

Amendment to Kyogle LEP 2012 to permit certain rural tourist accommodation in RU1 Primary Production zone and amend development controls for bed and breakfast accommodation and farm stay accommodation.

Proposal Title : Amendment to Kyogle LEP 2012 to permit certain rural tourist accommodation in RU1 Primary Production zone and amend development controls for bed and breakfast accommodation and farm stay accommodation.

Proposal Summary : The planning proposal seeks to:

- amend the land use table for the RU1 Primary Production zone to allow 'farm stay accommodation', 'camping grounds' and 'eco-tourist facilities' as uses permitted with consent;
- extend permissibility of bed and breakfast accommodation from a maximum three (3) bedrooms per dwelling to a maximum five (5) bedrooms per dwelling; and
- extend permissibility of farm stay accommodation from a maximum of three (3) bedrooms to a maximum of five (5) bedrooms when forming part of the principal farm dwelling or one (1) separate cabin per 10 hectares of total holding area with no more than 12 bedrooms in total on the holding.

PP Number : PP_2015_KYOGL_001_00

Dop File No : 15/12229

Proposal Details

**Date Planning
Proposal Received :** 10-Aug-2015

LGA covered : Kyogle

Region : Northern

RPA : Kyogle Council

State Electorate : LISMORE

Section of the Act : 55 - Planning Proposal

LEP Type : Housekeeping

Location Details

Street :

Suburb :

City :

Postcode :

Land Parcel : Kyogle Local Government Area - RU1 Primary Production Zone

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Far North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	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 and Environment Code of Practice in relation to communication and meetings with Lobbyists has been complied with to the best of the Region's knowledge.**

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

If Yes, comment : **Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other departmental officers and lobbyists concerning this proposal.**

Supporting notes

Internal Supporting Notes : **Due to advice from the Department's Legal Services Branch, the changes to the farm stay accommodation density provisions as originally proposed are unable to be implemented in clause 5.4(5) due to the mandated provision of the Standard Instrument LEP. It is recommended that the Planning Proposal be amended prior to community consultation to remove references of proposed LEP changes to clause 5.4(5) other than increasing the permissible number of bedrooms for farm stay accommodation from 3 to 12 as requested**

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by Council. The implementation of planning controls in regards to the density of cabin style development could still be appropriately managed through Council's Development Control Plan.

Council staff have been advised that although the intent of the proposal is supported, clause 5.4(5) cannot be drafted in the manner requested. Council staff have confirmed their support for the Gateway determination to require the proposal be amended to only alter clause 5.4(5) to allow the permissible number of bedrooms to increase from 3 to 12, and to deal with the issue of farm stay accommodation cabins via Council's Development Control Plan.

External Supporting
Notes :

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. The planning proposal seeks to amend the Kyogle LEP 2012 by permitting additional tourism related opportunities within the RU1 Primary Production zone and amending the development controls for bed and breakfast accommodation and farm stay accommodation.**

However, and as state previously, the proposed changes to the farm stay accommodation density provisions are unable to be implemented to clause 5.4(5). As discussed with, and agreed by Council staff, it is recommended that the Planning Proposal be amended prior to community consultation to retain the mandated wording of the clause and increase the number of permissible bedrooms from 3 to 12. The implementation of planning controls in regards to the density of cabin style development could be appropriately managed through Council's Development Control Plan.

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

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

Comment : **The explanation of provision state the proposed amendments to the Kyogle LEP 2012 include:**

- insert farm stay accommodation, camping grounds and eco-tourism facilities as a permissible use with consent in the land use table of the RU1 Primary Production zone;

- alter the development controls in clause 5.4(1) to provide for bed and breakfast accommodation with a maximum of five (5) bedrooms - an increase from three (3) bedrooms;

- alter the development controls in clause 5.4(5) to provide for farm stay accommodation with a maximum of five (5) bedrooms when forming part of the principal farm dwelling or permit one (1) separate cabin per 10 hectares of total holding area with no more than 12 bedrooms in total on the holding.

It is recommended that the Explanation of Provisions be amended prior to community consultation in accordance with previous comments.

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accommodation and farm stay accommodation.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

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 (Exempt and Complying Development Codes) 2008

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 : **See Assessment section of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **The planning proposal does not propose any amendments to LEP maps.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has indicated a 36 day exhibition period as part of the project timeline. Due to the nature of the amendment a 28 day community consultation period is recommended. Council has the ability to extend this period to 36 days if it considers that an extended time frame is more suitable.**

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 an appropriate explanation of provisions;**
- 3) Providing an adequate justification for the proposal;**
- 4) Outlining a proposed community consultation period;**
- 5) Completing an evaluation for the issuing of an authorisation to exercise delegation. The proposal is considered a minor local matter. Delegation is recommended in this instance;**
- 6) Providing a project timeline for the proposal. Council has estimated the completion of**

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the planning proposal within six months. As the proposal is for minor amendments to the LEP instrument this time frame is considered appropriate.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

Kyogle LEP 2012 came into affect in February 2013. This proposal amends Kyogle LEP 2012.

Assessment Criteria

Need for planning
proposal :

Although the planning proposal is not a result of any strategic study, the proposed amendments will allow for Kyogle Council's ongoing support of rural enterprises. It will also better align the provisions of State Environmental Planning Policy (Exempt & Complying Development Codes) 2008 with Council's development controls

The adjustment of permissibility for some tourism related accommodation in the RU1 Primary Production zone would support rural/agricultural based activities being balanced with rural tourism opportunities. This may then supplement and support farming income during significant seasonal fluctuations.

A planning proposal is the appropriate method of enabling these initiatives through the local planning process.

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Consistency with strategic planning framework :

Far North Coast Regional Strategy

The Far North Coast Regional Strategy's Economic Development and Employment Growth actions requires that 'local environmental plans will ensure that appropriate land is available to provide for a range of tourism experiences and forms of tourist accommodation in rural areas'. The proposal is not inconsistent with this requirement.

SEPP's

The planning proposal identifies SEPP (Rural Lands) 2008 as being relevant as it contains provisions that affect rural zoned land.

The proposal is not inconsistent with the Rural Subdivision Principles or the Rural Planning Principles of the SEPP as the provisions recognise the important of rural lands and the changing nature of agriculture. They also provide opportunities for rural lifestyles and accommodation that contribute to the social and economic welfare of rural communities.

Local Strategies

The planning proposal is not inconsistent with Council's strategic plans or its Economic Development Policy.

S117 Directions

The following s117 Directions are applicable to this planning proposal, 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.5 Rural Lands, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies and 5.3 Farmland of State and Regional Significance on the NSW Far North Coast. Of the above s117 Directions the proposal is inconsistent with the following:

4.3 Flood Prone Land

This direction is relevant as the tourism related accommodation may be permitted on land affected by this constraint. However, there are already flood prone land management provisions in Kyogle LEP 2012 which require that this issue be considered at DA stage. The potential impact of an increase in tourism related accommodation that are flood prone can be managed through the existing LEP provisions and Council's development assessment processes. The inconsistency with this direction is considered to be of minor significance.

4.4 Planning for Bushfire Protection

The direction requires Council to consult with the Commissioner of the NSW Rural Fire Service after a Gateway determination has been issued. Until this consultation occurs the consistency of the proposal with this Direction remains unresolved.

The planning proposal is otherwise consistent with the s117 Directions.

Environmental social economic impacts :

Many of the outcomes of this planning proposal apply to existing dwellings, for example, changes to the bed and breakfast development controls. It is considered any increase in effect on critical habitat, threatened species or other environmental issues are likely to be minimal.

Where additional development is permissible in rural areas, impacts on threatened species and environmental impacts generally can be managed at development stage.

The Planning Proposal will increase the availability of low-cost tourism opportunities within the LGA that will provide benefit to the local economy. There are no social implications anticipated as a result of this Planning Proposal.

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Assessment Process

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

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **NSW Department of Primary Industries - Agriculture**
NSW Rural Fire Service

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
Kyogle Council_10-08-2015_LEP 2012 Amendment 4 Rural Tourist Accommodation - s56_.pdf	Proposal Covering Letter	Yes
2015-08-10 Planning proposal.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions: **1.1 Business and Industrial Zones**
1.2 Rural Zones
1.5 Rural Lands
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
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 should proceed as a routine planning proposal;

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2) Prior to community consultation, the Planning Proposal be amended to remove references of proposed LEP changes to clause 5.4(5) other than increasing the permissible number of bedrooms for farm stay accommodation from 3 to 12.

3) The Secretary (or an officer nominated by the Secretary) agrees that the inconsistency with s117 Direction 4.3 Flood Prone Land is justified as the matter is of minor significance;

4) The Secretary (or an officer nominated by the Secretary) note that inconsistency with s117 Direction 4.4 Planning for Bushfire Protection is outstanding until consultation with the NSW Rural Fire Service is complete;

5) Council will be required under section 56(2)(d) of the EP&A Act to consult with, prior to community consultation:

- Department of Primary Industries - Agriculture
- NSW Rural Fire Service;

6) That the planning proposal have a community consultation period of 28 days;

7) The planning proposal be completed in six (6) months; and

8) An authorisation to exercise delegation be issued to Kyogle Council.

Supporting Reasons :

The planning proposal to provide additional permissible uses in the RU1 Primary Production zone and alterations to controls on other tourism related development is appropriate to proceed. The proposal may enhance tourism related opportunities particularly in rural zones with benefits to the local economy.

As the matter is of local significance delegation for Council to finalise the planning proposal is recommended in this instance.

Signature:



Printed Name:

JON STONE

Date:

21.8.15

ACTING TEAM LEADER
NORTHERN REGION