

PROCEDURAL MOTION - ENGLOBO

20/220 RESOLVED:
On the Motion of Councillors D Hayes and T Koschel

That the standing orders be varied for the meeting as set out hereunder:

- **Items where councillors wish to speak**
- **Items where no councillors wish to speak**
- **Confidential**
- **Matter of urgency**
- **Closure of Meeting**

That RP-1, RP-2, RP-5, RP-8 to RP-13, RP-15, M-1, CONF-1, CONF-3, CONF-4 and CONF-6, be adopted as recommended in the business papers.

CARRIED

REPORTS FROM STAFF

RP-1 DRAFT PLANNING PROPOSAL (LEP20/0001) TO INTRODUCE A NEW LOCAL PROVISION CLAUSE TO ENABLE MINOR BOUNDARY ADJUSTMENTS FOR CERTAIN ZONES

20/221 RESOLVED:
On the Motion of Councillors D Hayes and T Koschel

That Council:

- a support planning proposal LEP20/0001 to introduce a new local provision clause in the Wagga Wagga Local Environmental Plan 2010**
- b submit the planning proposal to the NSW Department of Planning, Industry and Environment for Gateway Determination**
- c receive a further report after the public exhibition period addressing any submissions made in respect of the planning proposal**

CARRIED

RECORD OF VOTING ON THE MOTION

For the Motion
Y Braid OAM
G Conkey OAM
P Funnell
D Hayes
V Keenan
R Kendall
T Koschel
K Pascoe
D Tout

Against the Motion

RP-1 DRAFT PLANNING PROPOSAL (LEP20/0001) TO INTRODUCE A NEW LOCAL PROVISION CLAUSE TO ENABLE MINOR BOUNDARY ADJUSTMENTS FOR CERTAIN ZONES

Author: Crystal Atkinson

Director: Michael Keys

Summary:

Council officers have prepared a planning proposal in response to a couple of enquires about boundary adjustments in rural zones.

The recommendation is to proceed with a planning proposal and request a Gateway Determination from NSW Department of Planning, Industry & Environment.

Recommendation

That Council:

- a support planning proposal LEP20/0001 to introduce a new local provision clause in the Wagga Wagga Local Environmental Plan 2010
- b submit the planning proposal to the NSW Department of Planning, Industry and Environment for Gateway Determination
- c receive a further report after the public exhibition period addressing any submissions made in respect of the planning proposal

Proposal

Council officers have prepared a planning proposal to introduce a local provision clause in the Wagga Wagga Local Environmental Plan 2010 (LEP) to enable minor boundary adjustments in the rural zones and environmental management zone. The proposal also intends to protect dwelling entitlements for lots created resulting from the new local provisions.

An example of where this clause may be used is where an existing holding has been fragmented by realignment of a road. In this instance the fragmented parcel cannot be subdivided or sold off as it forms part of an original holding and is bound by the minimum lot size provisions.

This clause is commonly used in other Councils within Regional NSW and we are proposing the same clause used at Cootamundra Council. Department of Planning are supportive of this change.

Local Provision:

The local provision clause will enable boundary adjustments for rural and environmental management land. The proposed Clause 4.7 is shown below:

4.7 Boundary changes between lots in certain rural and environmental protection zones

- (1) *The objective of this clause is to permit the boundary between 2 or more lots to be adjusted in certain circumstances to give landowners a greater opportunity to achieve the objectives of a zone.*

- (2) *This clause applies to land in the following zones:*
- (a) *Zone RU1 Primary Production,*
 - (b) *Zone RU2 Rural Landscape,*
 - (c) *Zone RU4 Primary Production Small Lots,*
 - (d) *Zone E3 Environmental Management.*
- (3) *Despite clause 4.1 (3), development consent may be granted to the subdivision of 2 or more adjoining lots that are land to which this clause applies if the subdivision will not result in:*
- (a) *an increase in the number of lots, and*
 - (b) *an increase in the number of dwelling houses on, or dwelling houses that may be erected on, any of the lots, and*
 - (c) *any lot created by a boundary adjustment in Zone RU1 Primary Production, Zone RU2 Rural Landscape or Zone E3 Environmental Management having an area of less than 5 hectares, and*
 - (d) *any lot created by a boundary adjustment in Zone RU4 Primary Production Small Lots having an area of less than the minimum size shown on the [Lot Size Map](#) in relation to that land.*
- (4) *Before determining a development application for the subdivision of land to which this clause applies, the consent authority must consider the following:*
- (a) *the existing uses and approved uses of other land in the vicinity of the subdivision,*
 - (b) *whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,*
 - (c) *whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),*
 - (d) *whether or not the subdivision is likely to be incompatible with a use on land in any adjoining zone,*
 - (e) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),*
 - (f) *whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,*
 - (g) *whether or not the subdivision is likely to have an adverse impact on the environmental values, heritage vistas or landscapes or agricultural viability of the land.*
- (5) *This clause does not apply:*
- (a) *in relation to the subdivision of individual lots in a strata plan or a community title scheme, or*
 - (b) *if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.*

Additional Subclause – 4.2A:

The proposal is intended to retain dwelling entitlements for lots created under the proposed boundary adjustments clause, if the dwelling entitlement existed prior to the boundary adjustment.

The proposed subclause is shown below:

Clause 4.2A:

(e) is a lot created by a boundary adjustment in accordance with clause 4.7 and upon which a dwelling house would have been permissible prior to the adjustment of the boundary.

Key considerations

1. State Environmental Planning Policy (Exempt and Complying Development Condes) 2008 (Codes SEPP)

The Codes SEPP allows subdivision of land for the purposes of realigning boundaries within the RU1, RU2, RU3, RU4, RU6, E1, E2, E3 or E4 zones where the change will not result in more than a minor change in the area of any lot and if in any other zone, not result in a change in the area of any lot by more than 10%.

For subdivisions that result in more than a minor change or more than a 10% change in area, the minimum lot size provisions of the Wagga Wagga Local Environmental Plan 2010 will prevail, and subdivisions cannot create lots below the minimum lot size.

2. Clause 4.6 Exemptions to development standards

Clause 4.6 allows for an appropriate degree of flexibility in applying certain development standards provided subdivision will not result in 2 or more lots less than the minimum lot size or one lot less than 90% of the minimum lot size.

Boundary adjustments exceeding the provisions of Clause 4.6 are prohibited.

3. Council's vision or strategic intent

Wagga Wagga Spatial Plan 2013-204:

Through the Wagga Wagga Spatial Plan, it is acknowledged that our rural lands have provided the foundation for settlement and agriculture continues to provide significant economic return and employment. One of the key challenges identified for rural lands is ensuring productive agricultural land is protected and not unreasonably fragmented.

The proposed local provision clause will continue to protect productive agricultural land from unreasonable fragmentation by ensuring there will not be an increase in the number of lots.

Conclusion

In view of the matters considered by this assessment, the proposal is found to be reasonable and in the public interest. The matters discussed in this report are reflective of the public interest and community expectations.

The proposal has been prepared and is recommended to be supported for the following reasons:

- The planning proposal will provide opportunities for appropriate boundary adjustments in suitable locations.
- It complies with the provisions of Council's endorsed strategy.
- It meets the relevant Section 9.1 Ministerial Directions.
- Considers the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Financial Implications

The planning proposal has been generated internally and therefore application fees are not required.

The local provision clause will enable development applications to be lodged seeking approval for the boundary adjustment. Applications will incur relevant application fees.

Council's contributions plans apply and will apply to any future development consent on the land.

Policy and Legislation

Environmental Planning and Assessment Act 1979

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Wagga Wagga Local Environmental Plan 2010

Link to Strategic Plan

The Environment

Objective: We plan for the growth of the city

Outcome: We have sustainable urban development

Risk Management Issues for Council

The planning proposal has been assessed and it is recommended it be submitted to NSW Department of Planning, Industry and Environment for a Gateway Determination. If issued, the determination will require public and agency consultation. Consultation may highlight issues not evident during the assessment.

Internal / External Consultation

Formal public consultation with agencies and the general public will occur if a Gateway Determination is received.

As the amendment will affect all rural and environmental management zoned land, direct mail out will not be undertaken.

Proposed consultation methods are indicated in the table below:

Mail	Media	Community Engagement	Digital
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	Rates notices insert																		
	Direct mail																		
	Letterbox drop																		
	Council news story																		
	Council News advert																		
	Media releases																		
	TV/radio advertising																		
	One-on-one meetings																		
	Your Say website																		
	Community meetings																		
	Stakeholder workshops																		
	Drop-in sessions																		
	Surveys and feedback forms																		
	Social media																		
	Email newsletters																		
	Website																		
	Digital advertising																		
TIER																			
Consult					<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>

Attachments

1. LEP20.0001 Planning Proposal
2. LEP20.0001 Boundary Adjustments - Assessment Report