

Wellington Local Environmental Plan 2012 - Amendment 3 - Mapping of Existing Holdings

Proposal Title : **Wellington Local Environmental Plan 2012 - Amendment 3 - Mapping of Existing Holdings**

Proposal Summary : **To formalise and map the status of 17 existing holding anomalies, map of all existing holdings by changing the minimum lot size and insert a 5 year sunset provision in clause 4.2B of the Wellington LEP 2012**

PP Number : **PP_2015_WELLI_002_00**

Dop File No : **15/01608**

Proposal Details

Date Planning
Proposal Received : **27-Jan-2015**

LGA covered : **Wellington**

Region : **Western**

RPA : **Wellington Council**

State Electorate : **ORANGE**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Policy**

Location Details

Street :

Suburb :

City :

Postcode :

Land Parcel : **172 acknowledged existing holdings in Wellington Shire**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 101 DP 811241**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 2 DP 827409**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 1 DP 833288**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 4 DP 839512**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 11 DP 841625**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 1 DP 842496**

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Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 1 DP 867623**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 311 DP 734310**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 1 DP 872950**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 14 DP 754299**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 127 DP 753241**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 21 DP 817346**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 3 DP 815677**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 1 DP 827602**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 11 DP 822453**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 9 DP 822453**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Lot 6 DP 750760**

DoP Planning Officer Contact Details

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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :		Consistent with Strategy :	
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

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

If No, comment :

Have there been
 meetings or
 communications with
 registered lobbyists? :

No

If Yes, comment : **No known meetings have been held with registered lobbyists.**

Supporting notes

Internal Supporting
 Notes : **The Planning Proposal seeks to amend to formalise and map the status of 17 existing holding anomalies, map of all existing holdings by changing the minimum lot size and insert a 5 year sunset provision in clause 4.2B of the Wellington LEP 2012**

The current Wellington LEP 2012 defines an existing holding as follows:

Clause 4.2B(5)
Existing holding means land that:

- a) Was a holding on 26 June 1987, and**
- b) Is a holding at the time the application for development consent referred to in**

subclause (3) is lodged

Whether or not there has been a change in the ownership of the holding since 26 June 1987, and includes any other land adjoining that land acquired by the owner since 26 June 1987.

Holding means all adjoining land, even if separated by a road or railway, held by the same person or persons.

Note: The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

Council's current process of identifying existing holdings requires a historical title search of the land and adjoining land through Council's records, and is complex and uncertain – for both Council and the landowner.

Wellington Council introduced a process of memorandums as a method of identifying dwelling permissibility for rural land. Council has identified 17 anomalies to allow dwellings on the following zone RU1 Primary Production land:

- Lot 101 DP 811241
- Lot 2 DP 827409
- Lot 1 DP833288
- Lot 4 DP 839512
- Lot 11 DP 841625
- Lot 1 DP 842496
- Lot 1 DP 867623
- Lot 311 DP 734310
- Lot 1 DP 872950
- Lot 14 DP 754299
- Lot 127 DP 753241
- Lot 21 DP 817346
- Lot 3 DP 815677
- Lot 1 DP 827602
- Lot 11 DP 822453
- Lot 9 DP 822453
- Lot 6 DP 750760

Note: The original Planning Proposal documentation identified 14 lots however after further investigation Council on 27 January 2015 advised that there are 17 above lots. The planning Proposal will be required to be amended and the additional 3 lots mapped prior to public exhibition.

The minimum lot size maps are to be amended to reflect the existing holdings for the 17 allotments as described above, and the remaining 172 existing holdings. It should be noted that recognising the dwelling entitlement on the allotment does not provide an approval for a dwelling house – the landowner is still required to make a development application through Council.

Council has not specifically sought delegation to exercise its plan making delegations; however, given the nature of the Planning Proposal, authorisation to exercise delegation will be issued to Council.

External Supporting
Notes :

Further information about lot details received 27 January 2015

Adequacy Assessment

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

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

Comment : **A statement of objectives has been included, which identifies the intended outcome of the Planning Proposal as:**

**“- To address 14 anomalies where past Council advice has incicated existing holding status but where the position is not clear with respect to the requirements of LEP 2012. (Note Council has advised there are now 17 lots rather than 14)
- To replace the cumbersome and confusing existing holding provisions of LEP 2012 with simple amendments to the Lot Size Map.
- To retain the equity of persons who own land which currently qualifies as an existing holding during the transition to a map definition.” It is proposed to insert a 5 year sunset provision in Clause 4.2B.**

This is considered to be satisfactory.

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

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

Comment : **The explanation of provisions is consistent with the intended outcome of the Planning Proposal.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

Is the Director General's agreement required? **N/A**

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

d) Which SEPPs have the RPA identified?

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

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

If No, explain : **Council has not completed an assessment of the applicable SEPPs or Section 117 Directions, stating that as the Amendment relates to existing holdings, that none of the SEPPs or Section 117s are applicable.**

This is incorrect, as the Amendment affects rural land. Council can address these matters prior to the exhibition of the Amendment.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Mapping has been included as part of the Amendment but will need to be amended prior to exhibition and compliant with the technical mapping guidelines at section 59.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has proposed 28 days community consultation.**

This is considered to be appropriate.

Additional Director General's requirements

Are there any additional Director General's requirements? **Unknown**

If Yes, reasons : **Unknown at this time until the S117 Directions and SEPPs are addressed**

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Wellington LEP was notified on 23 November 2012.**

Assessment Criteria

Need for planning proposal : **The Planning Proposal is required to formalise the existing holding anomalies identified by Wellington Council.**

Consistency with strategic planning framework : **Wellington Council does not have an endorsed land use strategy.**

It is considered that the number of dwelling opportunities beyond those that are already permissible in the LEP would not increase – the Amendment is purely simplifying and clarifying that a dwelling entitlement exists on an existing holding in a simpler way through mapping.

It is considered that whilst not consistent with any strategic planning framework, the proposal is justified in this instance to clarify existing dwelling entitlements for both Council and the community.

Environmental social economic impacts : **The reduction in the minimum lot size will not create negative environmental impacts, as no dwellings are to be constructed as part of this Amendment.**

Environmental impacts will be considered on a site-specific basis with the lodgement of a development application with Council for a dwelling .

The formalisation and clarification of the existing holding status will provide an economic benefit to Wellington.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture**

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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
Attachment 1 Information Checklist.pdf	Proposal	No
Council Minutes 17 December 2014.pdf	Proposal	No
Council Report17 December 2014.pdf	Proposal	No
Letter from Council dated 6 January 2015.pdf	Proposal Covering Letter	No
Planning Proposal.pdf	Proposal	No
Request for Initial Gateway Determination.pdf	Proposal	No

Planning Team Recommendation

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

S.117 directions:

Additional Information : 1. Prior to undertaking public exhibition, Council is to amend the planning proposal to address all applicable State Environmental Planning Policies (SEPPs) and Section 117 Directions, and include and map all 17 existing holding anomalies. The planning proposal is not to be placed on public exhibition until the Department is satisfied that the SEPPs and Section 117 Directions have been adequately addressed.

2. Community consultation is required under sections 56(2)(c) and 57 of the EP&A Act as follows:

- (a) the planning proposal must be made publicly available for a minimum of 28 days; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Environment 2013).

3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- a. Office of Environment and Heritage; and
- b. Department of Primary Industry (Agriculture)

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

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4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A 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).

5. Prior to submission of the planning proposal under section 59 of the EP&A Act the LEP Maps are to be prepared and be compliant with the Department's standard technical requirements for maps

6. The timeframe for completing the LEP is to be 12 months from the week following the date of the gateway determination.

Supporting Reasons :

The proposal will clarify the existing holding provisions by mapping. This will be a good outcome for both Council and the public.
A sunset provision of 5 years is also supported.

Signature:



Printed Name:

Jenna Menkubo

Date:

29.1.15.

Endorsed
Wgamsay
TL 29/1/15