

Nambucca LEP 2010 Draft Amendment No 4 – Change of Minimum Lot Size for Lot 11 Dudley Street Macksville

Proposal Title : **Nambucca LEP 2010 Draft Amendment No 4 – Change of Minimum Lot Size for Lot 11 Dudley Street Macksville**

Proposal Summary : **The planning proposal seeks to amend the minimum lot size map for Lot 11 DP 805157, Dudley Street Macksville, to enable the subdivision of the land to create a 3ha lot for the construction of an educational facility.**

PP Number : **PP_2011_NAMBU_003_00** Dop File No : **11/17723**

Proposal Details

Date Planning Proposal Received : **28-Sep-2011** LGA covered : **Nambucca**

Region : **Northern** RPA : **Nambucca Shire Council**

State Electorate : **OXLEY** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Dudley Street**

Suburb : **Macksville** City : **Macksville** Postcode : **2447**

Land Parcel : **Lot 11 DP 805157**

DoP Planning Officer Contact Details

Contact Name : **Paul Garnett**

Contact Number : **0266416607**

Contact Email : **paul.garnett@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Grant Nelson**

Contact Number : **0265680248**

Contact Email : **grant.nelson@nambucca.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Jim Clark**

Contact Number : **0266416604**

Contact Email : **jim.clark@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Mid North Coast Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	3.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	1	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department of Planning's Code of Practice in relation to communications and meetings with Lobbyists has been complied with to the best of the Region's knowledge. There have not been any meetings with lobbyists concerning the proposal.**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **The amendment to the Nambucca LEP 2010 proposed by this planning proposal was the subject of a previous planning proposal (PP_2010_NAMBU_003_00). The amendment to the Lot Size Map was dropped from the previous planning proposal when the development application for the education establishment was refused by the Joint Regional Planning panel. The applicants have since appealed the decision in the Land and Environment Court. If the Court appeal is upheld, then the subdivision envisaged by this Planning Proposal will be necessary.**

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The statement of objectives adequately describes the intention of the planning proposal which is to enable the subdivision of Lot 11 DP 805157 to create a 3ha lot for an educational establishment.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The planning proposal intends to amend the Lot Size Map in the Nambucca LEP 2010 to enable the excision of a 3ha allotment from Lot 11 DP 805157.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :	1.2 Rural Zones
	1.5 Rural Lands
* May need the Director General's agreement	2.2 Coastal Protection

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3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

5.1 Implementation of Regional Strategies

5.3 Farmland of State and Regional Significance on the NSW Far North Coast

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 14—Coastal Wetlands

SEPP No 26—Littoral Rainforests

SEPP No 44—Koala Habitat Protection

SEPP No 71—Coastal Protection

SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **Yes. See the assessment section of his report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The mapping adequately shows the proposed change to the Lot Size Map for the subject land.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment : **The amendment to the Nambucca LEP 2010 proposed by this planning proposal was the subject of a previous planning proposal (PP_2010_NAMBU_003_00). The proposed amendment to the Lot Size Map of the Nambucca LEP 2010 was exhibited as part of the previous planning proposal from 10 to 25 March 2011 in accordance with the previous gateway determination dated 15 February 2011.**

The planning proposal attracted only two submissions. The issues raised in the submissions included the impact of the proposed school on neighbouring properties, and the potential for dwellings on the lot. The submissions did not object to the change in the minimum lot size for the land.

It is recommended that community consultation is not required for this planning proposal for the following reasons;

- 1. The proposed amendment to the Nambucca LEP has been exhibited previously and the submissions did not raise issues that should prevent the proposed amendment from proceeding.**
- 2. The proposed amendment will only proceed if the appeal against the refusal of the development application for the school is upheld in the Land and Environment Court.**
- 3. The proposed amendment to the minimum lot size map enables only subdivision of the land and a development application will still be required before subdivision can occur.**
- 4. To require re-exhibition would create unnecessary delays in processing the amendment which could delay commencement of the project.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

The planning proposal satisfies the adequacy criteria by;

- 1. Providing appropriate objectives and intended outcomes.**
- 2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes.**
- 3. Providing an adequate justification for the proposal.**
- 4. Outlining a proposed community consultation program.**

Proposal Assessment

Principal LEP:

Due Date : **July 2010**

Comments in relation
to Principal LEP :

The Nambucca LEP 2010 was published in July 2010. This planning proposal seeks to amend the Nambucca LEP 2010

Assessment Criteria

Need for planning
proposal :

BACKGROUND:

The amendment to the Nambucca LEP 2010 proposed by this planning proposal was the subject of a previous planning proposal (PP_2010_NAMBU_003_00) which also included two other amendments to the Nambucca LEP. The amendment to the Lot Size Map for Lot 11 Dudley Street (allowing excision of a 3 hectare lot) was dropped from the previous planning proposal when the development application for the education establishment was refused by the Joint Regional Planning Panel (JRPP). The other amendments to the Nambucca LEP proposed by planning proposal PP_2010_NAMBU_003_00 proceeded to completion and therefore the planning proposal has been exhausted.

The applicant for the proposed educational establishment has since appealed the refusal of the development application in the Land and Environment Court and a decision from the Court is expected in October 2011.

This planning proposal seeks to recommence the amendment to the Lot Size map in preparation of the Court's decision. If the Court dismisses the appeal this planning proposal will cease. The RPA has advised that it does not wish to enable Lot 11 to be subdivided for any reason other than a school.

This planning proposal has been submitted prior to the Court's decision, to enable an expeditious completion of the LEP amendment should the appeal be upheld. Neither the applicant nor the land owner wish to commence construction of the school until the lot has been subdivided and ownership finalised. The planning proposal indicates that the school qualifies for Commonwealth funding and the applicant wishes to commence construction as soon as possible. The RPA seeks to have an active Gateway determination in place to amend the LEP should the Court uphold the appeal and hence this planning proposal has been submitted.

The amendment to the Lot Size map is the most appropriate mechanism to enable the proposed subdivision of Lot 11. A 40 hectare minimum lot size currently applies to Lot 11 and, under the provisions of the LEP, subdivision to create the required lot of 3 hectares is not possible

The amendment of the Nambucca LEP 2010 to enable the subdivision of lot 11 to create a lot for a school will have an indirect community benefit. The construction of the school will not go ahead unless the applicant can secure tenure of the land for reasons of financial security. Also the current owner of Lot 11 does not want to construct the school and therefore it is necessary to excise a lot to sell to the Catholic Church.

Should the Land and Environment Court appeal be successful, the school, which will be facilitated by the subdivision, will have a net community benefit for the following reasons;

- The school proposal has attracted funding from the Building the Education Revolution Program and in particular the Primary Schools for the 21st Century Program. The project will cost approximately \$8 million.
- The proposal will provide increased operational and construction jobs.
- The proposal will provide increased capacity and improved school facilities for the students and families of Macksville and surrounding areas.

Consistency with strategic planning framework :

The amendment to the Nambucca LEP 2010 is not inconsistent with the provisions of the Mid North Coast Regional Strategy and is consistent with the RPA's strategies and structure plan.

Consistency with SEPPs.

The proposal is not inconsistent with any state environmental planning policies.

S117 Directions.

The planning proposal submitted by the RPA identifies the following S117 directions as being applicable to the proposal 1.2 Rural Zones, 1.5 Rural Lands, 2.2 Coastal Protection, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 5.1 Implementation of Regional Strategies, 5.3 Farmland of State and Regional Significance on the Far North Coast. No inconsistencies with the identified 117 directions are raised.

The Northern region team identified that the following 117 Directions are applicable to the proposal, 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 2.4 Recreation Vehicle Areas, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, 6.3 Site Specific Provisions.

Of the above s117 Directions the proposal is inconsistent with direction 1.2. Rural Zones .

The Direction states that a planning proposal shall not contain provisions which will increase the permissible density of land within a rural zone. The planning proposal aims to enable subdivision of rural land to below the minimum lot size for specific land uses.

The Direction provides that a planning proposal may be inconsistent with the direction if the inconsistency is justified by a study, a study, or is of minor significance. The increased density that would result from the proposal is minimal as it would enable the development of a school on the site. A school is already permissible with development consent in the RU1 zone under the Nambucca LEP 2010. The planning proposal seeks only to enable subdivision of that land for the school. The proposal will not result in a greater density of housing in rural zones in the shire. The inconsistency is therefore considered to be of minor significance.

The planning proposal is otherwise consistent with S117 directions.

Environmental social economic impacts :

The planning proposal will not have any adverse impact on critical habitat or threatened species, populations or ecological communities, or their habitats. Similarly the planning proposal is not likely to have any adverse effect on the natural, built or socio-economic environment. These matters will be considered as part of the assessment and determination of the application for the school.

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The planning proposal has given consideration to social and economic impacts of the proposed amendment to the Nambucca LEP 2010. The proposed amendment will facilitate the construction of a school which as previously discussed will have a net community benefit.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **Nil**

Timeframe to make LEP : **6 Month** Delegation : **DDG**

Public Authority
Consultation - 56(2)(d)
:

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Nambucca LEP Amend No 4 - Council's letter.pdf	Proposal Covering Letter	Yes
Nambucca LEP Amend No 4 - Planning Proposal.pdf	Proposal	Yes
Nambucca LEP Amend No 4 - Proposed changes to lot size map.pdf	Map	Yes
Nambucca LEP Amend No 4 - Appendix C Geotechnical Investigation.pdf	Study	Yes
Nambucca LEP Amend No 4 - Appendix D Flood Assessment.pdf	Study	Yes
Nambucca LEP Amend No 4 - Appendix E Preliminatry Acoustic Assessment.pdf	Study	Yes
Nambucca LEP Amend No 4 - Appendix F Acoustic Assessment.pdf	Study	Yes
Nambucca LEP Amend No 4 - Appendix G Traffic Assessment.pdf	Study	Yes
Nambucca LEP Amend No 4 - Exhibition notice and submissions to previous planning proposal.pdf	Study	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.2 Rural Zones
1.5 Rural Lands
2.2 Coastal Protection
3.4 Integrating Land Use and Transport
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
5.1 Implementation of Regional Strategies
5.3 Farmland of State and Regional Significance on the NSW Far North Coast**

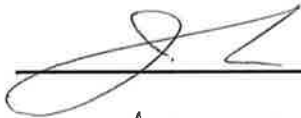
Additional Information : **It is recommended that;**

- 1. The planning proposal proceed as a 'routine' planning proposal .**
- 2. The planning proposal is to be completed within 6 months.**
- 3. That no community consultation is necessary for the planning proposal.**
- 4. It is recommended that a delegate of the Director General agree that the inconsistencies of the proposal with S117 Direction 1.2 is justified in accordance with the provisions of the direction. The proposal is otherwise consistent with S117 directions and SEPPs.**

Supporting Reasons : **The reasons for the recommendation are as follows;**

- 1. The proposal will ultimately enable the development of a school which will generate employment and provide much needed educational services for Macksville and surrounding areas.**
- 2. The provision of an active gateway determination will facilitate an expedient amendment to the LEP if the Land and Environment Court appeal is upheld, thereby enabling an efficient start to a project which will bring jobs and modern educational facilities to Macksville.**

Signature:



Printed Name:

JIM CLARK

Date:

6 October 2011