

13B.4 FINALISATION OF LEP AMENDMENT NO. 2- PLANNING PROPOSAL TO ENABLE RURAL BOUNDARY ADJUSTMENTS AND SPLIT ZONING SUBDIVISIONS

REPORT BY: PLANNING AND ENVIRONMENT
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Purpose

This report presents the results of community and agency consultation on a proposal to amend the Kyogle Local Environmental Plan (LEP) 2012 to include provisions to permit boundary adjustments between adjoining rural properties and permit subdivision of land with a split rural/residential zoning where resultant lots will not meet the minimum lot size. The report seeks a resolution to make arrangements for the making of the proposed LEP amendment.

Previous Council Consideration

At its ordinary meeting of 11 November 2013 Council resolved:

- 1. That Council support the proposed amendments to the Kyogle LEP 2012 to permit boundary adjustments of undersized lots and subdivision of lands with a split zone as outlined in this report and the planning proposal at attachment 1.*
- 2. That Council submit the planning proposal to the NSW Department of Planning and Infrastructure for review and gateway determination.*
- 3. That upon an affirmative gateway determination being received from the Department of Planning and Infrastructure, Council staff carry out the procedural steps associated with the progress of the planning proposal, including community consultation.*
- 4. That a further report be presented to Council on this matter following conclusion of the community consultation.*

Actions relating to points 2 and 3 have been completed; this report is in response to point 4.

Community Strategic Plan Item(s)

- Environmental and Planning

Background Information

The proposed amendment to the LEP will permit boundary adjustments between adjoining rural properties where one or both resultant lots will be less than the minimum lot size, subject to applications meeting certain criteria.

The amendment will also permit subdivision of land with a split rural/residential zoning where resultant lots containing the rural zoned portion of land will not meet the minimum lot size, subject to applications meeting certain criteria.

Report

Gateway Determination

NSW Planning and Infrastructure (P&I) provided a gateway determination on 26 November 2013: P&I were happy for the proposal to proceed subject to consultation with the NSW Rural Fire Service (RFS) and subsequently, consultation with the community. The Minister also delegated plan making powers to Council, meaning that Council can liaise directly with Parliamentary Counsel's Office to arrange making of the plan amendment.

RFS consultation

Council sought comment from the RFS on the proposed LEP amendment. RFS provided comments stating that they had no objection to the proposal however they provided advice concerning assessment of future development applications that may be considered under the proposed LEP amendment provisions.

Community consultation

Community consultation was undertaken as specified in 5.5.2 of the 'Guide to preparing local environmental plans' and involved the following:

- 1.Placing a notice in the March 12 2014 edition of the Richmond River Express Examiner.
- 2.Placing a notice on Council's website.
- 3.Placing an article in the March/April edition of Council's newsletter.

The period of notification ran from 12 March 2014 to 11 April 2014 being a period of 31 days. No submissions were received.

Conclusion

As no submissions were received it is recommended the proposed amendment to Kyogle LEP 2012 to permit rural boundary adjustments and subdivision of land with split zoning is endorsed and finalised.

Budget and Financial Aspects

The approval and finalisation of the LEP amendment carries no financial implications for Council. It is anticipated that once made, the LEP amendment will result in lodgement of additional development applications however, it is anticipated these will be processed using existing staff resources and budget of the Planning and Environment Department.

Recommendation

1. That Council receives and notes the report Finalisation of LEP Amendment No 2 - Planning Proposal to Enable Rural Boundary Adjustments and Split Zoning Subdivisions.

2. That Council reiterate its support for the planning proposal to amend the Kyogle LEP 2012 to permit boundary adjustments between adjoining rural properties, where one or both resultant lots will be less than the minimum lot size and also permit subdivision of land with a split rural/residential zoning where a resultant rural lot will not meet the minimum lot size.
3. That pursuant to section 59(1) of the *Environmental Planning and Assessment Act 1979*, Council request Parliamentary Counsel's Office to prepare a draft legal instrument.
4. That upon receiving from Parliamentary Counsel's Office a draft LEP amendment and an Opinion that the plan can be made, Council request NSW Planning and Environment to finalise making of the plan.

Division:

Under Section 755A of the *Local Government Act 1993*, a division is required to be called whenever a planning decision is put at a Council or committee meeting.