
DIRECTOR ENVIRONMENT & PLANNING'S REPORT

**ITEM 10.11 SF1541 150312 PLANNING PROPOSAL - SPLIT ZONE MINIMUM LOT SIZE
AMENDMENT TO THE NAMBUCCA LEP 2010**

AUTHOR/ENQUIRIES: Grant Nelson, Strategic Planner

SUMMARY:

The purpose of this report is to ensure subdivision on Lots that contain split zones and different lot size may still be subdivided. This is particularly important in areas fringing Large Lot Residential and Rural Zones to ensure Council Local Growth Management Strategy Rural Residential Land can be implemented in accordance with its recommendations.

NOTE: This matter requires a "Planning Decision" referred to in Section 375A of the Local Government Act 1993 requiring the General Manager to record the names of each Councillor supporting and opposing the decision

RECOMMENDATION:

- 1 That Council proceed to amend the Nambucca LEP 2010 to ensure Lots in split zones may be subdivided in accordance with adopted strategies and minimum lot sizes.
- 2 That, pursuant to Clause 55 of the Environmental Planning and Assessment Act 1979, Council staff prepare planning proposals that give effect to the above proposed amendments in accordance with Clause 56 of the Act, the Planning Proposals be forwarded to the Minister for Gateway Determination.
- 3 That in the event that the Department of Planning and Infrastructure require minor changes or modifications to the above resolutions, the General Manager be authorised to concur with the required changes provided Council's intent in the above resolutions are achieved.

OPTIONS:

That Council not resolve to proceed in with this amendment and rely on existing controls.

DISCUSSION:

Clause 4.1 of the Nambucca LEP 2010 provides for the subdivision of land in the Nambucca Shire. In brief this clause states that any Lot resulting from the subdivision of Land must not be less than the minimum lots size shown on the Lot Size Maps. This clause is reproduced in full below.

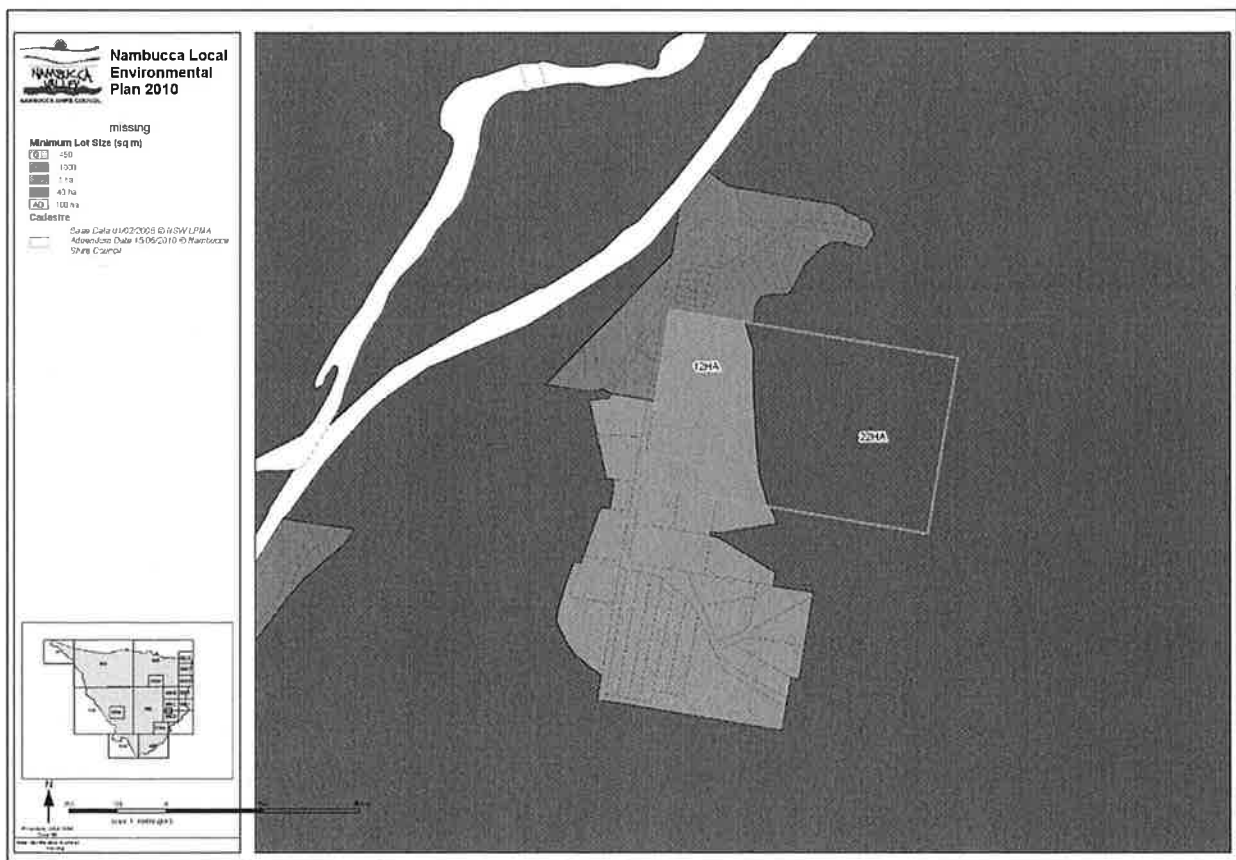
Clause 4.1 Minimum subdivision lot size

- 1 The objectives of this clause are as follows:
 - a to encourage efficient use of land,
 - b to ensure the subdivision layout is compatible with the desired future character of the locality,
 - c to ensure land zoned R5 Large Lot Residential is developed in accordance with the Council's strategic planning framework for Nambucca.
- 2 This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- 3 The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- 4 This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

4A This clause does not apply in relation to the subdivision of land in Zone R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential or R4 High Density Residential:

- a if the land contains an existing dual occupancy, or
- b for the purpose of erecting an attached dwelling or a semi-detached dwelling, or
- c if a single development application is made for the subdivision of the land into 2 lots and for the erection of a dwelling house on each of the 2 resulting lots.

In the example below a R5 Large Lot Residential and RU2 Rural lot is split between 1ha and 40ha minimum lot size. As shown the 12ha R5 portion has the potential to be subdivided into 12 1ha Lots, where as the residue 22ha of rural land is restricted to 40ha in size. Arguably the subdivision of the land may be prohibited as any lot created containing the rural portion of land would be less than the minimum lot size.



The following figure shows how the described clause may progress subdivision in the example.

Nambucca Local Environmental Plan 2010

missing

Minimum Lot Size (sq m)

15	150
20	200
25	250
30	300
35	350
40	400
45	450
50	500
55	550
60	600
65	650
70	700
75	750
80	800
85	850
90	900
95	950
100	1000

Cadastre

Scale Data 01/02/2008 10:00 AM LPA 11
 400m Datum Date 15/09/2010 10:00 AM Nambucca
 State Council

11HA
 23HA
 11HA (portion of 115 Land)

0 100 200 300 400 500 600 700 800 900 1000 1100 1200 1300 1400 1500 1600 1700 1800 1900 2000 2100 2200 2300 2400 2500 2600 2700 2800 2900 3000 3100 3200 3300 3400 3500 3600 3700 3800 3900 4000 4100 4200 4300 4400 4500 4600 4700 4800 4900 5000 5100 5200 5300 5400 5500 5600 5700 5800 5900 6000 6100 6200 6300 6400 6500 6600 6700 6800 6900 7000 7100 7200 7300 7400 7500 7600 7700 7800 7900 8000 8100 8200 8300 8400 8500 8600 8700 8800 8900 9000 9100 9200 9300 9400 9500 9600 9700 9800 9900 10000 10100 10200 10300 10400 10500 10600 10700 10800 10900 11000 11100 11200 11300 11400 11500 11600 11700 11800 11900 12000 12100 12200 12300 12400 12500 12600 12700 12800 12900 13000 13100 13200 13300 13400 13500 13600 13700 13800 13900 14000 14100 14200 14300 14400 14500 14600 14700 14800 14900 15000 15100 15200 15300 15400 15500 15600 15700 15800 15900 16000 16100 16200 16300 16400 16500 16600 16700 16800 16900 17000 17100 17200 17300 17400 17500 17600 17700 17800 17900 18000 18100 18200 18300 18400 18500 18600 18700 18800 18900 19000 19100 19200 19300 19400 19500 19600 19700 19800 19900 20000 20100 20200 20300 20400 20500 20600 20700 20800 20900 21000 21100 21200 21300 21400 21500 21600 21700 21800 21900 22000 22100 22200 22300 22400 22500 22600 22700 22800 22900 23000 23100 23200 23300 23400 23500 23600 23700 23800 23900 24000 24100 24200 24300 24400 24500 24600 24700 24800 24900 25000 25100 25200 25300 25400 25500 25600 25700 25800 25900 26000 26100 26200 26300 26400 26500 26600 26700 26800 26900 27000 27100 27200 27300 27400 27500 27600 27700 27800 27900 28000 28100 28200 28300 28400 28500 28600 28700 28800 28900 29000 29100 29200 29300 29400 29500 29600 29700 29800 29900 30000 30100 30200 30300 30400 30500 30600 30700 30800 30900 31000 31100 31200 31300 31400 31500 31600 31700 31800 31900 32000 32100 32200 32300 32400 32500 32600 32700 32800 32900 33000 33100 33200 33300 33400 33500 33600 33700 33800 33900 34000 34100 34200 34300 34400 34500 34600 34700 34800 34900 35000 35100 35200 35300 35400 35500 35600 35700 35800 35900 36000 36100 36200 36300 36400 36500 36600 36700 36800 36900 37000 37100 37200 37300 37400 37500 37600 37700 37800 37900 38000 38100 38200 38300 38400 38500 38600 38700 38800 38900 39000 39100 39200 39300 39400 39500 39600 39700 39800 39900 40000 40100 40200 40300 40400 40500 40600 40700 40800 40900 41000 41100 41200 41300 41400 41500 41600 41700 41800 41900 42000 42100 42200 42300 42400 42500 42600 42700 42800 42900 43000 43100 43200 43300 43400 43500 43600 43700 43800 43900 44000 44100 44200 44300 44400 44500 44600 44700 44800 44900 45000 45100 45200 45300 45400 45500 45600 45700 45800 45900 46000 46100 46200 46300 46400 46500 46600 46700 46800 46900 47000 47100 47200 47300 47400 47500 47600 47700 47800 47900 48000 48100 48200 48300 48400 48500 48600 48700 48800 48900 49000 49100 49200 49300 49400 49500 49600 49700 49800 49900 50000 50100 50200 50300 50400 50500 50600 50700 50800 50900 51000 51100 51200 51300 51400 51500 51600 51700 51800 51900 52000 52100 52200 52300 52400 52500 52600 52700 52800 52900 53000 53100 53200 53300 53400 53500 53600 53700 53800 53900 54000 54100 54200 54300 54400 54500 54600 54700 54800 54900 55000 55100 55200 55300 55400 55500 55600 55700 55800 55900 56000 56100 56200 56300 56400 56500 56600 56700 56800 56900 57000 57100 57200 57300 57400 57500 57600 57700 57800 57900 58000 58100 58200 58300 58400 58500 58600 58700 58800 58900 59000 59100 59200 59300 59400 59500 59600 597

It is recommended the following clause be incorporated into the Nambucca LEP 2010

- 1 *The objectives of this clause are as follows:*
 - a *to provide for the subdivision of lots that are within more than one zone and cannot be subdivided under clause 4.1*
 - 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 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:*

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- 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 lot size map in relation to that land or land in a business, industrial or special uses zone that has an area not less than 1000m²; and*
 - ii *all of the land in RU1 Primary Production, RU2 Rural Landscape, E2 Environmental Conservation or E3 Environmental Management zone*
- 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*

CONSULTATION:

Director of Environment and Planning

SUSTAINABILITY ASSESSMENT:**Environment**

The proposed LEP amendment will assist implementation of Council Strategies such the Local Growth Management Strategy Rural Residential Lands. The proposed amendment is giving effect to zoning and lot size provisions already adopted, therefore the environmental impact of this amendment is limited.

Social

The proposed LEP amendment will assist implementation of Council Strategies such the Local Growth Management Strategy Rural Residential Lands. The proposed amendment is giving effect to zoning and lot size provisions already adopted, therefore the social impact of this amendment is limited.

Economic

The proposed LEP amendment will assist implementation of Council Strategies such the Local Growth Management Strategy Rural Residential Lands. The proposed amendment is giving effect to zoning and lot size provisions already adopted, therefore the economic impact of this amendment is limited.

Risk

Should Council not adopted the provisions as proposed, planning decisions on split zoned land may be subject legal interpretation and challenge.

FINANCIAL IMPLICATIONS:**Direct and indirect impact on current and future budgets**

Nil the planning proposal will be prepared by Council Staff

Source of fund and any variance to working funds

Nil

ATTACHMENTS:

There are no attachments for this report.

TO: Executive Assistant (Barbara Parkins)

Subject: Planning Proposal - Split Zone Minimum Lot Size Amendment to the Nambucca LEP 2010
Target Date: 29/03/2012
Notes:
Trim Reference SF1541 (2113/2012)

3480/12 **RESOLVED:** (Ainsworth/Court)

- 1 That Council proceed to amend the Nambucca LEP 2010 in accordance with the recommended Clause 4.1B to ensure Lots in split zones may be subdivided in accordance with adopted strategies and minimum lot sizes.
- 2 That, pursuant to Clause 55 of the Environmental Planning and Assessment Act 1979, Council staff prepare planning proposals that give effect to the above proposed amendments in accordance with Clause 56 of the Act, the Planning Proposals be forwarded to the Minister for Gateway Determination.
- 3 That in the event that the Department of Planning and Infrastructure require minor changes or modifications to the above resolutions, the General Manager be authorised to concur with the required changes provided Council's intent in the above resolutions are achieved.

For the motion: Councillors Hoban, Court, Ballangarry, Flack, Smyth, Finlayson, Ainsworth,
Moran and South (Total 9)

Against the motion: Nil

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ACTION TAKEN BY OFFICER

ONGOING / COMPLETED

Completion date: _____

(Please update once item is actually completed)

Details:
