

Amendment to Blayney LEP 2012 - Rezone land from E3 Environmental Management to RU1 Primary Production

Proposal Title :	Amendment to Blayney LEP 2012 - Rezone land from E3 Environmental Management to RU1 Primary Production		
Proposal Summary :	Rezone land from E3 Environmental Management to RU1 Primary Production in Millthorpe, Neville, Barry and Hobbs Lane.		
PP Number :	PP_2015_BLAYN_001_00	Dop File No :	15/03784

Proposal Details

Date Planning Proposal Received :	20-Feb-2015	LGA covered :	Blayney
Region :	Western	RPA :	Blayney Shire Council
State Electorate :	BATHURST	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :			
Suburb :	Millthorpe	City :	Postcode :
Land Parcel :	Various lots		
Street :			
Suburb :	Neville	City :	Postcode :
Land Parcel :	Various lots		
Street :			
Suburb :	Barry	City :	Postcode :
Land Parcel :	Various lots		
Street :			
Suburb :	Hobbys Yard	City :	Postcode :
Land Parcel :	Various lots		

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DoP Planning Officer Contact Details

Contact Name : **Nicole Dukinfield**
Contact Number : **0268412180**
Contact Email : **nicole.dukinfield@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Mark Dicker**
Contact Number : **0263689602**
Contact Email : **mdicker@blayney.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Wayne Garnsey**
Contact Number : **0268412180**
Contact Email : **wayne.garnsey@planning.nsw.gov.au**

Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :
MDP Number :	Date of Release :
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :
No. of Lots : 0	No. of Dwellings (where relevant) : 0
Gross Floor Area : 0	No of Jobs Created : 0

The NSW Government Yes
Lobbyists Code of
Conduct has been
complied with :

If No, comment :

Have there been **No**
meetings or
communications with
registered lobbyists? :

If Yes, comment : **There have been no known meetings or communications with registered lobbyists.**

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes :

Adequacy Assessment

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Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The planning proposal clearly states that the objective of the proposal is to rezone the subject land from E3 Environmental Management to RU1 Primary Production to facilitate a wider range of land uses within the existing rural area.**

The planning proposal also seeks to include 'emergency services facility' as permissible with consent in the RU1 Primary Production land use table as this has been excluded by error.

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

Is an explanation of provisions provided? **Yes**

Comment : **The planning proposal seeks to amend the Blayney LEP 2012 by the following:**

Item 1: Rezone land currently zoned E3 Environmental Management to RU1 Primary Production by amending the following Land Zoning Map sheets:

- LZN_004
- LZN_004A
- LZN_005
- LZN_005B
- LZN_005C
- LZN_007

As a result of the planning proposal, the E3 Environmental Management zone will no longer be applicable within the Blayney Local Government Area (LGA). The following administrative amendments will occur as a result:

- **The entire LZN map series will be amended to remove zone E3 Environmental Management from the legend and zone the land RU1 Primary Production. There will be no change to minimum lot size.**
- **Reference to the E3 Environmental Management zone will be deleted from the Land Use Table of the Blayney LEP 2012.**
- **Reference to the E3 Environmental Management zone will be deleted from clause 4.1AA, 4.1A and 4.2A of the Blayney LEP 2012.**

Item 2: Insert the land use 'emergency services facility' as permissible with consent in the RU1 Primary Production land use table.

This is not necessary because of clauses 47 and 48 of SEPP (Infrastructure) 2007 which makes the use permissible with consent in zone RU1 Primary Production.

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

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.3 Heritage Conservation

4.4 Planning for Bushfire Protection

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 No 30—Intensive Agriculture

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Exempt and Complying Development Codes) 2008

SEPP (Infrastructure) 2007

SEPP (Mining, Petroleum Production and Extractive Industries)

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2007
SEPP (Rural Lands) 2008

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

Relevant Section 117 Directions

1.2 Rural Zones: This direction applies as the planning proposal includes provisions affecting land within a proposed rural zone. Although the planning proposal seeks to increase the permissible land uses on the subject land, there is no change to the density of the land. The proposal is not inconsistent with this direction.

1.3 Mining, Petroleum Production and Extractive Industries: This direction applies if a planning proposal seeks to prohibit or restrict the development of the land for mining, production or extractive purposes. As the planning proposal does not include such provisions, the proposal is not inconsistent with this direction.

1.5 Rural Lands: This direction applies as the planning proposal affects land within an existing and proposed rural and environmental zone. The direction states that if applicable, the planning proposal must be consistent with the Rural Planning Principles listed in SEPP (Rural Lands) 2008. The planning proposal seeks to provide for agricultural land uses by rezoning land from zone E3 Environmental Management to zone RU1 Primary Production. The existing E3 Environmental Management zone is in place over the subject land is part of two drinking water catchments for the region. However, the Blayney LEP utilises clause 6.5 Drinking Water Catchment which aims to minimise the adverse impacts of development on the quality and quantity of water entering drinking water storages through detailed provisions for development assessment. It is considered that this clause provides protection of the catchment and the E3 Environmental Management zone is unnecessary, as it allows similar uses to zone RU1 Primary Production. Therefore the planning proposal meets the principles listed in SEPP (Rural Lands) 2008 and is consistent with this direction.

2.1 Environmental Protection Zones: This direction applies when preparing a planning proposal and must ensure that provisions facilitate the protection and conservation of environmentally sensitive areas, as well as not reducing the environmental protection standards that apply to land within an environmental zone. As the planning proposal seeks to rezone land from zone E3 Environmental Management to zone RU1 Primary Production, this direction applies. While the planning proposal removes the E3 zone it does not reduce the environmental protection of the land or modify development standards that apply to the land, therefore the planning proposal is consistent with this direction.

2.3 Heritage Conservation: This direction applies when a planning proposal is prepared and the planning proposal must contain provisions that facilitate the conservation of heritage. As the planning proposal does not propose to amend any heritage items or provisions, the planning proposal is consistent with this direction.

4.4 Planning for Bushfire Protection: This direction applies when a planning proposal affects land that is mapped as bushfire prone land. The planning proposal indicates that part of the subject land is mapped as bushfire prone, therefore Council will be required to consult with the NSW Rural Fire Service to ensure the planning proposal is consistent with the 'Planning for Bushfire Protection 2006' guidelines. A condition will be imposed on the Gateway Determination to this effect to be addressed at section 59 stage.

6.1 Approval and Referral Requirements: This direction applies when a planning proposal is prepared. This direction states that a planning proposal must minimise the inclusion of provisions that require concurrence, consultation of referral of a Minister or public authority. As the planning proposal does not include any such provisions, the planning proposal is consistent with this direction.

6.2 Reserving Land for Public Purposes: This direction applies when a planning proposal creates, alters or reduce existing zonings or reservations of land for public

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purposes. As the planning proposal does not include such provisions, the planning proposal is consistent with this direction.

Relevant SEPPs

SEPP No. 30 – Intensive Agriculture: This SEPP contains provisions for the development of some types of intensive agriculture which will be permitted with consent if the subject land is rezoned to RU1 Primary Production. The planning proposal is consistent with this SEPP.

SEPP No. 44 – Koala Habitat Protection: This SEPP contains provisions that ensure Council must consider whether there is a koala habitat on the subject land during assessment of a development application. There are no matters for consideration in regard to the planning proposal under this SEPP.

SEPP No. 55 – Remediation of Land: Clause 6 of this SEPP states that any planning proposal must consider whether the land is contaminated and whether previous activities have potentially contaminated the land. Agricultural activities are listed in the 'Managing Land Contamination Guidelines' as being activities that may cause contamination, however as the land has historically been used for agricultural purposes and is within a rural setting, the use of the land will not change as a result of the planning proposal. Therefore the planning proposal is considered consistent with this SEPP.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007: This SEPP includes provisions to provide for the management and development of land for mining, petroleum production and extractive industries purposes. The planning proposal is consistent with this SEPP.

SEPP (Rural Lands) 2008: This SEPP includes principles for rural development. These principles include recognition of the value of agricultural land uses, identification and protection of land with environmental values, and the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing. The planning proposal is consistent with this SEPP as proposed landuses are similar. The planning proposal seeks to provide for agricultural land uses by rezoning the land from zone E3 Environmental Management to zone RU1 Primary Production. As dwelling houses are already permissible within the existing E3 Environmental Management zone (and with no minimum lot size changes), the existing dwelling density will remain. The land uses currently allowed under zone E3 Environmental Management are similar to those in proposed zone RU1 Primary Production. Therefore the planning proposal is consistent with this SEPP.

SEPP (Exempt and Complying Development Codes) 2008: This SEPP outlines development types which can be carried out without consent or with a complying development certificate to streamline development without Council Consent. Rezoning the land to RU1 Primary Production will enable landowners to utilise the Code for exempt and complying development.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment :

Adequate locality maps have been provided in the planning proposal to identify the land subject to the proposed rezoning.

A condition will be imposed on the Gateway determination requiring the preparation of amending the Land Zoning Map series in accordance with the standard technical requirements for LEP maps.

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Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council proposes to provide public notice of the planning proposal for a 28 day period. Notification will also be placed in the local newspaper and Council proposes to notify all landowners affected by the zoning change.**

Council's proposed community consultation is acceptable.

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 :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Blayney Local Environmental Plan 2012 was gazetted on 23 November 2012.**

Assessment Criteria

Need for planning proposal : **The planning proposal is not a result of any specific study or report.**

The planning proposal has been submitted to facilitate a wider range of land uses in the drinking water catchments of Blayney LGA. The planning proposal states that the existing E3 Environmental Management zone was initially implemented as a result of the Subregional Land Use Strategy (2008) which recommended a specific environmental zoning for land within the drinking water catchments. This was a mechanism used at that time. However, the planning proposal indicates that other mechanisms have been utilised (including clause 6.5 Drinking Water Catchments of the Blayney LEP) which provides sufficient protection for the drinking water catchments against hazardous development.

As an 'emergency services facility' is permissible with consent under the existing E3 Environmental Management zone, the proposal to include this land use term as permissible with consent in the RU1 Primary Production zone is an acceptable use, however is permissible under SEPP (Infrastructure) 2007 and is not required to be inserted into the RU1 Primary Production land use table.

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Consistency with strategic planning framework :

The planning proposal is inconsistent with the Subregional Land Use Strategy (2008) as the Strategy states that an E3 Environmental Management zone should be implemented to ensure adequate protection of the drinking water catchments at that time. However, the planning proposal provides justification that other mechanisms are in place, including clause 6.5 Drinking Water Catchments of the Blayney LEP 2012 which ensures that any development application that is submitted on subject land must consider any adverse impacts that the development may cause and Council can only grant development consent if satisfied that any adverse impacts are avoided. It is considered that the justification for the planning proposal is appropriate and the inconsistency with the Strategy is of minor significance in this case.

As one of two catchment areas falls on the boundary of the Orange/Blayney LGA boundary, the proposal will result in the catchment area being split zoned as Orange LGA implements a E3 zone within its catchments. As Orange LGA also utilise the drinking water catchment clause within their LEP, the same amount of protection will remain in both Blayney and Orange.

In addition, the land use tables for the E3 and RU1 zones are similar with the RU1 zone permitting with consent some additional agricultural and infrastructure uses.

Environmental social economic impacts :

As the subject land is identified as being within drinking water catchments, there may be environmental impacts as a result of permitting additional uses on the land (particularly intensive agricultural uses). Council will need to consider these issues at development assessment stage utilising clause 6.5 Drinking Water Catchments to ensure any adverse impacts are minimised or mitigated.

The subject land is also identified as bushfire prone land. Council will need to consult with the NSW Rural Fire Service to ensure consistency with the Planning for Bushfire Protection 2006 guidelines and address the matter within their Section 59 submission. A condition to this effect will be imposed on the Gateway Determination.

The planning proposal may result in economic benefits to the Blayney LGA, by permitting additional land uses which may generate opportunities for employment and additional agricultural production activities. The planning proposal will also allow landowners to access exempt and complying development for land zoned RU1 Primary Production.

Assessment Process

Proposal type : **Consistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - s56(2)(d) : **Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
Department of Health
NSW Rural Fire Service
State Water Corporation
Adjoining LGAs
Other**

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 :

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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
Planning proposal - E3 to RU1 FINAL.pdf	Proposal	Yes
Cover letter e3 to ru1.pdf	Proposal Covering Letter	Yes
3 Request for Initial Gateway Determination.pdf	Proposal Covering Letter	Yes
Council report.pdf	Proposal	Yes
Resolution of Council.pdf	Proposal	Yes
Att 3 Blayney Attachment 5 - Delegated Plan Making Reporting template.docx	Determination Document	No

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.5 Rural Lands**
- 2.3 Heritage Conservation**
- 4.4 Planning for Bushfire Protection**

Additional Information :

- 1. Prior to public exhibition the planning proposal is to be amended to remove the reference to 'emergency services facilities' in zone RU1 Primary Production as such use is permitted under clauses 47 and 48 of SEPP (Infrastructure) 2007.**
- 2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 as follows:**
 - (a) The planning proposal must be made publicly available for a minimum of 28 days; and**
 - (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 (Planning & Infrastructure 2013).**
- 3. Consultation is required with the following agencies under Section 56(2)(d) of the Environmental Planning and Assessment Act 1979:**
 - a. Department of Planning and Environment - Office of Environment and Heritage**
 - b. Local Land Services - Central Tablelands**
 - c. Department of Primary Industries – Agriculture**
 - d. Department of Health**
 - e. NSW Office of Water**
 - f. NSW Rural Fire Service**
 - g. State Water Corporation**

The agencies above are to be provided with a copy of the planning proposal and any

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relevant supporting material, and given at least 21 days to comment on the proposal.

4. Consultation is required with Bathurst Regional Council, Cabonne Council, Cowra Shire Council and Orange City Council. The local governments are to be provided with a copy of the planning proposal and any relevant supporting material.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Environmental Planning and Assessment Act 1979. 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).

6. Prior to submission of the planning proposal under section 59 of the Environmental Planning and Assessment Act 1979, LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for LEP Maps'.

7. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons :

The planning proposal is supported as it is considered that existing mechanisms within the Blayney LEP 2012 will provide protection against development with the potential for adverse impacts in the drinking water catchments. The planning proposal also provides additional economic opportunities for landowners by allowing a range of agricultural activities in an existing rural setting.

The planning proposal will not increase the density of dwelling houses on the land as current lot size restrictions and dwelling house opportunities will remain.

The inclusion of 'emergency services facility' is unnecessary as SEPP (Infrastructure) 2007 allows such use.

As the planning proposal is inconsistent with the local strategy and the broader State government policy for E zones is yet to be finalised, the planning proposal is to be considered by the Executive Director, Regions.

Signature:



Printed Name:

Nicole Dukinfeld

Date:

4/3/15

Endorsed
W Gamsay
TLWR
4/3/15