



Snowy Valleys Council

PLANNING PROPOSAL

TUMUT LEP 2012 (AMENDMENT NO.5)

LEP Amendment to Provide Additional Industrial Land in the
Town of Tumut

May 2018

(As Amended July 2019 to Comply with Gateway
Determination)

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Part 1 – Objectives

The objective of the amendment is to rezone two areas of RU1 and RU3 land in the Town of Tumut to IN1 to facilitate its further development for industrial purposes.

Part 2 – Explanation of the Provisions

To achieve the objective outlined in Part 1, this planning proposal seeks to:

1. Rezone Lot 100 DP 1040583, Lot 5 DP 1178042 and Lots 1, 2 and 3 DP 1042001 from RU1 and RU3 to IN1;
2. Rezone those parts of Lot 1 DP 197308, Lot 3 DP 1041444 and Lots 61, 62, 94 and 140 DP 757252 that are not subject to significant environmental or physical constraints, from RU1 to IN1 in order to facilitate development of the Gilmore Industrial Estate;
3. Apply a 2 hectare lot size to the land zoned IN1; and
4. Insert a new clause 4.1B into Tumut LEP 2014 to facilitate the subdivision of split zoned land at the urban - rural interface:

4.1B Minimum lot sizes for certain split zones

- (1) The objectives of this clause are:
 - (a) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1, and
 - (b) to ensure that the subdivision occurs in a manner that promotes suitable land uses and development.
- (2) This clause applies to each lot (an **original lot**) that only contains:
 - (a) land in a residential, business or industrial zone, and
 - (b) land in Zone RU1 Primary Production, Zone RU4 Primary Production Small Lots or Zone E3 Environmental Management.
- (3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the **resulting lots**) if:
 - (a) one of the resulting lots will contain:
 - (i) land in a residential, business or industrial zone that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, and
 - (ii) all of the land in Zone RU1 Primary Production, Zone RU4 Primary Production Small Lots or Zone E3 Environmental Management that was in the original lot, and
 - (b) all other resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.

Part 3 – Justification

Background

When the Tumut Shire Growth Strategy and new Shire-wide LEP project was commenced, it was intended that several incomplete LEP amendments were to be discontinued and replaced by a new comprehensive amendment. The comprehensive amendment ultimately became Tumut LEP 2012 (Amendment No. 3).

One of those discontinued amendments was Tumut LEP 1990 Amendment No.24, which was intended to provide additional Industrial land in the town of Tumut. Due to the location of Tumut between conservation land and flood prone land, there is very little additional land suitable for industrial use.

A comprehensive investigation of industrial land use needs was carried out prior to Council making a decision on the land to be rezoned and a Local Environmental Study was prepared for the land identified as suitable for industrial development.

This included land on the western side of the Snowy Mountains Highway occupied by the Gilmore Timber Mill and land on the eastern side occupied by Bellettes landfill and adjoining Council owned land (including Council's waste recovery centre). The proposal at that time was to enable a subdivision for the creation of standard sized industrial lots ranging from 1,500 m² to 1 ha.

The proposal was placed on public exhibition in 2007 but, ultimately, OEH objected to the rezoning of some of the land on the eastern side of the highway and required extensive Biodiversity and Aboriginal Cultural Heritage studies to be carried out.

The time delay and cost of carrying out the required studies was deemed by Council at the time to be unreasonable and the proposal was abandoned in favour of retaining Industry as a use permissible with consent in the RU1 zone.

Unfortunately, when Amendment No.24 was abandoned, so was the housekeeping component, that being the rezoning of the Gilmore Timber Mill (now operated by Carter Holt Harvey) from RU3 Forestry to IN1 General Industrial. This mill was established in the 1960's on State Forest land and has operated continuously since then. In the intervening years, State Forests sold the site to the operators but the zoning has stayed RU3.

Council is now faced with the situation where it is not the consent authority for development on the site and State Forests is reluctant to continue in that role as they no longer own the land. State Forests has no objection to the land being rezoned and Council desires to correct this anomaly.

With regard to the land on the eastern side of the Snowy Mountains Highway, Council's current aim of developing a large-lot (2 ha+) industrial estate at Gilmore would be best served by the land being zoned IN1. This land was included in the abandoned Tumut LEP Amendment No.24 and the proposal is essentially to revive that proposal in a form acceptable to Office of Environment and Heritage (OEH) and in line with an identified need for large industrial lots suitable for road transport operators in particular.

The 2000 study "Tumut and Industry" (Attachment 6) investigated the need for additional industrial land in Tumut and compared 6 possible locations. The study concluded that Council should start the process to provide for additional industrial land and that the Gilmore site was the most appropriate. In the subsequent 18 years, almost all of the then available industrial land has been developed.

Figure 20 shows the current Tumut industrial area and the developed and undeveloped land. The only vacant land left is former Railway Land fronting Adelong Road (Snowy Mountains Highway), where the lots are irregular and difficult to develop for any large industry. The undeveloped land accounts for only 3.6% of Tumut town's industrial land.

Council has commenced negotiations to purchase all of the land to be rezoned on the Eastern side of the Snowy Mountains Highway with a view to developing the Gilmore Industrial Estate.

Attachment No.7 is a "Growing Local Economies" application by Council. It seeks NSW Government assistance for the construction of the Gilmore Industrial Estate. The application details the prospective development in the town and provides a commercial justification for development of the Estate. Briefly, the economy of Tumut is underpinned by forestry and timber processing, with the majority of industrial use of land being for the mills or industries that provide services to the mills.

The Visy paper mill is in the process of expanding production and this is creating demand for industrial expansion, particularly in the transport logistics area. In addition, the Snowy 2.0

proposal has created interest from potential construction contractors for sites (most of the proposed works are within the Snowy Valleys Local Government Area).

The proposed new clause 4.1B is a consequential amendment that follows from zoning boundaries being aligned to constraints rather than property boundaries. It is an agreed clause used in other recent LEPs.

At its 27th July 2017 Ordinary Meeting, Council considered a report on the subject land and resolved to prepare this Planning Proposal to rezone it to IN1 General Industrial.

Issues raised by the NSW Office of Environment and Heritage

Areas 2a and 2b are referred to in the 2007 submission from the then Department of Environment and Climate Change (DECC).

Submission comments made in respect of Area 2a were as follows:

'Notwithstanding the need for a proper Archaeological survey for items of Aboriginal heritage, DECC has no objection to the re-zoning of this area to Industrial 4(a)... The assessment of any subsequent Development Application would need to

- take into account any potential impacts on Aboriginal heritage.*
- ensure that the number of native trees on the site, and their size classes, are quantified so that offsets for these trees can be provided for within the context of the greater Tumut urban / industrial growth area.'*

With regard to Area 2b DECC objected to the rezoning of this area but did state the following:

'The Master Plan for the Gilmore Site (Resolve Planning, August 2005) sets out a proposed subdivision layout for approximately 50 industrial lots ranging in size from 1,500m² to 10,000 m². These appear to be well-sited, avoiding both the watercourses and drainage lines, and almost all of the existing treed vegetation. If this is indeed to be the ultimate scope of the industrial development that is proposed for the site, then DECC considers that it would be more appropriate for the re-zoning proposal to be confined solely to the area covered by these proposed allotments.'

The Planning Proposal (Amendment No. 5) proposes to rezone a smaller area of land in both Areas 2a and 2b which is more in line with the comments of the then DECC.

Strategic

The proposed rezoning is the result of a strategic planning process that has taken place over many years as detailed below.

Section A – Need for the Planning Proposal

Description	1. Is the planning proposal a result of any strategic study or report?	2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?
<p>Land at Gilmore to be rezoned from RU1 and RU3 to IN1</p>	<p>Yes. The 1988 Tumut Rural Local Environmental Study and Urban Strategy identified the Gilmore Valley as the preferred site for future industrial development.</p> <p>The 1998 Industrial Land Study developed a strategy to deal with an estimated shortfall in industrial land.</p> <p>In 2000, a Planning Directions Study (attachment 6) identified various options for Industrial land based on previous studies. This included an assessment of six possible sites for industrial development adjacent to the Town of Tumut. At its 6th February 2001 Ordinary meeting, Council resolved (among other things) to rezone the subject land to Future Industrial.</p> <p>As a consequence of the above reports, Council adopted an Industrial Strategy in 2001 and commissioned the “Future Industrial Land Tumut and Gilmore Environmental Study” (attachment 5) to provide a detailed assessment of the land identified for industrial use.</p> <p>The land in this Planning Proposal is the major part of the land assessed in that Environmental Study.</p> <p>Council has determined to develop the Gilmore Industrial Estate and has submitted a proposal under the NSW Government’s “Growing Local Economies program.</p>	<p>Yes. While it would be possible to develop the RU1 land for Industry without rezoning it to IN1, the Planning Proposal is the most appropriate way to achieve the aim of developing an industrial estate. With regard to the land zoned RU3, there are no other methods available to achieve the intended objectives and outcomes other than to rezone it.</p>

Section B – Relationship to Strategic Planning framework

Description	3. Is the planning proposal consistent with applicable regional or sub-regional strategy?	4. Is the Planning Proposal Consistent with the Council's Community Strategic Plan or other strategic plan?	5. Is the planning proposal consistent with applicable State Environmental Planning Policies?	6. Is the Planning Proposal consistent with applicable Section 9.1 Ministerial Directions (former s.117 directions)?
<p>Land at Gilmore to be rezoned from RU1 and RU3 to IN1</p>	<p>The Planning Proposal is consistent with the Riverina Murray Regional Plan Directions 1, 3, 4, 9, 15, 16, 17, 18, 22, 23 and 29 in that it:</p> <ul style="list-style-type: none"> - does not adversely impact productive agricultural land - provides manufacturing value added possibilities - includes business activities on industrial zoned land - supports processing associated with the forestry industry - does not impose upon 	<p>The Planning Proposal is consistent with the Tumut Shire Community Plan 2010 – 2020 and the Tumut Shire Growth Strategy 2013 - 2033.</p>	<p>SEPP No. 55 applies to the land. A timber preservation plant is located on Lot 100 DP 1040583. However, the use of the land is not proposed to change and the uses permitted in the proposed IN1 zone are not sensitive to the level of possible contamination.</p> <p>The preservation plant is scheduled premises under the control of the EPA</p>	<p>Refer to the Table below headed: "Consideration of Section 9.1 Ministerial Directions"</p>

Description	3. Is the planning proposal consistent with applicable regional or sub-regional strategy?	4. Is the Planning Proposal Consistent with the Council's Community Strategic Plan or other strategic plan?	5. Is the planning proposal consistent with applicable State Environmental Planning Policies?	6. Is the Planning Proposal consistent with applicable Section 9.1 Ministerial Directions (former s.117 directions)?
	<p>environmental assets</p> <ul style="list-style-type: none"> - locates industrial zoned land to reduce exposure to natural hazards - is located to take advantage of existing major transport links - locates industrial land on the edge of Tumut so access to infrastructure is provided - ensures aboriginal heritage would be addressed 			

Section C – Environmental, Social and Economic Impact

Description	7. 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?	8. Are there any other likely environmental effects as a result of the planning proposal and how are they to be managed?	9. How has the planning proposal adequately addressed any social and economic effects?
Land at Gilmore to be rezoned from RU1 and RU3 to IN1	No, given the land has been cleared and developed for industry and grazing.	Land containing significant native vegetation and terrestrial biodiversity has been excluded from the land to be rezoned. There are no significant environmental effects expected from the planning proposal.	The strategic planning process leading to this Planning Proposal investigated and assessed the social and economic effects of creating a new industrial estate in the Gilmore locality.

Section D – State and Commonwealth Interests

Description	10. Is there adequate public infrastructure for the planning proposal?	11. What are the views of the State and Commonwealth public Authorities consulted in accordance with the Gateway determination?
Land at Gilmore to be rezoned from RU1 and RU3 to IN1	<p>The Planning Proposal seeks to rezone an area already containing significant industrial development and this land is currently served by essential infrastructure.</p> <p>Reticulated town water, natural gas and electricity are already available to the land and sewerage can and will be provided.</p> <p>The planning proposal will not significantly increase the demand on existing infrastructure beyond its current capacity.</p>	<p>The preparation of the Planning Proposal followed consultation with public authorities during the formulation of the Tumut Shire Growth Strategy and the previous industrial studies and Strategy.</p> <p>Relevant State and Commonwealth authorities will be further consulted once the Gateway determination has been issued and approval is granted to proceed further with the planning proposal.</p>

Consideration of Section 9.1 (former s.117) Ministerial Directions

The planning proposal is consistent with the applicable Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act as shown in the below table:

Section 9.1 Ministerial Directions

Applicable Ministerial Direction	Land at Gilmore to be rezoned from RU1 and RU3 to IN1	Consistent
EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	<p>The Strategic planning process that led to this Planning Proposal has taken into account the objectives of this direction. The Industrial Lands Strategy and 2002 Environmental Study have not been formally endorsed by the Department but were previously approved for public exhibition in Tumut LEP 1990 Amendment No.24.</p> <p>The proposed lot size of 2 ha is designed to encourage the relocation of large scale land utilising industries (particularly transport and plant depots) from the existing Tumut Industrial Area, thus freeing up smaller lots for more intensive industrial use.</p>	Yes
1.2 Rural Zones	<p>Justifiably inconsistent. The land affected by this Planning Proposal is currently zoned RU1 Primary Production and RU3 Forestry under Tumut LEP 2012 and it is proposed to change the zone to IN1 General Industrial with a Lot Size of 2 ha. A strategic planning process was carried out establishing the need for the rezoning. An Environmental Study was prepared that gives consideration to the objectives of this direction and was approved for public exhibition with Tumut LEP 1990 (Amendment No. 24). No new study has been prepared for this Planning Proposal.</p>	No
1.5 Rural Lands	<p>This direction is relevant in that the Planning Proposal affects</p>	No

	<p>specific rural land. However, as that land is proposed to be rezoned to IN1, the provisions of SEPP (Rural Lands) 2008 will not be relevant.</p> <p>The proposed new clause 4.1B will facilitate the excision of urban zoned land from rural land at the urban/rural interface.</p> <p>The proposal is broadly consistent with the intent of this direction. Any provisions of the planning proposal that are inconsistent are acceptable as the extent of inconsistency is of minor significance.</p>	
ENVIRONMENT AND HERITAGE		
<p>2.1 Environmental Protection Zones</p> <p>The planning proposal must include provisions that facilitate protection of environmentally sensitive areas.</p> <p>Must not reduce protection standards for environmental protection zones.</p>	<p>This planning Proposal does not affect land within Environmental Protection zones and Land Identified as environmentally sensitive in Tumut LEP 2012 has, wherever possible, been excluded from the land proposed to be rezoned. No Environmental Protection Zones are proposed in this Planning Proposal as it would result in small, isolated, areas so zoned. Council will carry out Biodiversity surveys required by the Office of Environment and Heritage.</p> <p>It should be noted that the area of Riparian Lands and Watercourses traversing Lot 100 DP 1040583 and Lot 5 DP 1178042 (Figure 17) is an ephemeral creek that has been channelled and piped through the Timber Mill site.</p>	Yes
<p>2.3 Heritage Conservation</p> <p>The planning proposal must incorporate provisions for the conservation of post European and Aboriginal cultural heritage items and places.</p>	<p>Tumut LEP 2012 already contains provisions for the conservation of post European and Aboriginal cultural heritage. Council will carry out Aboriginal cultural heritage surveys as required by the Office of Environment and Heritage.</p>	Yes

HOUSING INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.4 Integrating Land Use and Transport	<p>Relevant as this proposal will create an urban zone (IN1). The RMS has been consulted during preparation of the proposal, with particular attention given to the efficient movement of freight and the design of the future subdivision of the land.</p> <p>Transport and travel issues were addressed in the 2002 Environmental Study. The proposal is consistent with Direction 17 of the Riverina Murray Regional Plan</p>	Yes
HAZARD AND RISK		
4.3 Flood Prone Land	<p>Council has mapped alluvial soils as an indicator of potential flood prone land (Figure 13). Generally, the alluvial land is located to the west of the disused Tumut – Cootamundra Railway line and outside of the area to be rezoned. The land occupied by the Timber Mill is known to be flood free.</p>	Yes
4.4 Planning for Bushfire Protection	<p>Part of the land is bush fire prone (Figure 12) and the Rural Fire Service will be consulted after a Gateway Determination is issued. It is Council's intention to comply with Planning for Bushfire Protection 2006.</p>	Yes
5. REGIONAL PLANNING		
5.10 Implementation of Regional Plans	<p>Directions 1, 3, 4, 9, 15, 16, 17, 18, 22, 23 and 29 of the Riverina Murray Regional Plan are relevant and the Planning Proposal is consistent with those Directions.</p>	Yes
6. LOCAL PLAN MAKING		
6.1 Approval and Referral Requirements	<p>Consistent as the planning proposal does not include any concurrence, consultation or referral requirements</p>	Yes

Part 4 – Mapping

The following maps show the location of the land affected and the current and proposed zoning and lot size in relation to surrounding land. Maps showing the land constraints are also provided.

Council requests that as these maps are sufficiently detailed for public exhibition purposes, maps consistent with the Department's Technical Guidelines not be prepared until finalisation of the LEP.

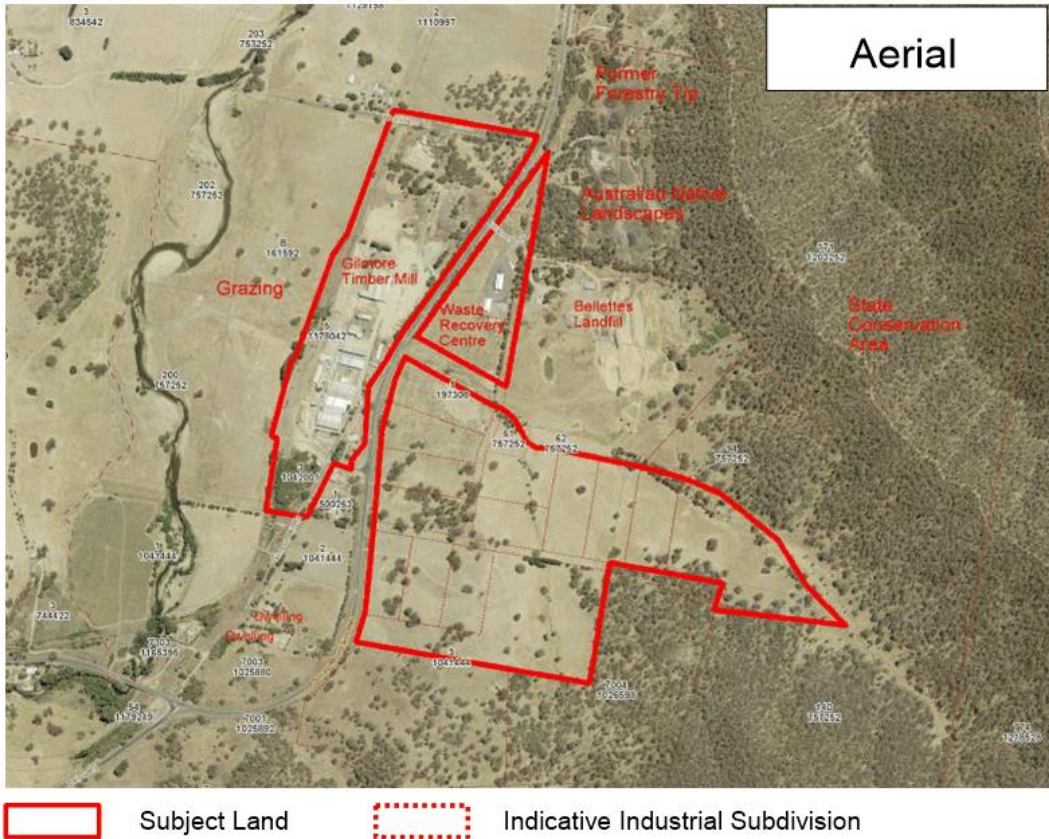


Figure 1. Aerial view of subject land

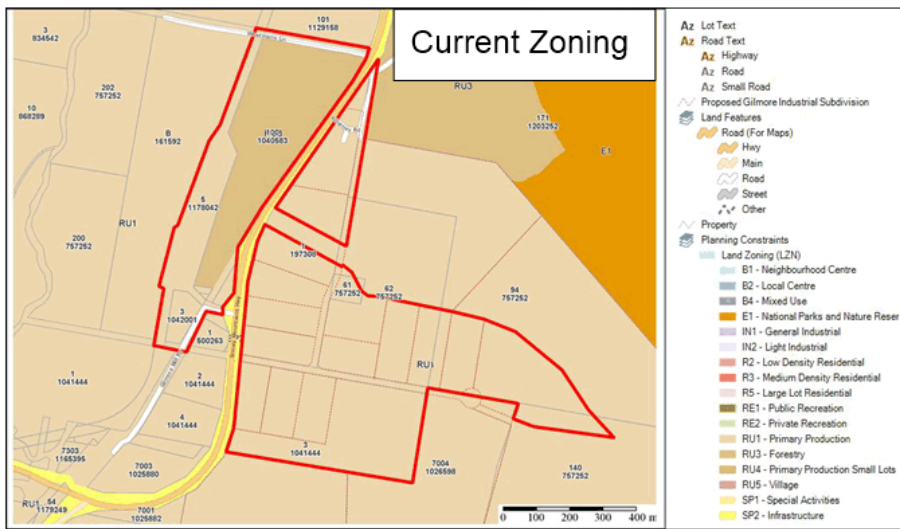


Figure 2. Current Zoning

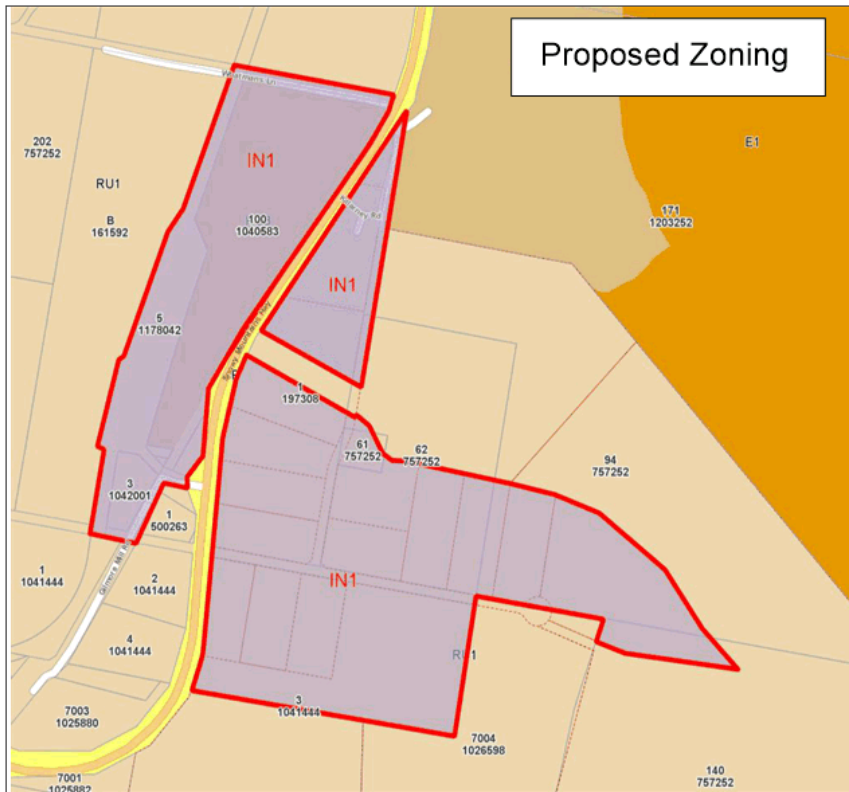


Figure 3. Proposed Zoning

Current Lot Size

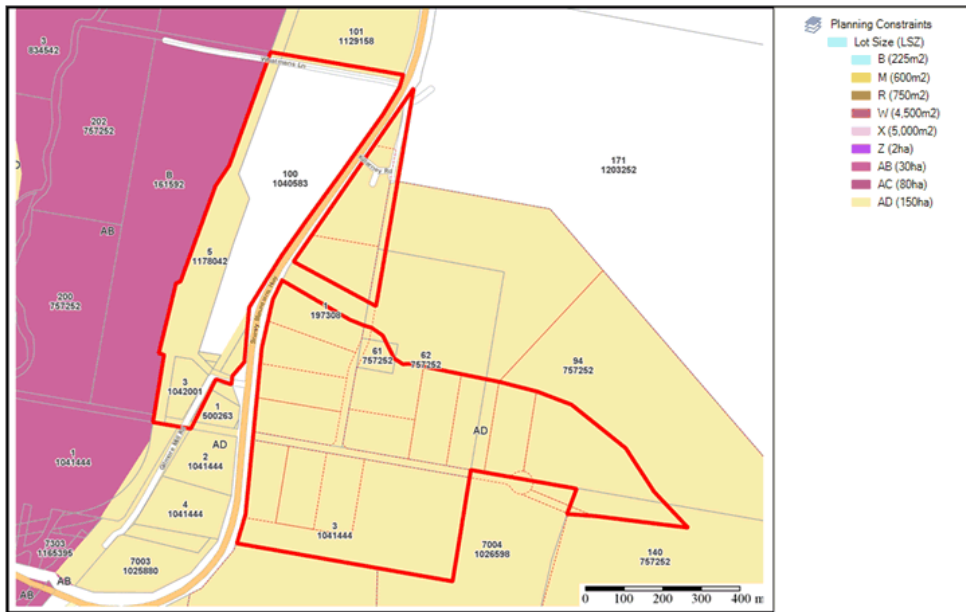


Figure 4, Current Lot Size

Proposed Lot Size

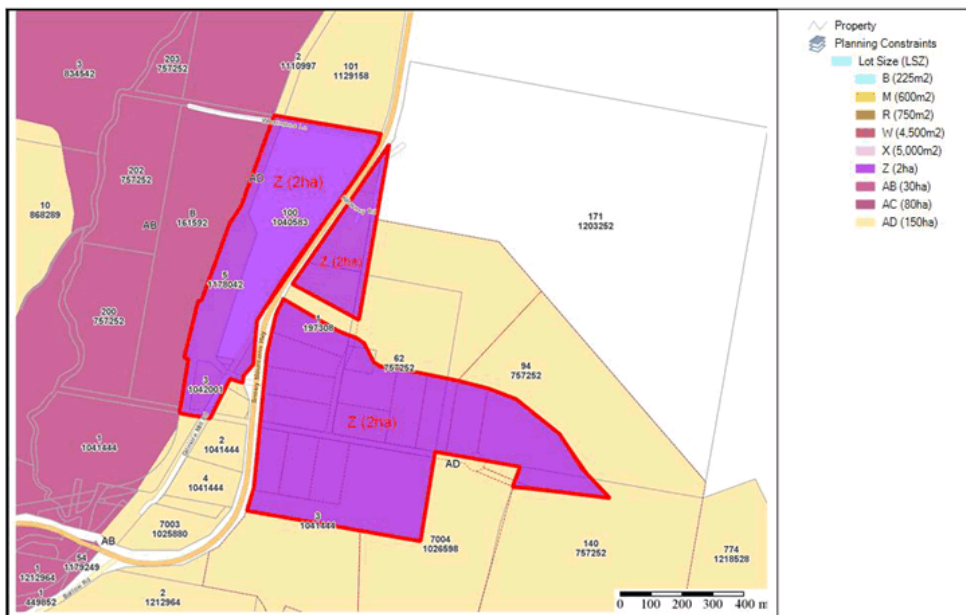
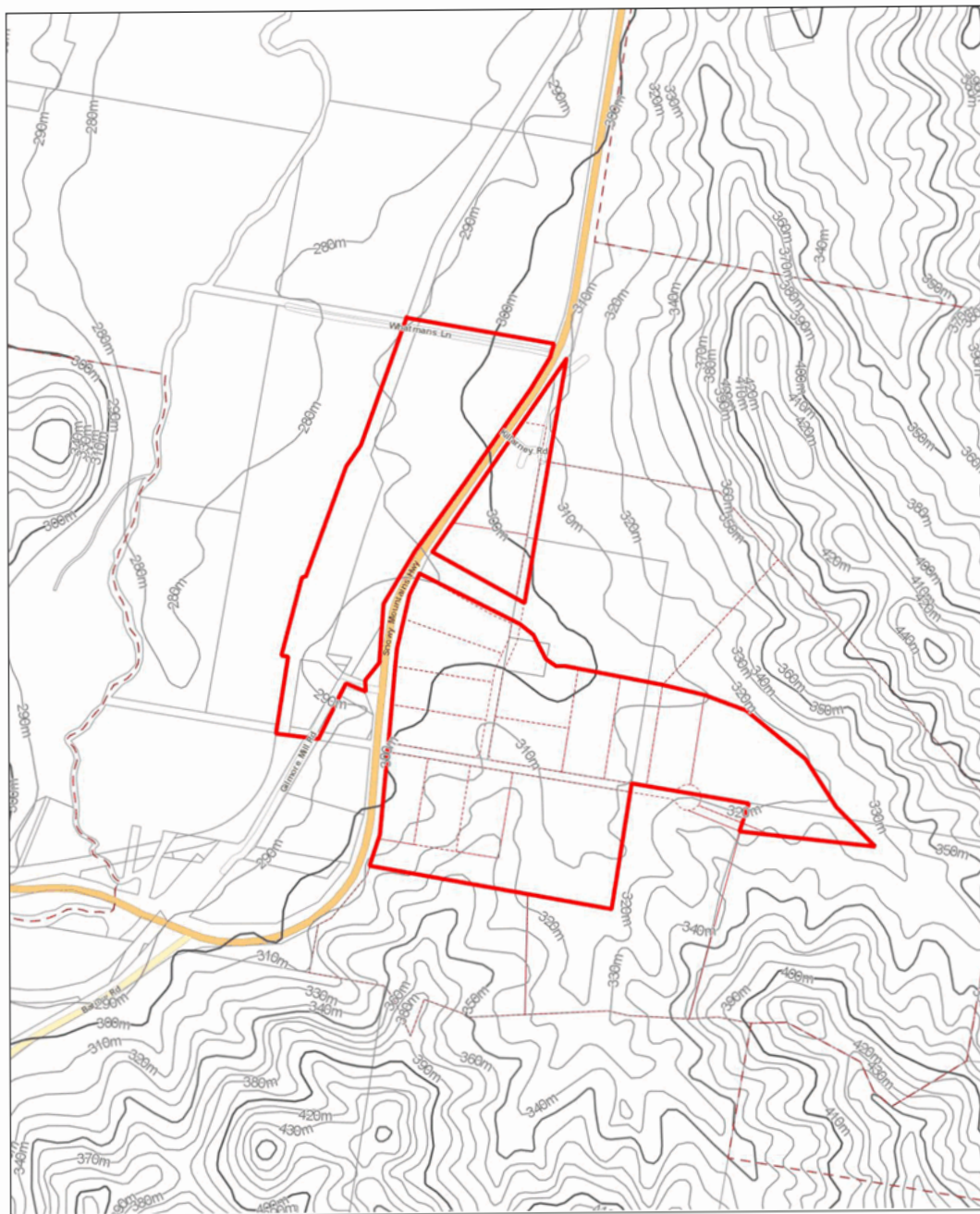


Figure 5, Proposed Lot Size



 Subject Land

Figure 8, Contours (10m)

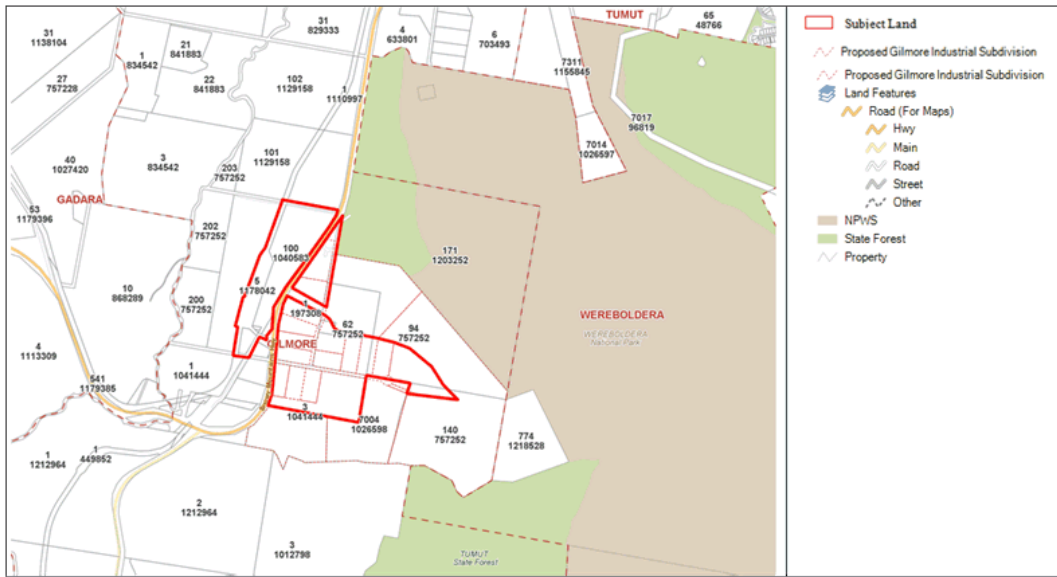


Figure 9, National Park, State Forest and State Highway

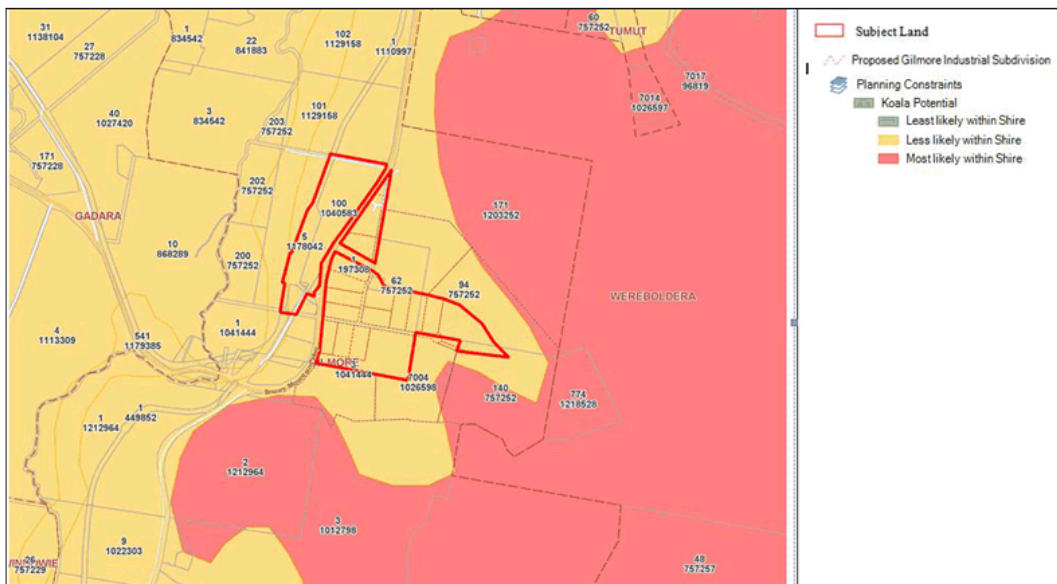


Figure 10, Koala Potential

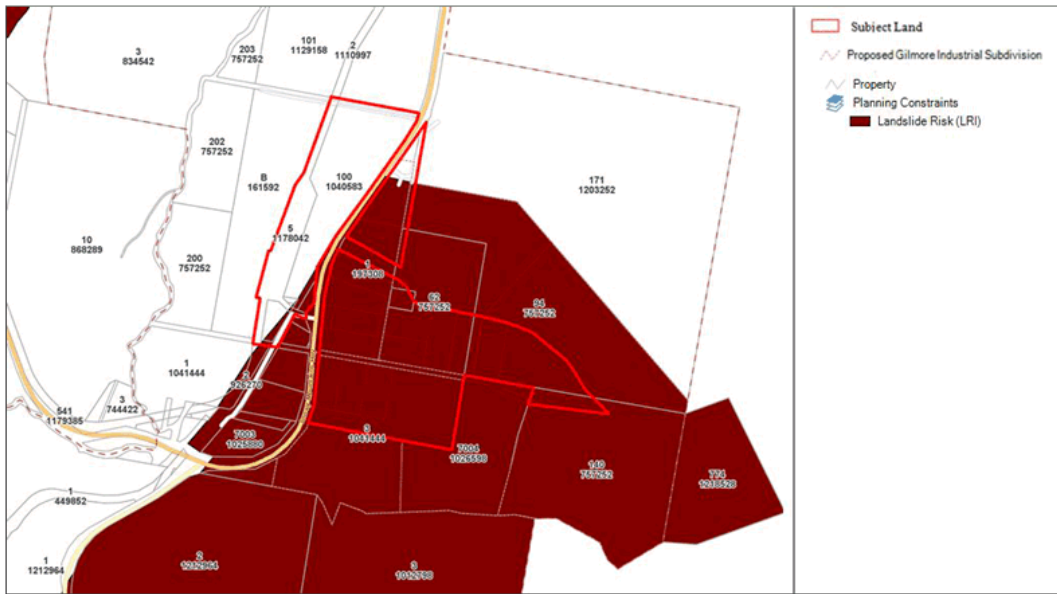


Figure 15, Landslide Risk

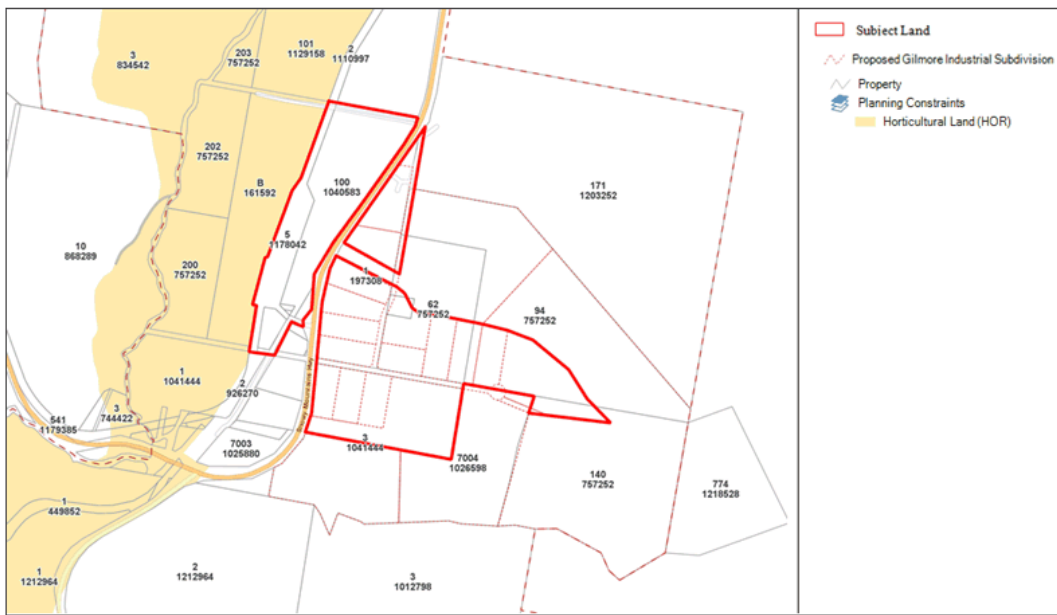


Figure 16, Horticultural Land

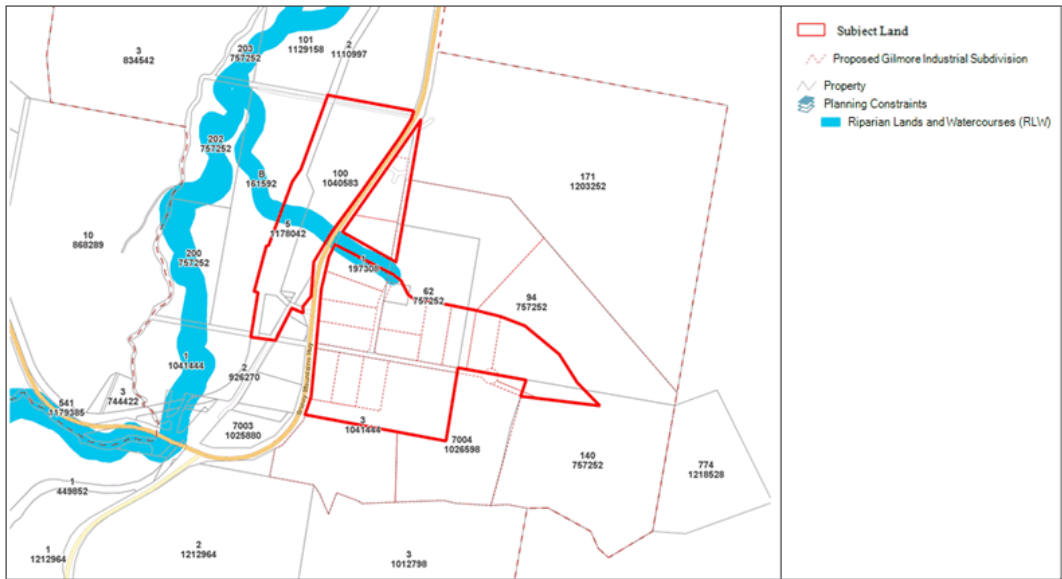


Figure 17, Riparian Lands and Watercourses



Figure 18, Terrestrial Biodiversity

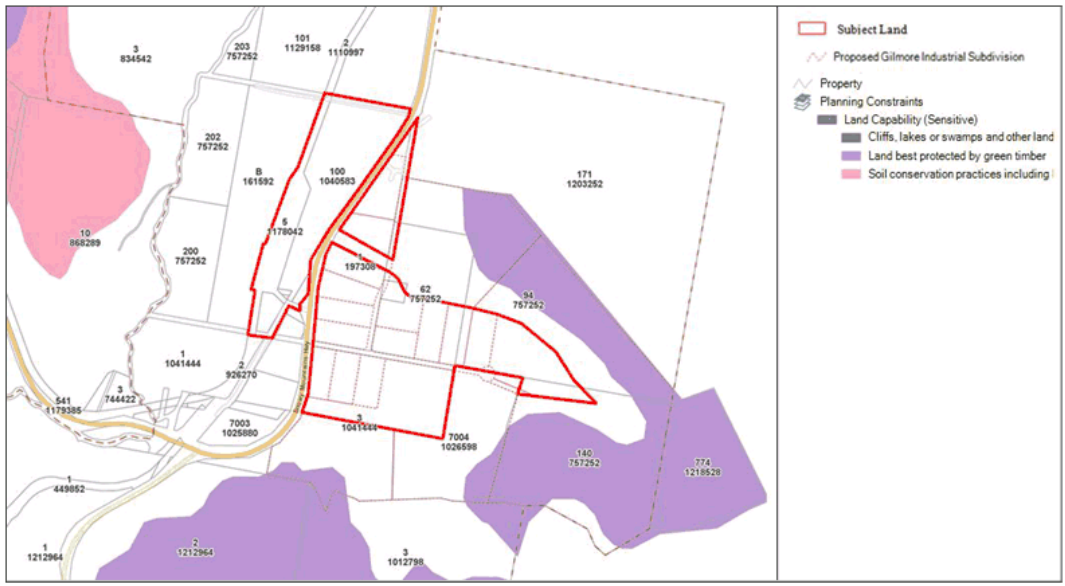


Figure 19, Land Capability (sensitive)

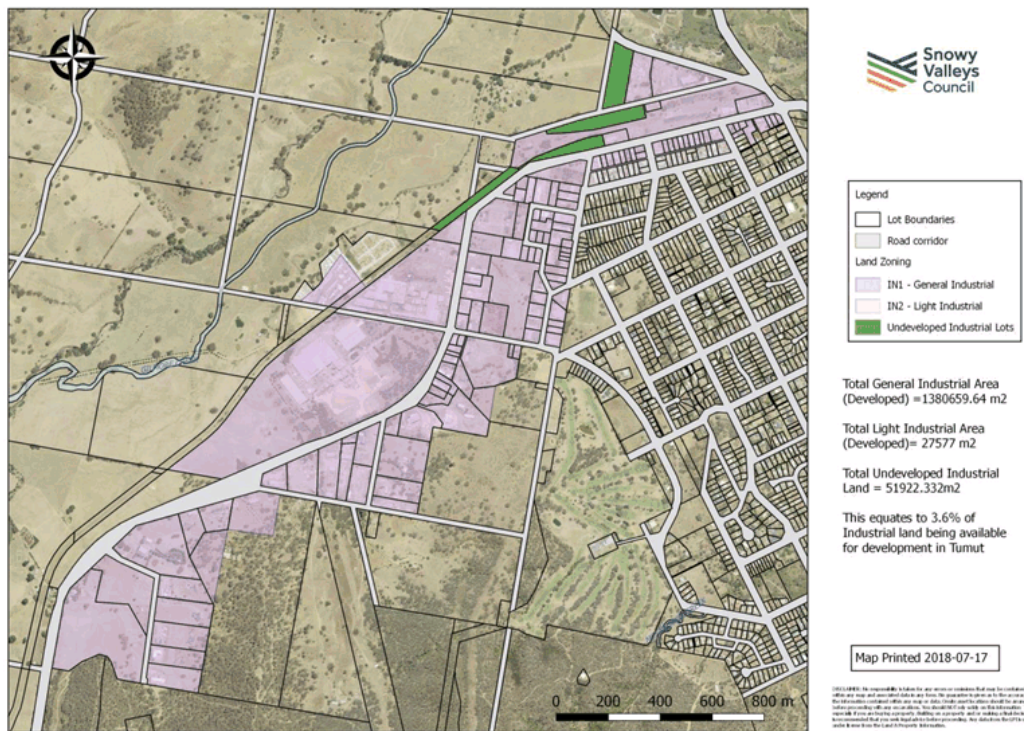


Figure 20, Existing Tumut Industrial Land, showing extent and utilisation rate.

The following maps, listed in the Table below, are proposed for amendment once approval to proceed is issued under the Gateway Determination.

Lot Size Maps	
LSZ_003B	7500_COM_LSZ_003B_020_20161108
Land Zoning Maps	
LZN_003B	7500_COM_LZN_003B_020_20161108

Part 5 – Community Consultation

Community consultation will be undertaken in accordance with The Department's guidelines and instructions under the Gateway Determination. As is Council's normal practice, the Proposal will be placed on Council's website and notified in the local newspaper, the "Tumut and Adelong Times". All affected and adjacent landowners will be notified by letter and invited to make a submission.

In this instance, as the proposed zoning change from Rural to Industrial has the potential to affect the character of the locality, Council considers that a 28-day period of exhibition would be appropriate.

Part 6 – Project Timeline

Task	Anticipated Timeline
Gateway Determination	20th July 2018
Agency Consultation	25 th July 2019
Public Exhibition Period	19 th August – 23 rd September 2018
Report to Council on Planning Proposal including consideration of submissions	November 2019
Submission to Department to Finalise the LEP	December 2019

Attachments

1. Council Report – 27 July 2017
2. Council Report 6th February 2001 – Future for Industrial Land
3. Council Report 20th February 2001 - Industrial Strategy
4. Tumut and Gilmore Industrial LES 2002
5. Gilmore Industrial Estate 2005 Masterplan Draft
6. Government Submissions 2007



Gateway Determination

Planning proposal (Department Ref: PP_2018_SVALL_001_00): to amend the Tumut LEP 2012 by rezoning land currently zoned RU1 Primary Production and RU3 Forestry to IN1 General Industrial with 2 a hectare minimum lot size and inserting a new LEP clause to facilitate the subdivision of split zoned land.

I, the Director Regions, Southern at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Tumut Local Environmental Plan (LEP) 2012 to rezone land currently zoned RU1 Primary Production and RU3 Forestry to IN1 General Industrial with a 2 hectare minimum lot size and insert a new LEP clause to facilitate the subdivision of split zoned land should proceed subject to the following conditions:

1. The planning proposal shall be updated prior to community consultation to include an assessment of the planning proposal's consistency with the Riverina Murray Regional Plan 2036.
2. The planning proposal shall be updated prior to community consultation to clearly state whether the proposal is consistent with relevant 9.1 Ministerial Directions.
3. The planning proposal shall be updated prior to community consultation to include additional information in relation to how Council has addressed the issues raised by the NSW Office of Environment and Heritage when the subject land was proposed to be rezoned in 2007.
4. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 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 section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
5. Consultation is required with the following public authorities / organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - NSW Rural Fire Service;
 - NSW Department of Primary Industries (Agriculture);
 - NSW Office of Environment and Heritage; and

PP_2018_SVALL_001_00 (IRF18/3366)



- NSW Roads and Maritime Services.

Consultation with the NSW Rural Fire Service and NSW Office of Environment and Heritage is to be undertaken prior to community consultation.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

6. 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).
7. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - a. the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - b. the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - c. there are no outstanding written objections from public authorities.
8. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 16th day of August 2018.

A handwritten signature in blue ink, appearing to read 'Jonathan Ross'.

**Director Regions, Southern
Planning Services
Department of Planning and Environment**

Delegate of the Minister for Planning

PP_2018_SVALL_001_00 (IRF18/3366)



Planning,
Industry &
Environment

Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2018_SVALL_001_01)

I, Director Southern Region, Local and Regional Planning at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 16 August 2018 (since altered) for the proposed amendment to the Tumut Local Environmental Plan 2012 as follows:

1. Delete:

“condition [8]” The timeframe for completing the LEP is to be 12 months following the date of the Gateway determination

and replace with:

a new condition [8]: The timeframe for completing the LEP is to be 24 months following the date of the Gateway determination

Dated 2nd day of September 2019.

A handwritten signature in black ink, appearing to read 'Sarah Lees'.

Sarah Lees
Director Southern Region
Local and Regional Planning
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning
and Public Spaces

PP_2018_SVALL_001_01 (IRF 19/5740)



OUT19/10504

Strategic and Statutory Planner
Snowy Valleys Council
76 Capper St,
Tumut, NSW 2720

Dear

Planning proposal [PP_2018_SVALL_001_00] to amend Tumut Local Environmental Plan 2012 (Amendment No.5)

Following your recent emails the Planning Proposal and specifically Clause 4.1B has been further reviewed.

The NSW Department of Primary Industries (NSW DPI) Agriculture is committed to the protection and growth of agricultural industries and the land and resources upon which these industries depend.

As per the earlier correspondence DPI Agriculture has generally supported the Planning Proposal to rezone the specified Lots from RU1 and RU3 to IN1. This support was based on the strategic planning justification provided for the need for more industrial zoned land and the studies undertaken over a number of years for the proposed Gilmore Industrial Estate. However none of the documents provided include any study/strategy that would justify the application of the proposed Clause 4.1B to other unspecified Lots on the rural –urban interface of Tumut.

The DPI Ag position remains that the new clause 4.1B should only be applicable to the specific Lots identified (Lot 100 DP 1040583, Lot 5 DP 1178042, Lots 1, 2 and 3 DP 1042001, Lot 1 DP 197308, Lot 3 DP 1041444, and Lots 61, 62, 94 and 140 DP 757252). It should **not** be generally applicable for any other land at the urban - rural interface without an up-to-date strategic basis.

Should you require clarification on the information contained in this response, please contact

Yours sincerely

A handwritten signature in black ink, appearing to be 'L. R.', written over a white background.

**Agricultural Land Use Planning
17-12-19**

1

NSW Department of Primary Industries - Agriculture
Locked Bag 21, Orange NSW 2800 | 161 Kite St, Orange NSW 2800
Tel:02 6391 3369| Email: landuse.ag@dpi.nsw.gov.au | www.dpi.nsw.gov.au | ABN: 72 189 919 072



NSW RURAL FIRE SERVICE



The General Manager
Snowy Valleys Council
76 Capper Street
TUMUT NSW 2720

Your reference: PP_2018_SVALL_001_00
Our reference: R19/162
DA19081420018 BB

Attention:

2 September 2019

Dear Sir/Madam,

Planning Proposal - Amend Tumut Local Environmental Plan 2012 (Amendment No.5)

Reference is made to Council's correspondence dated 13 August 2019 seeking comment in relation to the above Planning Proposal which seeks to amend the Tumut Local Environment Plan 2012 (Tumut LEP 2019) and rezone two areas of RU1 and RU3 land in the town of Tumut to IN1 to facilitate its further development for industrial purposes.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the proposal with regard to Section 4.4 of the directions issued in accordance with Section 9.1 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

The objectives of the direction are:

- (a) *to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and*
- (b) *to encourage sound management of bush fire prone areas.*

The direction provides that a planning proposal must:

- (a) *have regard to Planning for Bushfire Protection 2006,*
- (b) *introduce controls that avoid placing inappropriate developments in hazardous areas, and*
- (c) *ensure that bushfire hazard reduction is not prohibited within the APZ.*

Based upon an assessment of the information provided, the NSW RFS raises no objection to the proposal. With regards to subsequent development of the site, please note, commercial and industrial development on Bush Fire Prone Land (BFPL) is captured by section 4.14 of the EP&A Act where a manager's residence is included in the proposal. Where no residential component is included, commercial and industrial development is addressed through the aim and objectives of *Planning for Bushfire Protection 2006*.

Postal address

NSW Rural Fire Service
Planning and Environment Services
Locked Bag 17
GRANVILLE NSW 2141

Street address

NSW Rural Fire Service
Planning and Environment Services (East)
4 Murray Rose Avenue
Sydney Olympic Park NSW 2127

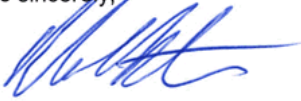
T 1300 NSW RFS
F (02) 8741 5433
E records@rfs.nsw.gov.au
www.rfs.nsw.gov.au



If you have any queries regarding this advice, please contact
Planning Officer, on 1300 NSW RFS.

, Development Assessment and

Yours sincerely,



Acting Team Leader, Development Assessment and Planning
Planning and Environment Services (South)



Our ref: DOC19-873239
Senders ref: PP_2018_SVALL_001_00

Snowy Valleys Council
76 Capper Street
TUMUT NSW 2720

Via email:

14 October 2019

Dear

Subject: Planning proposal – Tumut Local Environment Plan 2012 Amendment No. 5

Thank you for your email dated 9 October 2019 about the above planning proposal seeking comments from the Biodiversity and Conservation Division of the Department of Planning, Industry and Environment (the Department).

The Biodiversity and Conservation Division was formerly part of the Office of Environment and Heritage (OEH). It forms part of the new Environment, Energy and Science Group in the Department (see <https://intranet.dpie.nsw.gov.au/>). The Environment, Energy and Science Group works to protect and strengthen NSW's natural environment by managing the conservation of our environment and energy resources. We support the community, as well as business and government, in developing their ability to achieve these outcomes.

The Biodiversity and Conservation Division has statutory responsibilities relating to biodiversity (including threatened species, populations, ecological communities, or their habitats), Aboriginal cultural heritage and flooding. For matters relating to national parks estate matters please refer these to the National Parks and Wildlife Service.

We have reviewed the documents supplied and provide detailed comments in **Attachment A**.

The Biodiversity and Conservation Division recommends that:

- Stage 1 of the Biodiversity Assessment Method be implemented to identify the biodiversity values on the proposal site
- An Aboriginal Cultural Heritage (ACH) Assessment be undertaken to identify ACH values and potential impacts on the proposal site.

If you have any questions about this advice, please do not hesitate to contact _____, Senior Conservation Planning Officer, via _____ or _____.

Yours sincerely

Senior Team Leader Planning
South West Branch
Biodiversity and Conservation Division
Department of Planning, Industry and Environment

ATTACHMENT A BCD comment on Tumut Local Environment Plan 2012 Amendment No. 5 - planning proposal

ATTACHMENT A BCD comment on Tumut Local Environment Plan 2012 Amendment No. 5 - planning proposal

Biodiversity

In 2007, the then Department of Environment and Climate Change (DECC) objected to a planning proposal for the Gilmore area. The proposal was considered to have a significant impact on biodiversity values and DECC stated that parts of the proposed area were more appropriately zoned as E2 Environmental Conservation. That proposal applied to an area with large tracts of intact remnant vegetation, some on steep slopes, drainage lines with riparian vegetation and large trees that may have been part of an Endangered Ecological Community. Consistent with dot point 3 of the recent Gateway Determination (16 August 2018), the current proposal addresses the issues raised in 2007.

The current rezoning proposal is limited to areas that are already developed and show evidence of past agricultural use. There are no large areas of contiguous native vegetation included in the proposal so the major issue from the 2007 proposal regarding impacts on native vegetation, and therefore threatened species habitat, has been addressed.

However, the proposed rezoning areas do contain large trees that may be associated with an Endangered Ecological Community (current vegetation mapping suggests that PCT 268 White Box – Blakely’s Red Gum community occurs on site). While the individual trees and small vegetation patches are separated from the adjacent remnant vegetation, they are still likely to be habitat for the variety threatened species that have been recorded in the vicinity, including several bird species.

The planning process for the proposal area should implement Stage 1 of the Biodiversity Assessment Method (BAM) including the Streamlined Paddock Tree Assessment under the *Biodiversity Conservation Act 2016*. This will identify the biodiversity values on the site, including vegetation communities, threatened species habitat, wetlands and waterways. Vegetation offset obligations for development will be informed by the results of this assessment as they will depend on the nature and condition of the vegetation across the site. Given the proposed rezoning and reduction of minimum lot size to 2 ha, future subdivision or development of some lots may trigger entry into the Biodiversity Offset Scheme, based on the clearing threshold of 0.5 ha.

The masterplan for the area should identify waterways that should be buffered from development, and riparian vegetation associated with these features should be protected.

Aboriginal Cultural Heritage

The current planning proposal will need to be revised to be consistent with Ministerial Directions issued under Section 9.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), specifically direction 2.3 Heritage Conservation (former section 117(2) directions). Direction 2.3 states that planning authorities must ensure that a planning proposal contains provisions that facilitate the conservation of Aboriginal objects and places protected under the *National Parks and Wildlife Act 1974* (NPW Act) (Direction 2.3(4)(b)), and Aboriginal areas, objects, places or landscapes identified as being of heritage significance to Aboriginal culture and people (Direction 2.3(4)(c)).

We note that a previous Environmental Study for future industrial land at Tumut and Gilmore refers to the results of a site walkover for Aboriginal sites for a previous study into industrial land at Tumut and Gilmore in 2002 (Habitat Planning, 2002:71). This significantly predates the current Aboriginal cultural heritage (ACH) assessment processes, including amendments to the NPW Act in 2010. The planning proposal notes Council will carry out Aboriginal cultural heritage surveys as required by the (former) Office of Environment and Heritage (Snowy Valleys Council, 2019:13).

The land subject to the planning proposal investigation contains area of cleared vegetation and areas of existing vegetation. A number of drainage lines pass through or adjacent to the investigation area. Sites on the Aboriginal Heritage Information Management System (AHIMS) have been recorded within 5 km of the investigation area, including scarred trees and artefact sites.

Due diligence is a legal defence against harm under the NPW Act. Accordingly, the Department considers that a due diligence process is inadequate to assess the impacts of this planning proposal on potential areas, objects, places or landscapes of heritage significance to Aboriginal culture and people, as required by Local Planning Direction 2.3.

To adequately assess the Aboriginal cultural heritage (ACH) significance of the lands subject to the planning proposal, the proponent should clearly identify all potential areas, objects, places or landscapes of heritage significance to Aboriginal culture and people that may potentially constrain future land-use planning. The Department therefore recommends that an Aboriginal Cultural Heritage Assessment be undertaken, in consultation with relevant Aboriginal parties, and inclusive of a field assessment, to adequately capture the information required to inform a planning proposal.

Identifying Aboriginal cultural heritage values and consultation with Aboriginal people should be guided by the following documents:

- Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW (DECCW, 2011): www.environment.nsw.gov.au/licences/investassessreport.htm
- Aboriginal cultural heritage consultation requirements for proponents 2010 (DECCW, 2010): www.environment.nsw.gov.au/licences/consultation.htm
- Code of Practice for the Archaeological Investigation of Aboriginal Objects in New South Wales (OEH, 2010): www.environment.nsw.gov.au/licences/archinvestigations.htm

The Department notes that the conservation of significant ACH values is consistent with the requirements of Section 9.1 (Direction 2.3 - Heritage Conservation) of the EP&A Act. The Department considers the application of appropriate land-use zoning (such as E2 Environmental Conservation) to be a suitable mechanism to promote the conservation of significant Aboriginal cultural heritage values.

The Department recommends that the proponent clearly identify all potential areas, objects, places or landscapes of heritage significance to Aboriginal culture and people that may potentially constrain future land-use planning, by undertaking an Aboriginal Cultural Heritage Assessment. The outcomes of this assessment should inform the planning proposal, to ensure consistency with the requirements of Section 9.1 (Direction 2.3 - Heritage Conservation) of the *Environmental Planning and Assessment Act 1979*.

Historic Heritage

All enquiries regarding historic heritage should be addressed to the Department of Premier and Cabinet – Heritage: heritage@heritage.nsw.gov.au



SWT19/00153
SF2019/238085
MM

16 December 2019

The General Manager
Snowy Valleys Council
76 Capper Street
TUMUT NSW 2720

Attention:

PROPOSED AMENDED PLANNING PROPOSAL NO. 5 – PP 2018 SVALL 001 00 REZONING

I refer to your correspondence regarding the subject Planning Proposal which was referred to the Transport for NSW (TfNSW) for assessment and comment.

From review of the information provided it is understood that the planning proposal represents an amendment to the current Snowy Valleys LEP to allow for the development and subdivision of the subject site for industrial purposes. The subject land is located to the south west of Tumut on the eastern and western side of the Snowy Mountains Highway which is a classified "State" Road. The subject site has frontage and proposed access to the Snowy Mountains Highway within a 100 km/h speed zone. The submitted plans indicate that the majority of the subject site is located to the eastern side of the Snowy Mountains Highway. However the Planning Proposal also includes the rezoning of that land located on the western side of the highway which is occupied by a timber mill operation. Both sites currently have an approved access to the Snowy Mountains Highway.

The land located on the eastern side of the Snowy Mountains Highway currently has a road intersection with the highway. The proposal includes the construction of a second intersection to service this industrial precinct on the eastern side of the highway. For an industrial estate of the scale proposed a second access to the highway would be warranted however accessibility within the estate between the 2 intersections is to be provided and maintained. This will allow for movement within the estate rather than having to access the highway and will allow for flexibility for access to allotments within the estate from the highway. The internal road link between the 2 intersections with the highway is to be provided prior to or within the same stage as the creation of the second intersection to the Snowy Mountains Highway. Notwithstanding the above the development of the estate on the eastern side of the highway should be staged from north to south and utilise the existing intersection that currently provides for access to the Material Recycling Facility in the initial stages of the development of the industrial estate.

That part of the site located on the western side of the Snowy Mountains Highway and south of Whatmans Lane is essentially the site of a former timber mill facility. TfNSW does not object to the reuse of existing industrial infrastructure for similar purposes subject to the opportunity for assessment of traffic implications for the highway.

The subdivision of the precinct shall provide frontage and access for all allotments to the future internal road network. Access (both vehicular and pedestrian) directly to the Snowy Mountains Highway shall not be relied on for any allotment. This is consistent with the provisions of the State Environmental Planning Policy (Infrastructure), 2007. Provisions for connectivity with any cycling and pedestrian networks and other modes of Transport should also be considered.

TfNSW encourages the adoption of a strategic approach to the development of the precinct particularly to address access arrangements, intersection upgrades and presentation to the Snowy Mountains Highway.

Transport for NSW

A strategic approach should provide for coordination of the development of the precinct and access arrangements. It would be appropriate that development of the subject land not be permitted until an appropriate strategy is adopted for the layout, staging and funding of the proposed development of the area and provision of the required infrastructure including roads and intersections.

The need for any works to the road network between Tumut and the proposed industrial estate to accommodate the additional traffic generation from the estate also needs to be considered. Given the development potential from the rezoning of the combined site consideration is to be given to the standard and capacity of the existing public road network to accommodate the additional traffic generation particularly to be site from Tumut and existing intersections to the Snowy Mountains Highway. The development of the area may warrant an upgrade of the existing intersections with the highway that service this area and upgrade to the road link to Tumut.

To inform the preparation of the strategy for development of the estate a Traffic Impact Assessment (TIA) should be prepared to allow for the assessment of the potential traffic impacts generated by the future development of the subject site on the existing road network and any works required to the Snowy Mountains Highway between Tumut and the precinct including any existing and proposed intersections with the Snowy Mountains Highway. Consideration of the anticipated traffic impacts and the required treatment of any intersection with the classified road network and its funding should be undertaken prior to release of the candidate areas for development.

For visual reasons and to address the distraction of the travelling public along the Snowy Mountains Highway by future development on the site consideration should be given to criteria for the treatment of the highway frontage of the subject site to address bulk and scale of buildings, proposed signage and the establishment and maintenance of a landscaped buffer area along the frontage to highway. The landscaped buffer should be established in the initial stages so as to take advantage of mature vegetation buffer when any development of the allotments occurs.

The standard of the intersections required with the Snowy Mountains Highway for access to the precinct is subject to further assessment and the concurrence of TfNSW. The design and location of the required intersection treatments should be based on appropriate traffic analysis and merit assessment and be in accordance with best practice measures such as the Austroads guides for the posted speed limit and to cater for largest size vehicle likely to access the site. The location and standard of any new intersection with the Snowy Mountains Highway shall comply with the standards required for the current 100 km/h speed zone.

A major focus of TfNSW is the safety and efficiency of the classified road network and the level of service provided by these roads and their associated infrastructure. The rezoning of this precinct will generate additional traffic volumes along the highway. The development of the precinct needs to acknowledge and fund measures to address the impacts due to the increased development potential and resultant traffic. Such measures and their funding should be addressed as part of the rezoning process. Any works required shall be borne by the development of the subject site.

Transport for NSW has reviewed the documentation provided and advises that it would not object to the rezoning of the subject precinct as defined subject to the abovementioned issues and funding for any works being addressed as part of the rezoning process and addressed in any associated documentation, eg Development Control Plans, for the subject site.

Transport for NSW would be pleased to discuss the contents of this letter with the relevant council officers. Any enquiries regarding this correspondence may be referred to the Manager, Land Use for Transport for NSW (South West Region),

Yours faithfully

Per: 

Director South West NSW

133-193 Morgan Street, Wagga Wagga, NSW 2650 | PO Box 484 Wagga Wagga NSW 2650 | www.rms.nsw.gov.au |
ABN: 76 236 371 088