

**From:** [noreply@feedback.planningportal.nsw.gov.au](mailto:noreply@feedback.planningportal.nsw.gov.au) on behalf of [Planning Portal - Department of Planning and Environment](#)  
**To:** [DPE PS ePlanning Exhibitions Mailbox](#)  
**Subject:** Webform submission from: Activation Precincts SEPP and the Wagga Wagga master plan  
**Date:** Tuesday, 29 September 2020 10:01:35 AM  
**Attachments:** [sap-submission-280920.pdf](#)

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Submitted on Tue, 29/09/2020 - 09:53

Submitted by: Anonymous

Submitted values are:

Submission Type: I am making a personal submission

First Name: Neal

Last Name: Durnan

Name Withheld: No

Email: [REDACTED]

Suburb/Town & Postcode: Wagga Wagga, 2650

Submission file:

[sap-submission-280920.pdf](#)

Submission: I am lodging this submission on my behalf and on behalf of Wayne and Russel Durnan

URL: <https://pp.planningportal.nsw.gov.au/WaggaWaggaSAP>

## Activation Precincts SEPP, Wagga Wagga Special Activation Precinct Master Plan – Submission

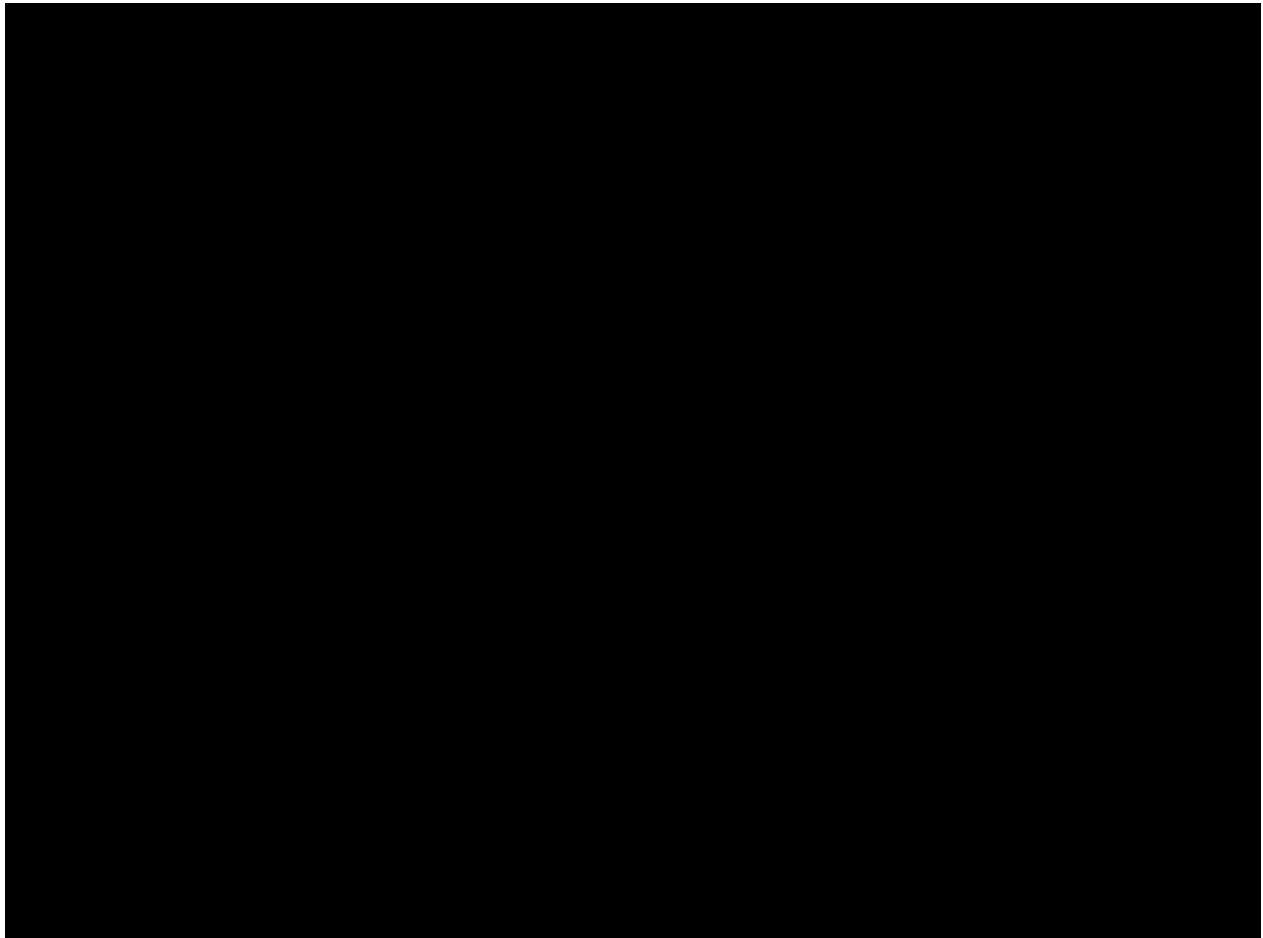
Neal, Russel and Wayne Durnan

██████████

██████████

### We object to the proposal

Our property is █████ █████ located on the eastern side of the precinct off █████ north of Trahairs Road, as indicated in the map below. Of our █████ ha holding, █████ ha is currently zoned IN1 General Industrial and █████ ha is zoned RU1 Primary Production under the Wagga Wagga Local Environmental Plan 2010.



We strongly object to the proposed rezoning of our property as outlined in the Wagga Wagga Special Activation Precinct (**SAP**) Master Plan as it materially affects our property, livelihood and financial security. We (two brothers and cousin) are all in our 60s. The arbitrary proposal to rezone *almost 70% of our land* has been made without any consultation with us. As significantly adversely affected landowners, it is unacceptable that we have not been consulted in the formation of the draft Master Plan.

The proposal to 'back-zone' 174 ha of our 259 ha holding from RU1 and IN1 to a Rural Activity Zone will substantially constrain development opportunities and use of our property, and dramatically decrease our property value. A *conservative estimate is a 65% drop in land value*. Our land, and the use that can be made of it, is our superannuation. Our property should retain its current IN1 and RU1 zoning (with all the permitted use and development opportunities this zoning affords, including solar).

In the alternative, DPIE must re-evaluate the land use table for the proposed RAZ to permit, support and encourage typical rural permitted uses (including solar farms). Given that a wide range of uses are considered acceptable in rural landscapes across the State, there is no basis at all for the Rural Activity Zone in a rural landscape, and adjacent to an industrial precinct, to be so excessively constrained. Development should have the opportunity to manage and mitigate impacts and proceed through a merits assessment by consent authority, as in any other rural setting. It is unreasonable to significantly modify the industrial zone boundary to back-zone our property and others nearby, and to further debilitate the land through the application of the excessively constrained RAZ.

We consider solar should be a permitted use in the Rural Activity Zone as: it is consistent with the DPIE's intentions for a passive land use and green buffer around the industrial zone; would enable to be generated to in close proximity to consumption centres; and will generate significant economic benefit to the Wagga region. It is understood DPIE intends that developments that generate acoustic and odour impacts should be avoided in the RAZ; however, solar farms do not generate these operational impacts. State and local legislation considers solar farms to be an acceptable use in the RU1 zone; therefore, why would solar farms be unacceptable in this setting on the fringe of the industrial precinct and be prohibited?

If these positions will not be accommodated by DPIE, rezoning our land to a RAZ will decimate our land value and negate all development opportunities in our property's location. It will be necessary for us to seek that our land be acquired by the Development Corporation, as compensation for the sterilisation of land and significant loss of feasible use and value.

### **Reasons for our objection**

1. We have been members of the community and landholders at [REDACTED] for 31 years. As farmers, our property is effectively our superannuation and is the bulwark for our retirement. We (two brothers and cousin) are all in our 60s. Despite the ups and downs of farming, including the 2000-2010 drought, we as a family have worked hard to hold on to our property to ensure we had a nest egg to retire, given its proximity to the Bomen industrial area. In 2010, [REDACTED] ha of our [REDACTED] ha holding was rezoned to General Industrial (IN1) with the gazettal of the WWLEP 2010, giving effect to the Bomen Strategic Masterplan developed in 2008/09.
2. Renewable energy developers have been actively pursuing opportunities in the area for around the last five years. We had entered into an agreement for lease with one proponent, which subsequently did not proceed. We have since been in negotiations with another proponent, and had received an agreement for lease for our execution, when we (and the proponent) found out that solar farms were proposed to be prohibited in the Rural Activity Zone as part of the SAP Master Plan. We had no indication this would be the case.

### ***Failure to consult and lack of transparency in the SAP planning process silenced our contribution in the formation of the draft Master Plan***

3. Our property is [REDACTED] located on the eastern side of the precinct off [REDACTED] north of Trahairs Road. Of our [REDACTED] ha holding, [REDACTED] ha is currently zoned IN1 General Industrial and 146 ha is zoned RU1 Primary Production under the Wagga Wagga Local Environmental Plan 2010. Figure 1 and Figure 2 show the location of our property with the current and proposed land use zoning.

Figure 1 – Our property location (highlighted in red) in the current land use zoning

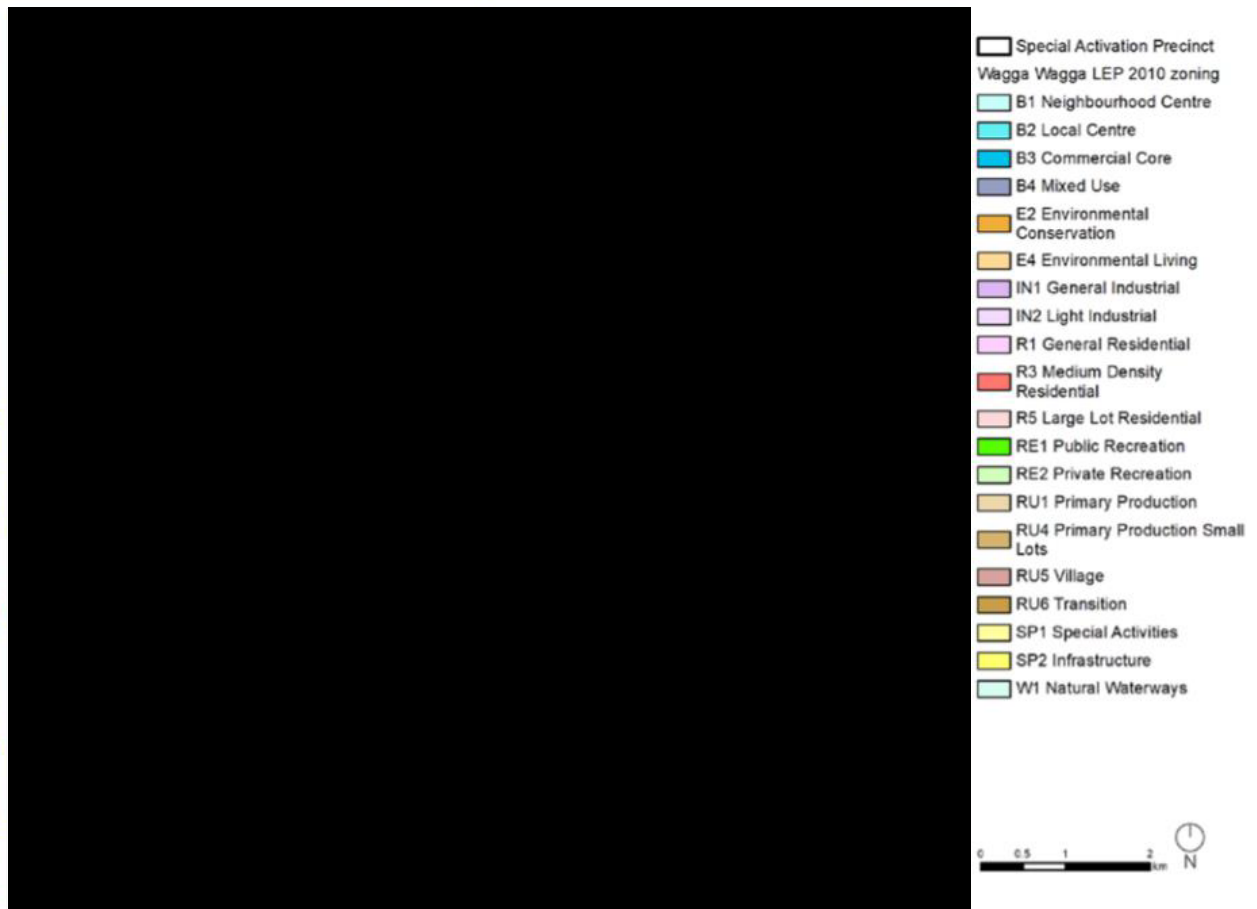
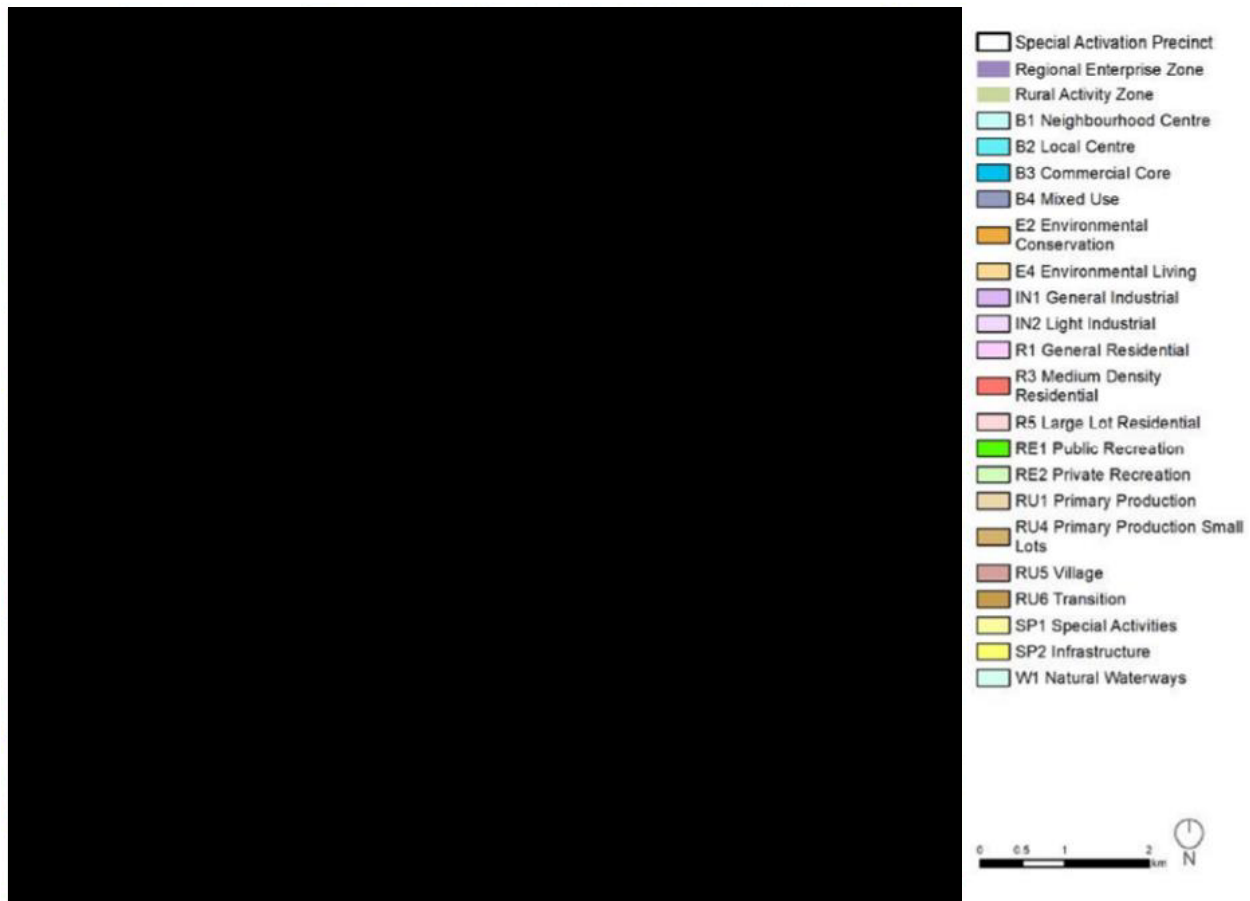


Figure 2 – Our property location (highlighted in red) in the proposed land use zoning



4. We first heard of the proposed SAP around November 2019. Neal was invited to attend a meeting with DPIE and WWCC representatives (Anthea Sargeant DPIE and Tristan Kell WWCC) at Wagga Wagga City Council. In a short meeting they outlined a review of the 2008/09 Bomen Strategic Master Plan was underway. They explained the SAP as a revamp of the Master Plan, with a green belt around it. We had no concerns as the Master Plan is consistent with the current zoning under the WWLEP 2010, part IN1 and part RU1. Neal discussed with them our ongoing discussions with solar proponents to lease our property. They assured Neal solar would continue to be a permissible use on our property. Neal felt reassured by the meeting that any change to the zoning or use of our property was unlikely.
5. Despite DPIE and WWCC representatives advising they would be in contact, we have not received any written or email correspondence regarding the Master Plan. Apart from this meeting, we have not received any correspondence or been contacted in any way. We have since learnt that other landowners and interested parties in the area were engaged with by mail: kept advised of the process and invited to attend DPIE briefings or meetings and generally consulted with on the process. We understand that DPIE visited properties and met with many landholders in the proposed Rural Activity Zone. We have not been party to any of this consultation; even though we stand to be one of the few properties “back-zoned” and significantly adversely affected.
6. We have recently learned DPIE visited the area several times in late 2019 and early 2020, but we received no notification about these visits. Our property at [REDACTED] does not have a

residence. The rates for the property are sent to [REDACTED] We have not received written correspondence to that address either.

7. On the basis of the assurance given at the meeting with DPIE in November 2019, it remained our intent to enter into an agreement for lease for a solar farm. Through late 2019 and 2020 we continued our discussions and negotiations with the solar proponent to enter into an agreement for lease. Both we and the proponent continued these negotiations in good faith, with the understanding that solar farms would continue to be a permissible use in any new zoning. We understand the developer, who has existing solar farms in the Bomen area, was not engaged with by DPIE.
8. On 22 July 2020, the proponent advised it was going to defer execution of the agreement as they had reviewed a copy of the SAP draft Master Plan which indicated it would not be possible to construct a solar farm on our property.
9. We subsequently attended a presentation of the draft Master Plan at WWCC in August 2020 at the suggestion of NGH. It was at this presentation we became aware [REDACTED] ha of our property which is zoned industrial and [REDACTED] ha of our property which is zoned RU1 has been proposed to be rezoned as a Rural Activity Zone, without any consultation with us ([REDACTED] ha of our [REDACTED] ha property). We were informed our correspondence address was [REDACTED] We have not received any of this correspondence and it is considered this would have been returned to the sender given no mailbox is present at that address.
10. This failure to engage and consult with us is unacceptable. We have not been consulted in decisions that significantly affect our property, our livelihood, and our financial security. As an adversely affected landowner we have the right to be consulted. We agree with the objectives of the SAP and desire it to 'be a sustainable hub of high value production'. However, we do not believe the proposed zoning will realise the Master Plan's guiding principles of economic benefit and environment and sustainability as it prohibits reasonable uses of the land and potentially uses that contribute to and support the objectives of the precinct.
11. In recent discussions with others, it is understood that the pre-consultation meetings held with DPIE were very vague as to the extent of the SAP and what was being considered. No meaningful details were given. It is understood there was no indication that the industrial zone would be substantially modified until a diagram was shown in a March 2020 meeting (but not provided in hard copy). It is further understood that there was no indication that solar farms would be prohibited until the draft Master Plan was exhibited in late July 2020. There was also no indication or any meaningful information provided that the surrounding "buffer" zone would be significantly constrained compared to the standard RU1 zoning. Therefore, the draft Master Plan has been allowed to progress and develop with no meaningful comment or input provided by stakeholders and it now appears to be a foregone matter.

***Rezoning our property from IN1 and RU1 to a Rural Activity Zone effectively sterilises the land and dramatically reduces its value***

12. The effect of the proposed rezoning of our property from IN1 and RU1 to RAZ would dramatically reduce its value and effectively sterilise the land from reasonable use, including solar farms.<sup>1</sup> Not only would our property no longer be zoned industrial, significantly reducing its value and development opportunities, but the RAZ is heavily restricted even in comparison the RU1 zone. Not only would industrial uses no longer be permitted but typical rural activities are not permitted in the RAZ. While currently 113 ha of our property is zoned IN1 and 146 ha is zoned RU1, under the proposed rezoning 174 ha of our property would fall within the RAZ. The effect is to drastically erode our superannuation and crush our retirement prospects.

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<sup>1</sup> Electricity generating works and solar energy generating facility are prohibited uses in the Wagga SAPP RAZ: Discussion Paper, 14 – 15.

13. The proposed rezoning would have a significant impact on our property's value. A conservative estimate from a local real estate agent is that if our property is rezoned as proposed, it will drop 65% in value. It is conservative as the estimate presumes our zoned industrial land will have RU1 zoning and uses. The drop in value is likely to be far greater if it is rezoned to a Rural Activity Zone, which has far more prohibited uses than RU1 zoning, with a commensurate drop in land value from RU1 land. Our property is currently valued at \$8.995 million. The conservative estimate (of 259 ha of RU1 land) is \$3.195 million. The valuation is attached as Appendix A to this submission.
14. We understand the RAZ is a new zone created by DPIE for Wagga: it is not referenced or applied in any other planning instruments. It has not been subjected to the rigour of that process. It presents as a detrimental, inconsistent, haphazard confection of permitted uses. There is no rational basis for the land uses listed in the Wagga RAZ. Why would standard, typical rural uses be prohibited in a Rural Activity Zone? Typical uses such as intensive plant agriculture (irrigated crops), viticulture, livestock related agriculture, plant nurseries, rural industries (including composting) are prohibited. Other typically permitted uses such as solar farms, cellar door premises, stock and sale yards, roadside stalls, markets, etc. are prohibited in the Rural Activity Zone.
15. Conversely, permitted uses appear to have been cherry picked based on certain key sectors that we understand have approached DPIE as referenced in the August presentation. If the intent is to heavily constrain land uses, why are information and education facilities, recreation areas and industrial training facilities permitted in a Rural Activity zone?
16. In consultation sessions, DPIE indicated the uses in the RAZ should not generate acoustic or odour impacts; thereby ensuring development within the Regional Enterprise Zone could meet the acoustic and odour standards at the SAP boundary; however, there are several typical rural uses indicated above that would not generate any identifiable acoustic or odour impacts. Conversely, many of the permitted uses such as industrial training facilities, biosolids treatment facilities, dairy (pasture-based), emergency services facilities, sewage treatment plants, water recycling and/or treatment facilities would be considered likely to generate acoustic and odour impacts.
17. The Structure Plan appears to have cherry picked certain "constraints" to curate a desired outcome. Constraints such as slope, flooding, visual exposure, Aboriginal heritage and the like, generally equally affect the precinct to the west of Byrnes Road and to the east of Byrnes Road; however, the Structure Plan arrives at a result that the area west of Byrnes Road is majorly constrained (p.44) with no real basis.
18. The determination appears to largely rely on the fact that land west of Byrnes Road is not able to be readily serviced by sewer; however, this was always known to be the case and is not intended to be. Land west of Byrnes Road has always intended to be large lot industrial development and "dry industries" that would use on-site sewerage management systems. The Bomen Strategic Master Plan raises no concern regarding this at Section 4.4.5 and 6.5.2. These requirements were subsequently captured in the Bomen chapter of the Wagga Wagga Development Control Plan 2010.
19. The Structure Plan and Master Plan indicate that Brucedale receptors are potentially the greatest affected, and determines that a 1 km separation to the proposed boundary of the Regional Enterprise Zone would be adequate. However, the residents of the Eunony Valley are generally 2-3 km from the boundary of the existing IN1 General Industrial zone and this separation is proposed to be increased by a further 1.5 km, through back-zoning of the intervening land. Why are the Eunony Valley receptors afforded such significant protection when they are located at a greater distance and less elevated in the landscape, when compared to Brucedale residents. There is no rational basis for this and it has not been consistently applied.
20. It appears the most vocal complainants in the development of the SAP Master Plan are not the most affected residents. Eunony Valley residents have had a disproportionate effect on the draft Master Plan through the significant shifting of the industrial zone boundary. The amenity benefit of a group

of 34 residents is disproportionately outweighing the economic benefit the SAP could have for the Wagga region, or the landowners who would be detrimentally affected by the rezoning.

21. The Structure Plan appears to consider that the existing extent of industrial land is an oversupply and is not necessary. It references that very little development approvals have been pursued in the wider Bomen precinct and built form as a percentage is low. However, the industrial zoning has only been in place for approximately 10 years and the Bomen Strategic Master Plan indicates a 30 year vision for the precinct.
22. The practical effect of this disjointed zoning application is human: it erodes the superannuation, the decades of work and striving and scrimping, that we have gone through to hold onto this asset and the promise it holds for us.

### ***Solar farms should be a permitted use in the Rural Activity Zone***

23. Solar farms as a land use is consistent with the intent of the SAP. Environmental sustainability is a principle of the Master Plan and renewable energy development enables that. Solar should not be prohibited in only some parts of the RAZ zone. Solar farms provide a passive land use buffer that does not generate noise or odour, as is DPIE's intention for the Rural Activity Zone.<sup>2</sup> State and local legislation considers solar farms to be an acceptable use in the RU1 zone; therefore, why would solar farms be unacceptable in this setting on the fringe of the industrial precinct and be prohibited?
24. The draft Master Plan and Discussion Paper do not directly address the basis for solar farm prohibitions, limiting transparency of the process. They also do not address why it was considered they could be supported on the western side of the SAP. Further, the Visual Analysis was prepared to address the potential for solar farms on the western side of the SAP and does not provide any consideration of how they may be supported in other locations.
25. As outlined above, there are several typical rural uses that would not generate any identifiable acoustic or odour impacts. Solar farms do not generate operational noise or odour impacts and therefore are considered to be consistent with DPIE's objectives for the RAZ. Concerningly, many of the permitted uses in RAZ such as industrial training facilities, biosolids treatment facilities, dairy (pasture-based) and sewage treatment plants, would be considered likely to generate acoustic and odour impacts. Therefore, it is considered there is no sound planning basis for the prohibition of solar farms. Again, the views of a small group of residents, located at a reasonable distance, appear to take precedence.
26. The Parkes SAP does not have a Rural Activity Zone. Parkes SAP also has a designated solar sub-precinct, which 'recognises the significant investment already made in renewable energy generation'<sup>3</sup>. The creation of a Rural Activity Zone for Wagga is inconsistent and will drive perverse outcomes, in particular, the stagnation, not creation, of economic benefit and productivity. Solar is an investment and energy opportunity the Wagga region should be encouraging. What location in the region is more suitable for solar than the industrial hub of the area, a consumption centre, where practical and feasible connections to the grid are available.

### ***Solar farming is an appropriate use in our property's location***

27. We understand concerns have been raised about glare from the existing Bomen Solar Farm (north of Trahairs Road), situated on a rising slope. We understand most of this concern was glare from the construction period when the panels weren't tilted, and there is now minimal glare. Even so, our property is relatively level, where glare from construction or operation should not be a concern for surrounding residents. The land is already cleared. The Visual Analysis Report acknowledges that

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<sup>2</sup> "Uses that have a medium to high potential for amenity impacts, through things like odour and noise generation or visual impacts, are not permitted in the Rural Activity Zone." – p.19 of Discussion Paper

<sup>3</sup> Parkes SAP Masterplan, 15.



the western boundary of the SAP forms the valley floor. The Structure Plan indicates the visual exposure of our property is at the low end (p.38) and the aspect of our property situates it over the ridge (and visibility) from the majority of local residents (residential zoned land and the majority of dwellings concentrated to the west of the proposed SAP. Our property is barely affected by the 'major considerations' (p.42)<sup>4</sup> and the site presents much lower disruption to amenity for the majority of residents in and around the SAP area than the Rural Enterprise Zone.

28. Solar farms are currently permitted in the rural zone; however developers are pursuing solar farms on the eastern side of Bomen as investigations are obviously indicating this is better suited land. The Structure Plan identifies that residential zoned land and dwellings are concentrated to the west of the proposed SAP. To date, the number of development applications (excluding subdivisions) to the east suggests developers may gravitate to this side of the proposed SAP, as it is located further from concentrated residential development.
29. It appears DPIE intends to allow solar farms on the western side of the SAP; however, this would be of no real value. Solar farms would be limited to less than 35 hectares (being approximately 10 MW AC) and would require a direct connection to a suitable overhead powerline. The grid can only handle a limited capacity of these type of connections, and in some cases, has no capacity for these connections at all. Further, solar farms of less than 35 ha have limited commercial appeal for developers (insufficient scale of operations to be economically feasible). Solar farms on the eastern side would be more feasible given they can utilise existing connections (as a solar farm on our land would) or easily establish new direct connections to the Bomen zone substation, without having to cross numerous other landholders and major roads.
30. A key reason renewable energy developers have been and are interested in our property and its surrounds is because its location preserves amenity and minimises disturbance for nearby residents. Further, the developer has indicated a grid connection can be secured (the cable is already in place from the Bomen Solar Farm and has sufficient capacity). This presents a viable opportunity where amenity would not be adversely affected. The prohibition of solar farms should be removed and proposals given the opportunity to investigate impacts, provide for mitigations and proceed through a merits based assessment.
31. In a previous submission to the planned Bomen Solar Farm (immediately adjacent to our property), the Eunony Valley Association stated its major concerns with solar farm could mostly be ameliorated by vegetation screening and undertakings by the solar farm manager itself (regarding weed management etc.).<sup>5</sup> Therefore, it follows that development of our property for the purpose of a solar farm could potentially be considered acceptable, subject to similar mitigations, given that our property is located lower in the landscape than the Bomen Solar Farm. Tree planting in road reserve (figure 7 draft Master Plan) illustrates enhanced landscaping would provide screening to the eastern side of the precinct, to the benefit of existing solar farms and a potential solar farm on our property.
32. The extent of the Regional Enterprise Zone should be reconsidered, to ensure maximum utilization of appropriate urban land. Additionally, the land use table for the Rural Activity Zone should be reconsidered to better support rural landholders and typical rural activities, thereby encouraging and supporting appropriate development through a merits based assessment, where impacts can be effectively managed and mitigated. Development in the RAZ would still be required to obtain a proposal certificate from the Development Corporation, ensuring that acoustic and odour impacts were avoided to the authority's satisfaction.

***The proposed rezoning discourages investment and economic benefits for the Wagga region***

33. The Wagga region has a unique opportunity to be an energy hub as the connection point for the SA-NSW Interconnector and falling within the NSW Renewable Energy Zone (South West Energy Zone).

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<sup>4</sup> And yet arrives at the view that the west of Byrnes Road is 'majorly constrained' (p.44).

<sup>5</sup> <https://www.planningportal.nsw.gov.au/major-projects/submission/29046>

The solar proponents we have spoken with have identified Wagga as an attractive area for investment and operation, with its direct flights to/from Sydney and Melbourne for major EPCM contractors, its large and skilled local workforce, and its position in relation to the renewable energy area locations in south west NSW. There is a considerable opportunity for economic benefit to the region, particularly during the construction phase of solar. Yet far from encouraging this industry investment in the region, adjacent to the industrial zone with a close grid connection point, this proposed zoning encourages solar investment to go elsewhere. That is a disastrous message for the Wagga economy, workforce and residents and, if realised, adversely detrimental to counteract the SAP's intent: to encourage industry, productivity and investment to the area.

34. We agree with the objectives of the SAP and desire it to 'be a sustainable hub of high value production'. We want Wagga to receive the economic benefit of such a hub. We do not believe the proposed zoning will realise the Master Plan's guiding principles of economic benefit and environmental sustainability as it prohibits reasonable uses of the land. The entire SAP (RAZ and Regional Enterprise Zone) should include solar as a permissible use (electricity generating works and solar energy generating facilities).

***Zoning should not erode the value of our asset and impede reasonable uses of the land***

35. We strongly object to the proposed rezoning of our property. We consider it should retain its current IN1 and RU1 zoning (with all the permitted use and development opportunities this zoning affords, including solar).
36. In the alternative, we strongly urge DPIE to re-evaluate the land use table for the proposed RAZ to support and encourage typical rural permitted uses (including solar farms, as is supported by ISEPP.Solar farms) and a range of other typical rural uses should be permitted in the RAZ and given an opportunity to mitigate any impacts and proceed through a merits assessment by consent authority. It is unreasonable to significantly modify the industrial zone boundary to back-zone land and to further hamper the land through the application of the excessively constrained RAZ.
37. If these positions will not be accommodated by DPIE, rezoning our land to a RAZ will decimate our land value and negate all development opportunities in our farm's location. It will be necessary for us to pursue compensation for the significant loss of value.
38. We have not been consulted in decisions that significantly affect our land, our livelihood, and our financial security. In the only engagement we had with DPIE, DPIE assured us that solar would continue to be a permissible use on our property. We had no reason to suspect the SAP Master Plan would have an adverse outcome for our property. On the contrary, we were assured any change to the zoning or use of our property was unlikely.
39. We have lost confidence in DPIE's process and are concerned decisions will be made going forward which will not consider our views or worries. We understand the draft Master Plan was developed based on very vague meetings held by DPIE with other select stakeholders. It has been developed without any meaningful information upon which to provide feedback and input. Further, we consider ourselves to be one of the landholders that would be significantly affected – our property has been back-zoned from IN1 to the excessively constrained RAZ. As an affected landowner we have the right to be consulted, and to have a conversation with planners who we feel have only heard from a small section of the community, those less affected than ourselves.
40. We urgently request a dedicated, one on one meeting with DPIE officers to discuss our concerns, given the serious and exceptional impacts on our property and financial security that is proposed by the draft Master Plan.

## Appendix A – Land valuation



4 September 2020

Mr N Durnan



Dear Neil,

**Estimated Property Value:**



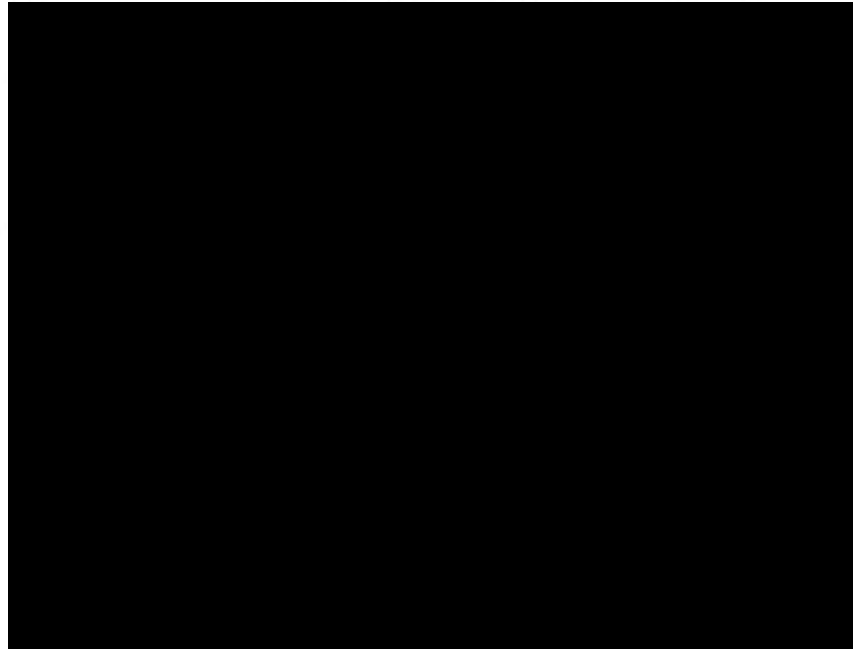
I refer to your request to provide an estimate of your family's land at



**Property:**



**Potential:**



I note under the Wagga Special Activation Precinct Structure Plan, it is proposed to rezone the subject land at Rural Activity - Sub Precinct which will negate the ability to have the land used as a solar farm as proposed and limits the uses back to almost farming uses which brings its value back to [REDACTED]

Please feel free to call me if I can be of further assistance.

Yours sincerely  
**PRDnationwide Wagga Wagga**



Anthony Paul Dip Law (S.A.B.)  
**Commercial/Industrial Sales & Leasing**

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**Disclaimer**

This estimation is for the use of and may be relied upon only by the party to whom it is addressed. No other parties are entitled to use or rely upon it and the writer does not assume any liability or responsibility to any other party who does so rely on this estimation without the express written authority of PRDnationwide Wagga Wagga.

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