

14 ENVIRONMENTAL SERVICES & DEVELOPMENT DEPARTMENT**14.1 *** DRAFT PLANNING PROPOSAL****File Number: T5.1**

The Council had before it the report of the Manager Environmental Services regarding the Draft Planning Proposal.

Resolution 2022/262**Moved: Cr Robert Stutsel****Seconded: Cr Sam Rice**

1. That Council endorse the Planning Proposal seeking gateway determination to amend Council's Local Environmental Plan 2012 (LEP) to facilitate an increase in small-scale commercial floor space through the permissibility of business premises and office premises with the R1 zone and to rezone Lot 62, DP1027306 – 68b, Sid Coleman Drive, North Bourke from SP2 to IN1.
2. That Council submit the subject Planning Proposal to the Department of Planning and Environment for consideration for a Gateway Determination in accordance with section 3.34 of the Environmental Planning and Assessment Act, 1979.

Carried**14.2 ADDITIONAL PURPOSES TO CROWN RESERVES 81309 AND 81825****File Number: L1.9**

The Council had before it the report of the Manager Environmental Services regarding the Additional Purposes to Crown Reserves 81309 and 81825.

Resolution 2022/263**Moved: Cr Cec Dorrington****Seconded: Cr Robert Stutsel**

That the Additional Purposes of Community Purposes, added to Reserve 81309 (Enngonia War Memorial Hall), and Rural Services added to Reserve 81825 (Byrock Community Hall), be noted.

Carried



Premise

BOURKE SHIRE COUNCIL

Amendment to the Bourke Local Environmental Plan 2012

PLANNING PROPOSAL

Report No: 122205_PP




Rev: 001D

25 October 2022

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A	02/09/22	Draft for internal review			
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D	25/10/22	Final			
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1. BACKGROUND

1.1 Introduction

Premise Australia Pty Ltd has been commissioned by Bourke Shire Council (Council) to prepare a planning proposal to amend the *Bourke Local Environmental Plan 2012* (LEP) in respect of land zoned as R1 General within the Bourke Shire Local Government Area (LGA).

The Department of Planning, Industry and Environment (DPIE) are currently reforming the employment zones across the State of NSW. The reform of employment zones seeks to support long-term economic recovery through job creation and encourage increased productivity in NSW following the recent impacts of COVID-19.

In addition to the DPIE's reform, Council seeks to facilitate an increase in small-scale commercial floor space through the permissibility of business premises and office premises within the R1 zone. A review of the current vacancy rates in the CBD identified a lack of appropriate commercial floor space for small-scale business and office use. The study found approximately 1200m² of vacant floor space across four (4) sites with an additional 1200m² of vacant land located at 47-49 Mitchell Street.

The recently adopted, *Bourke Shire Community Strategic Plan 2022* identified the need to ensure adequate land is available for growth in the business sector and for Non-Government Organisations (NGOs) to establish locally.

As a separate consideration, the Planning Proposal also seeks to rezone the property identified as Lot 62 DP 1027306 68B Sid Coleman Way, North Bourke from SP2 Air Transport Facility to IN1 General Industry. The site was incorrectly zoned as SP2 when the LEP was originally gazetted in 2012. The land use on the site is a vehicle repair workshop and would be more appropriately zoned as IN1 consistent with the adjoining zoning to the property.

It is requested that the DPIE support the subject Planning Proposal and issue Bourke Shire Council with a Gateway Determination to proceed to public exhibition.

1.2 Scope of the report

This planning proposal has been prepared in accordance with the DPIE's advisory document '*Local Environmental Plan Making Guideline 2022*' (the Guideline). The Guideline requires the Planning Proposal to be provided in five (5) parts, those being:

- Part 1 – A statement of the objectives or intended outcomes of the proposed LEP;
- Part 2 – An explanation of the provisions that are to be included in the proposed LEP;
- Part 3 – The justification for those objectives, outcomes, and provisions and the process for their implementation;
- Part 4 – Maps, where relevant, to identify the effect of the planning proposal and the area to which it applies;
- Part 5 – Details of the community consultation that is to be undertaken on the Planning Proposal;
- Part 6 – Project timeline to detail the anticipated timeframe for the LEP making process in accordance with the benchmarks in the Guideline.

1.3 Structure of the report

In accordance with the Guidelines, this Planning Proposal is provided in the following structure;

- **Section 2** provides an overview of the subject site; the development intent; and development constraints;
- **Section 3** provides a statement of the objective and explanation of provisions of the Planning Proposal;
- **Section 4** provides justification regarding the need for the Planning Proposal; outlines its relationship to strategic planning strategies; and overviews the environmental, economic, and social impacts of the proposal;
- **Section 5** details how community consultation is to be undertaken with respect to the Planning Proposal.
- **Section 6** provides an indicative timeline for the project in accordance with the benchmarks in the Guideline.

2. OVERVIEW

2.1 The Site Areas Impacted by the Planning Proposal

The Planning Proposal comprises of two separate subject sites/areas. One relates to the proposed permissibility changes in the R1 zone including business premises and office premises, and the other relates to the proposed rezoning of land at 68B Sid Coleman Way.

The location the abovementioned subject sites/areas are discussed in the following sections of this report.

2.1.1 SITE AREA 1 – R1 GENERAL RESIDENTIAL ZONED LAND

The subject area in respect of the proposed permissibility changes, including business premises and office premise, relates to the land zoned as R1. The R1 zone primarily surrounds the CBD and is bound by the Darling River to the north, Mitchell Highway to the south and rural land to the east and west. The area is surrounded by a levy bank which protects the town from flooding impacts resulting from the Darling River. It should also be noted that additional isolated R1 land is located along Parkdale Road to the west of the town which is also protected by the town's levy bank.

The area is typically characterised by social housing in the north east and western areas of the town. This is evidenced from a site visit of the Bourke Shire, undertaken on 27 May 2022, and is further supported by the SEIFA mapping prescribed by the Australian Bureau of Statistics in 2016.

The residential area to the south east is anchored by the Bourke District Hospital, Bourke High School and Bourke Public School and comprises of established housing.

The R1 zone also accommodates other existing development types including a church, neighbourhood shopping centre, medical centre, car dealership, service stations and tourist and visitor accommodation adjoining the Mitchell Highway. Tourist and visitor accommodation and St Ignatius Parish School is located in the northwest of the town, in proximity to the Darling River.

The area west of Charles Street presents the greatest opportunity for greenfield development and is located within a 700m radius of the town centre.

Bourke's general residential area is largely characterised by low density housing situated on lots greater than 1000m² in size. This development typology is further reinforced by the existing 800m² and 1000m² minimum lot size provisions of the Bourke LEP 2012.

Subject Area 1 is depicted in **Figure 1**. In addition, the existing land use zoning is provided for further reference in **Figure 2**.



Figure 1. Subject Area 1

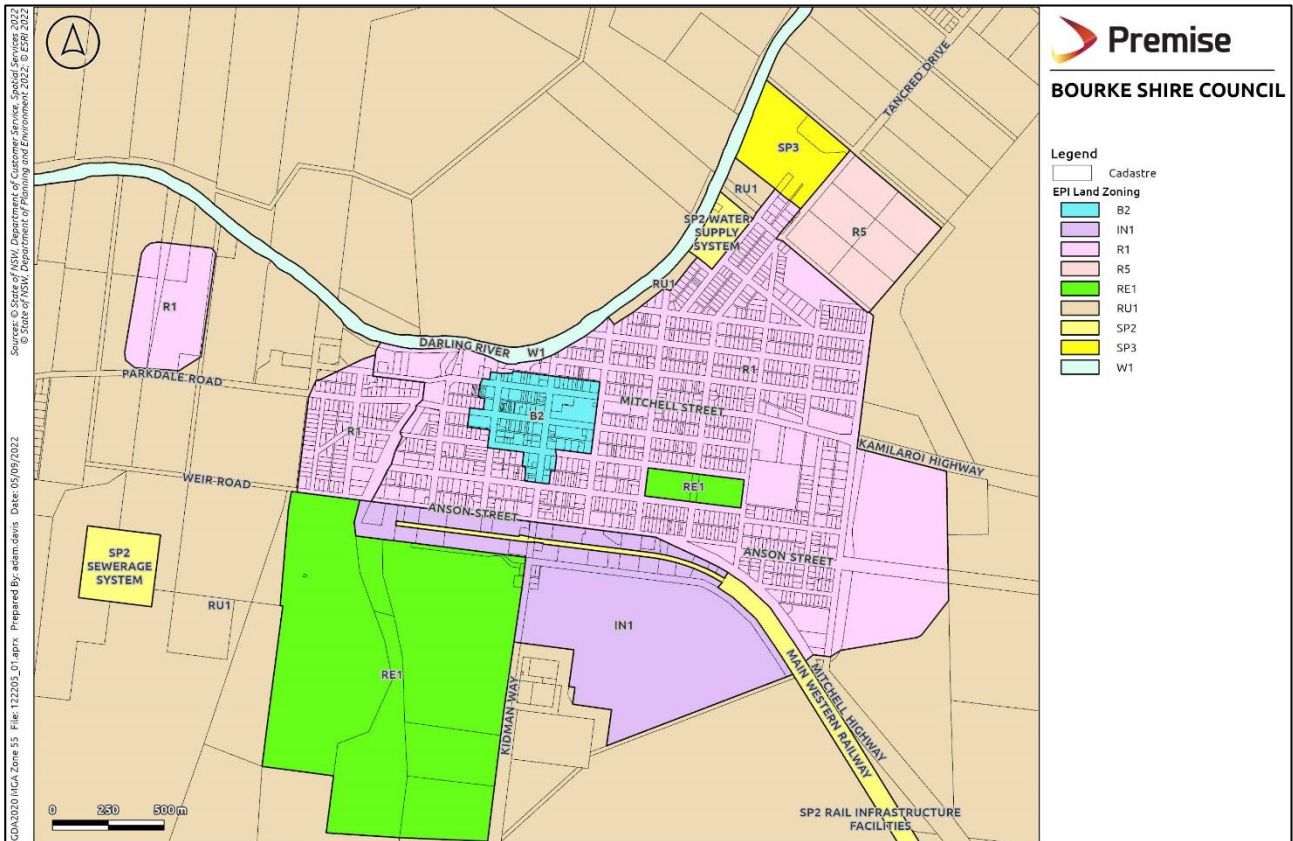


Figure 2. Existing Land Use Zoning

2.1.2 SITE AREA 2 - 68B SID COLEMAN WAY

Subject Area 2 is identified as Lot 62 DP 1027306 68B Sid Coleman Way, North Bourke. Subject Area 2 adjoins the Bourke Airport and hosts an established vehicle repair station known as Garf’s Mechanical Services. The site is approximately 8000m² and is generally surrounded by vacant land. The land to the south is zoned for large lot residential development, the land immediately adjoining to the west and east is zoned for general industrial development and the land to the north is zoned for the air transport facility (Bourke Airport).

The site is located approximately 7km north of the town centre as linked via the Mitchell Highway.

The site was zoned as SP2 Air Transport Facility at the time the original BLEP was gazetted in 2012. At the time, the vehicle repair station was incorrectly assimilated to the adjoining airport and is currently operating under existing use rights.

Subject Area 2 is depicted in **Figure 3**. An image of the business, as taken by Premise on 27 May 2022, is depicted in **Figure 4**.

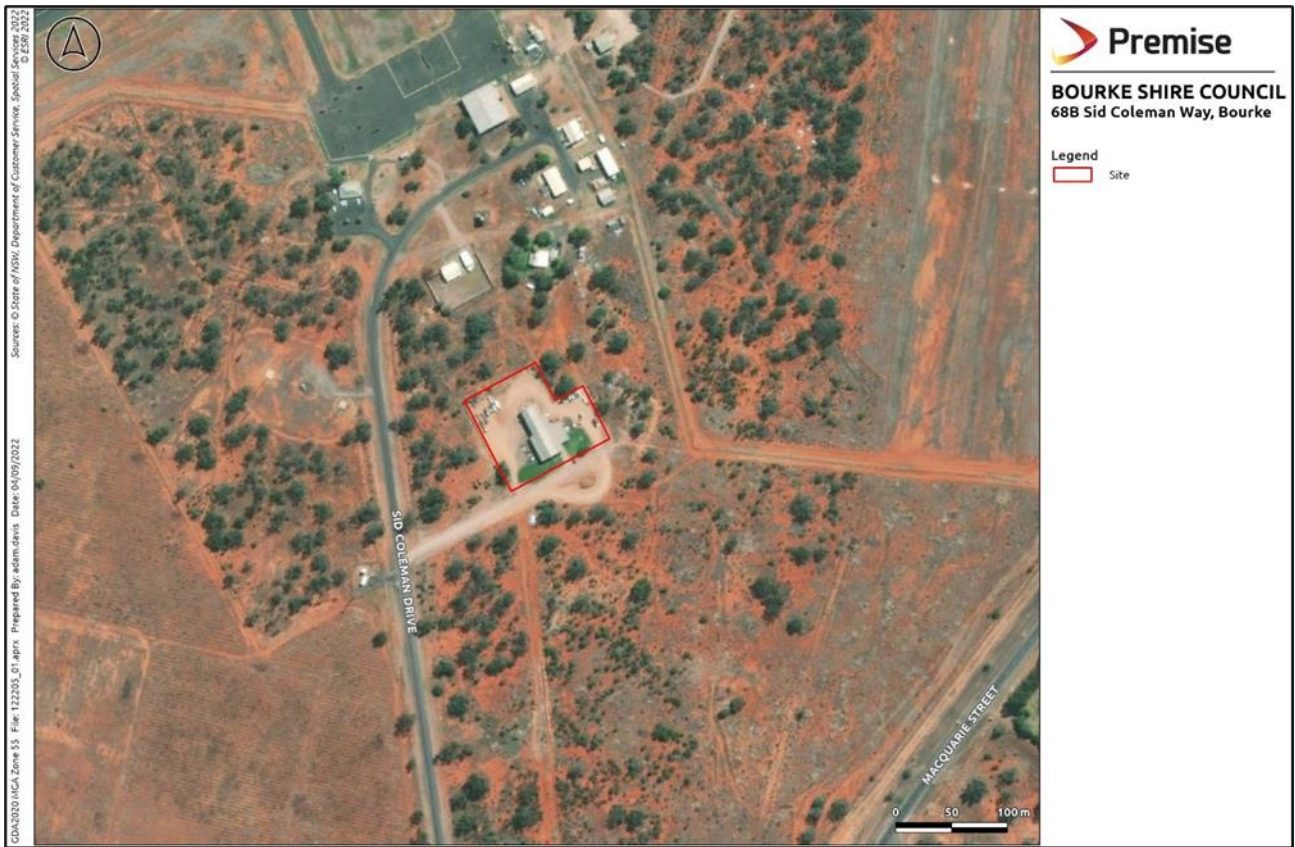


Figure 3. Subject Area 2



Figure 4. Image of Existing Business (photo taken 27 May 2022)

3. OBJECTIVES AND INTENDED OUTCOMES

The objective of this Planning Proposal is to permit with consent, development for the purposes of business premises and office premises on the subject land zoned as R1 General Residential.

The Planning Proposal also seeks to rezone land at Lot 62 DP 1027306 68B Sid Coleman Way, North Bourke from SP2 Air Transport Facility to IN1 General Industrial. The proposed Amendment will facilitate the continued use of the existing vehicle repair station on the site.

3.1 Explanation of provisions

3.1.1 PROPOSED PERMISSIBILITY CHANGES – BUSINESS PREMISES AND OFFICE PREMISES

The objective of this Planning Proposal is to permit with consent, development for the purposes of business premises and office premises on the subject land zoned as R1 General Residential (**Figure 1** and **Figure 2**). It is anticipated that the permissibility would result in an Amendment to the Land Use Table and subsequent introduction of a Local Provisions Clause under Part 6 of the LEP.

For reference, the LEP definitions for business premises and office premises are as follows:

“business premises means a building or place at or on which—

(a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or

(b) a service is provided directly to members of the public on a regular basis,

and includes funeral homes, goods repair and reuse premises and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.”

The proposed Local Provisions Clause would incorporate objectives to guide development and mitigate impacts on existing residential land uses. The clause would prescribe a maximum floor space allowance to ensure that the commercial hierarchy of the town remains centralised around the CBD. It is also proposed that adaptive reuse of existing dwelling houses is encouraged, so long as development does not result in an increase to the existing gross floor area of the building.

An example of the proposed clause may include the following:

6.6 *Use of certain land is R1 General Residential zone, Bourke.*

(1) The objectives of this clause are to ensure development on land to which this clause applies -

(a) minimises land use conflict with adjoining residential uses, and

(b) is of a design which enhances or is sympathetic to the surrounding streetscape and character of the area, and

(c) does not result in a significant increase in traffic volumes or impact on the surrounding streetscape, and

(d) is of a size and scale which does not impede on the amenity of the immediate area.

(2) This clause applies to development for the purposes of business premises or office premises on land within Bourke Shire Local Government Area –

(a) in Zone R1 General Residential

(3) Development consent must not be granted to development to which this clause applies, unless –

(a) new development does not exceed a gross floor area of 250m², or

(b) is development carried out in an existing dwelling house and will not result in an increase to the existing gross floor area of the building.

An alternative drafting approach may include permitting with consent development for the purposes of commercial premises, business premises and office premises, and prohibiting retail premises in the R1 zone.

It is noted that the legal drafting of the proposed Amendment will be undertaken by Parliamentary Counsel under the direction of Department of Planning, Industry and Environment.

An example of a site which this Amendment may apply has been identified as 126 Meadows Road, Bourke. The site comprises of an existing building of an appropriate size and scale and is supported by an adequate front setback for car parking. An image of 126 Meadows Road, Bourke is provided in **Figure 5**.



Figure 5. 126 Meadows Road, Bourke

3.1.1 68B SID COLEMAN WAY

The Planning Proposal also seeks to rezone land at Lot 62 DP 1027306 68B Sid Coleman Way, North Bourke from SP2 Air Transport Facilities to IN1 General Industrial. The proposed Amendment will facilitate the continued use of the existing vehicle repair station on the site.

The proposed rezoning of Subject Area 2 relates to Land Zoning Map – Sheet LZN_008A. The existing and proposed land use zoning in relation to Subject Area 2 is depicted in **Figure 6** and **Figure 7**.

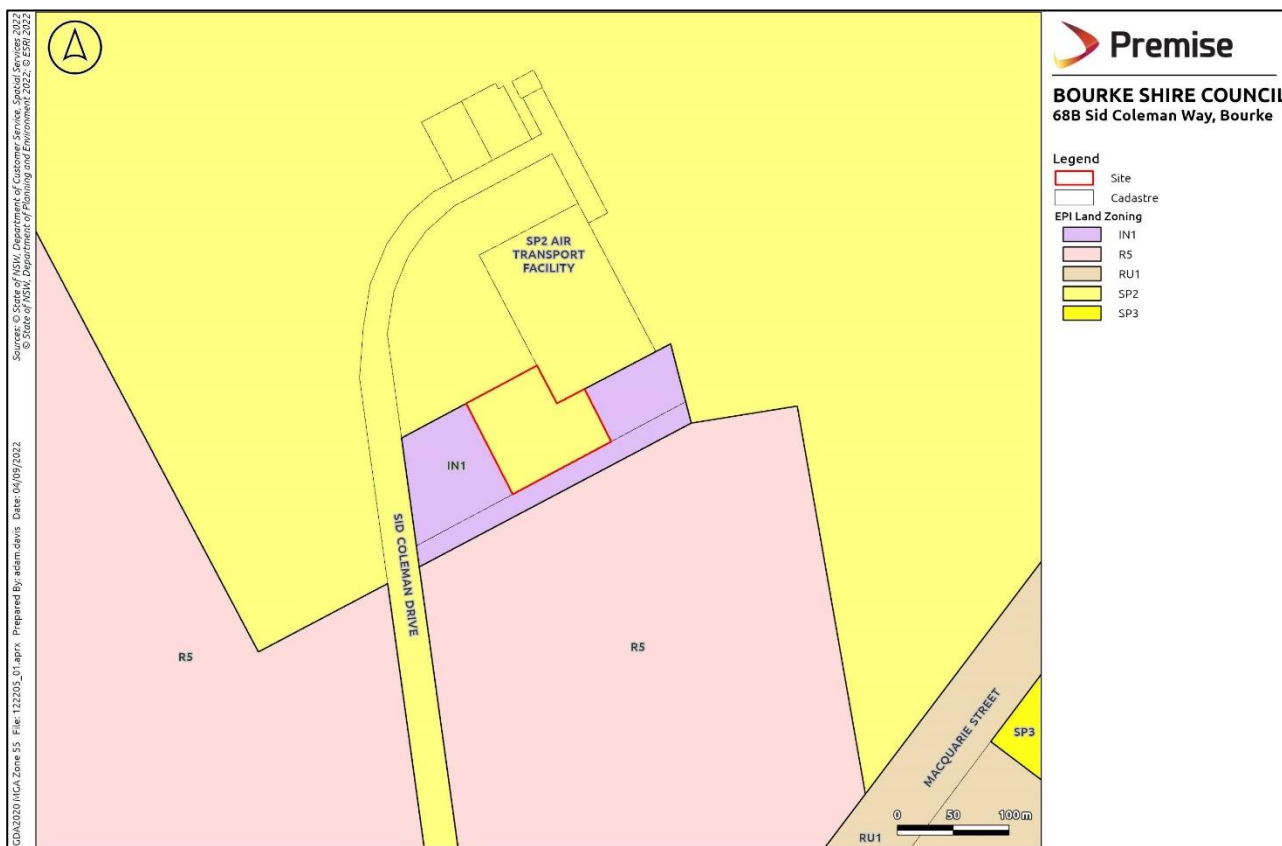


Figure 5. Existing Land Use Zoning

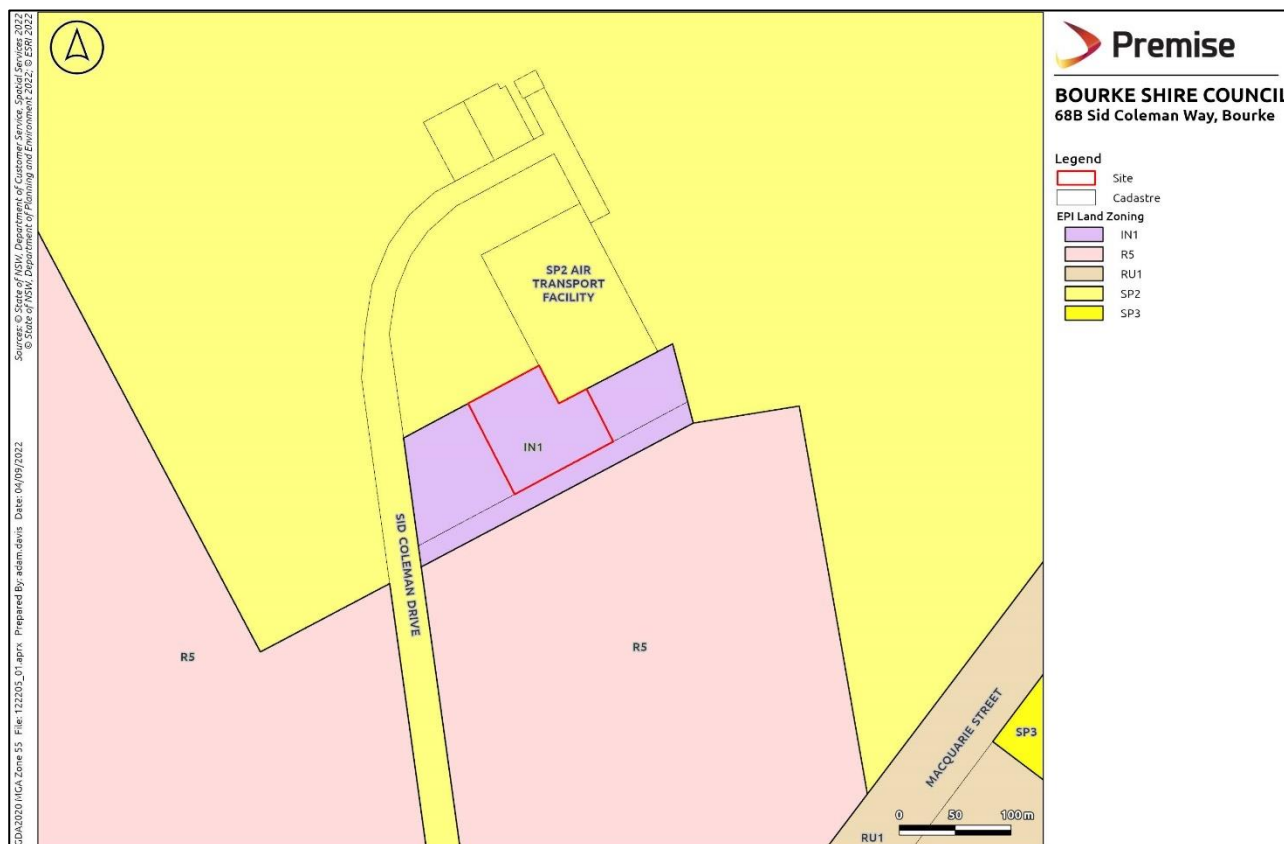


Figure 6. Proposed Land Use Zoning

4. JUSTIFICATION

4.1 Introduction

The overarching principles that guide the preparation of planning proposals are:

- The level of justification should be proportionate to the impact the Planning Proposal would have.
- It is not necessary to address a question if it is not considered relevant to the Planning Proposal.
- The level of justification should be sufficient to allow a Gateway determination to be made with confidence that the LEP can be finalised within the timeframe proposed.

The following justification addresses each relevant question applicable to the Planning Proposal to ensure confidence can be given to the Gateway determination.

4.2 Need for the planning proposal

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

The Planning Proposal has been prepared in response to the demand for additional commercial floor space in proximity to Bourke's town centre. This demand is evidenced in the recently adopted *Bourke Community Strategic Plan 2022* and is discussed further in this report.

A recent review of the current vacancy rates in the CBD identified a lack of appropriate commercial floor space for small-scale business and office use. The study found approximately 1200m² of vacant floor space across four (4) sites with an additional 1200m² of vacant land located at 47-49 Mitchell Street.

The sites mentioned above were not found to be advertised for lease or purchase at the time of preparing this report.

To meet community demand and facilitate economic growth, the R1 zone has been identified as a potential area to facilitate small-scale business and office development. The proposed development is expected to occupy existing dwelling houses and capitalise on infrastructure services.

In addition, the proposed rezoning of 68b Sid Coleman Way is requested to facilitate the existing vehicle repair station located on the site. The rezoning is considered to have been incorrectly zoned as part of the gazettal of the Bourke LEP 2012 and is sought under this request as a minor Amendment.

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

Yes, the Planning Proposal is considered to be the best means of achieving the development objectives. Currently, business premises and office premises are prohibited forms of development in the R1 zone. The proposed Amendment of the Land Use Table and subsequent inclusion of an additional local provisions clause under Part 6 of LEP, will facilitate the proposed development.

As part of the planning assessment undertaken for the subject Planning Proposal, the following mechanisms were also considered:

1. Expansion of the existing B2 Local Centre zone.
2. Implementation of a B4 Mixed Use zone or RU5 Village zone.
3. Limitations of existing home business and home occupation land use definitions.
4. Site-specific additional permitted uses.

The abovementioned planning mechanisms were not considered suitable for the application of the subject Planning Proposal.

These mechanisms are discussed as follows:

1. Expansion of the existing B2 Local Centre zone

The expansion of the existing B2 Local Centre zone would typically include the development area immediately surrounding the town centre and would exclude known development opportunities that are located within the eastern portion of the town. Currently, development interest has been received by Council from small business owners and non-government organisations, who are typically looking to establish in existing dwellings and buildings.

Limiting the development area to a ring around the existing town centre would restrict potential business opportunities from developing throughout the wider residential footprint. It is considered that the expansion of the B2 Local Centre zone is not suitable for the application of this Planning Proposal.

2. Implementation of a B4 Mixed Use zone or RU5 Village zone.

A B4 Mixed Use zone would introduce a diverse range of commercial and industrial uses into the town centre. The variety of different land uses may result in land use conflict and generate demand for

infrastructure upgrades. This would be relevant should heavy vehicle movements need to utilise the local road network.

Similarly, facilitating a mixed development typology through the implementation of a RU5 Village zone could result in similar considerations to a B4 zone. A RU5 zone is typically applied to smaller rural settlements where the objective is to maintain the existing rural character of the village.

Due to the relative size and scale of Bourke's town centre, it is not considered appropriate to implement a B4 or RU5 zone for the purposes of this Planning Proposal.

3. Home business or home occupation

Previous consideration has been given to the definition of home business and home occupation.

The LEP definition of home business and home occupation is as follows:

***"home business"** means a business, whether or not involving the sale of items online, carried on in a dwelling, or in a building ancillary to a dwelling, by 1 or more permanent residents of the dwelling and not involving the following—*

(a) the employment of more than 2 persons other than the residents,

(b) interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,

(c) the exposure to view, from adjacent premises or from a public place, of unsightly matter,

(d) the exhibition of signage, other than a business identification sign,

(e) the retail sale of, or the exposure or offer for retail sale of, items, whether goods or materials, not produced at the dwelling or building, other than by online retailing,

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

Note—

See clause 5.4 for controls relating to the floor area used for a home business."

***"home occupation"** means an occupation that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve—*

(a) the employment of persons other than those residents, or

(b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or

(c) the display of goods, whether in a window or otherwise, or

(d) the exhibition of any signage (other than a business identification sign), or

(e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

Both land uses require that the business or occupation is undertaken in a dwelling and that the operations of the business are to be undertaken by the residents of the household.

There may be instances where a business owner may not want to reside in the dwelling, which may be the case for a business such as a non-government organisation. Utilising a home based business or home based occupation may not be suitable for the development intent of this Planning Proposal.

4. Site specific additional permitted use

Implementing site specific additional permitted use provisions would limit other potential development opportunities within the R1 zone. In addition, the Planning Proposal applies to the entire R1 zoned area and would not benefit from the distinction of an additional permitted uses map. This planning mechanism is not considered to be practical in this instance.

In addition, the rezoning of 68b Sid Coleman way from SP2 to IN1 will enable continued development of the existing vehicle sale and repair workshop and is consistent with the adjoining land zoning.

4.3 Relationship to strategic planning framework

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

The *Far West Regional Plan 2036* is the NSW Government's strategy for guiding land use planning decisions for the Far West. At its heart is a core vision for the region supported by the following foundational goals:

Goal 1 – A diverse economy with efficient transport and infrastructure networks;

Goal 2 – Exceptional semi-arid rangelands traversed by the Barwon-Darling River; and

Goal 3 – Strong and connected communities.

The proposal is considered to be generally consistent with the objectives and actions of the Plan as discussed in **Table 1**.

Table 1. Consideration of Regional Plan Goals and Directions

Goals/Directions	Assessment response
Goal 1 – A diverse economy with efficient transport and infrastructure networks	The Planning Proposal will offer additional economic diversification and supportive professional services to the LGA. Rezoning of 68b Sid Coleman way will enable continued use and future expansion of the existing vehicle repair station. The Planning Proposal is consistent with Goal 1 as discussed below.
Direction 12 – Enhance the productivity of employment lands	The identified lack of available commercial floor space in the B2 zone presents a need for investigation of opportunities elsewhere. The Planning Proposal seeks to facilitate development for the purposes of business premises and office premises within the R1 zone.

Goals/Directions	Assessment response
	<p>The economic role of the R1 zone will support additional small scale business opportunities surrounding the town centre.</p> <p>The proposed new development is expected to cater for service-based business' such as hair and beauty salons, professional offices (accountants, etc) and support the establishment of non-government organisations.</p> <p>The commercial activation of the residential areas will enable an appropriate mix of development that will enhance and support the larger scale commercial activities that reside in the B2 zone.</p>
<p>Action 12.6 Accommodate future commercial and retail activity in existing commercial centres, unless there is demonstrated need and positive social and economic benefits for the community.</p>	<p>The Planning Proposal identified a mix of large format retail and government buildings within the B2 zone.</p> <p>The proposed small scale business and office land uses will be primarily located within no more than 1km of the town centre and will continue to support the economic activity within the B2 zone.</p> <p>The proposal is not anticipated to result in any significant impact on the economic hierarchy of the town.</p> <p>The Planning Proposal will also present opportunities to existing home business operations for expansion and further flexibility in their current activities.</p>
<p>Goal 2 – Exceptional semi-arid rangelands traversed by the Barwon-Darling River</p>	<p>The Planning Proposal is not inconsistent with Goal 2.</p>
<p>Goal 3 – Strong and connected communities.</p>	<p>The Planning Proposal is not inconsistent with Gaol 3.</p>

Based on the above, the development is considered to be consistent with the Regional Plan.

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

a) Bourke Local Strategic Planning Statement

The Bourke Local Strategic Planning Statement (LSPS) sets the framework for the economic, social and environmental land use needs over the 20 years.

The LSPS identifies the need for access to higher order services and continuity of industry and employment. The additional implications of a declining population have raised the need to centralise development around the township before expanding the urban footprint.

The Planning Proposal seeks to create additional opportunities to establish businesses and professional office space within the township and is considered to be consistent with the intentions of the LSPS.

b) Bourke Shire Strategy 2012

The Bourke Shire Strategic Plan 2012 provides the foundation to the LGA's local strategic land use planning.

The vision as stated in the Strategy is as follows:

"Bourke Shire will continue to grow as an iconic, outback regional community and destination which is united and productive, thriving on practical access to all modern services".

The Implementation Plan, prepared in support of the Strategy, provides the following actions:

"3.1 Adopt the settlement hierarchy outlined in section 8.3.1 of this document and as outlined below:

Regional: Dubbo

Town: Bourke

Villages: Byrock, Engonia, Fords Bridge, Louth, North Bourke and Wanaaring,

Rural Localities: Barringun and Yantabulla"

3.2 Allow for the growth and future development of the town and villages."

The Strategy highlights the need to provide services locally to prevent expenditure leakages from residents and businesses to Dubbo and elsewhere. In addition, further employment opportunities and economic growth are to be diversified through the capitalisation of existing strengths.

The Planning Proposal seeks to facilitate additional economic opportunities within Bourke's urban area, by Amending the LEP to allow small scale business and office premises within the R1 zone.

The Planning Proposal is considered to be consistent with the *Bourke Shire Strategy 2012*.

Bourke Community Strategic Plan 2022

The *Bourke Community Strategic Plan 2022* (CSP) embodies the long-term vision for the community developed by the community and was adopted in June 2022. The vision of the CSP is as follows:

"Bourke will continue to grow as an iconic, outback, regional community and destination, which is united and productive, thriving on practical access to all modern services."

The CSP identifies a total of 414 business as per a count in 2017 with a Gross Regional Product of \$164.3M in 2020.

Community and stakeholder feedback raised the following key economic opportunities:

"Ensure opportunities for business development are pursued and improve and grow tourism sector"

In addition, the community raised the need to ensure a strong NGO sector where decisions can be made locally.

The following relevant objectives and strategies of the plan are as follows:

"Economic Prosperity through welcoming new residents and businesses

– developing industry and business - promote and develop business opportunities – ensure land availability."

The Planning Proposal seeks to facilitate additional opportunities in support of the commercial demand for business development and office space to cater for the community's needs and accommodate the local NGO sector.

The Planning Proposal is considered to be consistent with the *Bourke Community Strategic Plan 2022*.

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

The Planning Proposal is considered to be broadly consistent with all relevant State Environmental Planning Policies (SEPPs).

Consideration of the applicable State Environmental Planning Policy is addressed in **Table 2**.

Table 2. Consideration of State Environmental Planning Policy

State Environmental Planning Policy (SEPP)	Comment
SEPP (Biodiversity and Conservation) 2021	
<p>The aims of Chapter 2 are –</p> <p>(a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and</p> <p>(b) to preserve the amenity of non-rural areas of the State through preservation of trees and other vegetation.</p>	<p>The Planning Proposal seeks to include business premises and offices premises within the R1 zone. It is anticipated that most of the development would occur within the confines of existing dwellings.</p> <p>Clearing of native vegetation within in a non-rural area is subject to the <i>Biodiversity Conservation Act 2016</i> and the requirements as provided under the relevant Development Control Plan (DCP).</p> <p>The Bourke Shire DCP 2012 states the following:</p> <p><i>“6.3.3 Vegetation</i> <i>Development design shall accommodate the retention of any significant trees and vegetation.”</i></p> <p>No specific species or sizing is mentioned, and therefore Council’s discretion would be applied at the time of development assessment.</p> <p>The Planning Proposal is considered to be consistent with the requirements of the SEPP.</p>
SEPP (Building Sustainability Index: BASIX) 2004	
<p>The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State by adhering to the list of BASIX commitments required to facilitate sustainable development.</p>	<p>N/A</p>
SEPP (Exempt and Complying Development Codes) 2008	
<p>The aim of this Policy is to provide streamlined assessment processes for development that complies with specified development standards.</p>	<p>The Planning Proposal does not intend on contravening the provisions of the SEPP and is therefore considered to be consistent with the SEPP.</p> <p>It should also be noted that under Part 5A of the SEPP there are complying development provisions available for commercial premises development that is located within a business zone. Due to the nature of the intended development and the respective R1 zoning, the provisions of Part 5A would not apply.</p> <p>A development application would be required for any future commercial development in the R1 zone.</p>
SEPP (Housing) 2021	

<p>The aim of this Policy is to provide a State-wide approach to manage and support, affordable and well-designed residential development across NSW.</p>	<p>The Planning Proposal seeks to utilise existing housing stock to provide additional commercial opportunities within the Bourke LGA.</p> <p>Although additional commercial opportunities would be created, the Planning Proposal would not restrict use of the land for continued residential purposes.</p> <p>The Planning Proposal is considered to be antipathetic with the general requirements of the SEPP.</p>
<p>SEPP (Industry and Employment) 2021</p>	
<p>The aims of Chapter 3 are as follows –</p> <ul style="list-style-type: none"> - is compatible with the desired amenity and visual character of an area - provides effective communication in suitable locations - is of high quality design and finish. 	<p>Consideration of signage would be managed as part of the development approvals process.</p> <p>The Planning Proposal is considered to be broadly consistent with the requirements of the SEPP.</p>
<p>SEPP No 65 – Design Quality of Residential Apartment Development</p>	
	<p>N/A</p>
<p>SEPP (Planning Systems) 2021</p>	
	<p>N/A</p>
<p>SEPP (Precincts-Regional) 2021</p>	
	<p>N/A</p>
<p>SEPP (Resilience and Hazards) 2021</p>	
<p>The object of Chapter 4 is to provide for a Statewide planning approach to the remediation of contaminated land.</p>	<p>The proposed commercial uses are considered to be of low impact and of a lesser sensitivity to the existing residential uses within the R1 General Residential area. With this considered, future development would need to consider any site specific impacts of contamination and may be subject to further studies.</p> <p>Any potential contaminating impacts would be considered as part of the development approvals process.</p> <p>The Planning Proposal is considered to be consistent with the SEPP.</p>
<p>SEPP (Resources and Energy) 2021</p>	
	<p>N/A</p>
<p>SEPP (Transport and Infrastructure) 2021</p>	
<p>The aim of Chapter 1 is to facilitate the effective delivery of infrastructure across the State.</p>	<p>Bourke’s town centre accommodates three classified roads including the Kidman Way, Mitchell Highway and Kamilaroi Highway.</p>

	<p>Development which provides direct access onto a classified road would be subject to Integrated Development Approval by TfNSW.</p> <p>It is anticipated that future development would predominantly utilise existing access driveways onto the Highway or should additional access be required, this would be managed in accordance with the requirements of TfNSW.</p> <p>The Planning Proposal is considered to be consistent with the SEPP.</p>
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Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

Table 3 demonstrates consistency of the Planning Proposal in accordance with the applicable Section 9.1 Ministerial Directions.

Table 3. Consideration of Section 9.1 Ministerial Directions

Direction	Requirement	Consistency
Focus Area 1 Planning Systems – Place-based		
1.1 Planning Systems	Planning Proposals must be consistent with a Regional Plan released by the Minister for Planning.	The Planning Proposal is considered to give effect to the Far West Regional Plan 2036 as discussed under Section 4.3 of this Planning Proposal.
1.3 Approval and Referral Requirements	This Direction applies when a planning proposal is prepared.	The Planning Proposal will facilitate additional development along the classified roads which traverse through Bourke’s town centre. The anticipated impacts resulting from the Planning Proposal are considered to be of minor significance.
1.4 Site Specific Provisions	This Direction applies when a planning proposal is prepared.	The Planning Proposal seeks to permit use of land in the R1 zone for the purposes of business premises of office premises. The scale of this development type will be managed through the introduction of a 250m ² floor area. This specific restriction will only apply to new development with no impact on existing land uses within the zone.

		It is anticipated that the proposed Amendment will also be managed under the existing provisions of the Bourke DCP 2012.
Focus Area 2: Design and Place		
		N/A
Focus Area 3: Biodiversity and Conservation		
3.2 Heritage Conservation	This Direction applies when a planning proposal is prepared.	<p>The R1 General Residential zone includes several items of environmental heritage significance.</p> <p>The Planning Proposal will provide additional opportunity for the continued use of these items and aid in their conservation.</p> <p>Consideration of these sites and their future development will need be assessed and addressed as part of the development approvals process.</p> <p>The Planning Proposal is considered to be consistent with the Direction.</p>
Focus Area 4: Resilience and Hazards		
4.1 Flooding	This Direction applies when a planning proposal is prepared that creates, removes or alters a zone or a provision that affects flood prone land.	<p>The Planning Proposal seeks to facilitate commercial development within the R1 zone. The subject area is protected by a flood levy bank which surrounds the town centre.</p> <p>Alice Edwards Village, independently located to the west of the town, is also protected by a flood levy bank.</p> <p>Flood impacts can be managed in accordance with the requirements set out under Section 3.2 the Bourke DCP for commercial development.</p> <p>The Planning Proposal is considered to be inconsistent with the Direction. This</p>

		inconsistency is considered to be of minor significance.
4.3 Planning for Bushfire Protection	This Direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to, land mapped as bushfire prone land.	<p>The Planning Proposal does not include any areas mapped as bushfire prone land. The Planning Proposal does however include areas of land adjoining bushfire prone land.</p> <p>The proposed development is for the purposes of commercial development and would be managed in accordance with the RFS <i>Planning for Bushfire Protection 2019 Guidelines</i>. The inconsistency is considered to be of minor significance.</p>
4.4 Remediation of Contaminated Land	This Direction applied when a planning proposal is prepared.	<p>The Planning Proposal does not seek to develop land for the purposes of residential, educational, recreation or childcare purposes or for the purposes of a hospital.</p> <p>It is anticipated that the proposed future development of business premises or office premises is unlikely to result in any significant contaminating impacts.</p> <p>The Planning Proposal is considered to be consistent with the Direction.</p>
Focus Area 5: Transport and Infrastructure	This Direction applies when a planning proposal is prepared that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.	<p>The Planning Proposal refers primarily to the R1 zone with additional rezoning of land from SP2 to IN1.</p> <p>The Planning Proposal would result in the diversification of land uses within the R1 zone and provide additional opportunities for mixed commercial and residential developments.</p> <p>The additional localised business and office opportunities are expected to reduce vehicle trips between</p>

		<p>Bourke and other regions such as Dubbo.</p> <p>The decentralisation of small scale commercial uses will enable increased neighbourhood walkability and combined residential and commercial integration.</p> <p>The Planning Proposal is considered to be consistent with the Direction.</p>
<p>5.3 Development Near Regulated Airports and Defence Airfields</p>	<p>This Direction applies when a planning proposal is prepared that will create, alter or remove a zone or a provision relating to land near a regulated airport.</p>	<p>The Planning Proposal seeks to rezone land at 68B Sid Coleman Way from SP2 Air Transport Facility to IN1 General Industrial.</p> <p>The proposed rezoning will facilitate an existing vehicle repair workshop which was incorrectly zoned as SP2 when the original Bourke LEP 2012 was created.</p> <p>The Planning Proposal is considered to be consistent with the Direction.</p>
<p>Focus Area 6: Housing</p>		
<p>6.1 Residential Zones</p>	<p>This Direction applies when a planning proposal is prepared that will affect land within an existing or proposed residential zone.</p>	<p>The Planning Proposal will result in the permissibility of business premises and office premises within the R1 zone.</p> <p>The amenity of the residential areas will be maintained through floor space restrictions included in the LEP. Further objectives would also be included to manage any potential impacts on amenity.</p> <p>The scale and anticipated uptake of these uses within the R1 zone is considered to be of minor significance.</p>
<p>Focus Area 7: Industry and Employment</p>		
<p>7.1 Business and Industrial Zones</p>	<p>This Direction applies when a planning proposal is prepared that will affect land within an</p>	<p>The Planning Proposal will result in the permissibility of business premises and office premises within the R1 zone.</p>

	existing or proposed business or industrial zone.	In addition, the Planning Proposal seeks to rezone land from SP2 to IN1. The Planning Proposal will result in an increase in the total potential floor space area for both industrial and business uses. The Planning Proposal is considered to be consistent with the Direction.
Focus Area 8: Resources and Energy		
		N/A
Focus Area 9: Primary Production		
		N/A

4.4 Environmental, social and economic impacts

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

The Planning Proposal is unlikely to result in any significant impact to critical habitat or threatened species, populations or ecological communities or their habitats. The subject area has been largely subdivided and developed for the purposes of residential development. Any further intensification, subdivision or clearing of land would be subject consideration under the *Biodiversity Conservation Act 2016*.

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

The Planning Proposal is unlikely to result in any environmental effects.

Has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal seeks to integrate commercial development of an appropriate type and scale within the R1 zoned area of Bourke. Although there is substantial opportunity for development of vacant residential land within the outer edges of the town centre, it is anticipated that use of existing housing infrastructure will be utilised for the new commercial potential.

As mentioned previously, the property located at 126 Meadows Road, Bourke is one example of a potential opportunity for establishing as a business or office premises. The site provides for adequate parking to the front of the Lot and an adequate setback to adjoining property to the east. The site is depicted in **Figure 5**.

The amenity of the neighbourhood would be managed using the implementation of a maximum floor space restriction of 250m² as part of the proposed LEP Amendment. This would maintain the role of the CBD as the primary commercial area in Bourke. In addition, planning principles that may be utilised to guide future development are provided as follows:

- Minimise land use conflict with adjoining residential land uses
- Does not adversely impact on the amenity of the surrounding neighbourhood
- Development is sympathetic to the character of the surrounding streetscape

- Outdoor signage is of an appropriate nature to not adversely impact on surrounding residential land uses

These principles have been considered in drafting the proposed local provisions clause as mentioned in **section 3.1.1**.

The key considerations when adapting existing residential buildings include the following:

- Equitable access into and throughout the building and associated parking areas
- Fire upgrades and/or appropriate setback distances between neighbouring buildings
- Conservation of heritage buildings
- Provision of car parking – DCP requires 1 space per 25m² of GFA for business use
- Connection to infrastructure services

The planning considerations mentioned above are considered to be achievable and would be addressed as part of the development approvals process.

Implementation of the Crime Prevention Through Environmental Design (CPTED) principles would also be applied and considered as part of the development approvals process. These may include maintaining open landscaped areas for passive surveillance, video surveillance, sensor lighting and security screens. Business development would also have the added advantage of adjoining residential surveillance which is expected to reduce antisocial behaviour after business hours.

Economic Impact on Town Centre

An investigation of the town centre's existing supply of vacant commercial land was undertaken by Premise in support of the Planning Proposal. The study was based on a desktop analysis and aerial imagery and further validated by a site visit undertaken by Premise and Council staff on 27 May 2022.

The purpose of the study was to understand the existing land use mix and typology within the B2 zone and identify any existing vacant land or commercial floor space opportunities within the town centre.

The land use typology, as identified by the study, is depicted in **Figure 7** and attached as **Appendix A**.

The resulting study identified that large format retail, hardware and building supplies, retail supermarket, hotels and motels and government buildings were the dominant land uses in the B2 zone and were centred around Oxley Street.

In addition, there were scattered light industrial uses occupying land to the perimeter of the CBD primarily on the southern fringe along Richard Street (Kidman Way/Mitchell Highway).

The study identified two (2) sites comprising of vacant land and five (5) sites with vacant buildings. These sites are discussed as follows:

1. 23-25 Sturt Street, Bourke

Identified as vacant land and remnants of a burnt down building. The site is approximately 4037m² in size and is split zoned as B2 Local Centre and R1 General Residential. Although the site is considered to be vacant land, substantial site preparation would be required to enable construction of new development on the site.

2. 47-49 Mitchell Street, Bourke

The site is identified as vacant land and has an approximate area of 1200m². The property represents the only reasonable greenfield development site within Bourke's B2 zone.

3. 15 Mitchell Street, Bourke

The site included a vacant building previously used for the purposes of business premises (hairdressing salon). The overall building includes additional occupied tenancies and would present an opportunity if advertised, to establish new commercial development in the locality.

4. 33 Mertin Street, Bourke

The site contains unoccupied buildings previously used for the purposes of serviced apartments (Outback Hotel). The existing buildings would present an opportunity for the reestablishment of tenants at the premises.

5. 17 Richard Street, Bourke

The site contains a derelict building previously used for the purposes of a second hand retail store. The building would require significant repair prior to occupation or reestablishment of a new land use.

6. 40 Oxley Street, Bourke

The site contains a vacant retail building (clothing store). The building is centrally located and would present business prospects to potential tenants should the opportunity arise.

7. Lot B, 19-23 Oxley Street, Bourke

The site contains a vacant retail building (variety store). The building is part of a row of attached tenancies on the western end of Oxley Street. The building presents commercial opportunities should the building be advertised for occupation.

The results of the study identified limited opportunity for further economic expansion within Bourke's existing town centre. The study identified a total of seven (7) sites across the B2 Local Centre zone which included two (2) parcels of vacant land, one (1) of which had remnants of a burnt down building, a site with a derelict building and four (4) buildings, each previously occupied with commercial/retail uses.

The study resulted in approximately 1200m² of vacant floor space across the four independent sites within Bourke's town centre. There is an additional 1200m² of vacant land located at 47-49 Mitchell Street. In addition, the remaining sites at Sturt and Mitchell Streets would require additional work to remove remaining buildings and structures or significant repair to enable occupation of the site.

It should also be noted that none of these sites are currently advertised for occupation.

The anticipated development types to occur within the R1 zone would be as follows:

- Change of use of existing dwelling house to business or office premises;
- Mixed use development including existing residency and new business or office premises; or
- New business or office premises construction up to 250m².

Currently, development for the purposes of home business or home occupations are allowed up to 100m² with consent in the R1 zone. This development type is restrictive as the business needs to be operated by residents of the associated dwelling with a maximum of no more than 2 nonrelated employees.

The results concluded that there is a limited supply of commercial floor space within the CBD for small-scale business premises and office premises development. The Planning Proposal seeks to provide business and office floor space within the R1 General Residential zone. The Planning Proposal has identified that the existing predominant development within the CBD is large format retail and government buildings. The Planning Proposal seeks to provide a maximum floor space restriction of 250m² or allowing the adaptive reuse of an

existing dwelling house, to maintain the commercial hierarchy of the town and further mitigate any impact on the existing residential amenity of the R1 zone.

The land use map as informed by the land use study is depicted in **Figure 7**.



Figure 7. Land Use Map – Bourke Town Centre (B2 Zone)

4.5 State and commonwealth interests

It is not considered that the amendments proposed via this planning proposal would conflict with any State or Commonwealth interests. The formal views of State and commonwealth public authorities would be ascertained following the Gateway Determination.

5. COMMUNITY CONSULTATION

5.1 Type of community consultation required

Public exhibition of the subject Planning Proposal would be undertaken as a standard proposal for a period of 20 working days, in accordance with the DPIE's *Local Environmental Plan Making Guideline*.

It should also be noted that if referred to any State government agencies or public authorities, comment is expected within 30-40 days.

Notification would be provided via the following platforms:

- On Council's website
- On the NSW Planning Portal

- In writing to affected and adjoining landowners unless this is impractical and therefore not required as part of the Gateway determination

6. PROJECT TIMEFRAMES

In accordance with the DPIE’s Guideline, the timeframes for completing a Planning Proposal are as follows:

Stage	Maximum Benchmark Timeframes (working days)			
	Basic	Standard	Complex	Principal
Stage 1 – Pre-lodgement	30 days	50 days	60 days	20-30 days
Stage 2 – Planning Proposal	80 days	95 days	120 days	40 days
Stage 3 – Gateway determination	25 days	25 days	45 days	45 days
Stage 4 – Post-Gateway	20 days	50 days	70 days	160 days
Stage 5 – Public Exhibition & Assessment	70 days	95 days	115 days	95 days
Stage 6 – Finalisation	25 days	55 days	70 days	80 days
Sub-total (Department target)	140 working days	225 working days	300 working days	380 working days
Total (end to end)	220 days	320 days	420 days	420 days

In accordance with the Standard Planning Proposal timeframes as mentioned above, we anticipate the following timeframe for completion as shown in **Table 4**.

Table 4. Estimated Project Timeframe

Stage	Timeframe and/or date
Pre-lodgement meeting with DPIE	End September 2022
Consideration by Council	Early November 2022
Council decision	End November 2022
Gateway Determination	Early January 2023
Commencement and completion of public exhibition period	January 2023 to February 2023
Council’s consideration of submissions	End March 2023
Post-exhibition review and additional studies	Early April 2023
Submission to the Department for finalisation	End April 2023
Gazettal of LEP amendment	End May 2023



APPENDIX A

TOWN CENTRE LAND USE MAP



Legend

- Cadastre
- Existing Land Use Activity in B2 Zone**
- Church
- Childcare
- Education Establishment
- Government
- Hardware, Building Supplies
- Accommodation/Offices
- Offices
- Park/Men's Shed
- Private Recreation
- Public Recreation
- Residential
- Retail
- Serviced Apartments
- Vacant
- Vacant Building
- Vacant Land
- Light Industry
- Carwash
- Vehicle Repairs

GDA2020 MGA Zone 55 File: 122205_01.aprx Prepared by: adam.davis Date: 13/09/2022



Premise

Gateway Determination

Planning proposal (Department Ref: PP-2022-4267): amend the zone R1 General Residential land use table and rezone land from zone SP2 Air Transport Facility to zone IN1 General Industrial at 68B Sid Coleman Way, North Bourke.

I, the Director, Western 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 Bourke Local Environmental Plan 2012 to amend the zone R1 General Residential land use table to include business premises and office premises as permissible with consent supported by a local provision, and rezone land from zone SP2 Air Transport Facility to zone IN1 General Industrial at Lot 62 DP 1027306, 68B Sid Coleman Way, North Bourke should proceed subject to the following conditions:


1. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, 2022) and 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 *Local Environmental Plan Making Guideline* (Department of Planning and Environment, 2022).

No consultation is required with public authorities or government agencies under section 3.34(2)(d) of the Act

2. 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).
3. The Council as planning proposal authority planning proposal authority is authorised to exercise the functions of the local plan-making authority 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 applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and

- (c) there are no outstanding written objections from public authorities.
4. The LEP should be completed within six (6) months of the date of the Gateway determination.

Dated 19th day of January 2023.

A handwritten signature in black ink, reading "Garry Hopkins", is enclosed in a thin yellow rectangular border. The signature is written in a cursive style.

Garry Hopkins
Director, Western Region
Local and Regional Planning
Department of Planning and
Environment

Delegate of the Minister for Planning