valued, industrial land is a key factor for local and regional prosperity. The Spatial Plan envisions that the Bomen Business Park, the precursor to the Special Activation Precinct, will be "a high-quality and nationally renowned place for transport and logistics-based enterprises, well-designed and integrated with existing industry, which meets the



requirements of a targeted range of businesses and supporting activities to complement and nurture a more sustainable City of Wagga Wagga and Riverina Region”.

The proposed amendment to the Wagga Wagga LEP 2010 will preserve the full extent of development opportunities within the Wagga Wagga Special Activation Precinct to support achieving this intent and therefore aligns with the strategy.

The *Wagga Wagga Integrated Transport Strategy and Implementation Plan* (2017) reflects the transport needs and expectations of the Wagga Wagga community, and best practice for the city. The strategies include a priority to establish Bomen as an intermodal hub connected to the Inland Rail Network. The Inland Rail project will open up Melbourne and Brisbane ports, and the Bomen Business Park supported by the Riverina Intermodal Freight and Logistics (RiFL) Hub. This will make the location of the Wagga Wagga Special Activation Precinct one of the most important freight and logistic destinations and hubs in Australia. The Strategy emphasises capitalising on investment and working with industry to make the best use of government investment. It is for this reason that one of the key actions of the plan requires the protection of the Bomen Business Park from inappropriate development and the prevention of land use conflict.

Significant investment into infrastructure is currently underway to support the expansion of the Bomen Business Park. The development of residential accommodation on nearby land may have a significant impact on the success of this investment and deter future investment opportunities.

Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. While the subject land is outside the Special Activation Precinct and therefore not within direct applicability, the planning proposal does support the objectives of State Environmental Planning Policy (Activation Precincts) 2020. The planning proposal facilitates strategic and efficient development of land and infrastructure in those Precincts, as at Part 1, 3(b) of the Policy, irrespective of the fact it is not within the Precinct.

Consideration has been given to other State Environmental Planning Policies, the relevance of those Policies, and the implications of the planning proposal in view of the requirements and the operation of those Policies. There are no further State Environmental Planning Policies relevant to this planning proposal. The planning proposal is therefore found to be consistent with the operation and requirement of other State Environmental Planning Policies.

Is the planning proposal consistent with applicable Ministerial Directions (s. 9.1 directions)?

The Directions made by the Planning Minister under Section 9.1 of the EP&A Act 1979 must be considered when preparing and assessing a Planning Proposal. An assessment of the consistency of the proposed changes with the relevant Section 9.1 Directions has been undertaken and the findings are detailed in this section.

Direction 1.1 – Business and Industrial Zones

The objectives of this direction are to encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the viability of identified centres. This direction is applicable to the planning proposal as the proposal will affect land within an existing industrial zone, albeit via the regulation of lands outside of the industrial land use zone.

The planning proposal is consistent with the direction as it gives effect to the objectives of this direction. The planning proposal is devised specifically to protect employment land at the Wagga Wagga Special Activation Precinct. It is devised to ensure that the functionality of industrial land at Bomen is retained to the maximal extent into the future. The Special Activation Precinct is to



become a significant hub for employment activities. Protecting this asset is of paramount strategic importance for the city and the Riverina-Murray Region.

Direction 1.2 – Rural Zones

This direction is applicable to this planning proposal as the proposal affects land within an existing rural zone. The planning proposal is consistent with the direction. The proposal does not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. The proposal does not contain provisions that will increase the permissible density of land within a rural zone.

Direction 1.5 – Rural Lands

This direction is applicable to this planning proposal as it affects land within existing and proposed rural zones and changes the minimum lot size applying to those lands. The planning proposal is consistent with the direction as the planning proposal supports the implementation of the Riverina-Murray Regional Plan in respect to the development and protection of industrial lands at Bomen.

Direction 2.1 – Environment Protection Zones

This direction is relevant to the planning proposal as it is applicable to all planning proposals. The planning proposal is consistent with the direction. The planning proposal retains the effect of WWLEP 2010 provisions that facilitate the protection and conservation of environmentally sensitive areas.

Direction 2.3 – Heritage Conservation

This direction is applicable to this planning proposal as it is applicable to all planning proposals. The planning proposal is consistent with the direction. The planning proposal retains the full effect of all existing WWLEP 2010 provisions that facilitate the conservation of heritage assets cited by the direction.

Direction 2.4 – Recreation Vehicle Areas

This direction is applicable to this planning proposal as it is applicable to all planning proposals. The planning proposal is consistent with the direction. The planning proposal does not alter planning provisions to enable additional development for the purposes of a recreational vehicle area in the locations prescribed by the direction.

Direction 3.1 – Residential Zones

This direction is applicable to this planning proposal as the proposal will affect land within an existing residential zone. The planning proposal is inconsistent with the direction as it reduces the volume of land zoned for residential purposes at Cartwrights Hill. The replacement zone RU6 Transition will not prioritise the provision of additional housing. The proposed amendment will reduce the permissible residential density of land, through the prohibition of secondary dwellings under the new zoning and through the proposed increase in minimum lot size, which is not aligned with this aim.

The Direction states that inconsistency is justified where it is justified by a strategy or study or it is in accordance with the relevant Regional Strategy. The proposed reduction in residential density is therefore considered to be justified in this case because:



- The proposed amendments are supported by the Wagga Wagga Special Activation Precinct technical studies, which seek to protect the operation of the strategically significant Regional Enterprise Zone, using buffer zones to manage impacts on nearby residential areas; and
- The strategic importance of the Wagga Wagga Special Activation Precinct is reinforced in the Riverina-Murray Regional Plan, as outlined in the previous section of this Discussion Paper.

New residential development within the Cartwrights Hill Precinct will result in additional sensitive receptors located near to strategic lands at the Wagga Wagga Special Activation Precinct. The technical studies noted above indicate that land use conflict will result at this location unless remedying action is taken. Such land use conflict would undermine state and local strategic directions and the effectiveness of the Special Activation Precinct.

Direction 3.2 – Caravan Parks and Manufactured Home Estates

This direction is applicable to this planning proposal as it is applicable to all planning proposals. The planning proposal is consistent with the direction. The planning proposal does not alter existing permissibility relating to the development of caravan parks or manufactured home estates.

Direction 3.3 – Home Occupations

This direction is applicable to this planning proposal as it is applicable to all planning proposals. The planning proposal is partially consistent with the direction. The planning proposal, in rezoning lands from R5 Large Lot Residential and RU4 Primary Production Small Lots to RU6 Transition, changes the permissibility of home industries to require consent where previously this was not required. The inconsistency is justified as the planning proposal affects a minimal number of properties, and home industries will still be permitted with consent rather than prohibited entirely. These factors indicate the change is of minor significance as required by the direction. The change is appropriate to the need to manage land use conflict in this area and occurs in order to uphold the objectives of the Riverina-Murray Regional Plan.

Direction 3.4 – Integrating Land Use and Transport

This direction is applicable to this planning proposal as the proposal will create and alter provisions relating to land zoned for residential purposes. The planning proposal is consistent with the direction. The planning proposal does not introduce new urban or residential land use zones or otherwise alter provisions in a manner requiring additional planning for the sound integration of land use and transport. The intent of the planning proposal is that development intensity in the area will remain at its current level, which will result in minimal impact to transport networks.

Direction 4.3 – Flood Prone Land

This direction is applicable to this planning proposal as the proposal will create and alter provisions that affects flood prone land at the southern edge of the Cartwrights Hill Precinct. The planning proposal is consistent with the direction. The planning proposal retains the effect of all existing flood planning provisions, does not rezone land in a flood planning area in a manner prohibited by the direction, and does not permit development in floodways, with flood impact to other lands or requiring flood mitigation works.

Direction 5.10 – Implementation of Regional Plans

This direction is applicable to this planning proposal as it is applicable to all planning proposals. The planning proposal is consistent with the direction as it upholds the objectives and actions of the Riverina Murray Regional Plan.



Specifically, the planning proposal upholds Direction 4 of the Plan; “Promote business activities in industrial and commercial areas” and its component Action 4.3: “Protect industrial land, including in the regional cities (Bomen, Nexus and Tharbogang) from potential land use conflicts arising from inappropriate and incompatible surrounding land uses”.

Direction 6.1 – Approval and Referral Requirements

This direction is applicable to the planning proposal as it is applicable to all planning proposals. The planning proposal is consistent with the direction. The planning proposal does not increase the requirement for concurrence, consultation or referral of development applications to Ministers or public authorities or identify development as designated development.

Section C – Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. The planning proposal introduces provisions which provide constraints to additional development within the Cartwrights Hill Precinct. This will not result in adverse effects to critical habitat, threatened species or ecological communities.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are no other likely environmental effects to result from the planning proposal. The planning proposal is motivated solely by the need to prohibit of a specific type of development. It does not otherwise alter the environmental requirements related to developments or environmental protection provisions generally. The amendments will not result in adverse effects to critical habitat, threatened species or ecological communities.

How has the planning proposal adequately addressed any social and economic effects?

The planning proposal seeks to avoid serious negative economic impacts to the city and region. Current zoning and minimum lot size controls are geared towards the addition of sensitive residential land uses nearby to the Wagga Wagga Special Activation Precinct. This would result in preventable land use conflict due to potential noise and odour reception. This conflict would be an impediment to the growth and utilisation of the Special Activation Precinct to its fullest extent, with serious economic implications for Wagga Wagga and the Riverina-Murray region.

The Wagga Wagga Special Activation Precinct is and will continue to be the focus of significant government investment in enabling infrastructure. Once rezoned, it is anticipated the Wagga Wagga Special Activation Precinct will attract significant investment and generate jobs for the Wagga Wagga region. It will be important to the success of the Wagga Wagga Special Activation Precinct that existing and new enterprises are able to operate without impacting neighbours, and that their operations are not restricted because of their proximity to residential development and other sensitive uses. Responding to existing land use conflict and seeking to minimise conflict over time is an important objective for the Wagga Wagga Special Activation Precinct planning framework.

The planning proposal will ensure that no additional residential development occurs in the identified areas directly adjoining the Wagga Wagga Special Activation Precinct, where they would have the effect of restricting the intensification of land uses in the Regional Enterprise Zone. This is the appropriate response in order to preserve the greatest possible opportunity for the success of the Special Activation Precinct.



Directing land use planning emphasis for the subject lands at Cartwrights Hill and Byrnes Road away from further development of residential accommodation will have some social effect at the local precinct scale. It will not support the expansion of this particular community in future. Despite this, by discouraging residential development the planning proposal will also prevent negative social impact to additional residents who may otherwise take up residence in Cartwrights Hill and may be subjected to noise and odour issues arising from the ongoing operation of enterprises in the Special Activation Precinct. The amendment will have an economic impact upon the subject land, as the development potential on this land will be reduced. The amendment will retain the worth of the lands to the extent that this has already been exploited, as existing residential uses already established will be able to continue.

Section D – State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

Yes. The proposal will not create additional demand upon public infrastructure. The reduction in potential future residential capacity at the site will reduce potential future demand on public infrastructure in the area.

The Wagga Wagga Special Activation Precinct is and will continue to be the focus of significant government investment in enabling infrastructure. Allowing residential development to expand within these precincts would jeopardise the infrastructure investment within the Wagga Wagga Special Activation Precinct, which includes Inland Rail, Service Capacity Enhancement (works including sewer, energy and NBN fibre improvements) and substantial private investment in new and emerging technologies.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Public authorities have been consulted prior to gateway determination for this planning proposal. The planning proposal is accompanied by correspondence from the Special Activation Precincts Team of the NSW Department of Planning, Industry and Environment, the NSW Environmental Protection Authority and the Regional Growth NSW Development Corporation. These submissions are supportive of Council's initiative to address potential land use conflict in view of the strategic primacy and land use planning outcomes intended for the Wagga Wagga Special Activation Precinct.

Council will continue consultation of State and Commonwealth public authorities regarding the planning proposal in accordance with the directions of any gateway determination issued in respect of the planning proposal.

PART 4 – MAPPING

The planning proposal will require amendment of the following Wagga Wagga LEP 2010 Map Sheets:

Land Zoning Maps

- LZN_003E
- LZN_003F

Lot Size Maps

- LSZ_003E
- LSZ_003F



PART 5 – COMMUNITY CONSULTATION

No formal community consultation with regard to this specific amendment to the Wagga Wagga LEP 2010 has occurred to date. Despite this the issues that underlie the needs for the amendment have been the subject of discussion between Council and members of both the business and residential communities since 2015.

Businesses within the existing Bomen Business Park have continually objected to any residential expansion proposed within Cartwrights Hill and potential investors have indicated to Council their concern in relation to additional receptors. The last development application for residential development within Cartwrights Hill received nine objections from significant businesses in Bomen conveying their fears in relation to impediments to their operations due to additional sensitive receptors. In contrast, residents within Cartwrights Hill have provided supporting submissions for additional residential development opportunities within the area to leverage more from their properties.

Council will conduct consultation regarding the planning proposal in accordance with the directions of any gateway determination issued.

PART 6 – PROJECT TIMELINE

Task	Anticipated timeframe
Anticipated date of Gateway Determination	October 2020
Anticipated timeframe for completion of required technical information	November 2020
Timeframe for Government agency consultation	November 2020
Commencement and completion dates for public exhibition.	November 2020 – January 2021
Dates for public hearing	
Timeframe for consideration of submissions	February 2020
Timeframe for the consideration of a proposal post exhibition	March 2020
Date of submission to the Department to finalise the LEP	April 2020
Anticipated date RPA will make the plan	May 2020
Anticipated date RPA will forward to the Department for notification	June 2020



APPENDIX

Categorisation of lots affected by the planning proposal, as per discussion in Part 1 of the planning proposal at pages 8 and 9.

CATEGORY 1		
Cartwrights Hill	Unnumbered battle-axe lot between 126 and 128 East Street	Lot 5 DP 856275
	39 Horseshoe Road	Lot 11 DP 855048
	138 East Street	Lot 3 DP 247907
	6 Old Bomen Road	Lot 1 DP 623409
	425 Hampden Avenue	Lot 2 DP 623409
	Country Women's Association, Cooramin Street	Lot 1 DP 161778
CATEGORY 2		
Cartwrights Hill	6 Cooramin Street	Lot 7 DP 259770
	8 Cooramin Street	Lot 8 DP 259770
	10 Cooramin Street	Lot 9 DP 259770
	12 Cooramin Street	Lot 10 DP 259770
	22 Cooramin Street	Lot 2 DP 631632
	24 Cooramin Street	Lot 2 DP 602156
	28 Cooramin Street	Lot 1 DP 631632
	396 Hampden Avenue	Lot 1 DP 1251563
	13 Horseshoe Road	Lot 5 DP 793950
	15 Horseshoe Road	Lot 102 DP 846446
	17 Horseshoe Road	Lot 101 DP 846446
	19 Horseshoe Road	Lot 3 DP 793950
	21 Horseshoe Road	Lot 2 DP 793950
	114 East Street	Lot 6 DP 601879
	116 East Street	Lot 5 DP 601879
	118 East Street	Lot 4 DP 258515



	120 East Street	Lot 3 DP 258515
	122 East Street	Lot 2 DP 258515
	124 East Street	Lot 1 DP 258515
	126 East Street	Lot 4 DP 856275
	128 East Street	Lot 3 DP 590429
	130 East Street	Lot 2 DP 590429
	132 East Street	Lot 1 DP 590429
	134 East Street	Lot 5 DP 247907
	136 East Street	Lot 4 DP 247907
	140 East Street	Lot 2 DP 247907
	142 East Street	Lot 1 DP 247907
CATEGORY 3		
Cartwrights Hill	16 Cooramin Street	Lot 11 DP 259770
	24 Old Bomen Road	Lot 2 DP 415023
	355 Hampden Avenue	Lot 2 DP 567848
	369 Hampden Avenue	Lot 1 DP 567848
	400 Hampden Avenue	Lot 2 DP 1251563
	403 Hampden Avenue	Lot 332 DP 1222713
	407 Hampden Avenue	Lot 331 DP 1222713
	417 Hampden Avenue	Lot 1 DP 734976
	420 Hampden Avenue	Lot 6 DP 793950
Byrnes Road area	111 Byrnes Road	Lot 7 DP 238566
	117 Byrnes Road	Lot 6 DP 238566
	121 Byrnes Road	Lot 5 DP 238566
	126 Byrnes Road	Lot 1 DP 815458
	128 Byrnes Road	Lot 2 DP 815458
	135 Byrnes Road	Lot 4 DP 238566
	136 Byrnes Road	Lot 3 DP 815458



	145 Byrnes Road	Lot 3 DP 238566
	150 Byrnes Road	Lot 4 DP 815458
	155 Byrnes Road	Lot 2 DP 238566
	162 Byrnes Road	Lot 5 DP 815458
	168 Byrnes Road	Lot 7 DP 830963
	171 Byrnes Road	Lot 1 DP 238566
CATEGORY 4		
Cartwrights Hill	144 East Street	Lot 3 DP 631632
	48 Cooramin Street	Lot 25 DP 2655
	371 Hampden Avenue	Lot 28 DP 2655
	375 Hampden Avenue	Lot 29 DP 2655
	389 Hampden Avenue	Lot 30 DP 2655
	390 Hampden Avenue	Lot 18 DP 2655
	393 Hampden Avenue	Lot 31 DP 2655
	401 Hampden Avenue	Lot 32 DP 2655
	404 Hampden Avenue	Lot 1 DP 865515
	411 Hampden Avenue	Lot 2 DP 734976
	416 Hampden Avenue	Lot 15 DP 2655
	23 Horseshoe Road	Lot 21 DP 869917
CATEGORY 5		
Byrnes Road area	59 Hillary Street	Lot 101 DP 1095889

