

Request for Initial Gateway Determination

Instructions to Users

When forwarding a planning proposal to the Minister under section 56(1), the relevant planning authority must provide the information specified on this form. This form and the required information should be sent to your local Regional Office.

Relevant Planning Authority Details

Name of Relevant Planning Authority: Narromine Shire Council

Contact Person: Melissa Ward

Contact Phone Number and Email Address: 02 6889 9999

Planning Proposal Details

1. **LAND INVOLVED** (If relevant - e.g. Street Address and Lot and Deposited Plan):
Attached/Completed ✓
2. **MAPS** (If applicable - electronic and hard copy) ✓
 - o Location map showing the land affected by the proposed draft plan in the context of the LGA (tagged 'location map').
 - o Existing zoning map showing the existing zoning of the site and surrounding land and proposed zoning change for the site/s (tagged 'comparative existing/proposed zoning') -
3. **PHOTOS and other visual material (if applicable)** ✓
 - o Aerial photos of land affected by the Planning Proposal
 - o Photos of land involved and surrounding land uses
4. **COMPLETE PLANNING PROPOSAL** (electronic and hard copy) ✓
 - o All matters to be addressed in a planning proposal – including Director-General's requirements for the justification of all planning proposals (other than those that solely reclassify public land) in accordance with a 'Guide to preparing a planning proposal ' are completed prior to forwarding to the Regional Office in the first instance. See attached pro-forma.
4. **PLANNING PROPOSAL HAS BEEN SUPPORTED BY COUNCIL** ✓
 - o Council has considered the written planning proposal before it is sent to the Department of Planning.
 - o Attached is Council's resolution to send the written planning proposal to the Department of Planning.

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 Signed for and on behalf of the Relevant Planning Authority

DATE:

LEPA 5 (Existing holding dwellings)

Part 1 - Objectives or Intended Outcomes

The objective of this proposal is to enable applications for dwellings to be submitted on thirteen (13) allotments in the 1(a)(General Rural) zone, which would otherwise be prohibited under current planning provisions due to minimum lot size provisions. The dwelling permissibility on these lots would be subject to a sunset clause which allows applications to be submitted for dwellings on these lots for a specified period of time, after which the effect of the clause lapses.

Part 2 - Explanation of Provisions

The Narromine LEP 1997 is to be amended to enable dwelling permissibility on thirteen identified lots. These lots are the subject of dwelling approvals which have been rendered 'not legal' by Council's legal advisers. The ability to build a dwelling on these lots is to be reinstated to restore the good faith in which Council acted in issuing the consents.

A new clause is proposed to be inserted in the Narromine LEP which allows applications for dwellings to be submitted on those lots. The clause will refer to a new schedule in the LEP which specifically names the affected lots by property description. Attachment 1 to this proposal shows the intended amended clause 16A and proposed schedule 6 to the LEP. Current clause 16A is now not utilised as subclause 16A(2) advises that utilising subclause 16A(1) is not possible under this LEP after the first anniversary of the gazettal of amending LEP number 2 which phased out dwelling provisions on existing holdings. This clause number is therefore to be utilised and the content and title of the clause changed to reflect the intentions of this planning proposal.

Attachment 2 to this proposal shows the required new maps identifying the affected lots in proposed Schedule 6. The Land Zoning Map will have an overlay referencing a number, linking back to the amending schedule.

Part 3 - Justification

In 2004 the Narromine Local Environmental Plan was amended to allow applications for Intensive Agriculture to be submitted. As part of this amendment, dwelling houses on land which met the criteria for an "existing holding" were to be made redundant from the LEP provisions or 'sunsetting'.

The following extract from the Narromine LEP is the definition of 'existing holding':

existing holding means:

- (a) *except as provided by paragraph (b), the area of a lot, portion or parcel of land as it was on 24 February 1989, or*
- (b) *where, on 24 February 1989, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the aggregation of those lots, portions or parcels as they were at that day.*

All applications submitted under relevant clause 16A of the LEP were researched with Council's historic ownership records to determine if they were an existing holding. Clause 16A of the LEP states:

16A Dwelling-houses on vacant land in Zone No 1 (a) where the land is an existing holding

- (1) *Despite clause 16, the Council may consent to the erection of a dwelling-house on vacant land within Zone No 1 (a) if the land is an existing holding.*

- (2) *This clause ceases to have effect on the first anniversary of the commencement of Narromine Local Environmental Plan 1997 (Amendment No 2)—Intensive Agriculture and on and from that date the Council may not grant consent under this clause.*

Prior to the cut off date, being 11 June 2005, thirteen (13) applications for these types of dwellings were submitted and approved by Council.

However, these applications were determined using the development 'in principle' clauses which had since been repealed from the Act and subsequent legal advice has confirmed that these consents issued in good faith by Council are not legal.

Both Council and the 13 applicants involved with these consents acted in good faith in dealing with these applications; Council in issuing dwelling consents to those who did not yet know what their dwellings would look like and the applicants in submitting their applications prior to the sunset clause taking effect. Based on legal advice received, the most appropriate action from now is for Council to amend the LEP to allow these 13 dwelling houses to be submitted, assessed and determined. This amendment will also have a sunset clause attached to ensure the dwelling permissibility is not made in perpetuity.

Section A - Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

No. As mentioned above, legal advice has confirmed that the consents issued are not legal and as such, Council is working to rectify this situation. Council was previously supportive of dwellings being constructed on these lots as assessments were made on the dwellings proposed and what was thought to be legal approvals were given.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is the only legal method of amending the LEP to permit applications to be submitted on the affected lots. Other methods investigated will not achieve the intended result Council is seeking.

Other options identified:

(i) Existing Holdings provision reintroduced Shire-wide

This option was considered by Council and maps showing the extent of possible existing holding lots to a 10km radius surrounding each of the Shire's towns were produced to assist in Council's decision-making process. These maps showed that there could potentially be hundreds of dwellings approved in now viable agricultural areas in an unplanned, ad hoc manner. Local land use conflicts were discussed as a real possibility, linking back to the Rural SEPP and this option was therefore then discounted for these reasons.

(ii) Accept modification applications for the consents issued

This option was also explored as it was considered that the consents were issued in good faith by Council and that the applicants had attempted to also act in good faith by submitting applications prior to the sunset date taking effect. Additionally, the risk of exposure to litigation by Council acting in this manner was also considered minimal, knowing the local likelihood of potential third party appeals. Despite this, as the legal advice received was that the consents issued were technically not correct and some risk of liability was present, Council resolved to prepare a planning proposal to allow only the affected allotments to retain a dwelling entitlement.

No other options were considered by Council.

3. Is there a net community benefit?

The following statements refer to the community benefit to be gained from this proposal.

Strategic Direction

The proposal is minor and only relates to ten (10) potential dwellings surrounding Narromine and three (3) surrounding Trangie. The lots subject to this amendment represent only those whose owners attempted to secure dwelling approvals prior to the sunset clause taking effect. In relating this proposal to the recently adopted Sub Regional Land Use Strategy, the concept of allowing dwellings on 'existing holdings' was recommended to be phased out over a period of one to three years. This coincides with Council's original intention in 2004 of securing the ability to submit an application for a dwelling on an existing holding on appropriate lots with a time limit applied. Below is an extract from the Issues Paper for the LUS with reference to existing holdings:

Issue: Existing holdings

Existing holdings have usually been described in LEP's as a lot or portion of land that was held either in isolation or in conjunction with other adjoining lots or portions as at a specified date. In the past many Council's have used the concept to permit a dwelling in a rural zone on a lot or parcel of land that otherwise would have been too small to make the minimum lot size for Council to permit a dwelling. So, typically it was linked to the concept of a dwelling entitlement. It is often difficult to be sure what lots were held together at a past date, although searches can be undertaken with the State government in most cases. These can be time consuming and expensive and historically many Councils made mistakes in assessing whether a lot or parcel was an existing holding.

In changing to a new planning instrument Councils need to be mindful of the potential for some people to lose their dwelling entitlements if the land they own is no longer recognised as being an existing holding. In the Sub-Region only Bogan Council still uses an existing holding definition as a basis for considering a dwelling on a parcel that is less than the minimum lot size. Coonamble uses the term, but only in relation to the proposed subdivision of land on which an existing dwelling is located. The other Councils allow dwellings on rural land only if the minimum lot size can be achieved, or the dwelling is a replacement dwelling, or if the lot was lawfully created under the current or a previous planning instrument for the purposes of a dwelling.

One option is to continue with the concept of an existing holding presumably on the basis that Council records are accurate enough to determine the lot holding patterns at the appointed day. This sort of clause can be drafted into the local provisions section of the next LEP. Another option is to link dwelling entitlements to minimum lot size, dwelling replacement or previous lawful consents and have no reference to existing holdings. This can be done commencing immediately upon the gazettal of a new LEP, or phased in over a period of one to three years in the form of a "sunset" provision. The "sunset" provision allows landowners extra time to consider their position of taking up any dwelling entitlements that are based on existing holdings before they expire.

From an administrative position it is easier to understand and advise landholders on their dwelling entitlements if they are not linked to the concept of existing holding. So, unless there are compelling reasons to the contrary it is recommended that future LEP's in the Sub -Region not include a reference to existing holdings for the purposes of dwelling entitlements or if they do, then the concept is phased out after say three years. This should be a recommendation of the Strategy. (GHD Pty Ltd, 2008).

This LEP amendment will therefore not affect the strategic direction Council is forging ahead with from the Land Use Strategy and will not affect the direction for Council's new comprehensive LEP.

Precedent

The LEP will not create a precedent as it relates only to those applicants who submitted an application for an 'in principle' consent at the time. It is well known that this clause of the LEP has been phased out and following investigations by Council, existing holdings are not proposed to be reintroduced on a large scale across the shire.

Supply and Demand

This LEP will not impact on the supply of residential land as the residential market and small holdings residential market are completely different. As the lots involved in this proposed LEP amendment were included in the figures which supported the supply and demand analysis, these lots have already been accounted for and therefore, the supply and demand calculations in the LUS will not be affected. Council can hence proceed in future with the recommendations outlined in the LUS with regard to release of rural residential land without the need for further strategic assessment.

Flooding

Flooding affects many allotments within the Narromine Shire due to the Macquarie River passing through the Shire. None of the allotments included in this planning proposal (which are located within the Flood Study's limits) are located within known high hazard zones under the Narromine Floodplain Risk Management Study and Plan 2009 (NFRMS&P). All of the allotments will come under the requirements of the NSW Floodplain Development Manual 2005 and strategies to ensure no diversion of floodwaters and minimum floor levels in relation to the highest known flood will be employed. All of the allotments have adequate areas which have been cleared for the purpose of a dwelling.

Surrounding Land Uses

This amending LEP will allow dwelling permissibility on thirteen (13) lots in varied locations in the 1(a)(General Rural) zone. Although these lots are located in agricultural areas, upon review of the locations of the thirteen affected lots, all have direct access to a sealed road and are large enough to buffer a new dwelling from adjoining agricultural uses. See Attachment 2 for plans of the dwelling locations and surrounding land uses.

Public Interest

It is in the interest of Council and the public that those persons who had submitted applications and obtained consents for dwellings on lots prior to the sunset clause taking effect, retain the ability to submit such applications and act on them. These persons have acted in good faith in submitting their applications prior to the cut off date. If Council were not to reinstate their ability to obtain dwelling approvals on these lots, the public outcry would be substantial and justified on moral grounds. ***Legal advice received is that the LEP be amended as outlined in this proposal to permit applications for these dwellings to be legally submitted and determined.***

Section B - Relationship to strategic planning framework.

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The proposal contains actions which have been recognised in the Sub-Regional Land Use Strategy for the Narromine, Gilgandra, Coonamble, Bogan and Warren Shires. It was assumed in the drafting of this strategy that these applications had met the deadline for submitting applications under this sunset clause in the LEP and were legal consents. As mentioned above, these dwellings were included in the supply data of rural residential land in the Land Use Strategy and as such, have already been accounted for in an adopted strategic document, endorsed by the Department of Planning.

The Sub-Regional action from the Strategy with reference to existing holdings is:

8.4(e) Not include a reference to existing holdings for the purposes of rural dwelling entitlements in future LEPs in the sub-region or if they are included, then phase the concept out after three years) (GHD Pty Ltd, 2008).

This proposal is not seeking to reintroduce existing holding dwellings on a large scale but simply allow those who, according to original time limits, did seek to secure dwellings on lots affected by the sunset clause. This amendment is to include a sunset clause of three years to ensure the dwelling permissibility on the lots is not made in perpetuity. It is therefore consistent with the recommended actions of the Sub-Regional Land Use Strategy, adopted by Council in December 2009 and subsequently endorsed by the Director-General of the Department of Planning.

Is the planning proposal consistent with the local council's **Community Strategic Plan**, or other **local strategic plan**?

This planning proposal is consistent with the Draft Narromine Shire Community Strategic Plan 2010 – 2020 of providing for rural living opportunities. The following is an extract from this Draft Plan, which was adopted by Council on 20 April 2010.

Land subdivision and supply:

This was an issue that was raised at both Narromine and Trangie. It was pointed out that residential land, land for aged care facilities and small acreages with residential entitlements were in tight supply, and that this was seen as hindering development. Examples were given of people wanting to purchase small acreages with dwelling entitlements, but unable to. This was also seen as an opportunity to attract people into the shire, if a plentiful supply of land was available (and at lower cost than Dubbo).

Planning

Objective	Strategies	When	Who
1. Implement development of new industrial estate.	- finalise planning, develop budgets and seek external funding (or commercial developer) for commencement of development of the new industrial estate.	2011	GM / Mgr Planning
2. Develop and implement a new LEP.	- comply with Dept of Planning timeframes and templates for the development of a new Council LEP that is	2011	Mgr Planning

adopted by Council;			
3. Facilitate new small acreage (rural residential) developments which meet community and market demand, and which meet the provisions of Council's Land Use Strategy and new LEP.	- consult with shire communities and those involved in the marketing of rural residential properties to determine the needs for rezoning or scheduling of specific land parcels under the new LEP.	2010	Mgr Planning

As seen above, the Community Strategic Plan for the Narromine Shire identifies that rural residential living opportunities are scarce and that opportunities for new lands to be rezoned for this purpose be investigated. The thirteen dwellings affected by this planning proposal will meet some of that demand.

5. Is the planning proposal consistent with applicable state **environmental planning policies**?

The following table outlines State Environmental Planning Policies (SEPPs) which apply to the Narromine LGA.

SEPP	Aims	Applicability	Comments
SEPP No 1 - Development Standards	This Policy provides flexibility in the application of planning controls where strict compliance would be unreasonable or unnecessary.	This SEPP applies to the state and this LEP amendment does not conflict with the intent of the SEPP.	N/A
SEPP No 4—Development Without Consent and Miscellaneous Exempt and Complying Development	Allows relatively simple or minor changes of land or building use and certain types of development by public authorities without the need for formal development applications. The types of development covered are outlined in the policy.	This SEPP applies to the state with exceptions.	N/A for this amendment.
SEPP No 6 - Number of Storeys in a Building	Sets out a method for determining the number of storeys in a building, to prevent possible confusion arising from the interpretation of various environmental planning instruments.	Applies to the state	N/A for this amendment.

SEPP No 21 – Caravan Parks	Ensures that where caravan parks or camping grounds are permitted under an environmental planning instrument, movable dwellings, as defined in the Local Government Act 1993, are also permitted. The specific kinds of movable dwellings allowed under the Local Government Act in caravan parks and camping grounds are subject to the provisions of the Caravan Parks Regulation. The policy ensures that development consent is required for new caravan parks and camping grounds and for additional long-term sites in existing caravan parks.	Applies to the state	N/A for this amendment.
SEPP No 22 – Shops and Commercial Premises	Permits within a business zone, a change of use from one kind of shop to another or one kind of commercial premises to another, even if the change of use is prohibited under an environmental planning instrument. Development consent must be obtained and the consent authority satisfied that the change of use will have no, or only minor, environmental effect.	Applies to the state with exceptions	N/A for this proposal.
SEPP 30 – Intensive Agriculture	Requires development consent for cattle feedlots having a capacity of 50 or more	Applies to the state with exceptions	N/A for this amendment.

	cattle or piggeries having a capacity of 200 or more pigs or 20 or more breeding sows. This Policy also aims to extend the definition of the term "rural industry" where used in environmental planning instruments so as to include within the meaning of that term composting facilities and works, including facilities and works for the production of mushroom substrate.		
SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)	The policy focuses on the redevelopment of urban land that is no longer required for the purpose it is currently zoned or used.	Applies to urban land in the state	N/A for this amendment.
SEPP 33 – Hazardous and Offensive Development	The policy aims to provide clear and uniform definitions of offensive and hazardous industry and to ensure rigorous and comprehensive assessment.	Applies to the state	N/A for this amendment.
SEPP 36 – Manufactured Home Estates	Helps establish well-designed and properly serviced manufactured home estates (MHEs) in suitable locations. Affordability and security of tenure for residents are important aspects. To enable the immediate development of estates, the policy allows MHEs to be located on certain land where caravan parks are permitted.	The policy applies to Gosford, Wyong and all local government areas outside the Sydney Region.	N/A for this amendment.
SEPP 44 – Koala Habitat Protection	Encourages the conservation and management of natural vegetation areas that	The policy applies to 107 local government areas including Narromine Shire.	When applications for dwellings are submitted in areas of suspected koala habitat, the 8 part

	provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range. Local councils cannot approve development in an area affected by the policy without an investigation of core koala habitat.		test is applied as per the SEPP. Applications submitted under this amendment will be subject to assessment under this SEPP.
SEPP 55 – Remediation of Land	Introduces state-wide planning controls for the remediation of contaminated land. If the land is unsuitable, remediation must take place before the land is developed.	Applies to the state	Legal advice received indicates that clause 6 of this SEPP does not apply to this planning proposal because the use of the land is not changing and the land is not being rezoned.
SEPP 64 – Advertising and Signage	Aims to improve the amenity of urban and natural settings by managing the impact of outdoor advertising.	Applies to the state with exceptions	N/A for this amendment.
SEPP 65 – Design Quality of Residential Flat Development	Aims to improve the design quality of flats of three or more storeys with four or more dwellings. The policy sets out a series of design principles for local councils or other consent authorities to consider when assessing development proposals for flats.	Applies to the state for certain development densities.	N/A for this amendment.
SEPP (Affordable Rental Housing) 2009	This policy aims to provide a consistent planning regime for the provision of affordable rental housing, provide incentives for the development of affordable rental housing and retain existing affordable rental housing.	Applies to the state	This SEPP could be utilised for the dwellings made permissible with this amendment. No conflict with the SEPP is envisaged.
SEPP (Building Sustainability Index: BASIX) 2004	Aims to encourage sustainable residential development. SEPP relates to certain kinds of residential development which must be accompanied by a list of commitments by the applicant as to the manner in which development must be carried out and the resultant consent will be subject to a	Applies to the state	This SEPP would be used in the assessment of any dwelling applications submitted under this amendment

	condition requiring such commitments to be fulfilled.		
SEPP (Housing for Seniors or People with Disability) 2004	Aims to encourage the provision (including residential care facilities that will increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and make efficient use of existing infrastructure and services, and be of good design.	Applies to the state	N/A for this amendment.
SEPP (Infrastructure) 2007	Facilitate the effective delivery of infrastructure across the state through improving regulatory certainty and efficiency through a consistent planning regime and flexible controls in the location of infrastructure.	Applies to the state	N/A for the amendment
SEPP (Major Development) 2005	Aims to identify those proposals which constitute a major project to which Part 3A of the Act applies and process of dealing with applications made under Part 3A of the Act	Applies to the state	N/A for this amendment
SEPP (Rural Lands) 2008	To facilitate the orderly development of rural lands, identify rural planning and rural subdivision principles and reduce land use conflicts.	Applies to the state with exceptions (Narromine Shire Council applies)	The matters to be considered for rural dwellings under clause 10 will be employed with the assessment of these applications.

Relevant SEPPs are discussed in detail below.

SEPP (Rural Lands) 2008

10(3) The following rural planning principles are to be taken into account:

(a) the existing uses and approved uses of land in the vicinity of the development,

Existing and approved uses in the vicinity of these lots are agricultural purposes. As previously discussed, the lots are either directly accessible from a sealed road (with adequate buffering) or are large enough to ensure that buffering from adjoining land uses is possible.

(b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,

The construction of these 13 dwellings will not have a significant impact on surrounding predominant land uses.

(c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),

The dwellings associated with this proposal are located in areas where potential land use conflicts can be minimised. All have good access to sealed roads, some are located close to similar rural small holdings which is a compatible land use and the others are large enough to allow for buffering between the new dwelling and surrounding land uses.

(d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,

No – this type of development is compatible with adjoining rural residential areas because it is the same type of land use.

(e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).

As explained above – buffering, adequate road access, compatible surrounding land uses.

6. Is the planning proposal consistent with applicable **Ministerial Directions** (s.117 directions)?

1.2 Rural Zones

The planning proposal increases the permissible density of housing in the 1(a) zone by 13 dwellings. These dwellings will be located well away from adjoining boundaries to minimise land use conflicts and assimilate into the rural environment. Despite this inconsistency with the objectives of this direction, as the planning proposal only involves the erection of 13 dwellings over the whole of the 1(a) zone which totals 5,092 square kilometres in area, this inconsistency is considered to be of minor significance. It was also recognised in the land use strategy that these lots were to have dwellings as it was assumed that the consents for these dwellings were of legal standing. So Council's adopted Land Use Strategy includes the provision for these dwellings in its supply and demand analysis of rural residential land.

1.5 Rural Lands

The 13 dwellings are proposed on land in the 1(a)(General Rural) zone. Because of this, the rural planning principles of the SEPP (Rural Lands) 2008 are to be met. As mentioned above in detail, these planning principles have been met with this planning proposal.

2.1 Environment Protection Zones

Only one of the thirteen lots affected by this planning proposal, being Lot 100 DP 1007295, is on land considered environmentally sensitive under the Narromine LEP 1997. This triggers the consideration of this ministerial direction.

The affected lot is located on the Macquarie River. It is the lower bank of the river which contains species protected under the LEP, being the River Red Gum. This lower bank also forms part of a wildlife corridor along the river which provides habitat and passage for fauna dependent on the native flora in this area. No dwelling is proposed or would be approved in this corridor for the reason of ensuring this habitat is not disturbed. Additionally, this lower bank of the river is floodprone so in any case, under the Floodplain Development Manual, a dwelling would not be able to be built in this corridor for reasons of flood risk. The environment protection standards contained in the LEP are therefore not reduced or compromised by the construction of one dwelling on a lot which is also affected by environmentally sensitive land.

32 Environmentally sensitive land

- (1) *A person shall not carry out development on environmentally sensitive land for the purpose of any of the following:*
- (a) intensive livestock keeping establishments,*
 - (b) junk yards,*
 - (c) liquid fuel depots,*
 - (d) offensive or hazardous industries,*
 - (e) sawmills,*
 - (f) stock and sales yards,*
 - (g) intensive agriculture.*
- (2) *A person shall not, except with the consent of the Council, cause the destruction of any trees on environmentally sensitive land.*

- (3) *The Council shall not consent to an application for consent required by subclause (2) unless, in the opinion of the Council, the destruction of trees on the land will be carried out in a manner which, in respect of that land and adjacent land, minimises:*
- (a) *the risk of soil erosion and other land degradation, and*
 - (b) *the loss of scenic amenity, and*
 - (c) *the loss of important vegetation systems and natural wildlife habitats.*

Section C - Environmental, social and economic impact.

7. 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 – all of the lots involved in this proposal have experienced extensive clearing for cropping and grazing purposes. It is on these cleared areas where the dwellings are proposed. As mentioned above, only one of the lots involved in this proposal is located on environmentally sensitive land. Even so, the approved location of a dwelling on this lot will ensure that habitat corridors are not broken or impeded. The free movement of wildlife in these corridors is important and distancing dwellings from this encroachment will be assessed and restricted.

It is also known that asset protection zones need to be created around dwellings where the land is designated bushfire prone. Of the 13 proposed dwelling sites, only one is proposed on land which is bushfire prone on the proposed dwelling site (Lot 40 DP 755118). This lot has enough area to either move the proposed dwelling site to a location where it is not bushfire prone or include appropriate measures to select the least intrusive area to clear for dwelling and asset protection. Section 79BA of the Environmental Planning and Assessment Act provides for this assessment at this stage of the development.

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

Contaminated Land

Every application for a dwelling in the rural areas requires a soil test to be performed to ensure that the land is not contaminated to ensure the use of the land as residential is appropriate. This is part of a Council Policy regarding contaminated land which parallels with the Managing Contaminated Land Planning Guidelines. Legal advice (attached) has confirmed that as this planning proposal does not involve a change of use because dwellings are a permissible use in the 1(a) zone, contaminated land investigations are not required at this stage, being planning proposal stage.

Flooding

Seven (7) of the lots involved are subject to local flooding. These are:

Lot 72 DP 755124 - the whole of the lot is flood liable

Lot 42 DP 755103 - part of the lot is flood liable

Lot 73 DP 752597 - the whole of the lot is flood liable land

Lot 39 DP 755119 - part of the lot is flood liable land

Lot 63 DP 40451 - one small corner of this lot is flood liable

Lot 74 DP 755124 - the whole of the lot is flood liable land

None of the proposed dwellings are located in high hazard flood zones. Locations of dwellings on these lots will be assessed in accordance with the Floodplain Development Manual 2005. Local knowledge of historic flooding events is considered in this situation in accordance with this Manual and appropriate minimum floor levels and freeboards applied.

9. How has the planning proposal adequately addressed any social and economic effects?

Social effects

Socially, it has been known for approximately five years that the lots involved in this planning proposal would have dwellings constructed on them in future as consents for such development had been issued. There is therefore an expectation that such dwellings would eventuate on these allotments.

It is for this reason that when applications for the dwellings are submitted that Council consult with adjoining owners to determine if any land use conflicts will be apparent and how to minimise any such conflicts.

The economic effects of this proposal are negligible as the addition of 13 dwellings to agricultural areas is not significant enough to drastically hamper agricultural production.

Section D - State and Commonwealth interests.

10. Is there adequate public infrastructure for the planning proposal?

The addition of 13 rural dwellings and possibly 13 families to the shire will not pose a significant additional strain on the existing public infrastructure in the locality. Each of the schools in the Narromine Shire are more than willing and capable of handling more students as are the school bus runs which service the shire. Narromine and Trangie are well served for basic medical services with regular general practitioners in both towns. Additionally, a dentist and physiotherapists are located in Narromine, as well as access to podiatrists, dieticians and baby health clinics through the local Shire Health Centre and Community Health Centres in Narromine and Trangie.

The public infrastructure which will be utilised the most is the local road network. Council's roads are constantly under review and a regular maintenance program is adopted each year by Council. The addition of 13 new dwellings will not place undue stress on the existing road networks, particularly when all of the lots have direct vehicular access to a sealed public road.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

Consultation with other Government agencies is not required for this minor amendment to the LEP. Council has consulted with the Department of Planning with regard to this LEP amendment. Their views were that the planning proposal should be supported providing that adequate information is supplied in this planning proposal.

Section E – Reclassification of Public Land.

This section is not applicable.

Part 4 - Community Consultation

It is considered that this planning proposal will be a low impact planning proposal and as such, would be exhibited for 14 days in accordance with 'A Guide to Preparing Local Environmental Plans'.

Narromine Local Environmental Plan 1997

Existing clause 16A:

16A Dwelling-houses on vacant land in Zone No 1 (a) where the land is an existing holding

(1) Despite clause 16, the Council may consent to the erection of a dwelling-house on vacant land within Zone No 1 (a) if the land is an existing holding.

(2) This clause ceases to have effect on the first anniversary of the commencement of *Narromine Local Environmental Plan 1997 (Amendment No 2)—Intensive Agriculture* and on and from that date the Council may not grant consent under this clause.

Proposed/amended clause 16A:

16A Dwelling-houses on certain vacant land in Zone 1 (a)

(1) Despite clause 16, the Council may consent to the erection of a dwelling-house on vacant land within Zone No 1 (a) if the land is listed in Schedule 6.

(2) This clause ceases to have effect on the first anniversary of the commencement of Narromine Local Environmental Plan 1997 (Amendment No 5) – Existing Holdings and on and from that date the Council may not grant consent under this clause.

Narromine Local Environmental Plan 1997

SCHEDULE 6

Reference	Property Description	Address
A	Lot 101 DP 722846	Mitchell Highway, Narromine
B	Lot 100 DP 1007295	Warren Road, Narromine
C	Lot 44 DP 752581	Eumungerie Road, Narromine
D	Lot 74 DP 755124	Dandaloo Road, Narromine
E	Lot 72 DP 755124	Dandaloo Road, Narromine
F	Lot 39 DP 755119	Webbs Siding Road, Narromine
G	Lot 40 DP 755118	Tullamore Road, Narromine
H	Lot 26 DP 755117	Trangie Collie Road, Trangie
I	Lot 63 DP 40451	Weemabah Road, Trangie
J	Lot 130 DP 755126	Glenroy Road, Trangie
K	Lot 138 DP 755126	Young Road, Trangie
L	Lot 42 DP 755103	Mungery Hall Road, Narromine
M	Lot 73 DP 752597	Trangie Collie Road, Gin Gin

ATTACHMENT 2

REFERENCE MAPS