

**ITEM 10 WELLINGTON LOCAL ENVIRONMENTAL PLAN 2012, AMENDMENT 2
PLANNING PROPOSAL TO INCORPORATE CHANGES
RECOMMENDED FROM THE RURAL REVIEW WITH RESPECT TO
THE SUPPLY OF R5 (LARGE LOT RESIDENTIAL) ZONED LAND**

Reason for Report

Following its Rural Review, Council identified a need for an increase in supply of rural residential land near Wellington and the Villages of Elong Elong, Stuart Town, Euchareena and Geurie.

Council resolved to seek an amendment to the Wellington LEP 2012 to increase supply in these areas.

While some rural residential land is currently zoned that still has subdivision potential, development costs for these areas, especially roads, have meant supply is unlikely until prices increase significantly. So several additional areas have been selected with reasonable existing road and power access, where prospects of economic development at current prices have better prospects.

Council achieved Gateway Approval on 27 January to proceed with the plan and was granted delegation to determine the matter. As required under the Environmental Planning and Assessment Act, the Planning Proposal was publicly exhibited from 8 April to 8 May 2015.

Four submissions were received from State Agencies and three from Community members. These submissions are assessed in the report below.

The recommendation is Council approve the making of the plan, subject to achieving a satisfactory response from Parliamentary Counsel, that the plan can be legally made, and authorise the General Manager to execute the necessary documents to process the plan to gazettal.

Background

A copy of the exhibited Planning Proposal package is included with the Business Paper for background.

The Planning proposal followed Council's consideration of the report by Booth and Associates: "Wellington Council Rural Land Use Strategy R5 Land".

The Booth report recommended a total of 12 areas for rezoning but on review it was recommended 4 of these areas be deferred for further investigation given some access and other servicing constraints.

The remaining 8 areas were exhibited as detailed in the attached planning proposal.

The 8 areas total 478 ha and are expected to yield approximately 60 lots. Such a supply should meet the rural small holding needs of Wellington and the Villages for at least 5 years.

Agency Submissions

Council has received submission from the following four State Agencies and

copies are attached to Councillor business papers:

Trade and Investment- Crown Lands

This is a generic style submission that raises no specific objections or issues with the Planning proposal. Crown Lands point out, should future development necessitate the development of Crown roads, it is a requirement Council accept transfer of the control of such roads prior to any development. Crown lands also points out the need to seek consultation if any crown lands are impacted by the proposal.

There are no Crown lands impacted by the proposal at this stage. Likely road access for the new development is from existing Council maintained roads and if a development application proposed use of a Crown road, that would be assessed on its merits and, if supported by Council, developed by the developer and control transferred to Council.

Trade and Investment – Resources and Energy

No objection is raised by Resources and Energy.

NSW Office of Environment and Heritage

Office of Environment and Heritage (OEH) raises no specific objection to the planning proposal. But does make some relevant points impacting future development:

- There are some remnant woodland and scattered paddock trees in the areas to be rezoned and may include an Endangered Ecological Community. Small areas are also mapped for biodiversity value in the Wellington LEP. Consultant Comment: there are ample areas for placement of dwellings and provision of access and bushfire buffers without the need for significant removal of the remnant vegetation. These details can be managed as part of DA assessment.
- OEH suggests to Council that building envelopes might be used to ensure dwellings are sited away from the remnant vegetation given the exempt provisions for clearing close to dwelling sites. Consultant comment: The suggestion is valid and a matter that can be addressed at DA stage.
- OEH provides general advice of the need to plan for and protect potential Aboriginal Heritage. No advice of any recorded sites in the lands concerned is given but the suggestion is made that Council consider requiring a condition on future subdivision DAs where the developer adhere to the "Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW". It is recommended Council consider adding this requirement to the subdivision section of its DCP at a future amendment.

Department of Primary Industries- Office of Water

Office of Water raises no specific objection to the Planning Proposal.

It considers the potential development should not create significant issues related to water resources and correctly assumes that reticulated water and sewerage would not be provided to these areas.

It recommends Council at subdivision or dwelling development stage give consideration to ensuring adequate on site water collection and storage for potable / residential needs.

Council requires water storage tanks as part of dwelling DAs and would seek to plan dam layouts in any rural residential subdivision.

Private Submissions

Mercedes Connelly

- Owns land in the proposed Stuart Town R5 area.
- Supports the proposal.

Raises a number of detailed queries as to the steps to develop her land which staff will answer separately, should Council resolve to proceed with the Planning proposal.

Jill Harris

- Owns land in the proposed Stuart Town R5 area.
- Does not object to the proposal but queries the impact on rates.

Consultant Comment: Rezoning of land to a higher use can sometimes impact rates. But the impact in this case is considered likely to be small. The Valuer General does take notice of the zoning in estimating land value for rating purposes. But while the land is not developed, the value increase in a case such as this would likely be the rural value with a small allowance for the value as an R5 lot, less an estimate of development costs. It is not possible to be precise as to the potential increase in rateable value without some detailed review of values of rural and small holding prices in the area, but it should only be a small percentage.

Kath O'Grady and Tim Chown

- Own part of the area proposed for rezoning at Geurie.
- Raise a number of specific development queries concerning their land which staff will answer directly, should Council approve the proposal.
- Query if the rezoning would expose them to road maintenance costs. Consultant Comment. Council may require some road improvement as part of a DA for further residential development but no cost would occur if the owners merely retained their holding after rezoning.
- Query if the land could be connected to town water and sewer. Consultant comment: It is not proposed to extend sewer and water services to R5 land. The low density of such land makes it uneconomic and reasonable amenity can be provided through on site water collection and on site sewerage disposal systems.

As there are no objections to the exhibited Planning Proposal and the queries raised seem able to be resolved at the latter DA stage, the following recommendations are made:

RECOMMENDATION:

That:

- 1. Council resolve to submit draft Amendment No. 2 to the Wellington LEP 2012 to Parliamentary Counsel, seeking an opinion that the Plan can be legally made; and**
- 2. Council resolve pursuant to Section 59 of the Environmental Planning and Assessment Act , 1979, to make Amendment No. 2 to the Wellington LEP 2012 as exhibited in the Planning Proposal, subject to the General Manager receiving a satisfactory report from Parliamentary Counsel that the Plan can be legally made ; and**

3. That the General Manger be empowered to sign all necessary documents to give effect to the making of the plan referred to in Recommendations 1 and 2 above.
4. That Council write to each of the 3 people who made submission advising of this resolution, of the process from here and answering their specific development queries.
5. That Council refer the OEH suggestion for reference to the “Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW” to a future review of the Wellington DCP for later consideration.

PUBLIC NOTICE

PUBLIC EXHIBITION OF PLANNING PROPOSAL TO REZONE FIVE PARCELS OF LAND FROM RU1 (Primary Production) TO R5 (Large Lot Residential).

WELLINGTON LEP 2012. (S. 57 EPA Act 1979)

Council has prepared draft Amendment 001 to the Wellington Local Environmental Plan 2012. This amendment proposes to rezone five parcels of land from RU1 (Primary Production) to R5 (Large Lot Residential). Such rezoning will allow this land to be developed for rural residential living, to address supply for the community's short term needs.

The five areas of land are located at: Wellington, Geurie, Stuart Town, Elong Elong and Euchareena.

Detailed explanatory material is available to examine on Council's web page and at the exhibition venues below.

The proposal will be on public exhibition between Wednesday 8th April 2015 and Friday 8th May 2015.

All exhibition documents can be viewed during business hours at the following exhibition locations.

- Wellington: Council Chambers, Macquarie Library & Visitor Information Centre;
- Geurie: Post Office;
- Mumbil: Post Office;
- Stuart Town: Post Office/Rural Transaction Centre;
- Elong Elong: Delta Agribusiness;

All exhibition material can also be found online at www.wellington.nsw.gov.au.

Any person may make submission to Council on this draft plan amendment. Submissions must be in writing to the address below and should be received at Council by Friday 8th May 2015.

Karen Roberts
Acting General Manager
Wellington Council

P O Box 62
WELLINGTON NSW 2820
or
mail@wellington.nsw.gov.au

Attention ; Panning Department

Dear Sirs,

I refer to letter received re zoning R1 to R5 ? And agree to go ahead with council Proposal.

Following concern below , requires clarification; 1. How many lots has been awarded at my property ? And what size per lot?

2. What amount we are looking at to register one DP? And how long to process upon Lodgement?
3. Does council provide us the plans on boundaries ? Or we hire private builder to Submit lay out and specification to council?
4. When is likely the process to take place? After posting to Gazzette Sept 2015?
5. Do I have to level the block?
6. Who determine the area of each lot? Once R5 has been in place or approved?
7. Who will be the point of contact with regards to more inquiries ? Aside from Planning?
8. Would you like me to submit a layout based on land owners point of view?
9. What is the possibilities of having a town water?
10. Can the electricity be subsidise by council at this stage?

Please advise at the earliest convenience? If we require any action going forward .

Look forward to hear from you soon.

Regards,

Mercedes Connelly
0406546488

Sent from my iPad

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Your Ref:GB.SM.PP2015/001/R5
Dated 2/ 4/2015
My Husband's telephone call of 15 th.
to Sandra.

From Mrs B.J.Harris,
The Top, Mooker Hill,
5737 Burrendong Way,
STUART TOWN, NSW, 2820.
20/ 4/2015

Wellington Council.
P.O. Box 62,
Wellington, NSW, 2820.

Attn: Acting General Manager.

Dear Madam,

Possible Planning Objection
Re the Council's Planning Department Proposal to rezone
Land from RU1 to R5.

Wool growing Merino sheep and sometimes beef cattle are run on the combined area of Lot 8 DP 251124 & Lot 1 DP 820792 (closed road reserve) and Lot 1 DP 251124 which will be differently zoned under this proposal. I presently live on Lot 1, but had originally started to build up this enterprise owning Lot 8 & had completed fencing, a bore with pump, tanks & pipeline (still being extended to troughs) and house site clearing & excavation before Lot 1 DP 251124 became available.

Because this is a rather small holding in relation to its income producing use, I am concerned to know what this rezoning will do to my rate bill in relation to the existing rate charges I receive from Council.

I hope that my rates will not increase disproportionately to my generated income's ability to meet the increased costs.

Thankyou for the information meeting held at Stuart Town which my husband & I attended.

Yours faithfully


Jill Harris

WELLINGTON COUNCIL
For Action by.....
Correspondence No.....
015/409
22 APR 2015

My husband and myself own some of the land that has been earmarked for rezoning at Geurie and have a few questions (please see listed below). Some of these questions may not be relevant at this stage however they may apply in future.

1. What will be the cost of applying for building entitlements etc for each of the blocks?
2. If there are any costs to be incurred to develop the blocks if the rezoning is approved how much and what would it be?
3. Would the blocks be able to be connected to town water and sewerage?
4. Would there be costs to us in regards to road maintenance etc if the rezoning etc is approved?

Kind Regards,

Kathy O'Grady & Tim Chown.
159 Heatherbrae Road.
Geurie.
Phone: 6887 1252 / 0401 156 290.

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Planning &
Environment

WELLINGTON COUNCIL
For Action By.....DRECS
Correspondence No.....
D12/215
27 JAN 2015

Mr Michael Tolhurst
General Manager
Wellington Council
PO Box 62
Wellington NSW 2820

15/01610

Attention: Mr Peter Harlow, Director Strategic and Planning Services

Dear Mr Tolhurst

Planning Proposal (PP_2015_WELLI_001_00) Wellington LEP 2012 Amendment to Increase supply of R5 Large Lot Residential zoned land

Thank you for your letter dated 6 January 2015 requesting a Gateway determination under Section 56(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act) with respect to the Planning Proposal to amend the Wellington LEP 2012 to rezone land from zone RU1 Primary Production to zone R5 Large Lot Residential with minimum lot size amendments.

As a delegate of the Minister for Planning, I have determined the planning proposal should proceed subject to the conditions in the attached Gateway Determination (**Attachment 1**).

The Minister delegated plan making powers to Councils in October 2012. It is noted that Council has accepted this delegation. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan (**Attachment 2**).

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office (parliamentary.counsel@pco.nsw.gov.au) 10 weeks prior to the projected publication date.

A copy of the request should be forwarded to the Department of Planning and Environment (westernregion@planning.nsw.gov.au) for administrative purposes.

The amended LEP maps and GIS data is to be uploaded to the Departments FTP site at ftp://lepup:lep_upload@203.3.194.247/ and the map information emailed to: pcgis@planning.nsw.gov.au and a copy to westernregion@planning.nsw.gov.au.

Department of Planning & Environment

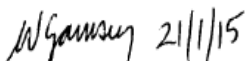
188 Macquarie Street Dubbo NSW 2830 | PO Box 58 Dubbo NSW 2830 | T 02 6841 2180 | F 02 6884 8483 | www.planning.nsw.gov.au

State Government is committed to reducing the time taken to complete LEP's by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in the determination are not met.

In accordance with "A guide for the preparation of local environmental plans" attachment 5 – Delegated plan making reporting template (**Attachment 3**) is enclosed for Council's information. Table 2 of the attachment is to be completed and included in Council's section 59 submission and forwarded to the westernregion@planning.nsw.gov.au when requesting the planning proposal to be finalised.

Should you have any further enquiries, I have arranged for Jenna McNabb, Planning Officer to assist you. Ms McNabb may be contacted at the Departments Western Region Office on (02) 6841 2194.

Yours sincerely

 21/11/15
Wayne Garnsey
A/General Manager, Western Region
Planning Services

Enclosures: Attachment 1 – Gateway Determination
Attachment 2 – Written Authorisation to Execute Delegation
Attachment 3 - Delegated Plan Making Reporting Template



Planning & Environment

Gateway Determination

Planning proposal (Department Ref: PP_2015_WELLI_001_00): to amend the Wellington Local Environmental Plan 2012 to rezone land from zone RU1 Primary Production to zone R5 Large Lot Residential with minimum lot size amendments.

I, the Acting General Manager, Western Region at Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the Environmental Planning and Assessment Act 1979 to amend the Wellington Local Environmental Plan 2012 to rezone land from zone RU1 Primary Production to zone R5 Large Lot Residential with minimum lot size amendments should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 (EP&A Act) as follows:
 - (a) The planning proposal is required to be made publicly available on exhibition for 28 days as described in A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013).
 - (b) The relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs.
2. Consultation is required with the following agencies under Section 56 (2)(d) of the EP&A Act:
 - (a) NSW Rural Fire Service
 - (b) Department of Planning and Environment – NSW Office of Environment and Heritage
 - (c) Department of Primary Industries – Agriculture and NSW Office of Water

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the planning proposal prior to community consultation.
3. Planning Proposal documentation, including the draft Wellington Rural Land Use Strategy – R5 Land, dated March 2014, be placed on public exhibition and forwarded to the agencies as part of the community consultation process.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

5. Prior to submission of the planning proposal under Section 59 of the EP&A Act, LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for LEP maps
6. Submission of the Planning Proposal under section 59 of the EP&A Act must address the Planning Proposal's inconsistencies with Section 117 Direction 4.4 – Planning for Bushfire Protection after consultation with NSW Rural Fire Service.
7. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 21st day of January 2015.


Wayne Garnsey
Acting General Manager, Western
Region
Planning Services
Department of Planning & Environment

Delegate of the Minister for Planning



Planning & Environment

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Wellington Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2015_WELLI_001_00	To rezone land from zone RU1 Primary Production to zone R5 Large Lot Residential with minimum lot size changes.

In exercising the Minister's functions under section 59, Council must comply with the Department's "*A guideline for the preparation of local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 21 January 2015


Wayne Garnsey
Acting General Manager, Western Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2015_WELLI_001_00
Date Sent to Department under s56	6 January 2015
Date considered at LEP Review Panel	Matter considered by Ministers Delegate
Gateway determination date	21 January 2015

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information:

DRAFT

PLANNING PROPOSAL

A PROPOSAL TO AMEND WELLINGTON LEP 2012

**TO INCORPORATE CHANGES RECOMMENDED FROM THE
RURAL REVIEW WITH RESPECT TO SUPPLY OF R5 (LARGE
LOT RESIDENTIAL) ZONED LAND.**

December 2014

TABLE OF CONTENTS

1	INTRODUCTION.....	1
1.1	The Proposal	1
2	OBJECTIVES OR INTENDED OUTCOMES	7
3	EXPLANATION OF THE PROVISIONS	7
4	JUSTIFICATION	8
4.1	Section A – Need for the Planning Proposal	8
4.2	Section B – Relationship to strategic planning framework	8
4.3	Section C – Environmental social and economic impact	8
4.4	Section D – State and Commonwealth interests	9
5	COMMUNITY CONSULTATION.....	9
6	CONCLUSION	9

1 INTRODUCTION

1.1 The Proposal

Wellington Council is developing a Rural Land Use Strategy to review its rural land use planning needs for the coming 20 years.

Two strategic reports were commissioned from Booth Associates as formal input to the Strategy :

- Wellington Council Rural Land Use Strategy R5 Land
- Wellington Council Rural land use Strategy RU1 and RU4 Land.

These two reports form the supporting material for this Planning Proposal and are part of the attachments.

This Planning Proposal will focus on the recommendations from the R5 report (Phase one of the Rural Review).

Following preliminary consultation with the Department of Planning and Environment, it was recommended Council split the progress on the Rural Strategy into an immediate Planning Proposal to examine rezoning of certain lands to R5 (Large Lot Residential) to address long term supply of rural residential needs (Phase one) and a subsequent Planning Proposal to look at the issues in need of resolution in the RU1 (Primary Production) and RU4 (Primary Production Small Lots) zones (Phase Two).

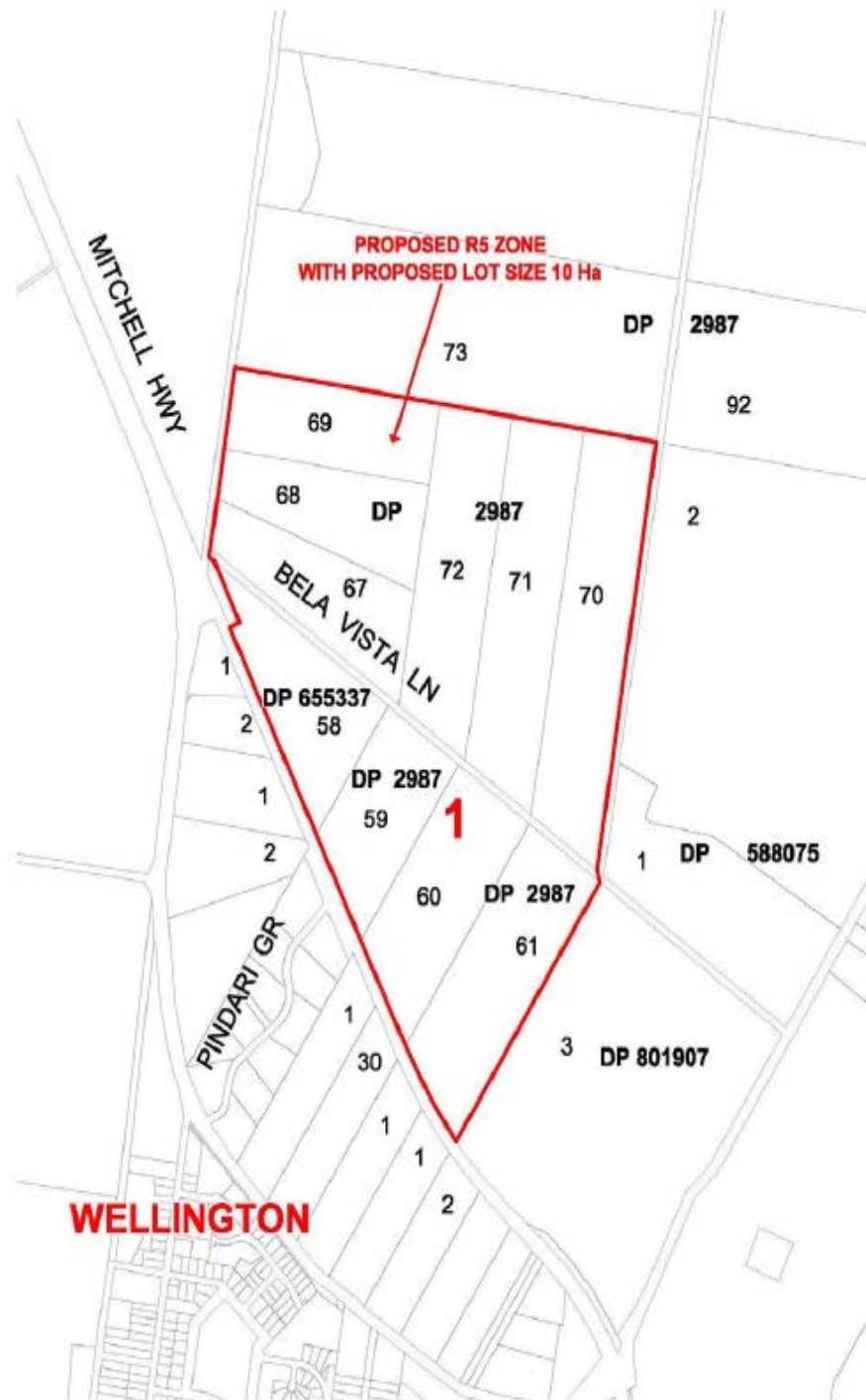
The Booths R5 report recommended 12 areas of land be rezoned from RU1 to R5. The parcels of land affected are detailed in Section 9 of that report which is an attachment to this Planning Proposal. There are 4 areas surrounding Wellington Town, 3 areas at Stuart Town, 2 areas at each of Geurie and Elong Elong and one area at Euchareena.

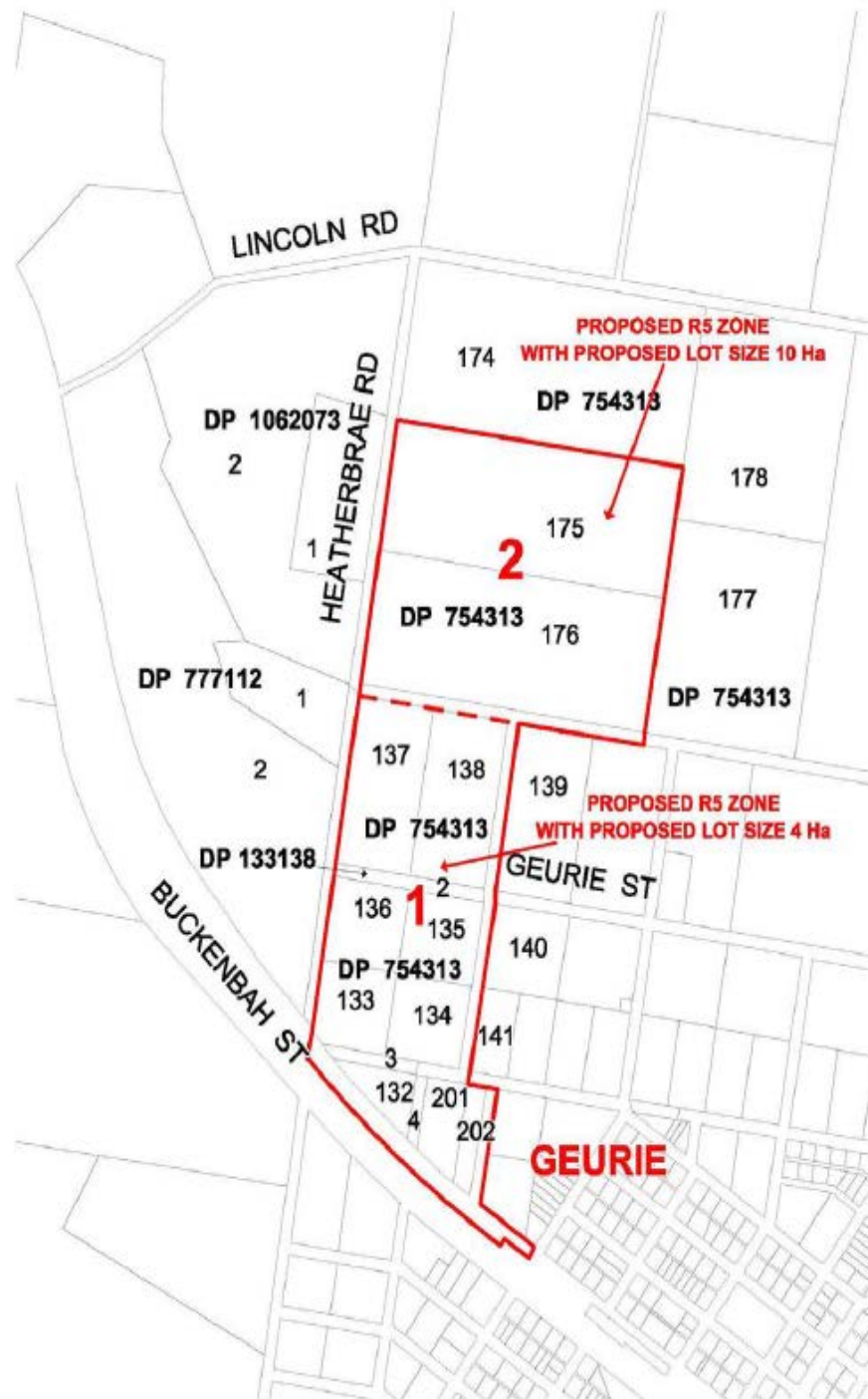
Following further consideration by Council, 4 of the 12 areas recommended by Booth have been deferred as more detailed consideration is needed of road access and ownership patterns. These 4 parcels may be brought into a later Planning Proposal.

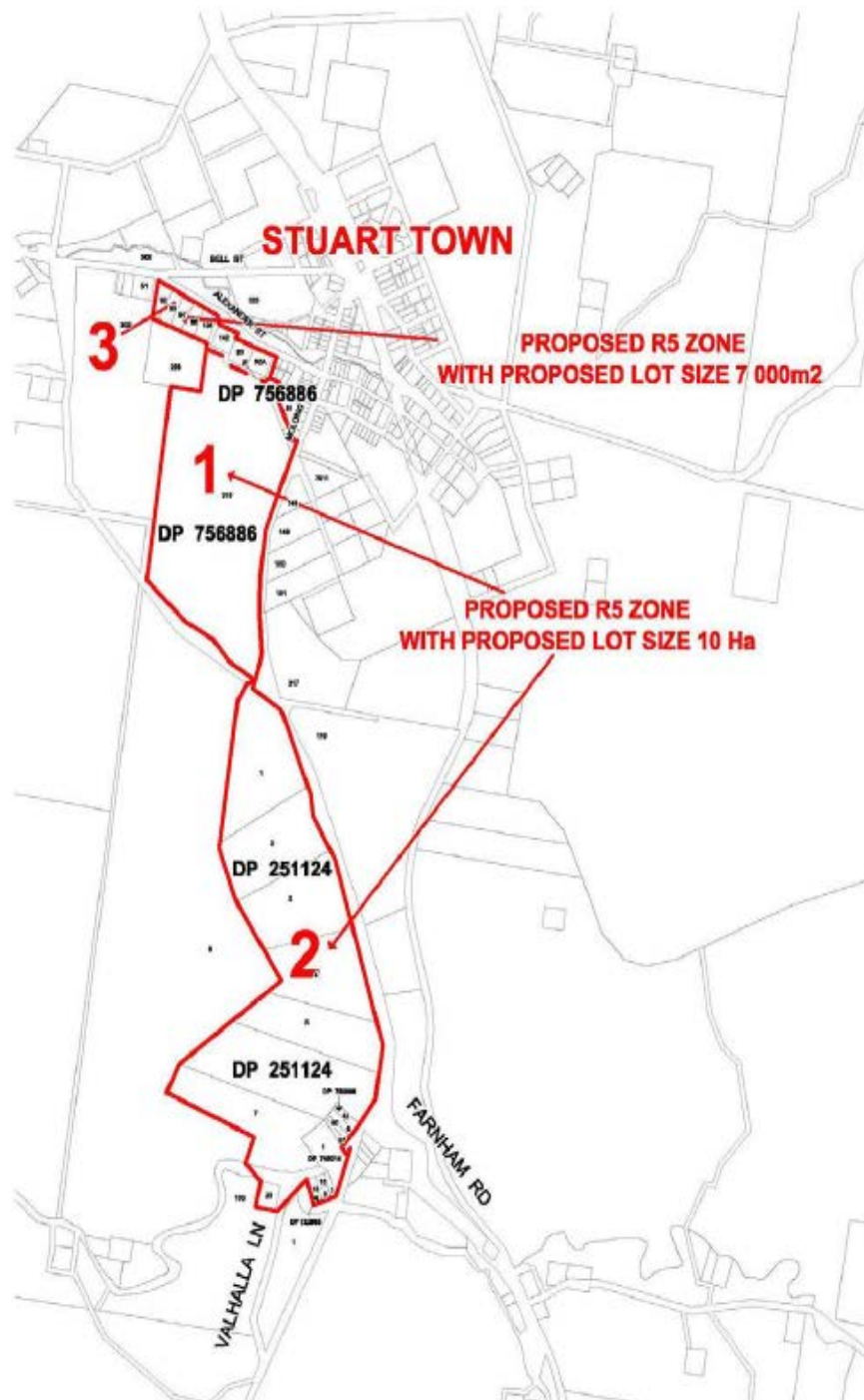
The remaining 8 areas as recommended by Booth form the basis of this planning proposal. These areas are detailed below:

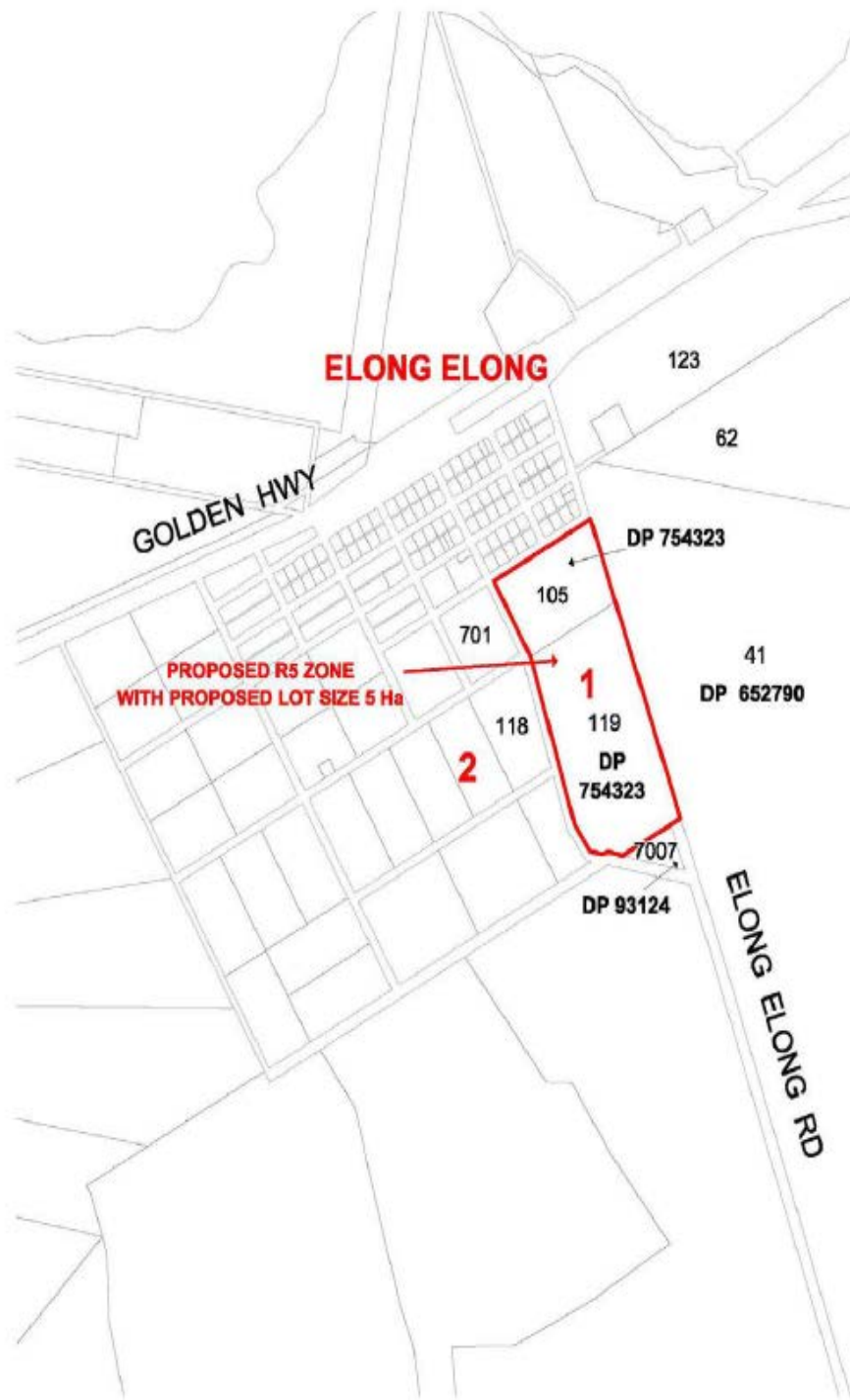
Wellington-area 1 Figure 22 (P82 Booth)	area 145 ha. Estimated lot yield =	11
Geurie- areas 1 and 2 Figure 23 (P83 Booth)	area 89 ha. Estimated lot yield =	14
Stuart Town-areas 1-3 Figure 26 (P86 Booth)	area 160 ha. Estimated lot yield=	23
Euchareena-area1 Figure 24 (P84 Booth)	area 44ha. Estimated lot yield =	4
Elong Elong-area1 Figure 25 (P85 Booth)	area 40ha. Estimated lot yield =	8
Totals	area 478ha. Total lot yield =	60

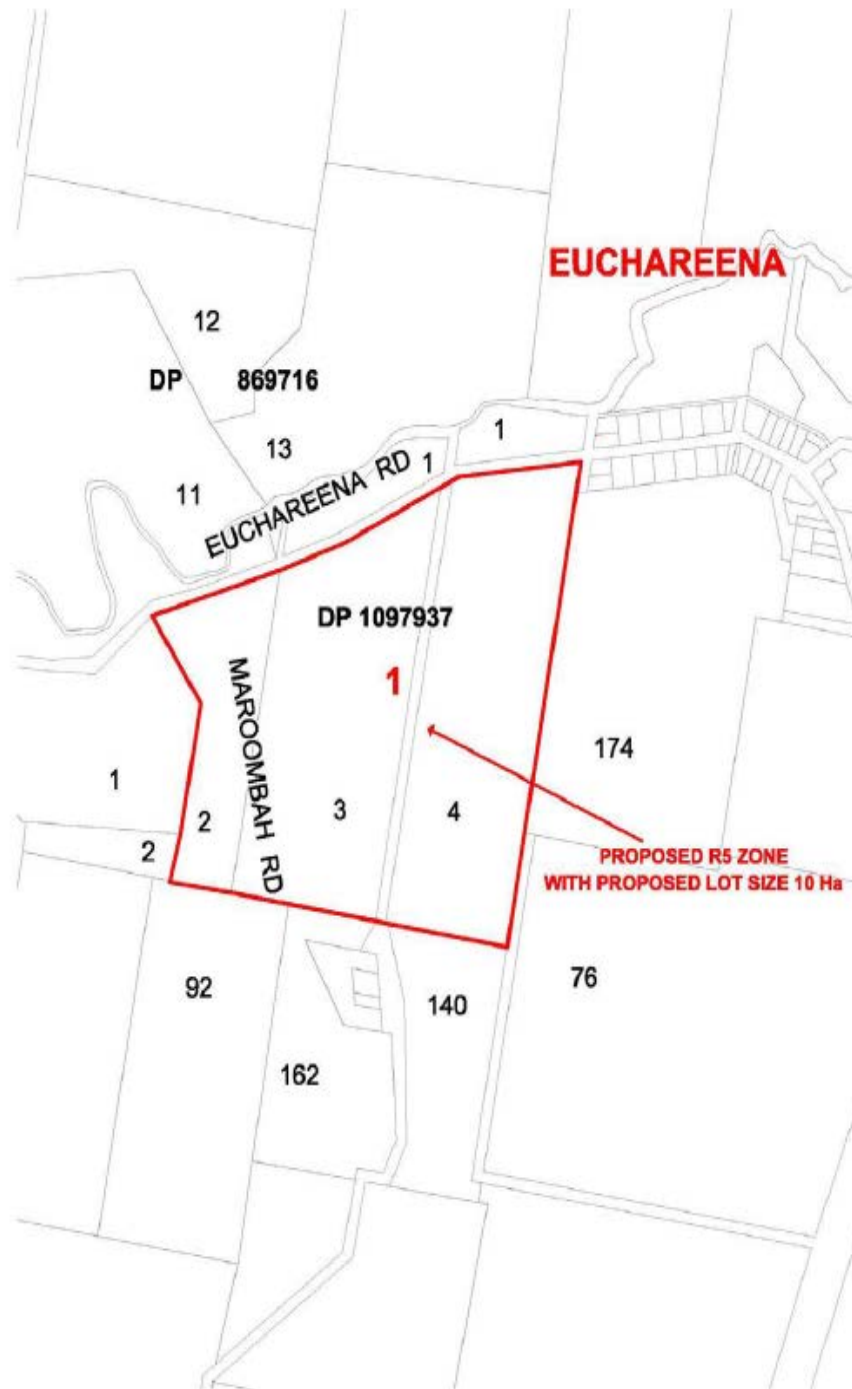
Maps of the 8 proposed areas follow:











4 JUSTIFICATION

4.1 Section A – Need for the Planning Proposal

A Planning Proposal is needed if land is to be rezoned. The Strategy report by Booth Associates details that supply of large lot residential is not adequate from the current zoned land to service longer term needs.

Their research points to some market resistance to small rural residential lots under 5 ha.

Their research also points out that, while there is hypothetical supply from some of the existing R5 zones, in reality many parcels large enough for further subdivision in the existing R5 zones have development costs (in particular a requirement for new roads) that make subdivision in the medium term unlikely. A total realistic short term yield for all the current R5 zones is estimated at only 55 lots.

The public exhibition process required as part of this Planning Proposal will also be an opportunity for community feedback and review of the recommended areas, before any final decision is made.

4.2 Section B – Relationship to strategic planning framework

The proposed rezonings do not conflict with the strategic planning framework for the Central West region. This framework seeks to locate rural residential living opportunities near settlements and where servicing impacts are manageable for the community.

Booth Associates detail at section 4.1 the requirements imposed by the SEPP (Rural Lands) 2008. It is concluded that the proposed 8 additional R5 zone areas do not conflict with the rural planning principles of the SEPP.

Booth Associates point out the Proposal is affected by 3 of the Ministers 117 Directions for the planning of rural land:

- Rezoning of rural land for residential purposes must be justified by a study. The report by Booth Associates provides such justification.
- Mineral resources need to be protected. None of the land proposed for rezoning or nearby is known to have any mineral resource significance.
- Quality agricultural holdings need to be retained at viable scale. None of the areas proposed for rezoning to R5 would compromise any professional farming operation. All of these parcels are already substantially fragmented rural holdings.

4.3 Section C – Environmental social and economic impact

None of the land proposed for rezoning demonstrates any natural resource values of significance. There is minimal native vegetation and the low density, 5-10 ha, proposed lot size for most of the lots would conserve existing trees.

The land poses no significant bushfire threat and potential homesites are likely to meet standard bushfire requirements.

There are no indications of hazards affecting the land and there is ample area for on-site sewage disposal.

No Aboriginal heritage items are known to exist on the land and no adverse impact is envisaged on any State or local heritage item or its curtilage.

Social values would be enhanced by adding residents in close proximity to Wellington and the villages of the Area. This would also assist in strengthening the economic base of Wellington and the Villages.

The additional variety of housing choice will help attract new residents with associated social and economic benefits.

Expanding the area of R5 zone will improve lot supply which is currently constrained around most settlements of the Area, while not unreasonably competing with existing R5 zones for lot supply.

4.4 Section D – State and Commonwealth interests

The proposal to rezone 8 small areas for large lot residential is not seen to invoke any issues of State or Federal significance. See also 4.2 for compliance with state and regional policies

5 COMMUNITY CONSULTATION

It is recommended this Planning Proposal be publicly exhibited for 4 weeks. The exhibition should include appropriate advertising in the local press and Council's web page. A copy of the exhibition package should be made available in each of the affected villages as well as at Council's Wellington office.

6 PROJECT TIMELINE

The draft timeline on the following page is Council's estimate of the timing to complete this Planning proposal, should it progress to gazettal of the new zones as recommended.

7 CONCLUSION

The strategy report by Booth Associates presents a sound argument for the proposed rezoning of 12 areas. While all 12 areas are supported in principle by Council, some more detailed servicing investigation is sought for four of the parcels and these 4 may come forward as part of a subsequent Planning Proposal.

The rezoning of the 8 areas detailed in this Planning Proposal will have positive economic and social benefits for Wellington and assist in ensuring diversity is maintained in living opportunities.

ITEM 11 DUAL OCCUPANCY

Reason for Report

To advise Councillors on the requirements for dual occupancy on land within the Wellington Local Government Area.

Background

Dual occupancy type dwellings were permitted with Council consent under the old 1995 Wellington Local Environmental Plan on land where the proposal was permitted, so dual occupancy is not new to the Local Government Area. It has become a more fashionable and affordable alternative for owners to build detached studios or granny flats on their land subject to development consent from Council.

The requirement under the current Wellington Local Environmental Plan 2012 allows dual occupancy on zoned lands as permissible with Council consent as long as the development complies with the following Clauses,

Part 4 Principal development standards

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

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

- (a) to minimise unplanned rural residential development,
- (b) to enable the replacement of lawfully erected dwelling houses and dual occupancies in certain rural and environmental protection zones.

(2) This clause applies to:

- (a) for the erection of a dwelling house—land in Zone RU1 Primary Production, Zone RU4 Primary Production Small Lots or Zone E3 Environmental Management, or
 - (b) for the erection of a dual occupancy—land in Zone RU1 Primary Production.
- (3) Development consent must not be granted for the erection of a dwelling house or a dual occupancy on land, and on which no dwelling house or dual occupancy has been erected, unless the land:
- (a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or
 - (b) is a lot created under an environmental planning instrument before this Plan commenced and on which the erection of a dwelling house or dual

occupancy was permissible immediately before that commencement, or

(c) is a lot resulting from a subdivision for which development consent (or equivalent) was granted under an environmental planning instrument before this Plan commenced and on which the erection of a dwelling house or dual occupancy would have been permissible if the plan of subdivision had been registered before that commencement, or

(d) is an existing holding, or

(e) would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) had it not been affected by:

(i) a minor realignment of its boundaries that did not create an additional lot, or

a subdivision creating or widening a public road or public reserve or for another public purpose.

Note. A dwelling cannot be erected on a lot created under clause 9 of State Environmental Planning Policy (Rural Lands) 2008 or clause 4.2.

(4) Development consent may be granted for the erection of a dwelling house or dual occupancy on land to which this clause applies if there is a lawfully erected dwelling house or dual occupancy on the land and the dwelling house or dual occupancy to be erected is intended only to replace the existing dwelling house or dual occupancy.

(5) In this clause:

existing holding means land that:

(a) was a holding on 26 June 1987, and

(b) is a holding at the time the application for development consent referred to in subclause (3) is lodged, whether or not there has been a change in the ownership of the holding since 26 June 1987, and includes any other land adjoining that land acquired by the owner since 26 June 1987.

holding means all adjoining land, even if separated by a road or railway, held by the same person or persons.

Note. The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

The above explains the legislative requirements for dual occupancy on rural type land however Part (2) of the Wellington Local Environmental Plan 2012 explains permitted or prohibited development on all land zones within the Local environmental Plan

Below is the following zones allowing dual occupancy under the Land use table,

Zone R1 General Residential

Permitted with consent

Air transport facilities; Airstrips; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Cellar door premises; Cemeteries; Community facilities; Correctional centres; Depots; Dwelling houses; Eco-tourist facilities; Environmental facilities; Extractive Industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Helipads; Home-based child care; Home businesses; Home industries; Home occupations (sex services); Industrial training facilities; Information and educational facilities; Intensive livestock agriculture; Intensive plant agriculture; Jetties; Landscaping material supplies; Open cut mining; Plant nurseries; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Veterinary hospitals; Water recreation structures; Water storage facilities

Zone R5 Large Lot Residential

Permitted with consent

Bed and breakfast accommodation; Building identification signs; Business identification signs; Community facilities; Dwelling houses; Emergency services facilities; Environmental facilities; Exhibition homes; Flood mitigation works; Home-based child care; Home businesses; Home industries; Home occupations (sex services); Information and education facilities; Recreation areas; Recreation facilities (outdoor); Roads; Water storage facilities

Zoned RU5 Village

Zoned B2 Local Centre

Zoned B6 Enterprise Corridor

Permitted with consent under Any other development not specified in item 2 or 4

Zoned RU4 Primary production small lots

Zoned RU3 Forestry

Zoned R2 Low Density Residential

Zoned IN1 General Industrial

Zoned IN2 Light Industrial

Zoned SP2 Infrastructure

Zoned SP3 Tourist

Zoned RE1 Public Recreation

Zoned RE2 Private Recreation

Zoned E3 Environmental management

Zoned E2 Environmental Conservation

Zoned W1 Natural waterways

Prohibited

The Wellington Development Control Plan 2013 Section F headed

Development Requirements for Standard Development Types deals with standards relating to land zoned R1,R2,R5, and RU5 and how site density controls apply on smaller type lots

The Development Control Plan also outlines what type of Developments require Notification and how that is carried out, table 1 shows that there is no requirement for Council to notify dual occupancy, however in some cases staff may carry out notification if they believe it is beneficial to the development and local amenity.

The Environmental Planning and Assessment Act 1979, Section 79C prescribes how a Consent Authority must carry out an evaluation of and Application under this clause and must consider the matters listed in this clause.

Major factors that are addressed in the assessment process are as follow,

1. Is the land connected to a Council sewer system
2. If the land is not connected to infrastructure is the land capable sustaining extra land applications with regard to On –site Sewerage Systems.
3. Does the development allow enough Active and passive recreation area on the site
4. Access to the site
5. Will the development cause fragmentation of land or give the perception of subdivision eligibility were it is prohibited
6. Site set- backs from boundaries
7. The second dwelling must not be larger than the main dwelling
8. RFS bush fire conditions apply on land that is identified as bush fire prone
9. Over development of land that is not capable of sustaining this type of development
10. Essential energy notification for extra usage on existing infrastructure
11. RMS referrals for developments on classified roads.

Conclusion

Dual Occupancy type development is allowed in certain zones within the Wellington Local Environmental Plan 2012, all Applications are assessed by staff in accordance with applicable legislation and policies and in some cases are assessed under a merit based system were irregularities occur in the planning instruments.

RECOMMENDATION:

That Council receive and note the information in relation to Dual Occupancy.

This is the final item in the Acting General Manager's Report.

Karen Roberts
Acting General Manager “