

Richmond Valley LEP 2012 - Various amendments to Land Use Tables and Clauses

Proposal Title : **Richmond Valley LEP 2012 - Various amendments to Land Use Tables and Clauses**

Proposal Summary : **This planning proposal seeks to amend the Richmond Valley LEP 2012 to:**
1. Add boundary adjustment subdivision provisions to allow adjustments between existing lots in rural areas;
2. Correct an omission in clause 4.2B relating to development on rural land where the minimum lot size has been varied under clause 4.6;
3. Permit detached dual occupancies on rural land through variation to the Land Use Table; and
4. Add 'Special Events on Public Land' to Schedule 2 - Exempt Development.

PP Number : **PP_2015_RICHM_001_00** Dop File No : **15/09882**

Proposal Details

Date Planning Proposal Received :	19-Jun-2015	LGA covered :	Richmond Valley
Region :	Northern	RPA :	Richmond Valley Council
State Electorate :	CLARENCE	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :
 Suburb : City : Postcode :
 Land Parcel : **Various lots in rural zones throughout LGA**

DoP Planning Officer Contact Details

Contact Name : **Carlie Boyd**
 Contact Number : **0266416610**
 Contact Email : **carlie.boyd@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Craig Rideout**
 Contact Number : **0266600219**
 Contact Email : **craig.rideout@richmondvalley.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Jim Clark**
 Contact Number : **0266416604**
 Contact Email : **jim.clark@planning.nsw.gov.au**

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :		Consistent with Strategy :	
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
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 : **Yes**

If No, comment : **The Department of Planning & Environment Code of Practice in relation to communication and meetings with lobbyists has been complied with to the best of the Region's knowledge.**

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

If Yes, comment : **Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other departmental officers and lobbyists concerning this proposal.**

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes : **This planning proposal inserts additional provisions into the Richmond Valley LEP to address issues which have arisen during early stages of its implementation.**

Adequacy Assessment

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

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

Comment : **The statement of objectives adequately describes the proposed outcomes of the planning proposal.**

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

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

Comment : **The amendments proposed to the Richmond Valley LEP are adequately described.**

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
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection**

5.1 Implementation of Regional Strategies

5.3 Farmland of State and Regional Significance on the NSW Far North Coast

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

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 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Exempt and Complying Development Codes) 2008

SEPP (Infrastructure) 2007

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 :

An assessment of the applicable SEPPs and Directions is provided within the 'Assessment' section of this planning team report.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment :

The proposed amendments affect various rural zones across the entire LGA. No changes to the LEP maps are required as the amendments affect only the Land Use Table and various clauses.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council has not specified a community consultation period. The proposal is considered to be "routine". A community consultation period of 28 days is therefore considered adequate.

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 :

Time Line

The planning proposal includes a project timeline which estimates the completion of the planning proposal by December 2015 (7 months). To fit the 3 monthly thresholds for completion of proposals, it is considered that a 9 month time frame would be appropriate.

Delegation

Council has requested delegation to finalise the proposal and an evaluation checklist has been provided. As the issues in this proposal are all relatively minor, delegation to Council would be appropriate.

Overall Adequacy

The planning proposal satisfies the adequacy criteria by;

- 1. Providing appropriate objectives and intended outcomes.**

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

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

Richmond Valley LEP 2012 commenced 21 April 2012. This proposal amends Richmond Valley LEP 2012.

Assessment Criteria

Need for planning
proposal :

The planning proposal does not result from any strategic study or report. As the proposal intends to make changes to the principal plan, an amendment such as this is the best way to achieve such changes.

ITEM 1. BOUNDARY ADJUSTMENT PROVISIONS:

The addition of provisions to allow boundary adjustments in certain circumstances on rural lands has been identified by Council as appropriate for the Richmond Valley LGA. Council's previous LEPs provided such a mechanism, but at the time of the commencement of the Richmond Valley LEP 2012 such provisions were not permitted through the Standard Instrument process. This position has changed and the addition of these provisions to Richmond Valley LEP 2012 is consistent with Departmental policy and other LEPs in the region. A planning proposal is required to add the provisions to the LEP.

ITEM 2. DWELLING OPPORTUNITY PROVISIONS (Clause 4.2B):

Clause 4.2B requires the insertion of an additional subclause to ensure that lots within the RU1 and E3 zones created under clause 4.1 as a result of an approved variation to the minimum lot size under Clause 4.6 are provided with a dwelling opportunity. This amendment is required in order to carry out the intended outcome of such subdivisions.

ITEM 3. DETACHED DUAL OCCUPANCIES IN ZONES RU1, R5 and E3:

Since the certification of Richmond Valley LEP 2012, the Department has reconsidered its position in respect to alternate forms of dwellings in rural areas and is now of the view that it is a local matter for the Council to determine whether or not additional dwellings should be provided for in rural areas through its LEP.

Detached dual occupancies are currently prohibited in the rural and environmental zones under the Richmond Valley LEP 2012. Council is therefore seeking to amend the LEP to permit this land use in the RU1, R5 and E3 zones with development consent.

Council has indicated that there is a need to provide alternative detached housing options in the rural areas. Permitting detached dual occupancies in rural areas will promote greater flexible development outcomes in rural areas.

ITEM 4. SPECIAL EVENTS ON PUBLIC LAND:

The addition of this item to Schedule 2 is required to streamline the council approval process for events on public land in circumstances not covered by the Codes SEPP 2008 and to avoid unnecessary duplication of processes.

Consistency with strategic planning framework :

There is no inconsistency with the Council's strategic planning or the Far North Coast Regional Strategy.

Assessment against SEPPs and section 117 directions has been made against each item.

ITEM 1. Addition of Boundary Adjustment Subdivision Provisions for land in Zones RU1 and E3:

The planning proposal is not inconsistent with the provisions of the Far North Coast Regional Strategy, which recommends that subdivision in rural areas be in accordance with the Rural Lands SEPP and the potential for new dwelling entitlements be limited. Inclusion of the provisions is in line with other LEPs in the Region.

The alteration of the boundary between existing undersized lots in rural areas is considered a local matter not inconsistent with Council's Community Strategic Plan.

Consistency with SEPPs and s117 Directions:

Council has nominated SEPP Rural Lands and various s117 Directions for consideration with respect to this planning proposal. There appears to be no inconsistency between any of these SEPPs or Directions except for s117 Direction Planning for Bushfire Protection.

This Direction is relevant to the proposal and requires Council 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 this direction will remain unresolved. It is recommended that the Secretary (or Delegate) note this inconsistency. It is considered that the planning proposal will not raise issues in regard to this amendment. If written advice is obtained from the Commissioner of the NSW Rural Fire Service and no objection is raised to the progression of the proposal then the inconsistency may be assessed as of minor significance.

ITEM 2. Correction of an omission in the rural dwelling opportunity clause 4.2B:

The proposed addition to Clause 4.2B corrects an omission within that clause, which currently does not recognise dwelling opportunities for lots within the RU1 and E3 zones created under Clause 4.1 by way of an approved variation to the minimum lot size as permitted by Clause 4.6, where the intent was to create those dwelling opportunities.

The proposed amendment to Clause 4.2B is consistent with all applicable S117 Directions, SEPPs and the Far North Coast Regional Strategy.

Item 3. Amendments to permit detached dual occupancies on land within zones RU1, R5 and E3:

Far North Coast Regional Strategy

The proposal is considered to be consistent with the actions outlined under the strategy given that:

- It will promote housing choice, location and affordability; and
- There will be no net increase in dwellings permissible on rural land, given that attached dual occupancies and rural workers' dwellings are already permissible.

The addition of detached dual occupancies to the rural zones is considered a local matter not inconsistent with Council's approved local strategy.

Consistency with SEPP's and s117 Directions

Council has nominated various SEPP's and s117 Directions for consideration with respect to this planing proposal. There do not appear to be inconsistencies between any of these SEPPs or Directions except for Directions 1.2 Rural Zones, 4.1 Acid Sulfate Soils, 4.3 Flood

Prone Land and 4.4 Planning for Bushfire Protection. However the following general information is provided regarding SEPP's and s117 Directions.

SEPP Rural Lands

The proposal will contribute to the social and economic welfare of rural communities, through increased housing opportunity and affordability and without increasing dwelling impressibility beyond that already allowed under the LEP. The potential to impact on agricultural land and activities however would be addressed through the development application process.

Other SEPPs

While Council has identified SEPP 44 Koala Habitat Protection and SEPP 55 Remediation of Land as applying, the planning proposal is not considered to be inconsistent with these policies. Issues raised under these policies will continue to be assessed at the development application level.

S117 Directions

1.2 Rural Zones

This direction applies to the proposal as it affects rural land. The proposal is inconsistent with this direction as it may lead to an increase in the permissible density of land uses on land within a rural zone. However, the likely increase is not considered to be significant, as the provisions allow for dual occupancies to be detached where they were otherwise permitted as attached. The proposed provisions provide heads of consideration to ensure that development is permitted only where agricultural productivity and rural amenity are not impaired. The proposal's inconsistency with this direction can be justified as of minor significance.

1.5 Rural Lands

This direction applies to the proposal as it affects rural land. The proposal is generally consistent with the Rural Planning Principles that underpin this direction and/or can be addressed through the heads of consideration proposed through the new clause in Part 4 of the LEP.

4.1 Acid Sulfate Soils

The proposal will enable additional development on land which may contain acid sulfate soils. The proposal is inconsistent with this direction as it proposes an intensification of land uses on land identified as containing acid sulfate soils and is not supported by a study assessing the appropriateness of the land. Any development would be subject to Council's acid sulfate provisions under the LEP and any potential impact would be addressed at development application stage. Development of a detached dual occupancy is unlikely to have any significant impact on acid sulfate soils. The proposal's inconsistency with this direction can be justified as of minor significance.

4.3 Flood Prone Land

The proposal will enable additional development on land which may be classed as flood prone. The proposal is inconsistent with this direction as it proposes an intensification of land uses on land identified as flood prone land and is not supported by a study assessing the appropriateness of the land. Development of a detached dual occupancy is unlikely to have any significant impact on flood prone land. Any development would be subject to Council's flood provisions under the LEP and any potential impact would be addressed at development application stage. The proposal's inconsistency with this direction can be justified as of minor significance.

4.4 Planning for Bushfire Protection

The Direction requires that Council consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the inconsistency of the proposal with this direction will remain unresolved. It is recommended that the Secretary (or delegate) note this inconsistency. It is considered that the planning proposal will not raise issues in regard to this amendment. If written advice is obtained from the Commissioner of the NSW Rural Fire Service and no objection is raised

to the progression of the proposal then the inconsistency may be assessed as of minor significance.

Council has indicated that it will consult with the NSW Rural Fire Service following Gateway determination.

The proposal is consistent with all other relevant Section 117 Directions, including 5.3 Farmland of State and Regional Significance and 6.1 Approval and Referral Requirements (both raised by Council).

Item 4. Addition of "Special Events on Public Land" as Exempt Development under Schedule 2

Consistency with SEPP's and s117 Directions

The planning proposal is considered to be consistent with all applicable S117 Directions, SEPPs and the Far North Coast Regional Strategy.

Council has addressed the provisions of SEPP (Exempt and Complying Development Codes) 2008 and SEPP (Infrastructure) 2007. While these SEPPs contain related provisions, the exempt special event provisions proposed for Richmond Valley LEP will not be inconsistent with the SEPPs.

While the RPA identifies Direction 6.2 as applying, the planning proposal is not inconsistent with this direction and seeks only to permit temporary special events as exempt development.

Environmental social
economic impacts :

The planning proposal to include provisions in the LEP to allow minor boundary adjustments is unlikely to result in adverse environmental impact. The recommended boundary adjustments clause includes consideration of the impact on the environmental values or agricultural viability of the land.

The intent of the clause is to provide rural land holders with opportunities to better manage their properties with a resulting positive public benefit.

It is a local matter for the Council to determine what forms of dwellings should be permitted in the rural areas through its LEP and Council is of the view that permitting detached dual occupancies in rural areas will provide for a variety of housing opportunities creating obvious benefits for its rural residents.

The proposal will have a net community benefit through increased housing opportunity and affordability, particularly for rural workers, their families and the aging population.

Any potential direct impacts on the natural and built environment will be considered through the development application process. The provisions under the Richmond Valley LEP 2012 will guide development outcomes to minimise potential impacts.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2) (d) :	NSW Department of Primary Industries - Agriculture NSW Rural Fire Service		

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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_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**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 5.3 Farmland of State and Regional Significance on the NSW Far North Coast**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**

Additional Information :

It is recommended that

- 1. The planning proposal should proceed as a 'routine' planning proposal.**
- 2. A community consultation period of 28 days is necessary.**
- 3. The planning proposal is to be completed within 9 months.**
- 4. A delegate of the Secretary agree that the inconsistencies of the proposal with S117 Directions 1.2, 4.1 and 4.3 are justified in accordance with the terms of the directions.**
- 5. The RPA consult with the NSW Rural Fire Service concerning the alteration to provisions relating to detached dual occupancy dwellings in bushfire-prone areas, to resolve any inconsistency with S117 direction 4.4 Planning for Bushfire Protection;**
- 6. The RPA consult with the Department of Primary Industries concerning the alteration to provisions relating to detached dual occupancy dwellings and the proposal to add provisions to allow boundary adjustments in rural areas to Richmond Valley LEP 2012; and**
- 7. A written authorisation to exercise delegation be issued to Richmond Valley Council for this planning proposal.**

Supporting Reasons :

Each of the items in this planning proposal is relatively minor in nature. It is unlikely to result in substantial community concern.

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In view of the minor nature of the proposed amendments delegation to Council to finalise the proposal is appropriate.

Signature:



Printed Name:

JIM CLARK

Date:

24 June 2015

