

Amendment to the rural subdivision provisions of Tamworth Regional LEP 2010 to provide increased flexibility for rural boundary adjustments on land zoned RU1 and RU4

Proposal Title :	Amendment to the rural subdivision provisions of Tamworth Regional LEP 2010 to provide increased flexibility for rural boundary adjustments on land zoned RU1 and RU4		
Proposal Summary :	Amendment to rural subdivision provisions of Tamworth Regional LEP 2010 to provide increased flexibility for rural boundary adjustments where one or more of the lots are less than the minimum lot size shown on the lot size map.		
PP Number :	PP_2013_TAMWO_007_00	Dop File No :	13/15893

Proposal Details

Date Planning Proposal Received :	23-Sep-2013	LGA covered :	Tamworth Regional
Region :	Northern	RPA :	Tamworth Regional Council
State Electorate :	TAMWORTH	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :			
Suburb :		City :	Postcode :
Land Parcel :	All land zone RU1 and RU4 in Tamworth Regional LGA		

DoP Planning Officer Contact Details

Contact Name :	Gina Davis
Contact Number :	0267019687
Contact Email :	gina.davis@planning.nsw.gov.au

RPA Contact Details

Contact Name :	Andrew Spicer
Contact Number :	0267675578
Contact Email :	a.spicer@tamworth.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	N/A

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MDP Number :	0	Date of Release :	
Area of Release (Ha) :	0.00	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 :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment : **The Department of Planning and Infrastructure's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge. The Northern Region has not met with any lobbyists in relation to this proposal, nor has the Northern Region been advised of any meeting between other Departmental Officers and lobbyists concerning the proposal.**

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The objectives and intended outcomes of the Planning Proposal are adequately expressed for the proposed amendment to Tamworth Regional LEP 2010.**

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

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

Comment : **The Planning Proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes. It is noted that Council proposes to amend Clause 4.2 Rural Subdivision of Tamworth Regional LEP 2010 to facilitate the outcomes of the Planning Proposal. While the intended outcomes of the Planning Proposal are supported, Clause 4.2 is a mandated provision of the Standard Instrument LEP and can't be altered. The intended outcomes of the Planning Proposal will therefore need to be implemented through a new local clause. The Planning Proposal should be amended prior to public exhibition to address this matter.**

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Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones
1.3 Mining, Petroleum Production and Extractive Industries
1.5 Rural Lands
2.1 Environment Protection Zones
2.4 Recreation Vehicle Areas
3.1 Residential Zones
3.3 Home Occupations
3.4 Integrating Land Use and Transport
3.5 Development Near Licensed Aerodromes
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes
6.3 Site Specific Provisions

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 4—Development Without Consent and Miscellaneous Exempt and Complying Development
SEPP No 15—Rural Landsharing Communities
SEPP No 21—Caravan Parks
SEPP No 22—Shops and Commercial Premises
SEPP No 30—Intensive Agriculture
SEPP No 33—Hazardous and Offensive Development
SEPP No 36—Manufactured Home Estates
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 62—Sustainable Aquaculture
SEPP No 64—Advertising and Signage
SEPP No 65—Design Quality of Residential Flat Development
SEPP No 70—Affordable Housing (Revised Schemes)
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007
SEPP (Mining, Petroleum Production and Extractive Industries) 2007
SEPP (Rural Lands) 2008
SEPP (Temporary Structures and Places of Public Entertainment) 2007

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

The New England North West Strategic Regional Land Use Plan applies to the Tamworth Regional LGA.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment :

The Planning Proposal relates to the insertion of a clause into the written document only. No associated LEP mapping is required.

A map showing where the Planning Proposal applies within the LGA (RU1 Primary

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Production & RU4 Primary Production Small Lots Zones) should be included in the Planning Proposal for exhibition purposes.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : The relevant planning authority has identified a 14 day exhibition period for the proposal. The Planning Proposal is considered to be a 'low impact' proposal and the proposed notification period is considered to be satisfactory.

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 and accompanying documentation are considered to satisfy the adequacy criteria by:

1. Providing appropriate objectives and intended outcomes;
2. Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes;
3. Providing an adequate justification for the proposal;
4. Outlining a proposed community consultation program; and
5. Providing a project time line.

Council is seeking an authorisation to exercise its plan making delegations. As the Planning Proposal deals with matters of only local significance, it is considered appropriate that an authorisation to exercise its plan making delegations be issued to Council.

The RPA has provided a project time line which estimates that the LEP will be ready for submission to the Department for notification in May 2014. The submitted project time line is considered as reasonable and a 9 month time frame for completion of the proposal is recommended.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : Tamworth Regional LEP 2010 was made on 21 January 2011.

Assessment Criteria

Need for planning proposal : The proposal to amend the LEP and introduce an additional provision for the subdivision of rural land is not the subject of a specific strategic study or report. It is however consistent with the strategic planning direction outlined in the Tamworth Regional Development Strategy which aims in part to support and protect rural futures.

The intent of the Planning Proposal is to permit subdivision in the RU1 Primary Production and RU4 Primary Production Small Lots Zones to effect the realignment of boundaries between lots where one or both lots do not meet the minimum lot size shown on the TRLEP 2010 Lot Size Map. This would involve an amendment to TRLEP 2010 which would provide improved land management outcomes and additional options for boundary adjustments on the basis that no additional lots or dwelling entitlements would be created

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and that no detrimental impact on the agricultural viability of the land would result.

Given that boundary adjustments have been a historically common form of subdivision in rural areas, the insertion of an amended clause that would allow such a proposal with consent has the potential to provide for greater flexibility in agricultural practices and farm adjustments, and in improved agricultural and/or environmental outcomes. It is noted that Lismore (2013_LISMO_004_00), Ballina (2013_BALLI_001_00) and Tenterfield (PP_2013_TENTE_001_00) Councils have recently obtained Gateway Determinations to amend their respective LEPs to allow for subdivisions of a similar nature.

Council have not provided a draft clause for insertion into the LEP. Parliamentary Counsel's Office will draft a clause that properly achieves the purposes outlined.

Consistency with strategic planning framework :

Whilst no Regional Strategies apply to the Tamworth Regional LGA, the New England North West Strategic Regional Land Use Plan does apply. The Planning Proposal is considered to be consistent with the provisions of the Regional Land Use Plan.

The Planning Proposal is considered to be consistent with all applicable SEPPs. In particular, it is considered that the proposed provisions will not be inconsistent with the Rural Subdivision Principles or Rural Planning Principles of the SEPP (Rural Lands) 2008 as the provisions will;

1. Not contribute to the unnecessary fragmentation of rural land as no additional lots are to be created;
2. Require consideration of potential land use conflict with surrounding land uses (such as agriculture) land prior to the subdivision being approved;
3. Not create additional opportunities for dwellings in rural zones.

The proposal is considered to be consistent with all applicable section 117 Directions, except in relation to the following;

S117 Direction 4.4 Planning for Bushfire Protection

This Direction is relevant as the Planning Proposal affects land that is identified as bushfire prone land. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

Environmental social economic impacts :

No significant adverse environmental, social or economic impact has been identified as resulting from the proposal.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	NSW Rural Fire Service		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :			

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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
Cover Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
2013-09-23 Council Report_10-Sep-2013_Planning Proposal to Address Boundary Adjustment Provisions.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.4 Recreation Vehicle Areas**
- 3.1 Residential Zones**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 3.5 Development Near Licensed Aerodromes**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**
- 6.3 Site Specific Provisions**

Additional Information :

It is recommended that:

- 1. The Planning Proposal be supported;**
- 2. The Planning Proposal be exhibited for 14 days;**
- 3. The Planning Proposal be completed within 9 months;**
- 4. That the RPA consult with the Commissioner of the NSW Rural Fire Service in accordance with the requirements of S117 Direction 4.4 Planning for Bushfire Protection;**
- 5. The potential unresolved inconsistency with s117 Direction 4.4 Planning for Bushfire Protection be noted;**
- 6. That an authorisation to exercise delegation be issued to Council;**
- 7. That a map showing the land to which the Planning Proposal will apply be included within the Planning Proposal prior to public exhibition; and**
- 8. The Planning Proposal be amended prior to public exhibition to clarify that its intended outcomes will be implemented through a new local LEP clause rather than by amending Clause 4.2 Rural Subdivision of Tamworth Regional LEP 2010.**

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Supporting Reasons : **The Planning Proposal will amend Tamworth Regional LEP 2010 for the purpose of creating greater flexibility for landowners within the RU1 and RU4 zones with respect to boundary adjustments that do not meet the minimum lot size shown on the Lot Size Map.**

Signature: _____



Printed Name: _____

Craig Diss

Date: _____

27/9/13