

At the Ordinary Meeting of Council held on Monday, 23rd June 2014 the following was resolved:-

Resolution

226/2014 That the report 206/2014, Bourke LEP 2012 Amendments be deferred to the July Meeting of Council when the Manager of Environmental Services is able to be in attendance.

Moved Dorrington

Seconded Cr Ford

Carried

File No:	T1.5
Report: 209/2014	Bourke LEP 2012 Amendments
Responsible Officer:	Dwayne Willoughby, Manager Environmental Services

Introduction

Since the making of the Bourke LEP in January 2013 there have been some matters that have been raised that the Council wishes to have addressed.

Bourke LEP Proposed Amendments

The Council has requested a number of issues be investigated with the view to amending the LEP. Council's consultant for the LEP, Ian Sinclair or Edge Land Planning has been asked to comment on the proposals as well as having found some issues that require rectification with the LEP. The issues raised by Council are outlined below along with Mr Sinclair's comments:-

- *Large Lot residential in North Bourke.* Land to the north of Hungerford Rd between the village zone for North Bourke and the Airport has been a former orange orchard. It is zoned as Primary Production. It was included in the Bourke Shire Strategy as having potential for development. It would be appropriate to include this for a change to Large Lot Residential with a 10 ha lot size.
- *Land along the Darling River at North Bourke.* The land on the eastern side of the Mitchell Highway at North Bourke between the highway and the Darling River has been used for orchards in the past but these have now ceased. There are a number of these lots that have dwellings on them but four (4) which are vacant. Requests have been made to allow dwellings on these vacant lots. This is not considered to be a major impact and should be discussed with the Department.
- *Allowing Secondary Dwellings –RU1 zone.* The issue raised by the Council has more to do with detached dual occupancies on rural land. This matter will have to be discussed with the Department of Planning and Environment in detail but a submission can be made. This would entail the new dwelling to be in the curtilage of the existing dwelling, having the same access and electricity service as well as having some limitations on the size of the second dwelling.
- *High St change to Village Zone.* This land is to the north of the existing Bourke residential area and is adjacent to the river. It is flood prone land and this would

mean it is not advisable to allow further dwellings in accordance with the NSW Flood Prone Land Policy.

- *Light Industrial Zone Western End of town reverting to Residential.* This land was originally zoned to allow for the land to be used for industrial type businesses in conjunction with dwellings to try to rejuvenate the area as it was not being used for residential use. However, since then there have been requests to build more dwellings for Aboriginal housing.
- *Cemeteries being zoned as Special Purposes Zone.* The cemeteries are zoned as rural in the LEP however, in other Council areas they have been zoned as Special Purposes zones. There is no real advantage to having them specifically zoned but it can be raised with the Department.
- *Permitting Offices in Residential Zones.* Offices are currently a prohibited use in the residential zone and there has been some desire expressed to have them in the zone. There are not any issues with this and it is supported.
- *Bourke LEP Flooding Clause.* The flooding clause in the Bourke LEP when it was exhibited had wording that allowed for the adoption of the 1:100 probability flood to be the flood height for the construction of buildings and works. The DCP set this flood as the 1974 flood, being the highest flood and Council's 'flood of record'. This was the clause that was submitted to the Department after the exhibition. However, this was changed to another clause by the Department to alter the definition of the flood to be the Probable Maximum Flood. This is the highest flood and is higher than that in the draft LEP. It is considered that the flood clause that was exhibited be reinstated. It is noted that Council was not informed of this change and it is considered to be a substantial change to the LEP and one which would require exhibition.
- *Heritage Map of Bourke not showing the Darling River.* The Darling River is a heritage item in the LEP but the mapping of it for the town of Bourke map does not show this, however, the rural map sheet surrounding Bourke shows it. This was a mapping change done by the Department of Planning and should be rectified.

In summary, it is recommended that the following change be made to the Bourke LEP:

- Large Lot residential in North Bourke
- Land between the Mitchell Highway and the Darling River at North Bourke.
- Detached Dual Occupancies in Rural zones
- Change light industrial zone in west Bourke to residential zone
- Cemeteries to be zoned as Special Purpose zones
- Permit offices in residential zones
- Amend flooding clause to reflect the 1:100 flood and not the Probable Maximum Flood
- Amend heritage map to show the Darling River on the Bourke map sheet

The process for amending the LEP is to prepare a Planning Proposal and to then submit this to the Department of Planning for their consideration. Once this has occurred and if it is supported, it will be placed on exhibition. Discussions are occurring with the Department with the view to sorting out the issues prior to preparing the Planning Proposal. It is anticipated that the planning proposal can be prepared for submission to the Department in July. Once the Department has responded, the planning proposal will be then exhibited.

Council will be informed once the Department has responded to the Planning Proposal.

Recommendation:

- 1. That Council prepare a planning proposal to amend the Bourke LEP 2012 as follows:**
 - Large Lot residential in North Bourke
 - Land between the Mitchell Highway and the Darling River at North Bourke.
 - Detached Dual Occupancies in Rural zones
 - Change light industrial zone in west Bourke to residential zone
 - Cemeteries to be zoned as Special Purpose zones
 - Permit offices in residential zones
 - Amend flooding clause to reflect the 1:100 flood and not the Probable Maximum Flood
 - Amend heritage map to show the Darling River on the Bourke map sheet
- 2. That delegated authority be given to the General Manager and Mayor to submit the Planning Proposal to the Department of Planning and Environment once it has been prepared**