

Various corrections and refinements to Moree Plains LEP 2011 including amendments to various local clauses and land use tables, the inclusion of an additional local clause and changes to the land zoning and lot size maps.

Proposal Title :	Various corrections and refinements to Moree Plains LEP 2011 including amendments to various local clauses and land use tables, the inclusion of an additional local clause and changes to the land zoning and lot size maps.		
Proposal Summary :	To undertake a housekeeping amendment of various corrections and refinements to Moree Plains LEP 2011 including amendments to various local clauses and land use tables, the inclusion of an additional local clause and changes to the land zoning and lot size maps.		
PP Number :	PP_2013_MOREE_002_00	Dop File No :	13/15014

Proposal Details

Date Planning Proposal Received :	05-Sep-2013	LGA covered :	Moree Plains
Region :	Northern	RPA :	Moree Plains Shire Council
State Electorate :	BARWON	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :			
Suburb :		City :	Postcode :
Land Parcel :	Moree Plains Local Government Area		

DoP Planning Officer Contact Details

Contact Name :	Craig Diss
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RPA Contact Details

Contact Name :	Murray Amos
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DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	N/A

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MDP Number :	0	Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	10	No. of Dwellings (where relevant) :	10
Gross Floor Area :	0	No of Jobs Created :	0

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

If No, comment : **The Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge. The Northern Region has not met with any lobbyists in relation to this proposal, nor has the Northern Region been advised of any meeting between other Departmental Officers and lobbyists concerning the proposal.**

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

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The objective and intended outcomes of the Planning Proposal are adequately expressed for the proposed amendment to Moree Plains LEP 2011.**

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

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

Comment : **The Planning Proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes.**

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
1.5 Rural Lands
3.1 Residential Zones
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes**

Various corrections and refinements to Moree Plains LEP 2011 including amendments to various local clauses and land use tables, the inclusion of an additional local clause and changes to the land zoning and lot size maps.

6.3 Site Specific Provisions

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 (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007
SEPP (Major Projects) 2005
SEPP (Mining, Petroleum Production and Extractive Industries) 2007
SEPP (Rural Lands) 2008
SEPP (Affordable Rental Housing) 2009**

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

The New England North West Strategic Regional Land Use Plan applies to the Moree Plains LGA.

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

If No, explain :

Refer to discussion below.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The Planning Proposal contains the amended map sheets needed to implement the proposed changes relating to Items 4 and 7 of the proposal. While these map sheets are adequate for an assessment of the proposal, it is recommended that maps clearly identifying and highlighting the proposed changes also be included prior to public exhibition to assist the community when reviewing the proposal.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council has identified a 14 day exhibition period for the proposal. The Planning Proposal is considered to be a 'low impact' proposal and the proposed notification period is considered to be satisfactory.

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 :

The Planning Proposal and accompanying documentation are considered to satisfy the adequacy criteria by:
1. Providing appropriate objectives and intended outcomes;
2. Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes;
3. Providing an adequate justification for the proposal;
4. Outlining a proposed community consultation program; and
5. Providing a project time line.

Council is not seeking an authorisation to exercise its plan making delegations. It is understood that Council has not yet formally accepted its plan making delegations, and as such, an authorisation cannot be issued (despite the Planning Proposal dealing only with matters of local significance).

Various corrections and refinements to Moree Plains LEP 2011 including amendments to various local clauses and land use tables, the inclusion of an additional local clause and changes to the land zoning and lot size maps.

The RPA has provided a project time line which estimates that the LEP will be ready for submission to the Department for finalisation in November 2013. The time line has not included any time frame for consultation with public authorities. A 9 month time frame for completion of the proposal is recommended. It is noted that a revised project time line (that includes a consultation period with public authorities) will need to be included in the Planning Proposal prior to public exhibition.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

Moree Plains LEP 2011 was notified on 9 December 2011.

Assessment Criteria

Need for planning
proposal :

The proposed amendment is not the result of any specific strategic study or report.

The Planning Proposal is needed to make various corrections and refinements to the Plan that have been identified since it was made. A total of 7 corrections or refinements have been identified in the Planning Proposal. The corrections and refinements are considered to be appropriate and are adequately justified by the Relevant Planning Authority in the Planning Proposal. The corrections and refinements can be classified into the following broad categories:

1. Improve housing choice within the RU1, RU4 and R5 zones;

- a. Item 1 - permit secondary dwellings with consent in the R5 Large Lot Residential Zone;**
- b. Item 2 - permit with consent dual occupancies (detached) in the RU1 Primary Production Zone and include an additional local clause relating to detached dual occupancies;**
- c. Item 7 - vary the minimum lot size for land at Ashley in the RU4 Primary Production Small Lots Zone from 20ha to 10ha.**

2. Facilitate the growth and development of rural industries, agriculture, mining and extractive industries;

- a. Item 3 - amend Clause 7.2 Erection of rural workers' dwellings to permit the erection of more than 1 rural workers' dwelling on land comprising the agricultural or rural industry;**
- b. Item 5 - To include a local clause relating to temporary workers accommodation for agricultural, large scale infrastructure and mining workers;**
- c. Item 6 - permit water storage facilities with consent in the RU1 Primary Production Zone.**

3. Correct minor drafting anomalies.

- a. Item 4 - removal of an incorrect R5 Zone label on Lot 392 DP 751780, Amaroo Drive, South Moree.**

Various corrections and refinements to Moree Plains LEP 2011 including amendments to various local clauses and land use tables, the inclusion of an additional local clause and changes to the land zoning and lot size maps.

Consistency with strategic planning framework :

The 7 items detailed in the Planning Proposal are considered to be consistent with the New England North West Strategic Regional Land Use Plan, Council's department approved Local Growth Management Strategy, SEPPs and section 117 Directions, except in relation to the following:

Section 117 Direction 1.2 Rural Zones

Items 2, 3, and 7 are inconsistent with the Direction as they increase the permissible density of land within a rural zone. The inconsistency is considered to be justified as a matter of minor significance as:

- Item 2 - Council will be seeking that both dwellings in a detached rural dual occupancy are located within 200m, share a common road access and are not located on land currently being utilised for agricultural purposes. While these will be merit assessment issues (rather than a prohibition), Council's intended approach to this form of development is likely to reduce any adverse impacts associated with additional rural dwellings that could alienate valuable rural land from agricultural production;
- Item 3 - the number of additional rural workers' dwellings likely to result from permitting more than 1 on any land is considered to be very low, particularly if detached dual occupancies become permissible in the RU1 Zone; and
- Item 7 - the reduction of the minimum lot size in the RU4 Zone at Ashley directly adjoins the existing village area and has the potential to create only 10 additional lots in the locality.

Section 117 Direction 4.3 Flood Prone Land

Items 1, 2, 3, 5 and 7 are inconsistent with the Direction as they increase the development potential of land identified within a flood planning area. The inconsistency is considered to be justified as a matter of minor significance as the Moree Plains LEP 2011 already contains appropriate provisions in relation to flood planning and due to the relatively small increases in actual development that are anticipated to result from the proposal. It is however recommended that the Office of Environment and Heritage - Floodplain Unit be consulted prior to exhibition in regards to flooding issues due to the extent of broad scale flooding that does occur in the Moree Plains LGA.

4.4 Planning for Bushfire Protection

Some of the land to which the Planning Proposal applies is identified as being bush fire prone. The Direction provides that the RPA must consult with the Commissioner of the NSW Rural Fire Service, and the draft plan must include provisions relating to bushfire control. Consultation with the RFS is required after the Gateway Determination is issued and until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

Environmental social economic impacts :

No significant adverse economical, social or environmental impact from the Planning Proposal has been identified. The improved housing choice and support for primary production industries that will occur due to the Planning Proposal is anticipated to have positive economic and social impacts for the Moree Plains LGA.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	6 months	Delegation :	DDG
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage NSW Rural Fire Service		

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

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

If no, provide reasons : **It is recommended that this matter proceed and that consultation be undertaken with the NSW Rural Fire Service and the Office of Environment and Heritage - Floodplain Unit.**

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

If Yes, reasons : **Resubmission of the Planning Proposal prior to exhibition is not needed.**

It is noted that Council has included potential draft clauses relating to Items 2, 3 and 5 of the Planning Proposal. It is recommended that the Gateway determination require that the Planning Proposal be amended prior to exhibition to include only a plain English explanation of the intended clauses. The drafting of the clauses can then be undertaken by the Parliamentary Counsel's Office to ensure they achieve their intended purpose and can legally be made. In this regard it is noted that the current clause prepared by Council in relation to Item 2 - Detached Dual Occupancies in Zone RU1 appears to be drafted to create a prohibition if certain requirements can't be met. It is understood that such clauses create a 'sub zone' contrary to the Standard Instrument LEP Order and can't be made under the provisions of the Environment Planning and Assessment Act, 1979. This matter has been discussed with Council staff who have confirmed that they raise no objection to the Gateway determination requiring that the final clause be drafted as a 'heads of consideration' clause, rather than as a prohibition clause, to overcome this issue.

Identify any additional studies, if required. :

If Other, provide reasons :

No additional studies have been identified as needed to support the proposal.

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 - Council letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Planning Proposal - Business Paper and Minutes - 11 July 2013.pdf	Proposal	Yes

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**
- 3.1 Residential Zones**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**
- 6.3 Site Specific Provisions**

Additional Information : **It is recommended that:**

Various corrections and refinements to Moree Plains LEP 2011 including amendments to various local clauses and land use tables, the inclusion of an additional local clause and changes to the land zoning and lot size maps.

- 1) The Planning Proposal be supported subject to conditions:
- 2) The Planning Proposal be exhibited for a period of 14 days;
- 3) The Planning Proposal should be completed within 9 months;
- 4) The Planning Proposal be amended prior to exhibition to:
 - contain only a plain English explanation of the intended clauses;
 - amend the proposed local clause in Item 2 - Detached Dual Occupancies in Zone RU1 to be a heads of consideration matter;
 - include maps clearly identifying and highlighting the proposed map changes for Items 4 and 7;
- 5) Consultation with the following agencies and organisations should be required prior to public exhibition:
 - NSW Rural Fire Service; and
 - NSW Office of Heritage and Environment - Floodplain Unit;
- 6) The Director General's delegate agree that the inconsistencies with s117 Directions 1.2 Rural Lands and 4.3 Flood Prone Land are justified;
- 7) The potential unresolved inconsistency with s117 Directions 4.4 Planning for Bushfire Protection be noted;
- 8) That a revised project time line (that addresses consultation with public authorities and a 9 month completion time frame) be included in the Planning Proposal prior to public exhibition; and
- 9) That an authorisation to exercise plan making delegations not be issued to Council.

Supporting Reasons :

The Planning Proposal will undertake various corrections and refinements to the Moree Plains LEP 2011. These corrections and refinements are considered as important in permitting the LEP to operate effectively and accurately. The improved housing choice and support for primary production industries that will occur due to the Planning Proposal is anticipated to have positive economic and social impacts for the Moree Plains LGA.

The proposal as recommended is considered to be consistent with the strategic planning framework (or justifiably inconsistent with the relevant s117 Directions).

Signature:



Printed Name:

Craig Diss

Date:

12/9/13