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***Amending Planning Proposal No. 6 – Part 4 Principal Development Standards***

Component 1 Clause 4.1AA Minimum Subdivision Lot Size for Community Title Schemes

Component 2 Clause 4.1A Minimum Subdivision Lot Size for Strata Plan Schemes in certain rural, residential and environment protection zones

Component 3 Clause 4.1B Subdivision in Zone E3 and Zone E4

Component 4 New Clause 4.1E Exceptions to minimum subdivision lot size for boundary adjustments in Zones RU1, RU4, R5, E3 and E4

**A14/6267 – Revised 6 May 2014**

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**Preliminary**

Planning Proposal Amendment No. 6 explains proposed amendments to the *Armidale Dumaresq Local Environmental Plan 2012* (LEP 2012). It has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act* *1979* and the NSW Planning and Infrastructure’s ‘*A guide to preparing Planning Proposals’.*

The Planning Proposal seeks to amend LEP 2012 Part 1 Preliminary and Part 4 Principal Development Standards of LEP 2012 to:

* Include Zone R2 Low Density Residential in Clause 4.1AA(2) *Minimum subdivision lot size for community title schemes* (Attachment 1); and
* Include Zone R2 Low Density Residential in Clause 4.1A(2) *Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones* (Attachment 1); and
* Amend a drafting error in Clause 4.1B(3)(a)(i) to allow buildings on *part of a resulting lot* that contains land in the E3 Environmental Management zone (Attachment 2).
* Include an additional Clause in Part 4.1 (new Clause 4.1E) to allow minor boundary adjustments where those boundary adjustments will not create additional lots, additional dwelling entitlements or have an adverse impact on the environmental values or agricultural viability of the land, or environmental characteristics of the lots and the surrounding locality (Attachment 3).

For the purposes of coherence, the matters have been divided into four components:

**Component 1:** Clause 4.1AA Minimum subdivision lot size for community title schemes.

**Component 2** Clause 4.1A Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones.

**Component 3:** Clause 4.1B Subdivision in Zone E3 and Zone E4.

**Component 4:** Clause 4.1E Exceptions to minimum subdivision lot size for boundary adjustments in the RU1, RU4, R5, E3 and E4 zones.

The Planning Proposal is further detailed in the 'Background' section of this report.

**Background**

**Components 1 & 2**

Armidale Dumaresq Council converted the *Armidale Dumaresq Local Environmental Plan 2008* (LEP 2008) into the standard instrument format in 2012. The LEP 2012 was intended to be a "translation LEP" with no significant changes from the ‘intent’ of LEP 2008.

Provisions for strata and community title subdivision of land were not referenced in LEP 2008; however, the minimum lot sizes for subdivision; and for dwelling houses and dual occupancies in the 2(b) Low Density Residential were stipulated. Consent for subdivision under LEP 2008 required a lot to have an area of at least 4000m2; and, where dual occupancy was permitted with consent, the lot was required to have an area of at least 8000m2.

In the translation from LEP 2008 to LEP 2012, the impact of not including Zone R2 in Clause 4.1AA and Clause 4.1A was unforseen. This means that an application for strata subdivision or community title on the land has the potential to increase the number of lots created under the plan and create additional dwelling entitlements.

The potential for allowing development intensity that is more characteristic of that permissible in R1 General Residential zone has a direct impact on road infrastructure and service provision. The current minimum standards for infrastructure provision in Zone R2 do not allow for an increased density of development to be adequately serviced.

**Component 3**

Component 3 relates to the wording in 4.1B(3)(a)(i) of Part 4 Principal Development Standards. Clause 4.1B relates to Subdivision in Zone E3 Environmental Management and Zone E4 Environmental Living.

This amendment is proposed to correct a drafting error that distorts the original intent of the clause. This occurred in the transition between Armidale Dumaresq LEP 2008 and LEP 2012, where Parliamentary Counsel replaced the localised wording from LEP 2008.

Clause 4.1B applies to a lot that contains land in both Zone E3 Environmental Management and Zone E4 Environmental Living (a ‘split zone’). The current wording does not reflect the desired outcomes in relation to the placement of buildings on a lot that contains land in both the Zone E3 and Zone E4.

The clause allows for subdivision of original lots into ***resulting lots*** that areless than the minimum size shown on the Lot Size Map for the land, but only where no buildings will be erected on any ***resulting lots*** that contain land in Zone E3 Environmental Management. This has the effect of not allowing a building on **any** resulting lot resulting from a subdivision of land that contains land in Zone E3, even if it also contains land in Zone E4.

Current Clause wording

4.1B(3)(a)(i) no buildings will be erected ***on any resulting lots***that contain land in Zone E3 Environmental Management.

Proposed Clause wording

4.1B(3)(a)(i) no buildings will be erected on the ***part of a resulting lot*** that contains land in Zone E3 Environmental Management.

This amendment is intended to apply the intent of the clause, and will have the result of allowing a building to be constructed on the part of the resulting lot that is Zoned E4, where the lot is identified as a ‘split zone’. This will have the outcome of preserving the environmental amenity of Zone E3 land whilst allowing development on land in Zone E4 where there is a greater capability to support low density development.

**Component 4**

Component 4 introduces a new clause in Part 4 Principal development standards. This clause is intended to provide flexibility in the application of boundary adjustment provisions in the *RU1 Primary Production, RU4 Primary Production Small Lots, E3 Environmental Management, E4 Environmental Living and R5 Large Lot Residential* zones.

The new clause creates a provision to permit a boundary adjustment (subdivision) in the above zones to effect the realignment of boundaries between lots where one or both lots do not meet the minimum lot size shown on the LEP 2012 Lot Size Map.

This amendment will allow landholders to make boundary adjustments to provide improved land management outcomes and to give landholders greater opportunity to achieve the objectives of the zone. The clause will only be implemented where there are no adverse impact on the long-term agricultural production potential or environmental characteristics of the lots and the surrounding locality, and where there will be no additional lots or dwelling entitlements created by the boundary adjustment.

## Objectives and intended outcomes

**Components 1 & 2**

The objective of Components 1 & 2 is to ensure that the Minimum Subdivision Lot Size provisions are applied to subdivision under a strata plan or a community title scheme in the R2 Low Density Residential zone (Zone R2).

The intended outcomes are to ensure that the primary objective of the Zone R2, that is, ‘To provide for the housing needs of the community within a low density residential environment’ is met, and that the development intensity in Zone R2 is supported by infrastructure provisions that are adequate to service any future development in this zone.

**Component 3**

The objective of Component 3 is to correct a drafting error that affects the intent and application of the clause. The error relates to the wording in Clause 4.1B(3) Subdivision in Zone E3 and Zone E4. The current wording prevents any buildings on any resulting lots of a subdivision that that contains land in Zone E3 Environmental Management.

The intended outcome is to allow a building to be constructed on the *part of a resulting lot* that is located in Zone E4, where the lot has land in both Zone E3 and Zone E4. This will preserve the environmental amenity of Zone E3 land, and allow development on land in Zone E4 (where the land has been zoned to support low impact development).

**Component 4**

The objective of Component 4 is to provide flexibility in the application of boundary adjustment provisions in the *RU1 Primary Production, RU4 Primary Production Small Lots, E3 Environmental Management, E4 Environmental Living and R5 Large Lot Residential* zones under LEP 2012.

The intended outcome is to permit subdivision in the above zones to effect the realignment of boundaries between lots where one or both lots do not meet the minimum lot size shown on the LEP 2012 Lot Size Map. This amendment will provide improved land management outcomes and additional options for boundary adjustments on the basis that no additional lots or dwelling entitlements would be created.

## Explanation of provisions

The proposed outcomes will be achieved by making the following amendments to the LEP 2012 instrument:

Add Zone R2 Low Density Residential to Clause 4.1AA(2) of LEP 2012;

Add Zone R2 Low Density Residential to Clause 4.1A(2) of LEP 2012;

Replace the wording in Clause 4.1B(3)(a)(i) with the following amending wording:

“no buildings will be erected on any ***part of a resulting lot that contains*** land in Zone E3 Environmental Management, and”.

Add a new local provision - Clause 4.1E Boundary adjustments in the RU1, RU4, R5, E3 and E4 zones. The wording of this clause is outlined in Attachment 3.

## Justification

### Need for the Planning Proposal

#### Is the Planning Proposal a result of any strategic study or report?

**Components 1 & 2**

The Planning Proposal is not the result of a strategic study or report; however, it is consistent with the strategic planning direction outlined in the *New England Development Strategy 2010* (NEDS) to provide low density residential zoned land on the fringes of the Armidale urban area.

**Component 3**

Not applicable.

**Component 4**

The proposal to amend the LEP and introduce an additional provision for the subdivision of rural land is not the subject of a specific strategic study or report. It is, however, consistent with the strategic planning direction out in the NEDS which aims, in part, to support and protect agricultural and related rural activities.

#### Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A Planning Proposal is the only legal method of amending a local environmental plan to amend or apply new development standards.

### Relationship to strategic planning framework

#### Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The *New England North West Strategic Regional Land Use Plan 2012* (SRLUP) represents the NSW State Government’s proposed framework to support growth, protect the environment and respond to competing land uses, whilst preserving key regional values over the next 20 years. It includes a particular focus on the protection of agricultural land and the recent growth of mining activities and emergence of the coal seam gas industry.

Actions in the SRLUP where local councils are the lead agencies and are relevant to this Planning Proposal are discussed below:

**Components 1 & 2**

Chapter 4 – Infrastructure Action 4.3 – Local environmental plans are to ensure housing and employment development occurs in areas which can be appropriately serviced.

The SRLUP requires Council to ensure housing is appropriately serviced. The intensification of development on low density residential zoned land through a community title scheme or strata plan scheme is in conflict with the current requirements for infrastructure provision in Council’s Engineering Code and the Armidale Dumaresq Development Control Plan 2012. These documents provide for lesser provisions in Zone R2 relative to the capacity requirements of the site. The addition of Zone R2 to Clauses 4.1AA and 4.1A improve the infrastructure provision outcomes for this zone.

*Chapter 6 – Housing and Settlement* Action *6.1* – *Local councils will prepare land and housing supply strategies that identify sufficient land to facilitate an adequate supply of appropriately located housing to meet identified demand*.

*Chapter 6 – Housing and Settlement* Action 6.2 – Local councils will zone land through their LEPs to ensure an adequate supply of land for residential development and to facilitate delivery of a range of housing types.

Chapter 6 – Housing and Settlement Action 6.3 – Local councils will ensure that new residential development makes a positive contribution to liveability and character by ensuring residential areas are planned in accordance with the settlement principles in this plan.

In reference to the above three Housing and Settlement actions, the SRLUP requires Council to ensure housing is located appropriately, and there is adequate supply to meet demand. The Zone R2 land has been zoned according to the principles and intent of these clauses. Therefore the impact of more intensive development on the low density zoned land through community title or strata subdivision is not consistent with the SRLUP Housing and Settlement actions.

**Component 3**

Not applicable.

**Component 4**

Chapter 3 – Balancing Agriculture and Resource Development Action 3.3 – *Include appropriate zonings and provisions in local environmental plans to protect agricultural land including, as a minimum, mapped strategic agricultural land.*

The new boundary adjustment clause supports the protection of agricultural land by enabling rural landholders to alter boundaries to achieve better land management outcomes and to be responsive to the changing nature of modern agricultural operations.

#### Is the Planning Proposal consistent with a council’s local strategy or other local strategic plan?

1. The *New England Development Strategy* (NEDS) (WorleyParsons 2010) was prepared for Armidale Dumaresq, Guyra Shire, Uralla Shire and Walcha Councils. The Strategy, which has a timeframe to 2032, outlines key land use policies and principles for the four council areas and provides the planning context for the preparation of LEP provisions. The Strategy informed preparation of LEP 2012. The NEDShas been prepared to identify land use planning objectives and strategies to guide growth and change in the Armidale Dumaresq local government area. The Strategy was adopted by Council and endorsed by the Director-General of the Department of Planning and Infrastructure.

2. The *Community Strategic Plan 2011-2028* does not refer explicitly to planning or land use matters. It does, however, require Council to maintain Council’s assets in water, sewer, waste and drainage.

**Components 1 & 2**

The Planning Proposal supports the objectives of the NEDS in providing low density residential zoned land on the fringes of the Armidale urban area. The intent of the strategy is to supply a mix of dwelling and allotment sizes in new development areas on the periphery of the city.

The Zone R2 land is identified in the strategy as a low density residential growth area. R2 land was zoned with the zone objectives, future projections for demand and supply of low density residential land, constraints and consideration of the provisions for infrastructure. Land zoned R2 Low Density Residential has a minimum lot size of 4000m2.

This Planning Proposal seeks to restrict development where there is a conflict with these zoning objectives.

The Zone R2 land provides a transition between the smaller lot sizes of the R1 General Residential zone (MLS 500m2) and the larger lots provided for in the R5 Large Lot Residential zone (MLS 1-2ha).

The minimum lot size provisions in LEP 2012 Clause 4.1 do not apply in relation to the subdivision of individual lots in a strata plan or community title scheme. This allows for subdivision to a greater lot density than that applies to lots subdivided under the minimum lot size provisions outlined in Clause 4.1.

The number of lots that may be allowed by the application of a community title scheme is greater than the number of lots in a minimum lot size subdivision, without having to provide increased infrastructure provisions for the potential intensity of development on these sites. The Community Strategic Plan 2013-2018 particularly requires Council to recognise the provision of infrastructure as part of land use planning, including water sewer and stormwater utilities and services, and bicycle and transport services.

The amendment to Clauses 4.1AA and 4.1 supports the objectives of the Community Strategic Plan in relation to infrastructure provision.

**Component 3**

The City of Armidale *Environmental Protection Zone Review* supports the retention and enhancement of the visual significance of lands in Zone E3 Environmental Management, while accommodating appropriate development in the E4 Environmental Living zone. The amendment to this clause supports the objectives of these studies.

**Component 4**

The proposal to introduce an additional provision to allow boundary adjustments (subdivision) of rural land is not the subject of a specific strategic study or report. It is, however, consistent with the strategic planning direction outlined in the NEDS whose aims, in part, are to support and protect agricultural and related rural activities.

The study recognises the importance of maintaining holding sizes while encouraging a range of agricultural activities to continue or be developed as the opportunity arises. This clause is consistent with the local strategy as it provides for changed land use patterns that achieve better land management outcomes and support variable agricultural operations as they change over time.

#### Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

Refer to Appendix 1: Consideration of State Environmental Planning Policies.

#### Is the Planning Proposal consistent with applicable Ministerial Directions (s. 117 directions)?

Refer to Appendix 2: Consideration of Section 117 Ministerial Directions.

### Environmental, social and economic impact

#### Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

**Components 1 & 2**

Some parcels of land in Zone R2 have identified flora and fauna constraints on the land. The application of the minimum subdivision lot size for Zone R2 in Clause 4.1AA and 4.1A may consequently protect land with environmental constraints.

**Component 3**

Not applicable.

**Component 4**

The proposed new clause will not automatically confer a right to adjust boundary lines. Matters for consideration in the consent process include the impact on critical habitat or threatened species, populations or ecological communities, or their habitats.

#### Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

**Components 1 & 2**

The Zone R2 land has varying constraints, including but not limited to bushfire, flora and fauna, potential contamination and heritage. It is not envisaged that the application of this Planning Proposal will have any adverse environmental effects or impacts. Environmental effects are matters for consideration in the development consent process.

**Component 3**

The change proposed by this Planning Proposal will likely improve environmental outcomes by limiting development on Zone E4 land and ensuring development in split zones is located on the portion that contains land in Zone E3. This has the effect of protecting and promoting regeneration of native vegetation in the environmental management and hilltop areas, while allowing low density development in the portion of the land that is zoned for environmental living.

**Component 4**

This clause requires assessment of a range of environmental outcomes of the proposed development. These matters for consideration will be subject to assessment in the consent process.

#### How has the Planning Proposal adequately addressed any social and economic effects?

The social and economic benefits of the Planning Proposal are considered to be positive. The proposal reinforces the objectives of Council’s environmental planning instruments and creates flexibility to implement improved land use outcomes.

### State and Commonwealth interests

#### Is there adequate public infrastructure for the Planning Proposal?

The subject lands are generally serviced by road, electricity and telecommunications infrastructure. The proposal is intended to allow subdivision to occur at a density equivalent to the provisions on the Minimum Lot Size Map. Improvements to public infrastructure will be applied at the consent stage of any development.

#### What are the views of State and Commonwealth Public Authorities consulted in accordance with the Gateway determination?

It is noted that the Planning Proposal affects multiple lots of land, some of which are bush fire prone, have identified flora and fauna and/or other constraints. The application of these amendments will not provide the potential for an increase in the number of lots or dwelling houses on the subject land. It is proposed to consult with the NSW Rural Fire Service upon receiving a Gateway Determination for the Planning Proposal. The current requirements for other constraints assessment will be a matter for consideration at development consent.

## Mapping

No mapping amendments are required in the application of this Planning Proposal.

## Community Consultation

The proposed public consultation process is outlined below.

**Community Consultation - Post Gateway Determination**

It is considered that the proposal is a “low impact Planning Proposal” under Section 5.2.2 of *“A guide to preparing local environmental plans”* as the Planning Proposal is:

* consistent with the pattern of surrounding land use zones and/or land uses
* consistent with the strategic planning framework
* presents no issues with regard to infrastructure servicing
* not a principal LEP
* does not reclassify public land.

Consultation will be undertaken with the NSW Rural Fire Service under section 56(2)(d) of the EP&A Act. The NSW Rural Fire Service will be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

Community consultation will commence by giving notice of the public exhibition of the Planning Proposal:

in a newspaper that circulates in the area affected by the Planning Proposal;

on Council’s web-site at www.armidale.gov.au.

The number of affected and adjoining landowners makes individual notification impractical.

Written notice will be provided to relevant Government Departments and agencies, service providers and other key stakeholders where required in the Gateway Determination.

The written notice will provide:

a description of the objectives or intended outcomes of the Planning Proposal;

the land affected by the Planning Proposal;

advice where and when the Planning Proposal can be located and viewed;

the contact information for the receipt of submissions;

the closing date for submissions; and

advice on whether the Minister has chosen to delegate the making of the LEP to the Council.

During the exhibition period, the following material will be made available:

the Planning Proposal, including appendices and attachments, in the form approved for community consultation by the Gateway Determination;

the Gateway Determination; and

any technical or other information relied upon by the Planning Proposal.

At the conclusion of the notification and public exhibition period Council staff will consider submissions made concerning the proposed LEP and prepare a report to Council.

It is considered that, because of the low impact nature of the proposal, a Public Hearing will not be required.

## Project timeline

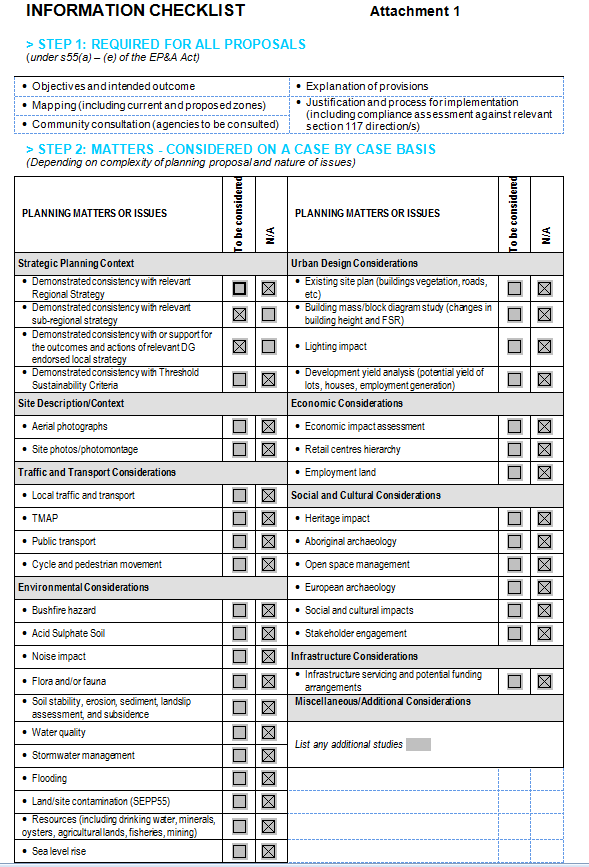
The project timeline for the Planning Proposal is as follows. There are many factors that can influence compliance with the timeframe including the cycle of Council meetings, the outcome of agency consultation and the number and content of submissions from the public exhibition. Consequently the timeframe should be regarded as indicative only.

###### Table 1: Project Timeline

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| **Task** | **Anticipated timeframe** |
| Anticipated date of Gateway Determination. | May 2014 |
| Anticipated timeframe for completion of required technical information and/or studies, if required. | Technical studies have not been identified as a component of this planning proposal. |
| Timeframe for Government agency consultation. | June 2014 |
| Any changes made to Planning Proposal resulting from technical studies and government agency consultations. Resubmit altered Planning Proposal to Gateway panel. Revised Gateway determination issued, if required. | If required, completed by June 2014 |
| Commencement and completion dates for public exhibition.  Assumed that the Gateway Determination advises a minimum 14 day public exhibition period for ‘low impact’ proposals. | June/July 2014 |
| Date of public hearing. | It is considered unlikely that a public hearing will be required. |
| Timeframe for consideration of submissions. | 3 weeks |
| Anticipated date of submission to Planning and Infrastructure, and to Parliamentary Counsel seeking an Opinion. | August 2014 |
| Anticipated date RPA will receive Opinion. | August 2014 |
| Anticipated date RPA will make the Plan under delegation. | September 2014 |
| Anticipated date RPA will forward the Plan to Planning and Infrastructure for notification. | September 2014 |

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| SEPP | Applicable | Consistent | Comment |
| SEPP No. 32 Urban Land Consolidation (Redevelopment of Urban Land) | Yes | Yes | SEPP No. 32 applies to land that is the subject of this Planning Proposal. The provisions of SEPP 32 will be applied to the relevant zoned land at the time of any proposed development. |
| SEPP No. 36 Manufactured Home Estates | Yes | Yes | SEPP No. 36 applies to land that is the subject of this Planning Proposal. The provisions of SEPP 36 will be applied to the relevant zoned land at the time of any proposed development. |
| SEPP No. 44 Koala Habitat Protection | Yes | Yes | SEPP No. 44 applies to land that is the subject of this Planning Proposal. The provisions of SEPP 44 will be applied to the relevant zoned land at the time of any proposed development. |
| SEPP No. 55 Remediation of Land | Yes | Yes | SEPP No. 55 applies to land that is the subject of this Planning Proposal. The provisions of SEPP 55 will be applied to the relevant zoned land at the time of any proposed development. |
| SEPP No. 64 Advertising and Signage | Yes | Yes | SEPP No. 64 applies to land that is the subject of this Planning Proposal. The provisions of SEPP 64 will be applied to the relevant zoned land at the time of any proposed development. |
| SEPP Mining, Petroleum Production and Extractive Industries 2007 | Yes | Yes | SEPP Mining, Petroleum Production and Extractive Industries 2007 applies to land that is the subject of this Planning Proposal. The provisions of SEPP Mining, Petroleum Production and Extractive Industries 2007 will be applied to the relevant zoned land at the time of any proposed development. |
| SEPP Infrastructure 2007 | Yes | Yes | SEPP Infrastructure permits certain infrastructure and services in zones to which this Planning Proposal applies. |
| SEPP Rural Lands 2008 | Yes | Yes | SEPP Rural Lands applies to land that is the subject of this Planning Proposal and will be applied to the relevant zoned land at the time of any proposed development. |
| SEPP Exempt and Complying Development Codes 2008 | Yes | Yes | SEPP Exempt and Complying Development Codes 2008 provides development standards for certain exempt and complying development in the zones that are the subject of this Planning Proposal. |
| SEPP Housing for Seniors or People with a Disability 2004 | Yes | Yes | SEPP Housing for Seniors or People with a Disability 2004 applies to land that is the subject of this Planning Proposal. The provisions of SEPP Housing for Seniors or People with a Disability 2004 will be applied to the relevant zoned land at the time of any proposed development. |
| SEPP Building Sustainability Index: BASIX 2004 | Yes | Yes | Building Sustainability Index: BASIX 2004 provides development standards for certain development in the zones that are the subject of this Planning Proposal. |
| SEPP Affordable Rental Housing 2009 | Yes | Yes | SEPP Affordable Rental Housing 2009 applies to land that is the subject of this Planning Proposal. The provisions of SEPP Affordable Rental Housing 2009 will be applied to the relevant zoned land at the time of any proposed development. |
| SEPP (State and Regional Development) 2011 | Yes | Yes | Consistent with the SEPP aims and objectives. |

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| Direction | Applicable | Consistent | Comment |
| 1. Employment and Resources | | | |
| 1.2 Rural Zones | Yes | Yes | Consistent with Clause 4(a) & (b) of this Direction. |
| 1.5 Rural Lands | Yes | Yes | Consistent with Clauses 4 & 5 of this Direction and the relevant sections of the applicable SEPP (Rural Land) 2008. |
| 2. Environment and Heritage | | | |
| 2.1 Environmental Protection Zones | Yes | Yes | Consistent with this Direction as it is intended to protect and conserve land in environmental protection zones. |
| 2.3 Heritage Conservation | Yes | Yes | Consistent with this Direction as it is intended to protect and conserve heritage items in accordance with relevant heritage legislation. |
| 3. Housing, Infrastructure and Urban Development | | | |
| 3.1 Residential Zones | Yes | Yes | Consistent with Clause 4 & 5 of this Direction. Components 1 & 2 of this Planning Proposal specifically relate to applying the zoning objectives of Zone R2. The implementation of this Planning Proposal will ensure that Clause 4 & 5 of this Direction can be applied to Zone R2 land. |
| 3.4 Integrating Land Use and Transport | Yes | Yes | Consistent with Clause 4 of this Direction. |
| 4. Hazard and Risk | | | |
| 4.3 Flood Prone Land | Yes | Yes | The Planning Proposal applies to land that is flood prone. The Planning Proposal applies provisions that are consistent with Direction 4.3.  Clauses 4: The proposal is consistent with the *NSW Flood Prone Land Policy* and the principles of the *Floodplain Development Manual 2005.*  Clauses 5: There is no proposed rezoning within the flood planning areas in the named zones.  Clause 6: The proposal does not contain specific provisions that relate to the matters listed in Clause 6(a) to 6(e).  Clause 7: The proposal does not apply any variations to flood related development controls proposed.  Clause 8: The proposal does not apply any amendments to flood planning levels. |
| 4.4 Bushfire Prone Land | Yes | No | The Planning Proposal is considered to be inconsistent with this Direction as it does not propose to introduce development provisions as required under clause 6 of the Direction. This inconsistency is however considered to be justified and minor in nature as compliance with *Planning for Bushfire Protection 2006* will continue to be assessed at the development application stage. It is proposed to consult with the Commissioner of the Rural Fire Service upon receiving a Gateway Determination. |
| 5. Regional Planning | | | |
| 6. Local Plan Making | | | |
| 6.1 Approval and Referral Requirements | Yes | Yes | Consistent with 117 Direction - no approval, concurrence or referral requirements. |
| 6.2 Reserving Land for Public Purposes | Yes | N/A |  |
| 6.3 Site Specific Provisions | Yes | N/A | No site specific provisions are applied. |



**Inclusions highlighted in red**

**4.1AA Minimum subdivision lot size for community title schemes**

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

(a) to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements.

(2) This clause applies to a subdivision (being a subdivision that requires development consent) under the [*Community Land Development Act 1989*](http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dact%20AND%20Year%3D1989%20AND%20no%3D201&nohits=y) of land in any of the following zones:

(a) Zone RU1 Primary Production,

(b) Zone RU4 Primary Production Small Lots,

(c) Zone R2 Low Density Residential,

(d) Zone R5 Large Lot Residential,

(e) Zone E3 Environmental Management,

(f) Zone E4 Environmental Living.

(3) The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property within the meaning of the [*Community Land Development Act 1989*](http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dact%20AND%20Year%3D1989%20AND%20no%3D201&nohits=y)) is not to be less than the minimum size shown on the [Lot Size Map](http://www.legislation.nsw.gov.au/fragview/inforce/epi+589+2012+pt.4-cl.4.1aa+0+N?tocnav=y) in relation to that land.

**4.1A** **Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones**

(1) The objective of this clause is to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements.

(2) This clause applies to land in the following zones that is used, or is proposed to be used, for residential accommodation or tourist and visitor accommodation:

(a) Zone RU1 Primary Production,

(b) Zone RU4 Primary Production Small Lots,

(c) Zone R2 Low Density Residential,

(d) Zone R5 Large Lots Residential,

(e) Zone E3 Environmental Management,

(f) Zone E4 Environmental Living.

(3) The size of any lot resulting from a subdivision of land to which this clause applies for a strata plan scheme (other than any lot comprising common property within the meaning of the [*Strata Schemes (Freehold Development) Act 1973*](http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dact%20AND%20Year%3D1973%20AND%20no%3D68&nohits=y) or [*Strata Schemes (Leasehold Development) Act 1986*](http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dact%20AND%20Year%3D1986%20AND%20no%3D219&nohits=y)) is not to be less than the minimum size shown on the [Lot Size Map](http://www.legislation.nsw.gov.au/fragview/inforce/epi+589+2012+pt.4-cl.4.1a+0+N?tocnav=y) in relation to that land.

**Amended wording highlighted in red**

**4.1B** **Subdivision in Zone E3 and Zone E4**

(1) The objective of this clause is to ensure that lot sizes and subdivision patterns in certain environmental zones allow buildings to be sited to better protect the environmental values of the area.

(2) This clause applies to each lot (an ***original lot***) that contains land in both Zone E3 Environmental Management and Zone E4 Environmental Living.

(3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the ***resulting lots***) that are less than the minimum size shown on the [Lot Size Map](http://www.legislation.nsw.gov.au/fragview/inforce/epi+589+2012+pt.4-cl.4.1b+0+N?tocnav=y) for the land if:

(a) the consent authority is satisfied that:

(i) no buildings will be erected on any **part of a** resulting lot**~~s~~** that contain**s** land in Zone E3 Environmental Management, and

(ii) the subdivision will not result in any significant adverse environmental impacts on the land being subdivided, and

(b) the number of resulting lots will not exceed the number of lots that could be created by a subdivision of land under clause 4.1.

**New Clause 4.1E highlighted in red**

**Clause 4.1E Exceptions to minimum subdivision lot size for boundary adjustments in Zones RU1, RU4, R5, E3 and E4**

(1) The objective of this clause is to permit the boundary between 2 or more lots to be altered where the alteration gives a landowner a greater opportunity to achieve the objectives of a zone.

(2) This clause applies to land in any of the following zones:

(a) Zone RU1 Primary Production,

(b) Zone RU4 Primary Production Small Lots,

(c) Zone R5 Large Lot Residential,

(d) Zone E3 Environmental Management,

(e) Zone E4 Environmental Living zones.

(3) Development consent may be granted for the subdivision of land in the above zones to create a lot that is less than the minimum size shown on the Lot Size Map in relation to that land if the subdivision will not result in any of the following:

(a) an increase in the number of lots,

(b) an increase in the number of dwellings that may be erected on any of the lots.

(c) the subdivision will not adversely impact on the long-term agricultural production potential or environmental characteristics of the lots and the surrounding locality.

(4) In determining whether or not to grant development consent for the subdivision of land under this clause, the consent authority must consider the following:

(a) the existing uses and approved uses of other land in the vicinity of the subdivision,

(b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,

(c) whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),

(d) whether or not the subdivision is likely to be incompatible with a use on land in any adjoining zone,

(e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),

(f) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,

(g) whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land.

(5) This clause does not apply in relation to a subdivision under the *Community Land Development Act 1989*, the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.