

Nambucca LEP 2010 Draft Amendment No 12 – Exceptions to minimum lot sizes for certain rural subdivisions .

Proposal Title : Nambucca LEP 2010 Draft Amendment No 12 – Exceptions to minimum lot sizes for certain rural subdivisions .

Proposal Summary : The planning proposal seeks to introduce a new clause to enable the subdivision of land in rural areas to create lots less than the minimum lot size shown on the Lot Size Map, to meet the needs of permissible land uses other than dwelling houses or dual occupancies.

PP Number : PP_2012_NAMBU_005_00 Dop File No : 12/12923

Proposal Details

Date Planning Proposal Received : 07-Aug-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 proposal will apply to all land zoned RU1, RU2, RU4 and RU6 in the Nambucca LEP 2010

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager 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 wording and intention as clause 4.2A in the Clarence Valley LEP 2011, Richmond Valley LEP 2012 and the Moree Plains LEP 2011.**

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. The proposal seeks to include provisions in the Nambucca LEP 2010 for the subdivision of land in rural areas to create a lot less than the minimum lot size (MLS) for the land, where a particular permissible land use, other than a dwellings or dual occupancy, has been approved.**

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 rural land for particular permissible uses.**

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

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- 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? **Yes**

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

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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 is not the subject of a specific strategic study or report. The planning proposal has arisen in response to a review of the provisions of the Nambucca LEP and other recently made LEPs. The proposal will amend the LEP by introducing provisions for subdivision of rural land for established permissible uses other than residential uses, . The need for these provisions has arisen due to the inability to subdivide rural land to create lots significantly less than the minimum lot sizes (MLS) shown on the Lot Size Map using the current provisions of the LEP.

Clause 4.6(6) prevents the subdivision of rural land to less than 90% of the MLS shown on the Lot Size Map. In order to create a lot in a rural zone less than the MLS shown on the map, an amendment to the Lot Size Map of the LEP is required. This is a time consuming and an inefficient means of facilitating the development.

The clause will enable land, on which a permissible land use has been approved, to be subdivided, to create a lot around the approved land use even if the lot is less than the MLS applying to the land on the Lot Size Map.

The clause proposed by the RPA is similar to clause 4.2A of the Clarence Valley LEP 2011, Moree Plains LEP 2011 and Richmond Valley LEP 2012. Similar provisions were contained in the former Nambucca LEP 1995 and the proposed amendment will maintain this policy approach.

The proposed clause is as follows;

(1) The objective of this clause is to enable the subdivision of land in rural areas to create lots of an appropriate size to meet the needs of permissible uses other than for the purpose of dwelling houses or dual occupancies.

(2) Land in a zone to which Clause 4.2 applies may, with development consent, be subdivided to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land, where the consent authority is satisfied that the use of the land after subdivision will be the same use permitted under the existing development consent for the land (other than for the purpose of a dwelling house or dual occupancy).

(3) Development consent must not be granted for the subdivision of land to which this clause applies unless the consent authority is satisfied that;

(a) the subdivision will not adversely affect the use of the surrounding land for agriculture, and

(b) the subdivision is necessary for the ongoing operation of the permissible use, and

(c) the subdivision will not increase rural land use conflict in the locality, and

(d) the subdivision is appropriate having regard to the natural and physical constraints affecting the land.

The proposed clause will not result in a significant increase in development or density in the rural zones. A subdivision will only be permitted where development consent for a permissible land use has been issued. It will not be possible to speculatively subdivide land on the basis of a proposed land use being approved. The provisions do not allow the subdivision of land for the purposes of a dwelling house or dual occupancy and therefore will not result in an unacceptable increase in density in rural areas.

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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 and the impact of the proposed subdivision.

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

- 1. The efficient subdivision and development of rural land for particular permissible purposes without the need to amend the LEP to change a MLS to facilitate the subdivision.**
- 2. The provisions will maintain appropriate zones and MLSs over constrained land without preventing the subdivision of land when it is appropriate and necessary.**
- 3. The provisions will enable particular permissible land uses to proceed without requiring unnecessary and resource ineffective land management responsibilities.**

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Consistency with strategic planning framework :

MNCRS

The proposed amendment to the Nambucca LEP to include provisions for subdivision of rural land for specific permissible land uses is not inconsistent with the Mid North Coast Regional Strategy. The proposed provisions will not result in an unacceptable increase in the density of development in rural areas and will require the consideration of land use conflict, the impact on agriculture and the constraints of the land.

The proposed provisions are not inconsistent with the RPA's strategies and structure plan.

SEPPS

The planning proposal identifies SEPP (Rural Lands) 2008 as being 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. not contribute to the unnecessary fragmentation of rural land since subdivision will only be permitted where another permissible land use has been approved and the subdivision is necessary for the ongoing operation of that land use;
2. require potential land use conflicts to be considered prior to the subdivision being approved;
3. take account of the constraints of the land and ensure that the subdivision is appropriate to the natural and physical characteristics of the land and the existing land use;
4. not create additional opportunities for dwellings in rural zones.

The proposal is otherwise consistent with other SEPPs.

Standard Instrument LEP

Similar special purpose subdivision provisions were not permitted in the Nambucca LEP shortly after it was made because of concern that the provisions would be inconsistent with clause 4.2 of the LEP. It is now acknowledged that there is a need for special purpose subdivision provisions in the Standard LEPs. Parliamentary Counsel's Office has confirmed that the inclusion of the proposed provisions is not inconsistent with the mandatory clauses of the Standard Instrument LEP.

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, 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 and 6.3 Site Specific Provisions.

The Northern Region considers the following 117 Directions are applicable to the proposal, 1.2 Rural Zones, 1.5 Rural Lands, 2.2 Coastal Protection, 2.3 Heritage Conservation, 2.4 Recreation Vehicle Areas, 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 proposal to facilitate special purpose subdivision in rural zones. 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.

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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.

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 rural 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
Cover letter.pdf	Proposal Covering Letter	Yes
Planning proposal.pdf	Proposal	Yes
council meeting.pdf	Determination Document	Yes

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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**
- 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**

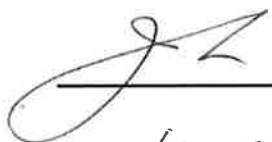
Additional Information : **It is recommended that;**

- 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 reason for the recommendation is as follows;**
The proposed provisions will facilitate the efficient and orderly subdivision of rural land for particular permissible land uses other than residential uses.

Signature: _____

Printed Name: _____



J M CLARK

Date: _____

9 August 2012