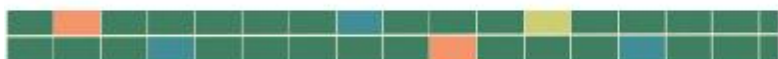


Planning Proposal under section 55 of
the *Environmental Planning &
Assessment Act 1979*

Amendments to *Richmond Valley* *LEP 2012* providing for various updates to local provisions



RPA:	Richmond Valley Council
RPA Ref:	PP-2015/01
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PP Version:	v1.0



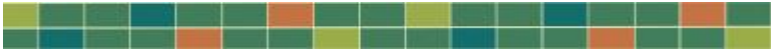


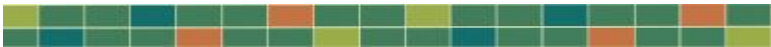
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1.0	Original Planning Proposal – Submitted for Gateway Determination – Various LEP provision amendments	18/06/2015



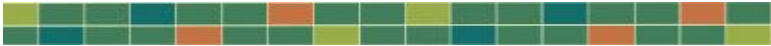
Planning Proposal

Amend Richmond Valley LEP 2012 to Permit Various LEP Amendments



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Exhibition Information

This Planning Proposal requires community consultation and the nature and duration will be outlined in detail within the Gateway Determination.

Planning Proposal

This is a Planning Proposal prepared under section 55 of the *Environmental Planning and Assessment Act 1979*, in relation to a proposed amendment to the *Richmond Valley Local Environmental Plan 2012*. It has been prepared by Richmond Valley Council (the Relevant Planning Authority (the RPA)), and will be used to describe the purpose of the amendment when dealing with the NSW Department of Planning and Environment (DP&E).

Background

Proposal

This Planning Proposal is to amend the *Richmond Valley Local Environmental Plan 2012* (the LEP) to provide for various outcomes desired by Council through various resolutions to:

- Item 1. insert a Boundary Adjustment subdivision clause as a local provision to permit the adjustment of rural property boundaries which would otherwise not conform to a minimum lot size.
- Item 2. amend the Dwelling Opportunity provisions to recognise opportunities created under clause 4.1, but when a variation to the MLS has been granted under clause 4.6.
- Item 3. amend the Land Use Tables to Zones *RU1 – Prime Production*, *R5 – Large Lot Residential*, and *E3 – Environmental Management*, and clause 4.2B by omitting the word "(attached)" wherever it appears after "Dual occupancies". Similarly, clause 4.1B will be amended and have a new table of minimum lot sizes added to accommodate the permitting of both attached and detached dual occupancies on rural land. A new subclause will also be added to clause 4.2B to regulate detached dual occupancy in rural zones.
- Item 4. insert an additional type of exempt development into Schedule 2 that will permit 'Special *Events on public lands*' as exempt development.

Property Details	This Planning Proposal will apply to the following land- - Item 1. Boundary Adjustment Subdivision – all land contained within Zones RU1 and E3 - Item 2. Dwelling Opportunity provisions - all land contained within Zones RU1 and E3 - Item 3. Detached Dual Occupancies - all land contained within Zones RU1, R5 and E3 - Item 4. 'Exempt Development' – all public land owned or controlled by Council.
Applicant Details	Richmond Valley Council
Land Owner	Various throughout Richmond Valley Local Government Area, including land under the care and control of Richmond Valley Council
Brief History	<i>Draft Comprehensive Richmond Valley Local Environmental Plan 2010</i> (the Draft Plan) was granted a Section 65 Certificate on 16 August 2010. When the Draft Plan was prepared the Standard Instrument LEP did not support the inclusion of several outcomes proposed within this Planning Proposal, while others are new. Boundary Adjustment Subdivision was recognised by the Department during preparation of the Draft Plan as being warranted, however could not be included at the time due to perceived inconsistencies with Standard Instrument provisions. Since that time the inconsistencies appear to no longer exist and there is greater flexibility offered towards drafting of local provisions. Rural Dual Occupancies (detached) were discouraged by the <i>North Coast REP 1988</i>, with subsequent directives by the Department of Planning reinforcing this position. Since that time the Department appears to have relaxed its position on detachment Anomalies within the dwelling opportunity clause have only recently been recognised by Council and are raised for correction. And a new category of 'Exempt development' is proposed in an attempt to remove unnecessary red tape from the use of public lands.

Item 1 – Addition of Boundary Adjustment Subdivision Provisions

Part 1 – Objectives or Intended Outcomes

The intention of this item is to provide a clause within the LEP to permit boundary adjustments subdivisions between rural lots in circumstances where each lot concerned enjoys a dwelling opportunity. The objective of this is to provide much greater flexibility in allowing boundary adjustments in rural areas. Preceding Local Environmental Plans (the Richmond River, Casino and Copmanhurst LEPs) provided similar opportunities for rural boundary adjustments to occur in justifiable circumstances.

A decision to permit a rural boundary adjustment subdivision would be based upon the following criteria:

1. No additional Dwelling Opportunities will result as a direct or indirect consequence of the proposed adjustment (as could be reasonably predicted);
2. The adjustment will not negatively impact the long or short-term agricultural viability of the land directly involved, or the surrounding locality;
3. The adjustment will not result in any lot being reduced to below the minimum lot size (MLS), where it was over the MLS before the adjustment; and
4. As a consequence of inserting the boundary adjustment subdivision clause, there must also be a provision inserted into clause 4.2B to allow for such lots to retain their dwelling opportunities post subdivision.

Part 2 – Explanation of Provisions

It is proposed to amend the *Richmond Valley Local Environmental Plan 2012* (the LEP) by inserting a new clause into *Part 4 Principal development standards* and by inserting a new item into clause 4.2B (4)(b):

Clause XX *Rural boundary adjustment subdivision*

- (a) *The objective of this clause is to enable the subdivision of rural land by boundary adjustment so as not to create any additional lots, nor entail any existing lot to be reduced in size to less than the minimum lot size, and not create any additional dwelling opportunities.*
- (b) *Consent may not be granted for a rural boundary adjustment subdivision unless:*
 - (i) *it will not result in the creation of any additional lots;*
 - (ii) *it will not result in the creation of additional dwelling opportunities;*
 - (iii) *it will not result in any existing lot being reduced in size to less than the minimum lot size shown on the Lot Size Map for the land; and*
 - (iv) *it will not adversely affect the agricultural or environmental viability of the land involved, or adversely affect the agricultural viability of land in the vicinity of the boundary adjustment.*

Clause 4.2B *Erection of dual occupancies or dwelling houses on land in certain rural and environmental protection zones*

Insert the following after the word “purpose” at the end of Clause 4.2B (4)(b)(ii):

- , or
(iii) *a boundary adjustment subdivision under clause x.x*

Part 3 – Justification

Section A – Need for the Planning Proposal

Circumstances often arise where it is necessary to adjust the boundaries of rural lots particularly where one or more of the lots are already below the minimum lot size (MLS). Council had such a provision within its former LEPs which provided flexibility when dealing with the adjustment of boundaries.

Attempts to maintain these boundary adjustment provisions in the drafting of the *Comprehensive Richmond Valley Local Environmental Plan* (the Draft Plan) were unsuccessful. Numerous NSW councils had canvassed the Department of Planning to similarly permit the inclusion of such a local provision. While the Department agreed these requests were reasonable it presented legal advice to the effect that such a provision would be inconsistent with several clauses in the Standard Instrument LEP and therefore could not be included at that time. It was put forward that the Department would prepare a Model clause and this could added to the LEP at a later date. This Model clause has never materialised.

In recent times the Department has relaxed its position on local provisions and allowed several North Coast councils to include boundary adjustment subdivision provisions in their respective LEPs. Richmond Valley Council is now following suit to have the *Richmond Valley Local Environmental Plan 2012* amended to include such local provisions.

It is anticipated that the boundary adjustment subdivision clause would allow lots, where one or more lots are under the Minimum Lot Size, to be adjusted where it will improved agricultural and/or environmental outcomes, not result in creating land use conflict issues, and will not create any new dwelling opportunities.

The Codes SEPP has some minor realignment of boundaries provisions (see clause 2.75) but these are designed specifically for minor adjustments and not those anticipated by this amendment.

1. Is the Planning Proposal a result of any strategic study or report?

No. The proposal involves permitting rural boundary adjustments which have a proven history of relevance under previous LEPs. Similar provisions within pre-existing LEPs have been used to achieve improved agricultural and/or environmental outcomes in the past without resulting in increased likelihood of land use conflict, or the creation of additional dwelling opportunities.

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

Yes – the addition of a clause in the LEP is the best means of achieving the objectives stated.

Section B – Relationship to Strategic Planning Framework

3. 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)?

Yes.

4. Is the Planning Proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

Yes. This amendment is consistent with the Richmond Valley Community Strategic Plan – '5.1.2 – Ensure planning controls for development deliver high-quality urban design which reflects and encourages appropriately scaled developments in our towns and villages.'

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

Table 1 outlines all State Environmental Planning Policies (SEPPs) and whether they are applicable and consistent. Additional commentary on each applicable SEPP may be provided following Table 1.

Table 1. Consideration of State Environmental Planning Policies – Boundary Adjustment Subdivision

	Applicable	Consistent
SEPP No 6-Number of Storeys in a Building	No	
SEPP No 14-Coastal Wetlands	No	
SEPP No 15-Rural Landsharing Communities	No	
SEPP No 21-Caravan Parks	No	
SEPP No 22-Shops and Commercial Premises	No	
SEPP No 30-Intensive Agriculture	No	
SEPP No 33-Hazardous and Offensive Development	No	
SEPP No 36-Manufactured Home Estates	No	
SEPP No 44-Koala Habitat Protection	No	
SEPP No 60-Canal Estate Development	No	
SEPP No 55-Remediation of Land	No	
SEPP No 62-Sustainable Aquaculture	No	
SEPP No 64-Advertising and Signage	No	
SEPP No 65-Design Quality of Residential Flat Development	No	

	Applicable	Consistent
SEPP No 71-Coastal Protection	No	
SEPP (Affordable Rental Housing) 2009	No	
SEPP (Building Sustainability Index: BASIX) 2004	No	
SEPP (Exempt and Complying Development Codes) 2008	No	
SEPP (Housing for Seniors or People with a Disability) 2004	No	
SEPP (Infrastructure) 2007	No	
SEPP (Major Development) 2005	No	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	
SEPP (Rural Lands) 2008	Yes	Yes
SEPP (State and Regional Development) 2011	No	

Discussion of Applicable SEPPs and Reasons for Consistency/Inconsistency –

SEPP (Rural Lands) 2008

Consistent –

The proposed amendment is not inconsistent with the Rural Lands SEPP as the provision proposed within the LEP will apply to parcels of land which enjoy Dwelling Opportunities only. The Rural Lands SEPP provides for the creation of rural land which does not enjoy a Dwelling Opportunity. The Rural Lands SEPP has essentially been duplicated in *clause 4.2 Exceptions to minimum lot sizes for certain rural subdivisions*.

6. Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

Table 2 outlines all Section 117 Directions (s117) and whether they are applicable and consistent. Additional commentary on each Direction may be provided following Table 2.

Table 2. Consideration of S117 Directions – Boundary Adjustment Subdivision

	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	No	
1.2 Rural Zones	Yes	Yes
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	Yes	Yes
2. Environment and Heritage		
2.1 Environment Protection Zones	No	
2.2 Coastal Protection	No	

	Applicable	Consistent
2.3 Heritage Conservation	No	
2.4 Recreation Vehicle Areas	No	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	No	
3.2 Caravan Parks and Manufactured Home Estates	No	
3.3 Home Occupations	No	
3.4 Integrating Land Use and Transport	No	
3.5 Development Near Licensed Aerodromes	No	
3.6 Shooting Ranges	No	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	No	
4.2 Mine Subsidence and Unstable Land	No	
4.3 Flood Prone Land	No	
4.4 Planning for Bushfire Protection	No	
5. Regional Planning		
5.1 Implementation of Regional Strategies	No	
5.2 Sydney Drinking Water Catchments	No	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	NA	
5.6 Sydney to Canberra Corridor	NA	
5.7 Central Coast 2008	NA	
5.8 Second Sydney Airport: Badgerys Creek	NA	
6. Local Plan Making		
6.1 Approval and Referral Requirements	No	
6.2 Reserving Land for Public Purposes	No	
6.3 Site Specific Provisions	No	
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	NA	

Discussion of Applicable s117s and Reasons for Consistency/Inconsistency

1.2 Rural Zones

Objective: to protect the agricultural production value of rural land.

Consistent – This Planning Proposal will neither rezone, nor increase the permissible density within a rural zone. Dwelling numbers will be neither

increased nor decreased as a result of applying the proposed provision. It is proposed that such development only be support where it does not impact upon the agricultural value of the land or that of adjoining land.

1.5 Rural Lands

Objective: to protect the agricultural production value of rural land.

Consistent – This Planning Proposal will affect land within an existing rural zone. As such it must be consistent with the Rural Planning Principles listed in SEPP (Rural Lands) 2008.

Clause 7 of the Rural Land SEPP provides 8 Rural Planning Principles. Each is listed below with comments:

- (a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*

Not Inconsistent

- (b) *recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*

Not inconsistent

- (c) *recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*

Not inconsistent

- (d) *in planning for rural lands, to balance the social, economic and environmental interests of the community,*

Consistent – This Planning Proposal provides flexibility for living and working environs within the rural areas of Richmond Valley. The ability to provide for more manageable lot sizes – or more profitable and effective agricultural holdings – allows better balance of social, economic and environmental interests within rural areas.

- (e) *the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*

Not inconsistent

- (f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*

Not inconsistent

- (g) *the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*

Consistent – the ability to provide for educational establishments in rural areas is important to ensure these areas are adequately serviced.

- (h) *ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

Not inconsistent

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.

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

No.

9. How has the Planning Proposal adequately addressed any social and economic effects?

This amendment (The addition of a Boundary Adjustment clause) will provide for social and economic circumstances where it is not viable to maintain larger holdings in situations where the primary income is not derived from the lot – or can augment already existing agricultural holdings to make the management of the land more economically viable. In all cases where this may be considered appropriate, it must be evaluated to not cause a greater likelihood of land use conflict.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the Planning Proposal?

NA.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

During Agency consultation of the *Draft Richmond Valley LEP 2010* the Department of Primary Industries (DPI) made submission which outlined that all provisions adopted within the Draft LEP should consider the possibility of potential impact upon important agricultural land, state significant resources, and the future of all agricultural land within Richmond Valley generally. It would be appropriate to correspond with DPI concerning these proposed amendments to demonstrate how it is not intended to have any perceivable impact on the preservation of important rural principles. The Department will be given opportunity to provide comment concerning the proposed changes.

Item 2 – Correct an omission in the rural Dwelling Opportunity clause (cl.4.2B)

Part 1 – Objectives or Intended Outcomes

The intention of this item is correct an omission that was found within the dwelling opportunity clause, being clause 4.2B *Erection of dual occupancies (attached) or dwelling houses on land in certain rural and environmental protection zones*.

The omission involves a scenario whereby an allotment is created, in a rural zone, with consent under clause 4.1 (*Minimum subdivision lot size*) but subject to a variation to the minimum lot size under clause 4.6 (*Exceptions to development standards*). In this scenario, it would be the intent that this lot have a dwelling opportunity under clause 4.2B, however, that clause currently only recognises those lots meeting the minimum lot size (see subclause (3)(a)). The only way that a dwelling can be granted consent on such a lot would be to also grant that application a variation to the minimum lot size development standard under clause 4.6. This seem to be a duplication of the process especially when the land's suitability to accommodate a dwelling opportunity would have already been assessed as part of the subdivision.

Part 2 – Explanation of Provisions

It is proposed to amend the *Richmond Valley Local Environmental Plan 2012* (the LEP) by inserting a new subclause item (a1) into clause 4.2B(3):

Clause 4.2B ***Erection of dual occupancies (attached) or dwelling houses on land in certain rural and environmental protection zones***

- (3) ...
 (a1) a lot created under clause 4.1, or

This amendment will cover any lot created by subdivision under clause 4.1 and provide for a dwelling opportunity, irrespective of whether it meets the MLS or is below because of a variation to the MLS under clause 4.6.

Part 3 – Justification

Section A – Need for the Planning Proposal

This Planning Proposal will correct a minor omission from the dwelling opportunity clause so as to ensure to all lots granted consent under clause 4.1, and that are location within zone RU1 or E3, will have their dwelling opportunities recognised.

1. Is the Planning Proposal a result of any strategic study or report?

No. The omission was pointed out by an applicant that had just received a consent for a lot just below the MLS and was looking towards lodging a DA for a dwelling.

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

Yes.

Section B – Relationship to Strategic Planning Framework

3. 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)?

Yes.

4. Is the Planning Proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

Yes.

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

Table 1 outlines all State Environmental Planning Policies (SEPPs) and whether they are applicable and consistent. Additional commentary on each applicable SEPP may be provided following Table 1.

Table 1. Consideration of State Environmental Planning Policies – Boundary Adjustment Subdivision

	Applicable	Consistent
SEPP No 6-Number of Storeys in a Building	No	
SEPP No 14-Coastal Wetlands	No	
SEPP No 15-Rural Landsharing Communities	No	
SEPP No 21-Caravan Parks	No	
SEPP No 22-Shops and Commercial Premises	No	
SEPP No 30-Intensive Agriculture	No	
SEPP No 33-Hazardous and Offensive Development	No	
SEPP No 36-Manufactured Home Estates	No	
SEPP No 44-Koala Habitat Protection	No	
SEPP No 60-Canal Estate Development	No	
SEPP No 55-Remediation of Land	No	
SEPP No 62-Sustainable Aquaculture	No	

	Applicable	Consistent
SEPP No 64-Advertising and Signage	No	
SEPP No 65-Design Quality of Residential Flat Development	No	
SEPP No 71-Coastal Protection	No	
SEPP (Affordable Rental Housing) 2009	No	
SEPP (Building Sustainability Index: BASIX) 2004	No	
SEPP (Exempt and Complying Development Codes) 2008	No	
SEPP (Housing for Seniors or People with a Disability) 2004	No	
SEPP (Infrastructure) 2007	No	
SEPP (Major Development) 2005	No	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	
SEPP (Rural Lands) 2008	Yes	Yes
SEPP (State and Regional Development) 2011	No	

Discussion of Applicable SEPPs and Reasons for Consistency/Inconsistency –

SEPP (Rural Lands) 2008

Consistent – The proposed amendment is not inconsistent with the Rural Lands SEPP as the provision proposed within the LEP purely recognises a dwelling opportunity created by a subdivision under existing provisions.

6. Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

Table 2 outlines all Section 117 Directions (s117) and whether they are applicable and consistent. Additional commentary on each Direction may be provided following Table 2.

Table 2. Consideration of S117 Directions – Boundary Adjustment Subdivision

	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	No	
1.2 Rural Zones	Yes	Yes
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	Yes	Yes
2. Environment and Heritage		
2.1 Environment Protection Zones	No	
2.2 Coastal Protection	No	
2.3 Heritage Conservation	No	

	Applicable	Consistent
2.4 Recreation Vehicle Areas	No	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	No	
3.2 Caravan Parks and Manufactured Home Estates	No	
3.3 Home Occupations	No	
3.4 Integrating Land Use and Transport	No	
3.5 Development Near Licensed Aerodromes	No	
3.6 Shooting Ranges	No	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	No	
4.2 Mine Subsidence and Unstable Land	No	
4.3 Flood Prone Land	No	
4.4 Planning for Bushfire Protection	No	
5. Regional Planning		
5.1 Implementation of Regional Strategies	No	
5.2 Sydney Drinking Water Catchments	No	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	NA	
5.6 Sydney to Canberra Corridor	NA	
5.7 Central Coast 2008	NA	
5.8 Second Sydney Airport: Badgerys Creek	NA	
6. Local Plan Making		
6.1 Approval and Referral Requirements	No	
6.2 Reserving Land for Public Purposes	No	
6.3 Site Specific Provisions	No	
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	NA	

Discussion of Applicable s117s and Reasons for Consistency/Inconsistency

1.2 Rural Zones

Objective: to protect the agricultural production value of rural land.

Consistent – This Planning Proposal will neither rezone, nor increase the permissible density within a rural zone.

1.5 Rural Lands

Objective: to protect the agricultural production value of rural land.

Consistent – This Planning Proposal applies to land within rural zones. As such, the Planning Proposal must be consistent with the Rural Planning Principles listed in *SEPP (Rural Lands) 2008*.

Clause 7 of the Rural Land SEPP provides for 8 Rural Planning Principles. Each is listed below with comments:

- (a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*

Not Inconsistent

- (b) *recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*

Not inconsistent

- (c) *recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*

Not inconsistent

- (d) *in planning for rural lands, to balance the social, economic and environmental interests of the community,*

Consistent – This Planning Proposal recognises dwelling opportunities created by subdivisions where there was a variation to the MLS. It will remove the need to undertake a further variation of the MLS standard to also grant consent to the dwelling. This is in the best interests of the community as it removes unnecessary red tape.

- (e) *the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*

Not inconsistent

- (f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*

Not inconsistent

- (g) *the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*

Consistent – in granting consent for subdivisions under clause 4.1, consideration would have already been given to the impacts of creating a new dwelling opportunity on services and infrastructure. This amendment does not change the need for this consideration.

- (h) *ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

Not inconsistent



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.

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

No.

9. How has the Planning Proposal adequately addressed any social and economic effects?

This amendment will remove the need to undertake an additional variation to the MLS so that a dwelling opportunity can be recognised on a lot that was also created by a MLS variation. This is in the social and economic interests of the community as it reduces red tape, and shortens processing times for DAs.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the Planning Proposal?

NA.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation will be undertaken as required by the Gateway Determination, however, there aren't anticipated to be any concerns raised by authorities from this Planning Proposal.

Item 3 – Amendment to permit detached dual occupancies on rural land

Part 1 – Objectives or Intended Outcomes

The intention of this proposed amendment is to allow the inclusion of ‘detached’ Dual Occupancies on rural land, where previously only ‘attached’ dual occupancies were permitted by the LEP.

The LEP currently permits Dual Occupancies (attached) on land within Zone R1 Prime Production, Zone R5 Large Lot Residential, and Zone E3 Environmental Management, subject to *clause 4.1B Minimum lot sizes for dual occupancies*, which regulates the minimum land area for dual occupancies, and *clause 4.2B Erection of dual occupancies (attached) or dwelling houses on land in certain rural and environmental protection zones*, which regulates what land in a rural zone is permitted a dwelling opportunity.

Restrictions on permitting detached dual occupancies on rural land derive their origins from the *North Coast Regional Environmental Plan 1988* which permitted LEPs to include attached dual occupancies. However, the Department’s unofficial policy permitted the dwellings of a rural dual occupancy to be separated by up to 6 metres, so long as there was some form of attachment.

Attempts to permit detached dual occupancies within the *Draft Richmond Valley LEP 2010* were met with resistance by the Department despite mounting community and council pressure to permit them on rural land. Notwithstanding, the *Richmond Valley DCP 2012* applies a lenient interpretation to the term “attachment” which is somewhat in keeping with the above mentioned unofficial Departmental policy.

The DCP provides, as a deemed-to-satisfy provision, a separation of 6 metres between the 2 dwellings, but must generally be attached via a common roofline or similar structure. However, it also enables separation up to 15 metres where justification can be presented. In both scenarios both dwellings must maintain physical attachment through a shared driveway access.

Since the inception of the Standard Instrument LEPs, there has been increased pressure from the community to allow rural dual occupancies with larger separation distances. This community pressure is apparent in Richmond Valley as in other North Coast Council areas, as changing demographics and work practices have changed with rural dwellers. There is more likelihood now that rural dwelling inhabitants derive primary income from urban employment and are less likely to agriculturally manage the land. Also financial pressures are becoming more apparent to provide adequate income from rural sources to keep up property repayments and rural maintenance costs.

As a result of this mounting pressure some leniency has been afforded other North Coast councils in relaxing the ‘attached’ requirement in regards to rural Dual Occupancies. Richmond Valley Council now seeks to incorporate these changes to its LEP.

In addition to all proposed amendments described here, further provisions for development will be included within proposed amendments to the Development

Control Plan (DCP) to further describe circumstances and detailed design principles for rural dual occupancies.

Part 2 – Explanation of Provisions

The following amendments are proposed to the *Richmond Valley Local Environmental Plan 2012* to permit both attached and detached dual occupancies on rural land-

- [a] Omit the text “(attached)” wherever it appears after “Dual occupancies” in the land use tables to *Zone RU1 – Primary Production*, *Zone R5 – Large Lot Residential* and *Zone E3 – Environmental Management*.
- [b] Omit the text “(attached)” wherever it appears after “Dual occupancies” in clause 4.2B. Insert the following subclause into clause 4.2B so as to provide for a level regulation of detached rural dual occupancies so as to maintain a compatibility with primary production, rural character and environmental capability of the land.
 - (2) *Development consent must not be granted to development for the purpose of a dual occupancy (detached) on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) *the development will not impair the use of the land, or adjoining land, for agriculture or rural industries, and*
 - (b) *each dwelling will use the same vehicular access to and from a public road, and*
 - (c) *each dwelling will be situated within 100 metres of each other, and*
 - (d) *the land is physically suitable for the development, and*
 - (e) *the land is capable of accommodating the on-site disposal and management of sewage for the development, and*
 - (f) *the development will not have an adverse impact on the scenic amenity or character of the rural environment.*
- [3] clause 4.1B will be amended by replacing the Table to that clause with the following Table:

Column 1	Column 2	Column 3
Dual occupancy (attached)	Zone RU5 Village	400 square metres
	Zone R1 General Residential	400 square metres
Dual occupancy (detached)	Zone RU5 Village	600 square metres
	Zone R1 General Residential	600 square metres
Dual occupancy	Zone RU1 Primary Production	1.5 hectares
	Zone R5 Large Lot Residential	1.5 hectares
	Zone E3 Environmental Management	5 hectares

Part 3 – Justification

Section A – Need for the Planning Proposal

Considerable community pressure is being placed on councils to provide for alternative housing choices. Two types of accommodation under the spot light in Richmond Valley Council are dual occupancy and secondary dwellings.

Council's LEP currently permits dual occupancies in zones R1 General Residential and RU5 Village, with them also being permitted in zones R5 Large Lot Residential, RU1 Primary Production and E3 Environmental Management but only where they are attached. Council wishes to review this attachment restriction in light of the overarching Regional Environmental Plan, that contained this requirement, being repealed.

1. Is the Planning Proposal a result of any strategic study or report?

No. The proposal is a result of community feedback received during consultation for the *Richmond Valley Community Strategic Plan* and via Councillors. This feedback, and Council's decision to pursue an amendment, were also spurred on by recent publicity surrounding similar changes made to the *Lismore LEP 2012* within Amendment No 3.

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

Yes – amending the *Richmond Valley LEP 2012* is the only way to achieve the desired objective.

Section B – Relationship to Strategic Planning Framework

3. 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)?

Yes – it is consistent with the *Far North Coast Regional Strategy*.

4. Is the Planning Proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

Yes. This amendment is consistent with the Richmond Valley Community Strategic Plan – '5.1.2 – Ensure planning controls for development deliver high-quality urban design which reflects and encourages appropriately scaled developments in our towns and villages.'

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

Table 1 outlines all State Environmental Planning Policies (SEPPs) and whether they are applicable and consistent. Additional commentary on each applicable SEPP may be provided following Table 1.

Table 1. Consideration of State Environmental Planning Policies

	Applicable	Consistent
SEPP No 6-Number of Storeys in a Building	No	
SEPP No 14-Coastal Wetlands	No	
SEPP No 15-Rural Landsharing Communities	No	
SEPP No 21-Caravan Parks	No	
SEPP No 22-Shops and Commercial Premises	No	
SEPP No 30-Intensive Agriculture	No	
SEPP No 33-Hazardous and Offensive Development	No	
SEPP No 36-Manufactured Home Estates	No	
SEPP No 44-Koala Habitat Protection	Yes	Yes
SEPP No 60-Canal Estate Development	No	
SEPP No 55-Remediation of Land	Yes	Yes
SEPP No 62-Sustainable Aquaculture	No	
SEPP No 64-Advertising and Signage	No	
SEPP No 65-Design Quality of Residential Flat Development	No	
SEPP No 71-Coastal Protection	No	
SEPP (Affordable Rental Housing) 2009	No	
SEPP (Building Sustainability Index: BASIX) 2004	No	
SEPP (Exempt and Complying Development Codes) 2008	No	
SEPP (Housing for Seniors or People with a Disability) 2004	No	
SEPP (Infrastructure) 2007	No	
SEPP (Major Development) 2005	No	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	
SEPP (Rural Lands) 2008	Yes	Yes
SEPP (State and Regional Development) 2011	No	

Discussion of Applicable SEPPs and Reasons for Consistency/Inconsistency

SEPP44 – Koala Habitat Protection

Consistent – Impact on any core koala habitat can be determined at the time of any development application for a dual occupancy (detached).

SEPP55 – Remediation of Land

Consistent – The Planning Proposal is not rezoning land. A preliminary assessment to determine if potential contamination exists should be undertaken for all development irrespective of whether it is for a detached dual occupancy or not.

SEPP (Rural Lands) 2008

Consistent – the Planning Proposal notably provides opportunities for settlements that contribute to the social and economic welfare of rural communities.

6. Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

Table 2 outlines all Section 117 Directions (s117) and whether they are applicable and consistent. Additional commentary on each Direction may be provided following Table 2.

Table 2. Consideration of S117 Directions

	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	No	
1.2 Rural Zones	Yes	NA
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	Yes	Yes
2. Environment and Heritage		
2.1 Environment Protection Zones	No	
2.2 Coastal Protection	No	
2.3 Heritage Conservation	No	
2.4 Recreation Vehicle Areas	No	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	No	
3.2 Caravan Parks and Manufactured Home Estates	No	
3.3 Home Occupations	No	
3.4 Integrating Land Use and Transport	No	
3.5 Development Near Licensed Aerodromes	No	
3.6 Shooting Ranges	No	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	Yes	Yes
4.2 Mine Subsidence and Unstable Land	No	
4.3 Flood Prone Land	Yes	Yes

	Applicable	Consistent
4.4 Planning for Bushfire Protection	Yes	Yes
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	Yes
5.2 Sydney Drinking Water Catchments	No	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Yes	Yes
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	NA	
5.6 Sydney to Canberra Corridor	NA	
5.7 Central Coast 2008	NA	
5.8 Second Sydney Airport: Badgerys Creek	NA	
6. Local Plan Making		
6.1 Approval and Referral Requirements	Yes	Yes
6.2 Reserving Land for Public Purposes	No	
6.3 Site Specific Provisions	No	
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	NA	

Discussion of Applicable s117s and Reasons for Consistency/Inconsistency

1.2 Rural Zones

Objective: to protect the agricultural production value of rural land.

Consistent – Not applicable - This Planning Proposal will neither rezone, nor increase the permissible density within a rural zone, as it only alters the nature of whether a rural dual occupancy will be attached or detached.

1.5 Rural Lands

Objective: to protect the agricultural production value of rural land.

Consistent – This Planning Proposal will affect land within an existing rural zone. As such it must be consistent with the Rural Planning Principles listed in *SEPP (Rural Lands) 2008*.

Clause 7 of the Rural Land SEPP provides 8 Rural Planning Principles. Each is listed below with comments:

- (a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*

Not Inconsistent

- (b) *recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*

Not inconsistent

- (c) *recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*

Not inconsistent

- (d) *in planning for rural lands, to balance the social, economic and environmental interests of the community,*

Consistent – this Planning Proposal provides for increased housing choices in rural areas and includes assessment criteria to evaluate potential land use conflicts and impacts on agriculture.

- (e) *the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*

Not inconsistent

- (f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*

Consistent – this Planning Proposal provides for increased housing choices in rural areas.

- (g) *the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*

Not inconsistent

- (h) *ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

Not inconsistent

4.1 Acid Sulfate Soils

Objectives: to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

Consistent – The Planning Proposal will not lead to an intensification of land uses, and does not exempt any development from having regard to the management of acid sulfate soils, where present.

4.3 Flood Prone Land

Objectives: (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

Consistent – The Planning Proposal will not lead to an intensification of land uses, and does not exempt any development from having regard to flood hazards.

4.4 Planning for Bushfire Protection

Objectives: (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas.

Consistent – The Direction requires consultation with the Commissioner of NSW RFS and considering any comments. This consultation will be undertaken as per requirements of the Gateway Determination. However, as the Planning Proposal will not lead to an intensification of land uses, and does not exempt any development from having regard to bushfire hazards, it is not expected that any feedback from NSW RFS will impact upon the drafting of these amendments.

5.1 Implementation of Regional Strategies

Objectives: to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.

Consistent – The Planning Proposal specifically responds to actions relating to provision of a range of housing types and densities. It also includes criteria to limit the location and impact of dual occupancy (detached) upon agriculture and rural industries.

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.

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

Land use conflict is a potential issue that will be addressed by inclusion of heads of consideration/criteria that will be added to clause 4.2B.

9. How has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal will allow additional housing choices in rural areas which have the potential to provide for increased social, financial and physical support for residents in rural areas. It also permits greater flexibility for elderly farmers to stay on their land and be supported by family.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the Planning Proposal?



No change – the *Richmond Valley LEP 2012* already permits dual occupancy in Zones RU1, R5 and E3. This proposal only addresses whether it should be attached or detached.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation will be undertaken as required by the Gateway Determination. It may be a requirement that NSW RFS and the Department of Primary Industries be consulted.

Item 4 – Addition of ‘Special Events on Public Land’ as Exempt Development

Part 1 – Objectives or Intended Outcomes

It is proposed to add a new type of ‘exempt development’ to Schedule 2 of the *Richmond Valley Local Environmental Plan 2012* to permit special events on public land when they are compliant with Council’s Events Guidelines.

At present it is necessary to assess development applications for each event largely resulting in the application of consistent consent conditions. These conditions can be standardised as criteria in the Events Guidelines against which a section 68 approval for the event can be assessed.

By ‘adding’ the development type ‘Special Events on Public Land’ to schedule 2, red tape can be removed and the approval process streamlined. This will encourage community based economic and social activities, which in turn could create employment opportunities.

The proposal also seeks to remove duplication of approvals processes (ie the need for development consent and approval under the *Local Government Act 1993*) thereby providing for a single process for the consideration of special events on public land. All the essential criteria relating to safety, access, & amenity can be addressed as part of the section 68 approval processes under the *Local Government Act 1993*, and compliance with Council’s Events Guidelines.

Part 2 – Explanation of Provisions

This Item of the Planning Proposal relates to all public land, vested in or under the control of Council, within the Richmond Valley Council LGA.

The Planning Proposal seeks to include a new type of exempt development for ‘Special events on public land’ within Schedule 2 – Exempt Development under the *Richmond Valley Local Environmental Plan 2012*. The following is proposed with this amendment:

[a] Insert the following type of exempt development into Schedule 2-

Special Events on Public Land

Specified development

Special Events conducted on public land, owned or vested in the care and control of Council, is development specified for this LEP.

Development standards

The standards specified for that development are as follows:

- (1) *the event is to be temporary and occupy the land for no more than 52 days (including setup and dismantling) in any 12 month period,*

- 
- (2) *all approvals must be obtained and provided to Council (where Council is not the approval body) at least 2 working days prior to commencing the event. Such approvals may include:*
- (a) *approvals under the Roads Act for the closure of a road, or to do work within a road,*
 - (b) *approvals under the Local Government Act to occupy public land; or for the erection or use of temporary structures; or closure of a road or public footpath, or restriction of public access; or for the temporary cancellation of alcohol free zones; or to create an enclosure; or to connect to public water, sewer, or stormwater system; or*
 - (c) *approvals for the use of Crown land (where necessary), or*
 - (d) *any other approvals deemed necessary to conduct the event.*
- (3) *the event must be conducted in accordance with Council's Events Guidelines,*
- (4) *the event organiser must have a current public liability insurance policy for the event to be undertaken on the subject public land and to the value required by Council's Events Guidelines,*
- (5) *the event must not create a significant interference with the neighbourhood, through noise, dust, smoke, odour, and traffic from the event, including during setup and dismantling,*
- (6) *the event must not involve removal any native trees, and*
- (7) *must not include the erection or demolition of permanent structures on the land, unless it could be undertaken as another type of exempt development.*

The requirement for an application under the *Local Government Act 1993*, as well as owners consent, enables Council to apply its Events Guidelines to ensure the special event is conducted in an appropriate manner.

Part 3 – Justification

Section A – Need for the Planning Proposal

It has proved to be protracted and ineffectual to submit all events on Public Land through the Development Application process under Part 4 of the *Environmental Planning and Assessment Act 1979*. In all instances it has been a requirement for all events being conducted on Public Land to gain approval from Council and comply with Council's Events Guidelines. The guidelines state that an Event Organiser may be required to demonstrate that certain criteria have been met beforehand the event can be approved/authorised.

It is deemed to be a much more efficient and streamlined process for Council to maintain up-to-date 'Events Guidelines'.

1. Is the Planning Proposal a result of any strategic study or report?

No.

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

Yes. The closest option to enable these events to occur is through the Codes SEPP *Temporary Uses and Structures Exempt Development Code*, however, it:

- covers all types of land, not just public land,

- is relatively restrictive when it comes to things such as maximum floor area and maximum height of marquees, tents, booths, and the like, and
- does not permit community events on residential, rural or environmental protection lands.

Section B – Relationship to Strategic Planning Framework

3. 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)?

Yes.

4. Is the Planning Proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

Yes.

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

Table 1 outlines all State Environmental Planning Policies (SEPPs) and whether they are applicable and consistent. Additional commentary on each applicable SEPP may be provided following Table 1.

Table 1. Consideration of State Environmental Planning Policies

	Applicable	Consistent
SEPP No 6-Number of Storeys in a Building	No	
SEPP No 14-Coastal Wetlands	No	
SEPP No 15-Rural Landsharing Communities	No	
SEPP No 21-Caravan Parks	No	
SEPP No 22-Shops and Commercial Premises	No	
SEPP No 30-Intensive Agriculture	No	
SEPP No 33-Hazardous and Offensive Development	No	
SEPP No 36-Manufactured Home Estates	No	
SEPP No 44-Koala Habitat Protection	No	
SEPP No 60-Canal Estate Development	No	
SEPP No 55-Remediation of Land	No	
SEPP No 62-Sustainable Aquaculture	No	
SEPP No 64-Advertising and Signage	No	
SEPP No 65-Design Quality of Residential Flat Development	No	
SEPP No 71-Coastal Protection	No	
SEPP (Affordable Rental Housing) 2009	No	

	Applicable	Consistent
SEPP (Building Sustainability Index: BASIX) 2004	No	
SEPP (Exempt and Complying Development Codes) 2008	Yes	Yes
SEPP (Housing for Seniors or People with a Disability) 2004	No	
SEPP (Infrastructure) 2007	Yes	Yes
SEPP (Major Development) 2005	No	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	
SEPP (Rural Lands) 2008	No	
SEPP (State and Regional Development) 2011	No	

Discussion of Applicable SEPPs and Reasons for Consistency/Inconsistency

SEPP (Exempt and Complying Development Codes) 2008

Consistent – The Planning Proposal is consistent with the exempt development criteria of the Codes SEPP. It does not duplicate nor provide for an inconsistency with any existing type of exempt development in the SEPP, although it comes close with the *Temporary Uses and Structures Exempt Development Code* within Division 3 of Part 2. However, the proposed exemption relates to special events and only covers public land under the ownership or control of Council.

SEPP (Infrastructure) 2007

Consistent – The Infrastructure SEPP clause 65 provides for Development permitted without consent on parks and other public reserves. It allows for a variety of permanent structures to be erected, such as roads, ticketing facilities, amenity facilities, maintenance depots, etc. but fails to include the conduct of events on those reserves.

6. Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

Table 2 outlines all Section 117 Directions (s117) and whether they are applicable and consistent. Additional commentary on each Direction may be provided following Table 2.

Table 2. Consideration of S117 Directions

	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	No	
1.2 Rural Zones	No	
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	No	

	Applicable	Consistent
2. Environment and Heritage		
2.1 Environment Protection Zones	No	
2.2 Coastal Protection	No	
2.3 Heritage Conservation	No	
2.4 Recreation Vehicle Areas	No	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	No	
3.2 Caravan Parks and Manufactured Home Estates	No	
3.3 Home Occupations	No	
3.4 Integrating Land Use and Transport	No	
3.5 Development Near Licensed Aerodromes	No	
3.6 Shooting Ranges	No	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	No	
4.2 Mine Subsidence and Unstable Land	No	
4.3 Flood Prone Land	No	
4.4 Planning for Bushfire Protection	No	
5. Regional Planning		
5.1 Implementation of Regional Strategies	No	
5.2 Sydney Drinking Water Catchments	No	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	NA	
5.6 Sydney to Canberra Corridor	NA	
5.7 Central Coast 2008	NA	
5.8 Second Sydney Airport: Badgerys Creek	NA	
6. Local Plan Making		
6.1 Approval and Referral Requirements	No	
6.2 Reserving Land for Public Purposes	Yes	Yes
6.3 Site Specific Provisions	No	
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	NA	

Discussion of Applicable s117s and Reasons for Consistency/Inconsistency

6.2 Reserving Land for Public Purposes

Consistent – This Planning Proposal will not adversely affect the use of land reserved for public purpose, both existing and future, as assessment of potential impact is consistently applied to limit negative impacts.

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.

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

No, however, these can be addresses for each event under the approval process of Council's Events Guidelines, and with the granting of owners consent to use the public land.

9. How has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal adequately addresses social and economic effects through the implementation of relevant assessment criteria which would ordinarily be applied through the Development Assessment process. By implementing thorough and tested criteria the likelihood of adverse impacts is limited.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the Planning Proposal?

NA.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

NA.

Part 4 – Mapping (all Items)

There is no mapping associated with this Planning Proposal.

Part 5 – Community Consultation (all Items)

Exhibition of the proposed changes, as outlined within this Planning Proposal, and the opportunity to comment will be made available to the general public through the exhibition of the Planning Proposal in accordance with the anticipated Gateway Determination. It is anticipated additional explanatory material will be provided to explain the role of the proposed LEP amendments to support the outcomes.

Part 6 – Project Timeline (all Items)

Table 3. Estimated timeline for preparing amending Local Environmental Plan

Milestone	Timeline	
	Start	Finish
Submission to Gateway	June 2015	July 2015
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	July 2015	Aug 2015
Commencement and completion dates for public exhibition period*	Aug 2015	Sept 2015
Notice of Public Hearing	NA	
Public Hearing*	NA	
Timeframe for consideration of submissions & prepare Report on Public Hearing	NA	
Report to Council post Exhibition	Oct 2015	
Date of submission to the Department to finalise the LEP	Dec 2015	
Timeframe for Parliamentary Counsel's Opinion and drafting of LEP	Oct 2015	Nov 2015
Anticipated date RPA will make the plan (under delegation)**	Dec 2015	
Anticipated date RPA will forward to the department for notification.	Dec 2015	



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Attachment 1 – Gateway Determination

Attach Gateway Determination here.

Attachment 2 – Information Checklist

STEP 1. Required for all Proposals

• Objectives and intended outcome	• Explanation of provisions
• Mapping (including current and proposed zones)	• Justification and process for implementation (including compliance assessment against relevant section 117 direction/s)
• Community consultation (agencies to be consulted)	

STEP 2. Matters – Considered on a Case by Case Basis

PLANNING MATTERS OR ISSUES	To be considered	N/A
Strategic Planning Context		
• Demonstrated consistency with relevant Regional Strategy	☒	☐
• Demonstrated consistency with relevant Sub-Regional strategy	☐	☒
• Demonstrated consistency with or support for the outcomes and actions of relevant DG endorsed local strategy	☐	☒
• Demonstrated consistency with Threshold Sustainability Criteria	☐	☒
Site Description/Context		
• Aerial photographs	☐	☒
• Site photos/photomontage	☐	☒
Traffic and Transport Considerations		
• Local traffic and transport	☐	☒
• TMAP	☐	☒
• Public transport	☐	☒
• Cycle and pedestrian movement	☐	☒
Environmental Considerations		
• Bushfire hazard	☐	☒
• Acid Sulfate Soil	☐	☒
• Noise impact	☐	☒
• Flora and/or fauna	☐	☒
• Soil stability, erosion, sediment, landslip assessment, and subsidence	☐	☒
• Water quality	☐	☒
• Stormwater management	☐	☒
• Flooding	☐	☒
• Land/site contamination (SEPP55)	☐	☒

PLANNING MATTERS OR ISSUES	To be considered	N/A
• Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	☐	☒
• Sea level rise	☐	☒
Urban Design Considerations		
• Existing site plan (buildings vegetation, roads, etc)	☐	☒
• Building mass/block diagram study (changes in building height and FSR)	☐	☒
• Lighting impact	☐	☒
• Development yield analysis (potential yield of lots, houses, employment generation)	☐	☒
Economic Considerations		
• Economic impact assessment	☐	☒
• Retail centres hierarchy	☐	☒
• Employment land	☐	☒
Social and Cultural Considerations		
• Heritage impact	☐	☒
• Aboriginal archaeology	☐	☒
• Open space management	☐	☒
• European archaeology	☐	☒
• Social & cultural impacts	☐	☒
• Stakeholder engagement	☐	☒
Infrastructure Considerations		
• Infrastructure servicing and potential funding arrangements	☐	☒
Miscellaneous/Additional Considerations		
• NA		

Attachment 3 – Evaluation Criteria for the Delegation of plan making functions

Checklist for the review of a request for delegation of plan making functions to councils.

Local Government Area:
Richmond Valley Council
Name of draft LEP:
<i>Richmond Valley Local Environmental Plan 2012 (Amendment No.??)</i>
Address of Land (if applicable):
NA, Several amendments will apply to the entire LGA.
Intent of draft LEP:
The intent of this amendment is to adopt boundary adjustment subdivision provisions; correct an anomaly within the drafting of the dwelling opportunity clause (cl4.2B); permit detached dual occupancies in rural zones; and to insert 'Special events on public land' as a type of exempt development.
Additional Supporting Points/Information:
Nil

Evaluation Criteria for the issuing of an Authorisation

(Note. where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the Planning Proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the Planning Proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?		Y		
Does the Planning Proposal contain details related to proposed consultation?	Y			
Is the Planning Proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the Planning Proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the Planning Proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			

(Note. where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Minor Mapping Error Amendments	Y/N			
Does the Planning Proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		NA		
Heritage LEPs	Y/N			
Does the Planning Proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		NA		
Does the Planning Proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		NA		
Does the Planning Proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		NA		
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		NA		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		NA		
Is the Planning Proposal proposed to rectify an anomaly in a classification?		NA		
Will the Planning Proposal be consistent with an adopted POM or other strategy related to the site?		NA		
Will the draft LEP discharge any interests in public land under section 30 of the <i>Local Government Act 1993</i> ?		NA		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the Planning Proposal?		NA		
Has the council identified that it will exhibit the Planning Proposal in accordance with the Department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		NA		
Has council acknowledged in its Planning Proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		NA		
Spot Rezonings	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?		NA		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?		NA		

(Note. where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Will the Planning Proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?		NA		
If yes, does the Planning Proposal contain sufficient documented justification to enable the matter to proceed?		NA		
Does the Planning Proposal create an exception to a mapped development standard?		NA		
Section 73A matters	Y/N			
Does the proposed instrument				
a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?;	NA			
b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or	NA			
c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?	NA			
(Note. the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).				

Notes.

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the Planning Proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.