

Oberon Local Environmental Plan 2013 (Amendment No. 4) - Insert Boundary Adjustment Model Clause

Proposal Title :	Oberon Local Environmental Plan 2013 (Amendment No. 4) - Insert Boundary Adjustment Model Clause		
Proposal Summary :	To amend the Oberon Local Environmental Plan 2013 to allow boundary adjustment subdivision for rural and environmental zoned land through the addition of a model 'boundary adjustment' clause.		
PP Number :	PP_2015_OBERO_002_00	Dop File No :	15/14185

Proposal Details

Date Planning Proposal Received :	18-Sep-2015	LGA covered :	Oberon
Region :	Western	RPA :	Oberon Council
State Electorate :	BATHURST	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :

Suburb :City :Postcode :

Land Parcel : Zone RU1 Primary Production

Street :

Suburb :City :Postcode :

Land Parcel : Zone RU3 Forestry

Street :

Suburb :City :Postcode :

Land Parcel : Zone RU4 Primary Production Small Lots

Street :

Suburb :City :Postcode :

Land Parcel : Zone R5 Large Lot Residential

Street :

Suburb :City :Postcode :

Land Parcel : Zone E1 National Parks and Nature Reserves

Street :

Suburb :City :Postcode :

Land Parcel : Zone E2 Environmental Conservation

Street :

Suburb :City :Postcode :

Land Parcel : Zone E3 Environmental Management

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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
meetings or
communications with
registered lobbyists? :

No

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

Supporting notes

Internal Supporting Notes : The planning proposal seeks to amend the Oberon Local Environmental Plan 2013 to allow boundary adjustment subdivision for rural and environmental zoned land through the addition of a model 'boundary adjustment' clause.

Prior to the introduction of the Standard Instrument, many LEPs had capacity to permit boundary adjustments to lots where dwellings were located, and where the lot created would be below lot size, provided no further dwellings or lots were created.

Clause 4.2 of the Oberon LEP 2013 allows for the creation of a lot below lot size but only where there is no existing dwelling on the lot or the potential for a dwelling.

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The only other provision open for boundary adjustment subdivision in Oberon is under Clause 2.75 of the SEPP (Exempt and Complying Development Code) 2008.

The intent of the current clause 4.2 and Clause 2.75 of the SEPP is to allow rational alteration and flexibility of rural and environmental land to meet agricultural need. Oberon Council has encountered a number of boundary adjustment proposals of merit where the current provisions do not permit the adjustment.

The model clause will provide the flexibility and clarity required to allow for boundary adjustments for the rationalisation of rural and environmental zoned land, particularly where dwellings exist and lots are below the minimum lot size.

Council has requested delegations to complete the planning proposal and this is considered appropriate.

External Supporting
Notes :

Adequacy Assessment

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

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

Comment : The objective of this planning proposal is to provide flexibility and clarity for boundary adjustment subdivisions in rural and environmental zones of Oberon Local Government Area.

The planning proposal intends to permit boundary adjustment subdivision where lots are or will be below lot size and existing dwelling entitlements are involved, provided no additional dwelling opportunities or lots are created beyond those already permissible under the LEP.

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

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

Comment : The following model provision for boundary adjustment is proposed:

Clause 4.2C Boundary changes between lots in certain rural, residential and environment protection zones

(1) The objective of this clause is to permit the boundary between 2 or more lots to be altered in certain circumstances, to give landowners a greater opportunity to achieve the objectives of the zone.

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

- a. Zone RU1 Primary Production,
- b. Zone RU3 Forestry,
- c. Zone RU4 Primary Production Small Lots,
- d. Zone R5 Large Lot Residential,
- e. Zone E1 National Parks and Nature Reserves,
- f. Zone E2 Environmental Conservation,
- g. Zone E3 Environmental Management.

(3) Despite clause 4.1(3), development consent may be granted to the subdivision of 2 or more adjoining lots, being land to which this clause applies, 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 or dual occupancies on, or
- c. Dwellings or dual occupancies that may be erected on, any of the lots.

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(4) Before determining a development application 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:

- a. In relation to the subdivision of individual lots in a strata plan or a community title scheme, or
- b. If the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

2.1 Environment Protection Zones

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP (Rural Lands) 2008

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

Section 117 Directions:

1.2 - Rural Zones: the planning proposal does not propose to rezone rural land and will not increase the permissible density of rural land. The proposal is consistent with this Direction.

1.5 - Rural Lands: The model clause will provide the flexibility and clarity required to allow for boundary adjustments for the rationalisation of rural and environmental zoned land, particularly where dwellings exist and are below the minimum lot size. The proposal is consistent with this Direction.

2.1 - Environment Protection Zones: The proposal will not change any existing potential development opportunities and is considered to be consistent with this Direction.

SEPPs:

Rural Lands: The proposal is consistent with the rural planning principles and will not reduce any current opportunities and potential of productive agricultural land.

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 :

This amendment is related to the instrument only - no maps are required as part of the proposal.

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Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **It is proposed to publicly exhibit the planning proposal for 28 days. This is considered adequate.**

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 Oberon LEP 2013 was notified on 20 December 2013.**

Assessment Criteria

Need for planning proposal : **The planning proposal is required to insert a model clause into the Oberon LEP 2013 to provide some flexibility and clarity for boundary adjustment subdivision for rural and environmental zoned land.**

Consistency with strategic planning framework : **There is no regional or subregional strategy that applies to the Oberon Local Government Area.**

The Oberon Land Use Strategy and Oberon Land Use Strategy Amendment were endorsed by the Department on 23 December 2013. This strategy is not relevant to the proposal.

Environmental social economic impacts : **There is no perceived negative impact of the proposal. The clause will allow for farm rationalisation, conservation of existing dwelling stocks without facilitating additional dwellings beyond that already permissible under the Oberon LEP 2013.**

Assessment Process

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

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) :

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Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
13.04 ATTACHMENT for DRAFT PP.docx	Proposal	No
13.04 PLANNING PROPOSAL BOUNDARY ADJUSTMENTS.docx	Proposal	No
Planning Proposal.pdf	Proposal	No

Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones
1.5 Rural Lands
2.1 Environment Protection Zones**

Additional Information : **The planning proposal to 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.

No consultation with agencies is required.

2. 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).

3. The timeframe for completing the LEP is to be 9 months from the week following the

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date of the Gateway determination.

4. Council is to request the drafting and finalisation of the amendment no later than 10 weeks prior to the projected making of the amendment date.

5. Authorise Oberon Council to utilise plan making delegations to finalise the Planning Proposal.

Supporting Reasons :

The proposal justifies permitting the inclusion of the proposed model boundary adjustment clause in the Oberon LEP 2013 which will provide the flexibility and clarity required for the subdivision of rural and environmental zoned land, where a dwelling already exists but does not meet the minimum lot size requirements. Such boundary adjustment subdivision provision is not currently available in the Oberon LEP 2013.

Signature:



Printed Name:

Jenna Mearns

Date:

1/10/15

Endorsed
W. Gamsay
TLWR

1/10/15