

Nambucca LEP 2010 Draft Amendment No 10 – Provisions for subdivision of split zoned lots.

Proposal Title : Nambucca LEP 2010 Draft Amendment No 10 – Provisions for subdivision of split zoned lots.

Proposal Summary : The planning proposal seeks to introduce a new clause to enable the subdivision of split zoned lots which have multiple minimum lot sizes applying on the Minimum Lot Size Map

PP Number : PP_2012_NAMBU_003_00 Dop File No : 12/06919

Proposal Details

Date Planning Proposal Received :	13-Apr-2012	LGA covered :	Nambucca
Region :	Northern	RPA :	Nambucca Shire Council
State Electorate :	OXLEY	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :
 Suburb : City : Postcode :
 Land Parcel : The proposed amendment will affect all lots which are zoned part residential, village, business, or industrial and part rural or environmental protection and have multiple minim lot size development standards applying

DoP Planning Officer Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Mid North Coast Regional Strategy	Consistent with Strategy :	Yes

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MDP Number :	0	Date of Release :	
Area of Release (Ha) :	0.00	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 Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes : The clause has the same intention as clause 4.1B of Tamworth Regional LEP 2010

External Supporting Notes :

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 intention of the planning proposal which is to include provisions in the Nambucca LEP 2010 to address the subdivision of lots which have multiple zones and minimum lot sizes.

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

Is an explanation of provisions provided? Yes

Comment : The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The planning proposal intends to introduce a new clause for the subdivision of land which is zoned partly either residential, village, business, industrial or special uses and partly either rural or environmental protection.

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

1.1 Business and Industrial Zones

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.4 Oyster Aquaculture

1.5 Rural Lands

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

3.1 Residential Zones
3.4 Integrating Land Use and Transport
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
5.4 Commercial and Retail Development along the Pacific Highway, North Coast
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes
6.3 Site Specific Provisions

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 (Rural Lands) 2008**

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain : **See the assessment section of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **The proposed amendments to the Nambucca LEP 2010 are policy changes that do not require changes to any maps.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The RPA considers that the proposal is a low impact proposal and that a community consultation period of 14 days is adequate. The Northern Region agrees that the proposed changes constitute a low impact planning proposal and a consultation period of 14 days is considered appropriate.**

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 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.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Nambucca LEP was made in July 2010. This planning proposal seeks an amendment to the Nambucca LEP 2010.

Assessment Criteria

Need for planning
proposal :

The proposal to amend the LEP to introduce provisions for subdivision of split zoned lots is not the subject of a specific strategic study or report. The need for these provisions has arisen due to the operation of clause 4.1 which limits lot sizes to that shown on the Minimum Lot Size (MLS) map and the limitations of clause 4.6(6) which prevents large variations to the MLS development standard for land in rural and environmental protection zones.

Where part of a lot is suitable for urban development, an appropriate urban zone (either residential, business, industrial or special use) has been applied. If part of that lot is constrained or unsuited to urban development the RPA has applied a rural or environmental protection zone to that part of the lot. The application of the rural or environmental zone is supported by a larger MLS to restrict subdivision and subsequent development of the constrained portion of the lot.

In circumstances where the rural or environmental zoned portion of the lot is less than the MLS for that part of the lot, the provisions of Part 4 of the LEP do not enable the subdivision of the urban zoned part of the lot without contravening the larger MLS of the rural or environmental zoned area. This scenario typically occurs on the fringes of residential areas or in new release areas where investigations have identified the need for areas of environmental protection zones within urban precincts. The current provisions result in delays in the subdivision of split zoned lots while planning proposals to amend the MLS map in the LEP are processed.

The planning proposal includes a good example of such a scenario.

The clause proposed by the RPA is similar to clause 4.1B of the Tamworth Regional LEP 2010 and enables the subdivision of the urban zoned portion of the lot while retaining the rural or environmentally zoned portion of the lot in a new single lot which also includes a portion of urban zoned land which complies with the MLS for the urban zone.

The proposed provisions are as follows;

(1) The objectives of this clause are as follows:

- (a) To provide for the subdivision of lots that contain more than one zone and cannot be subdivided under clause 4.1, and
- (b) To ensure that the subdivision occurs in a manner that promotes suitable land use and development.

(2) This clause applies to each lot (an original lot) that contains:

- (a) Land in a residential, village, business, industrial or special uses zone, and
- (b) Land in a RU1 Primary Production, RU2 Rural landscape, E2 Environmental conservation or E3 Environmental Management zone.

(3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the resulting lots) if:

- (a) One of the resulting lots will contain:
 - (i) Land in a residential or village zone that has an area that is not less than the minimum size shown on the Minimum Lot Size map in relation to that land or land in a business, industrial or special uses zone that has an area of not less than 1000m²; and

- (ii) All of the land in the RU1 Primary Production, RU2 Rural landscape, E2 Environmental conservation or E3 Environmental Management zone, and
- (b) All other resulting lots will contain land that has an area that is not less than the minimum size shown on the lot size map in relation to that land.

The inclusion of the proposed clause is the best means of achieving the objectives of the planning proposal as it results in the most efficient means of achieving the orderly and economic development of land while having regard to the constraints of the land.

There is a net community benefit in the planning proposal. The benefit results from;

1. The efficient subdivision and development of urban zoned land without the need to amend the LEP to change a MLS to facilitate subdivision of dual zoned land.
2. The provisions will maintain appropriate zones and MLSs over constrained land without preventing the subdivision of land on the same lot which is suitable for urban purposes.
3. The provisions require the residual rural or environmental protection zoned land to be part of a resulting lot containing a complying urban zoned portion of land which will prevent the increase in residential density on undersized rural lots and facilitate appropriate management of these residual rural land parcels.

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Consistency with strategic planning framework :

MNCRS

The proposed amendment to the Nambucca LEP to include provisions for subdivision of split zoned lots is not inconsistent with the Mid North Coast Regional Strategy and is consistent with the RPA's strategies and structure plan.

SEPPs

The planning proposal does not identify any SEPPs as being relevant to the proposal.

The Northern Region has identified that SEPP (Rural Lands) 2008 is relevant to the planning proposal as it contains principles for subdivision of rural land. The proposed provisions will not be inconsistent with the rural subdivision principles of the SEPP (Rural Lands) 2008 as the provisions will;

1. minimise the fragmentation of rural land by retaining the rural or environmental zoned residue in a single lot;
2. minimise rural land use conflict by requiring the resulting undersized rural lot to have a portion of land that is zoned for an urban purpose;
3. take account of the constraints of the land and ensure that appropriate zones and development standards can be applied to constrained land without compromising the development of land suitable for urban purposes.

The proposal is otherwise consistent with other SEPPs.

Standard Instrument LEP

The Department's Legal Services Branch has previously advised that the inclusion of provisions such as proposed is not inconsistent with the provisions of clause 4.6(6) of the Standard Instrument LEP. The approach to the subdivision of split zoned lots contained in the proposal is the Department's preferred approach.

S117 Directions.

The planning proposal identifies the following S117 directions as being applicable to the proposal; 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.4 Oyster Aquaculture 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes and 6.3 Site Specific Provisions.

The Northern Region considers the following 117 Directions are applicable to the proposal, 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 2.4 Recreation Vehicle Areas, 3.1 Residential Zones, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes.

Of the above s117 Directions the proposal is inconsistent with Direction 4.4.

Direction 4.4 Planning for Bushfire Protection is relevant to the planning proposal. 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.

The planning proposal is otherwise consistent with S117 directions.

Environmental social economic impacts :

The planning proposal will not have any direct adverse impact on critical habitat or threatened species, populations or ecological communities, or their habitats. Similarly the planning proposal will not have any direct adverse effect on the natural, built or socio-economic environment.

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The planning proposal has the potential to have indirect effects on the natural and socioeconomic environments when subdivision of the land occurs however these impacts will vary considerably depending on the characteristics of the subject land and any indirect impact is most appropriately addressed by the development assessment process.

The planning proposal has given consideration to social and economic impacts of the proposed amendment to the Nambucca LEP 2010. The social and economic impacts will be largely positive as the introduction of the clause will facilitate the efficient and orderly development of split zoned land.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	9 Month	Delegation :	DG
Public Authority Consultation - 56(2)(d) :	NSW Rural Fire Service		

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
Nambucca LEP 2010 Amend No 10 Council letter.pdf	Proposal Covering Letter	Yes
Nambucca LEP 2010 Amend No 10 Planning Proposal.pdf	Proposal	Yes
Nambucca LEP 2010 Amend No 10 Council report.pdf	Determination Document	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.1 Business and Industrial Zones**
1.2 Rural Zones

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- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.4 Oyster Aquaculture
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 5.4 Commercial and Retail Development along the Pacific Highway, North Coast
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information : It is recommended that;

1. The planning proposal proceed as a 'routine' planning proposal.
2. The planning proposal is to be completed within 9 months.
3. That a community consultation period of 14 days is necessary for the planning proposal.
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.

Supporting Reasons : The reasons for the recommendation are as follows;

1. The proposed provisions will facilitate the efficient and orderly subdivision of split zoned land and land that has multiple minimum lot sizes.
2. The proposal will enable the Nambucca LEP 2010 to operate as intended, in manner which is not inconsistent with the intent of the Standard LEP.
3. The proposal is consistent with the Department's preferred policy position for subdivision of split zoned lots.

Signature:



Printed Name:

JIM CLARK

Date:

20 April 2012