

Narrabri LEP 2012 - Rural Boundary Adjustments clause

Proposal Title : **Narrabri LEP 2012 - Rural Boundary Adjustments clause**

Proposal Summary : **The insertion of provisions into Narrabri LEP 2012 that will allow for greater flexibility for rural boundary adjustment subdivisions in the RU1, RU3, RU4, R5 and E3 zones whilst ensuring that existing dwelling entitlements are not lost as a result of such boundary adjustments.**

PP Number : **PP_2014_NARRB_005_00** Dop File No : **14/17345**

Proposal Details

Date Planning Proposal Received : **13-Oct-2014** LGA covered : **Narrabri**

Region : **Northern** RPA : **Narrabri Shire Council**

State Electorate : **BARWON** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street :

Suburb : City : Postcode :

Land Parcel : **All land zoned RU1, RU3, RU4, R5 and E3 within Narrabri LEP 2012**

DoP Planning Officer Contact Details

Contact Name : **Gina Davis**

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RPA Contact Details

Contact Name : **Hamish McTaggart**

Contact Number : **0267996863**

Contact Email : **hamishm@narrabri.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 :	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 Yes
Lobbyists Code of Conduct has been complied with :

If No, comment : **The Department of Planning and Environment'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.**

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

If Yes, comment :

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 Narrabri LEP 2012.**

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.**

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

1.5 Rural Lands

2.1 Environment Protection Zones

3.1 Residential Zones

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified? **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 :

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 mapping is required.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council considers the proposal as being relatively low impact. This is considered appropriate and a 14 day exhibition period is recommended.**

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

Council has provided a draft clause in the Planning Proposal for insertion into NLEP 2012. It is however best considered that the Planning Proposal be amended to include only a plain English explanation of the intention of the proposed provision to ensure no confusion during public consultation.

Council's project timeline has outlined a 6 month timeframe for the Planning Proposal with the LEP expected to be ready for submission to the Department for notification by March 2015. This is considered adequate subject to its amendment to include the additional plan making tasks required should an authorisation to exercise plan making delegations be granted to Council.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

Narrabri LEP was made in December 2012.

Assessment Criteria

Need for planning
proposal :

The proposal to amend the LEP and introduce additional provisions for the subdivision of rural land is not the subject of a specific strategic study or report.

The Planning Proposal has two main aims;

1. To provide greater flexibility in relation to the subdivision of land in the RU1 Primary Production Zone, RU3 Forestry Zone, RU4 Primary Production Small Lots Zone, R5 Large Lot Residential Zone and E3 Environmental Management Zone by:

*** permitting boundary adjustment subdivisions where one or more allotments involved do not meet the MLS specified for the zone, subject to no additional dwelling entitlements or subdivision potential and only where the boundary adjustment does not adversely impact upon the ability to achieve the objectives of the zone; and**

*** ensuring existing dwelling entitlements are not lost as a result of a boundary adjustment creating an undersized lot or lots.**

Given that boundary adjustments have been a historically common form of subdivision in rural areas, the insertion of a 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.

Council has drafted a potential clause for insertion into Narrabri LEP 2012. The clause has been designed to;

*** provide greater flexibility for merit based consideration of subdivision proposals under the new LEP; and**

*** specifically define the circumstances where a consent authority is able to consider exceptions to the subdivision framework established by the Standard Instrument LEP.**

It is suggested that Council amend the Planning Proposal however to include only a plain English explanation of the intention of the clause for exhibition. The drafting of the clause can then be conducted by Parliamentary Counsel's Office to ensure it properly achieves the purposes outlined.

The proposal is supported due to the increased flexibility that will be provided for rural land adjustments as it will not:

*** increase rural land fragmentation as no additional lots will be created; or**

*** increase any additional opportunities for dwellings in the applicable zones.**

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Consistency with strategic planning framework :

Whilst no Regional Strategies apply to the Narrabri 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 Strategic Regional Land Use Plan.

It is noted that Council have identified a range of s117 directions, however many of these are not applicable to the Planning Proposal. The Planning Proposal has been identified as being consistent with all applicable SEPPs and section 117 Directions except the following:

4.4 Planning for Bushfire Protection

This Direction is relevant to the proposal to as it will introduce an additional subdivision provision to the LEP which will apply throughout the rural areas of the LGA. As the proposal will apply across the LGA, it can be assumed that some of the land within Narrabri LGA is bush fire prone. 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 : **6 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) :

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
Council resolution.pdf	Proposal	Yes

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Cover letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.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
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 3.1 Residential Zones
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements

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 6 months;
4. That the RPA consult with the Commissioner of the NSW Rural Fire Services in accordance with the requirements of S117 Direction 4.4 Planning for Bushfire Protection;
5. That the Director General (or his delegate) note the current inconsistency with section 117 Direction 4.4 Planning for Bushfire Protection and that it is anticipated this inconsistency will need to be resolved prior to the proposal being finalised;
6. That an authorisation to exercise delegation be issued to Council; and
7. That the Planning Proposal be amended prior to exhibition so that the project time line addresses all the additional steps to be completed by Council due to an authorisation to exercise delegation being issued and the 'Explanation of Provisions' include only a plain English explanation of the intent of the proposed clause.

Supporting Reasons : The Planning Proposal will insert a provision into Narrabri LEP 2012 that will create greater flexibility with respect to the subdivision of rural and certain environmental, residential and forestry zoned land whilst ensuring that existing dwelling entitlements will not be lost as a result of future boundary adjustments.

Signature:



Printed Name:

Craig Diss

Date:

15/10/14