

**PLANNING
PROPOSAL –
AMENDMENT
NO. 2 –
INVERELL LEP
2012**

Planning Proposal – Amendment No. 2 – Inverell LEP 2012

This is a planning Proposal prepared under Section 55 of the *Environmental Planning and Assessment Act 1979*, in relation to a proposed amendment to *Inverell Local Environmental Plan 2012*. It will be assessed by Inverell Shire Council, the NSW Department of Planning and Infrastructure, and (depending on the Gateway Panel's determination) used for public participation on the proposed LEP amendment.

The *Inverell Local Environmental Plan 2012* has been in operation since 7 December 2012. As a result of experience with the plan it has become evident that the plan would benefit from amendments relating to 'dual occupancy (detached)'.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The intended outcome is to make 'dual occupancy (detached)' permissible with consent within the RU1 Primary Production and R5 Large Lot Residential zones under the *Inverell Local Environmental Plan 2012*.

PART 2 – EXPLANATIONS OF PROVISIONS

People in the RU1 and R5 zone wish a degree of separation between dwellings when undertaking a dual occupancy to allow privacy for the different intergenerational occupiers. This is particularly the case where a dual occupancy is occupied by older members of a farming family who want to remain "on the land" but not live in a household attached to that of other family members.

The *Inverell Local Environmental Plan 2012* does permit with consent rural workers dwellings in the RU1 zone and secondary dwellings in the R5 zone; however, the requirements for these types of development are very restrictive and difficult to justify. Despite a number of enquiries, no development applications have been received for these types of development.

Traditional reasons against supporting 'dual occupancy (detached)' within the RU1 and R5 zones relate to the potential for subdivision facilitating the dual occupancy on a separate allotment and the impacts associated with additional access roads/tracks. In the RU1 zone, the loss of agricultural land has also been a reason against supporting 'dual occupancy (detached)'.

The *Inverell Local Environmental Plan 2012* contains existing provisions relating to the subdivision of dual occupancy developments, such as the minimum lot size requirements. Additionally, the definition of 'dual occupancy (detached)' requires both dwellings to be located on one lot of land, further preventing the fragmentation of agricultural land. It is considered that any other relevant planning controls (e.g. shared access, separation distance) relating to dual occupancy (detached) would be appropriately contained within a local Development Control Plan if deemed necessary.

Therefore, it is considered that the objectives of the planning Proposal would be achieved by:

- Removing 'dual occupancies (attached)' from the Land Use Table for the RU1 Primary Production and R5 Large Lot Residential zones as a use that is permitted with consent; and
- Including 'dual occupancies' in the Land Use Table for the RU1 Primary Production and R5 Large Lot Residential zones as a use that is permitted with consent.

PART 3 – JUSTIFICATION

Section A – Need for the planning Proposal

Is the Planning Proposal a result of any strategic study or report?

This Planning Proposal is not the result of a specific study or report. The issue that this Planning Proposal addresses has been identified through operational experience with the *Inverell Local Environmental Plan 2012*.

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

A planning proposal is the only means of achieving the intended outcomes as it is necessary to modify the land use tables of RU1 Primary Production and R5 Large Lot Residential zones to make 'dual occupancy (detached)' a permitted use.

Section B. Relationship to Strategic Planning Framework

Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Planning Proposal is consistent with the *New England North West Strategic Regional Land Use Plan* and the *New England North West Regional Action Plan*.

Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?

The Planning Proposal is consistent with Council's Strategic Plan 2009-2029.

Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal is consistent with applicable State Environmental Planning Policies as per the table below.

SEPP	Relevant	Consistent	Comment
No. 15 Rural Landsharing Communities	No	N/A	The Proposal would not affect items addressed by the SEPP
No. 21 Caravan Parks	No	N/A	The Proposal would not affect items addressed by the SEPP
No. 30 Intensive Agriculture	Yes	Yes	An additional choice in housing type would contribute to the successful operation of intensive agriculture and rural industries.
No. 32 Urban Land Consolidation (Redevelopment of Urban Land)	No	N/A	The Proposal would not lead to the re-development of urban land as described in the SEPP.
No. 33 Hazardous and Offensive Development	No	N/A	No areas involving hazardous or offensive development would be affected.
No. 36 Manufactured Home Estates	No	N/A	The Proposal would not affect items addressed by the SEPP

No. 44 Koala Habitat Protection	No	N/A	No re-zonings are proposed that would affect koala habitat. The provisions of the SEPP would continue to apply to any land the subject of an application following the proposed changes.
No. 50 Canal Estate Development	No	N/A	Proposal would not affect canal estates.
No. 55 Remediation of Land	No	N/A	The provisions of the SEPP would continue to apply to any land the subject of an application following the proposed changes.
No. 62 Sustainable Aquaculture	No	N/A	Proposal does not affect any relevant land.
No. 64 Advertising and Signage	No	N/A	Proposal would not affect items addressed by the SEPP
No. 65 Design Quality of Residential Flat Development	No	N/A	Proposal would not affect items addressed by the SEPP.
Housing for Seniors or People with a Disability 2004	No	N/A	Proposal would not affect items addressed by the SEPP.
Building Sustainability Index: BASIX 2004	No	N/A	Proposal would not affect items addressed by the SEPP
Major Development 2005	No	N/A	Proposal would not affect items addressed by the SEPP.
Mining, Petroleum Production and Extractive Industries 2007	No	N/A	Proposal would not affect items addressed by the SEPP.
Temporary Structures 2007	No	N/A	Proposal would not affect items addressed by the SEPP.
Infrastructure 2007	Yes	Yes	Proposal would not affect items addressed by the SEPP.
Rural Lands 2008	Yes	Yes	Proposal for detached dual occupancies in the RU1 Zones would be consistent with the matters for consideration at Clause 10 of the SEPP. The Proposal would not lead to additional subdivision of rural lands.
Exempt and Complying Development Codes 2008	No	N/A	Proposal would not affect items addressed by the SEPP.
Affordable Rental Housing 2009	No	N/A	Proposal would not affect items addressed by the SEPP.
SEPP (State and Regional Development) 2011	Yes	Yes	Proposal would not affect items addressed by the SEPP.

Draft State Environmental Planning Policy (Competition)	No	N/A	Proposal would not affect items addressed by the SEPP. This SEPP is now beyond the 3 year timeframe requiring consideration.
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Is the Planning Proposal consistent with applicable Ministerial Directions (s. 117 directions)?

The Planning Proposal is consistent with applicable Ministerial Directions as per the table below.

1. Employment and Resources

No.	Direction	Relevant	Consistent	Reason
1.1	Business and Industrial Zones	No	N/A	No change to business or industrial zones.
1.2	Rural Zones	Yes	Yes	This Direction applies to any Proposal that affects land within an existing or proposed rural zone. Where this direction applies the planning authority must not: (4)(a) rezone land from rural zone to a residential, business, industrial, village or tourist zone, (4)(b) contain provisions that will increase the permissible density of land within a rural zone. Attached dual occupancies are currently permitted with consent in the RU1. Permitting detached dual occupancies in these zones with consent will not increase the permissible density within the zone but will increase the range of housing options permitted within the zone. Accordingly it is considered that the proposed additions to the development permitted within the RU1 zone are of minor significance and should be supported.
1.3	Mining, Petroleum Production and Extractive Industries	No	N/A	No changes to these industries are proposed.
1.4	Oyster Aquaculture	No	N/A	Does not apply to any of the land within the Proposal.
1.5	Rural Lands	Yes	Yes	This Direction applies to any Proposal that affects land within an existing or proposed rural zone. Where this direction applies the planning authority must consider whether the Proposal is consistent with the Rural Planning Principles identified by the <i>State Environmental Planning Policy (Rural Lands) 2008</i>. The Rural Planning Principles are as follows:

				(a) <i>the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,</i> The Proposal will not reduce the current opportunities for productive and sustainable economic activities to be undertaken in rural zones. (b) <i>recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,</i> The Proposal will not reduce the planning recognition and protection afforded agricultural lands. (c) <i>recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,</i> The Proposal will increase the variety of rural development that may be undertaken in RU1 zone. (d) <i>in planning for rural lands, to balance the social, economic and environmental interests of the community,</i> The Proposal will not adversely affect the social, economic or environmental outcomes for the rural communities. The Proposal will increase the variety of development that can be undertaken with consent on rural lands. (e) <i>the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,</i> The Proposal will have no effect on the identification and protection of biodiversity, resources or vegetation. (f) <i>the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,</i>
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				The Proposal will not adversely affect the opportunity for rural housing. The Proposal will allow detached dual occupancies to be permitted on rural land with development consent. <i>(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,</i> The Proposal will have no impact on the provision of services or infrastructure. <i>(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.</i> The Proposal does not relate to any regional or local planning strategy. <u>Summary Comment:</u> The Proposal is considered to be consistent with each of the Rural Planning Principles identified above and as such can be supported by the Planning Authority.
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2. Environment and Heritage

No.	Direction	Relevant	Consistent	Reason
2.1	Environment Protection Zones	No	N/A	Proposal would not alter provisions relating to protection and conservation of environmentally sensitive areas.
2.2	Coastal Protection	No	N/A	Land is not within the Coastal Zone.
2.3	Heritage Conservation	No	N/A	The Proposal would not alter existing provisions related to the conservation of heritage items.
2.4	Recreation Vehicle Areas	No	N/A	The Proposal would not affect existing restrictions on development of land for recreational vehicles.

3. Housing, Infrastructure and Urban Development

No.	Direction	Relevant	Consistent	Reason
3.1	Residential Zones	Yes	Yes	This Direction applies to any Proposal that affects land within existing or proposed residential zones. This Proposal will provide an additional housing choice within the R5 Large Lot Residential zone. Clause 6.6 of the Inverell Local Environmental Plan 2012 will ensure that 'dual occupancy (detached)' is adequately serviced.
3.2	Caravan Parks and Manufactured Home Estates	No	N/A	Provisions relating to an existing Caravan Park and its permissibility would not be changed.
3.3	Home Occupations	No	N/A	Provisions relating to home occupations would not be affected
3.4	Integrating Land Use and Transport	No	N/A	Provisions relating to integrating land use and transport would not be affected.
3.5	Development Near Licensed Aerodromes	No	N/A	The planning proposal will not alter the density of permissible residential accommodation around the Inverell Airport as two dwellings can already be constructed on a rural property as 'dual occupancy (attached)'. Furthermore, any development application for a 'dual occupancy (detached)' will be subject to a merit based assessment which would give appropriate consideration to the Inverell Airport. Overall, the planning proposal is of minor significance.
3.6	Shooting Ranges	No	N/A	No re-zoning of land close to a shooting range is proposed.

4. Hazard and Risk

No.	Direction	Relevant	Consistent	Reason
4.1	Acid Sulfate Soils	No	N/A	Land is unaffected by acid sulfate soils.
4.2	Mine Subsidence and Unstable Land	No	N/A	Land is unaffected by mine subsidence.

4.3	Flood Prone Land	Yes	Yes	Flood mapping has not been undertaken for RU1 zoned land. Flood mapping has been undertaken for the Inverell Township, but does not extend into the surrounding R5 zoned land (with the exception of a small number of properties adjacent to the township). Therefore, the Planning Proposal will not affect designated flood prone land and will have minor significance.
4.4	Planning for Bushfire Protection	Yes	Yes	Although the Planning Proposal intends to permit a type of residential development which may occur on bush fire prone land, it is considered specific bush fire control measures are not warranted. Any development application for a 'dual occupancy (detached)' on bush fire prone land will be subject to an assessment against Planning for Bush Fire Protection in accordance with Section 79BA of the Environmental Planning and Assessment Act 1979. Consultation with the NSW Rural Fire Service can be undertaken if required under the gateway determination.

5. Regional Planning

No.	Direction	Relevant	Consistent	Reason
5.1	Implementation of Regional Strategies	No	N/A	No regional strategy applies.
5.2	Sydney Drinking Water Catchments	No	N/A	Land is not within a water catchment.
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	No	N/A	Land is not on the NSW Far North Coast.
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A	Land is not on the NSW Far North Coast.
5.8	Second Sydney Airport: Badgerys Creek	No	N/A	Land is not within the relevant area.
5.9	North West Rail Link Corridor Strategy	No	N/A	Land is not within the relevant area.

6. Local Plan Making

No.	Direction	Relevant	Consistent	Reason
6.1	Approval and Referral Requirements	Yes	Yes	No additional concurrence, consultation or referral procedures are included
6.2	Reserving Land for Public Purposes	Yes	Yes	This Proposal does not create, alter or reduce existing zonings or reservations of land for public purposes
6.3	Site Specific Provisions	Yes	Yes	The Proposal does not change any zones or introduce additional site specific provisions.

7. Metropolitan Planning

No.	Direction	Relevant	Consistent	Reason
7.1	Implementation of the Metropolitan Strategy	No	N/A	Land is not within the Metropolitan area

Section C. Environmental, Social and Economic Impact

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

No additional adverse effects are anticipated, subject to normal merit assessment of development.

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

No significant environmental effects are anticipated.

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

No significant social or economic effects are anticipated.

Is there adequate public infrastructure for the planning Proposal?

There are no additional infrastructure implications from the Proposal.

What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination?

No specific consultations have been undertaken. Should the Gateway Determination identify any additional consultations these would be undertaken.

PART 4 – MAPPING

The proposed amendment relates only to the written component of the *Inverell Local Environmental Plan 2012*, as such, no mapping is proposed as part of the amendment.

PART 5 – COMMUNITY CONSULTATION

Council has not undertaken any community consultation concerning this planning Proposal. It is anticipated that this will occur as part of the formal exhibition of the planning Proposal or as directed through the gateway determination process.

The planning Proposal is considered to be low impact and a 14 day exhibition period is proposed for the planning Proposal, which includes:

- 1 notification of exhibition in the local newspaper;
- A display at Council's Administration Centre; and
- Exhibition on Council's website.

PART 6 – PROJECT TIMELINE

Task	Anticipated timeframe
Date of Gateway Determination	December 2014
Completion of required technical information, studies	No further studies expected.
Government agency consultation (pre exhibition as required by Gateway Determination)	December 2014 – January 2015
Any changes made to Planning Proposal resulting from technical studies and government agency consultations. Resubmit altered Planning Proposal to Gateway panel. Revised Gateway determination issued, if required.	Not Applicable.
Commencement and completion dates for public exhibition.	December 2014 – January 2015
Consideration of submissions, report Planning Proposal post exhibition	February 2015
Council requests a draft instrument be prepared by parliamentary counsel	February 2015
Council resolves to adopt and make draft LEP	March 2015
Formal notification of the plan	March 2015

CONCLUSION

The Planning Proposal seeks to amend the Land Use Tables of the RU1 Primary Production and R5 Large Lot Residential zones in the *Inverell Local Environmental Plan 2012* to provide flexibility for additional dwellings in the local government area. The Planning Proposal is considered to be consistent with relevant statutory and policy provisions.

ATTACHMENT 1 - INFORMATION CHECKLIST

STEP 1: REQUIRED FOR ALL PROPOSALS (under s55(a) - (e) of the EP&A Act)

- Objectives and intended outcome
- Mapping (including current and proposed zones)
- Community consultation (agencies to be consulted)
- Explanation of provisions
- Justification and process for implementation (including compliance assessment against relevant section 117 direction/s)

STEP 2: MATTERS - CONSIDERED ON A CASE BY CASE BASIS (Depending on complexity of planning proposal and nature of issues)

PLANNING MATTERS OR ISSUES	To be considered	N/A	PLANNING MATTERS OR ISSUES	To be considered	N/A
Strategic Planning Context			• Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining) • Sea level rise	☒	☐
• Demonstrated consistency with relevant Regional Strategy • Demonstrated consistency with relevant Sub-Regional strategy • Demonstrated consistency with or support for the outcomes and actions of relevant DG endorsed local strategy • Demonstrated consistency with Threshold Sustainability Criteria	☒	☐	Urban Design Considerations		
	☒	☐	• Existing site plan (buildings vegetation, roads, etc) • Building mass/block diagram study (changes in building height and FSR) • Lighting impact • Development yield analysis (potential yield of lots, houses, employment generation)	☐	☒
Site Description/Context				☐	☒
• Aerial photographs • Site photos/photomontage	☐	☒	Economic Considerations		
	☐	☒	• Economic impact assessment • Retail centres hierarchy • Employment land	☐	☒
Traffic and Transport Considerations				☐	☒
• Local traffic and transport • TMAP • Public transport • Cycle and pedestrian movement	☐	☒	Social and Cultural Considerations		
	☐	☒	• Heritage impact • Aboriginal archaeology • Open space management • European archaeology • Social & cultural impacts • Stakeholder engagement	☐	☒
Environmental Considerations				☐	☒
• Bushfire hazard • Acid Sulphate Soil • Noise impact • Flora and/or fauna • Soil stability, erosion, sediment, landslip assessment, and subsidence • Water quality • Stormwater management • Flooding • Land/site contamination (SEPP55)	☒	☐	Infrastructure Considerations		
	☐	☒	• Infrastructure servicing and potential funding arrangements	☐	☒
	☐	☒	Miscellaneous/Additional Considerations		
	☐	☒	List any additional studies		

Attachment 4 - Evaluation criteria for the delegation of plan making functions

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area:

Inverell

Name of draft LEP:

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Address of Land (if applicable):

N/A

Intent of draft LEP:

To make 'dual occupancy (detached)' permissible
with consent within the R01 Primary
Production and R5 Large Lot Residential zones.

Additional Supporting Points/Information:

N/A



Evaluation criteria for the issuing of an Authorisation				
(NOTE - where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Yes			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Yes			
Are appropriate maps included to identify the location of the site and the intent of the amendment?		✓		
Does the planning proposal contain details related to proposed consultation?	Yes			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Yes			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Yes			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Yes			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		✓		
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		✓		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		✓		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		✓		
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		✓		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		✓		
Is the planning proposal proposed to rectify an anomaly in a classification?		✓		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		✓		
Will the draft LEP discharge any interests in public land under section 30 of the <i>Local Government Act, 1993</i> ?		✓		

If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		✓		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) <i>Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land</i> ?		✓		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		✓		
Spot Rezoning	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?		✓		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?		✓		
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?		✓		
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		✓		
Does the planning proposal create an exception to a mapped development standard?		✓		
Section 73A matters				
Does the proposed instrument				
a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?;				
b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or				
c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?		✓		
(NOTE - the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).				
NOTES - Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance. - Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.				