

Weddin LEP 2011 – Insert Model Clauses for boundary adjustments, intensive agriculture and development near zone boundaries

Proposal Title : **Weddin LEP 2011 – Insert Model Clauses for boundary adjustments, intensive agriculture and development near zone boundaries**

Proposal Summary : **To amend Weddin Local Environmental Plan 2011 to insert model clauses:**

- a) To permit low impact boundary adjustments on land zone RU1 Primary Production.**
- b) To permit subdivision for sustainable intensive plant agriculture & intensive livestock agriculture and dwellings associated with sustainable intensive agriculture (MLS 100ha).**
- c) To provide flexibility for development near zone boundaries (distance of 50 metres).**

PP Number : **PP_2017_WEDDI_001_00** Dop File No : **17/01704-1**

Proposal Details

Date Planning Proposal Received :	05-Apr-2017	LGA covered :	Weddin
Region :	Western	RPA :	Weddin Shire Council
State Electorate :	ORANGE	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street : _____

Suburb : _____ City : _____ Postcode : _____

Land Parcel : **RU1 Land Weddin LGA**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Wayne Garnsey**

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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 : 0 (where relevant) :
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 :

The Planning Proposal seeks to amend the Weddin Local Environmental Plan 2011 to:

- a) allow boundary adjustment subdivision for land zone RU1 Primary Production, through the addition of a model boundary adjustment clause,
- b) permit subdivision for sustainable intensive plant agriculture and intensive livestock agriculture and dwellings associated with sustainable intensive agriculture on land with a minimum lot size of 100ha, and
- c) permit provide flexibility for development near zone boundaries (land within 50 metres of a zone boundary), to permit land uses permitted on the other side of a zone boundary where it enables a more logical and appropriate development on the site.

BOUNDARY ADJUSTMENT CLAUSE

Clause 4.2 of the Weddin LEP 2011, allows for the creation of a lot below the minimum lot size but only where there is no existing dwelling on the lot.

Clause 2.75 of the SEPP (Exempt and Complying Development Code) 2008 allows alteration of lot boundaries on rural and environmental land to meet agricultural need. The clause requires that a boundary adjustment not result in a lot or lots that have an area less than the minimum lot size, unless the lot or lots are currently under the minimum lot size and those lots increase in size as a result of the development. Accordingly, the clause does not allow a boundary adjustment between two lots that are currently less than the minimum lot size.

The model clause proposed to be included in the Weddin LEP provides for boundary adjustments for the rationalisation of rural and environmental zoned land, where development involves more than one lot that are currently below the minimum lot size.

INTENSIVE AGRICULTURE CLAUSE

The planning proposal intends to adopt a new model clause in the LEP which permits subdivision for sustainable intensive plant agriculture and intensive livestock agriculture.

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The model clause provides subdivision of land for the purposes of intensive plant agriculture and intensive livestock agriculture by allowing subdivision below the minimum lot size. A dwelling may be permitted where it can be demonstrated the dwelling is required to support the intensive agricultural use (on land with a minimum lot size of 100 hectares).

Development controls are proposed to be included in Council's Development Control Plan to ensure that the land is suitable for intensive agriculture (including evidence of a sustainable water supply) and that there is a nexus between a proposed dwelling and the intensive agricultural use. The draft criteria is to be endorsed by the Department and publicly exhibited with the planning proposal.

DEVELOPMENT NEAR ZONE BOUNDARIES CLAUSE

The planning proposal intends to adopt a model clause in the LEP which permits certain land uses near zone boundaries. The clause is proposed to apply to all land in the Weddin Local Government Area, excluding land zoned E1 National Parks and Nature reserves and E3 Environmental Management.

This model clause will apply to land within a distance of 50 metres of another zone boundary and allows development of permissible land uses from the adjoining zone - where it enables a more logical and appropriate development on the site. The use will need to be broadly consistent with the zone objectives, however does not change the minimum lot size controls applicable to the land.

Council has requested authorisation to undertake plan making delegations. This is considered appropriate.

The Director Regions, Western is able to utilise delegations to determine this planning proposal.

Note: The proposal is in the state electorate of Cootamundra.

External Supporting
Notes :

Adequacy Assessment

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

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

Comment : **The statement of objectives clearly states the intent of the planning proposal is to amend the Weddin LEP 2011 by inserting new model clauses.**

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

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

Comment : **The intent of the planning proposal is proposed to be achieved by amending the written instrument. No changes to mapping is required.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

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

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

5.10 Implementation of Regional Plans

Is the Director General's agreement required? **N/A**

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 (Mining, Petroleum Production and Extractive Industries) 2007

SEPP (Rural Lands) 2008

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

1.2 Rural Zones: The Ministerial Direction is relevant to the planning proposal as the proposal affects land within an existing rural zone. The Direction requires a planning proposal must not rezone land from a rural zone to a residential zone or contain provisions that will increase the permissible density of land within a rural zone. The model clause for intensive agriculture permits dwellings on lots with an area not less than 100 ha, where there are required for the sustainable intensive agricultural use of the land. This is an intensification of the current permissible density of dwellings on rural land. The inconsistency with the Direction is of minor significance as dwellings are only permitted where there is a nexus between the use of the land for the purpose of intensive agriculture and the proposed dwelling. In this case, the dwelling supports the sustainable agricultural use of the land.

The insertion of the proposed model clauses relating to boundary adjustment subdivision, and development near zone boundaries are consistent with the Direction.

1.3 Mining, Petroleum Production and Extractive Industries: It is noted that there is currently an Exploration Licence over the town of Grenfell. Consultation will be required with Resources and Energy before this Direction can be satisfied. This is to be resolved prior to the plan being finalised.

1.5 Rural Lands: The Ministerial Direction is relevant as the planning proposal affects land within a rural zone. The Direction requires the planning proposal be consistent with the rural planning principles and rural subdivision principles in the SEPP (Rural Lands) 2008.

The planning proposal is consistent with this Direction and supports productive sustainable economic activities by providing a mechanism which permits low impact boundary adjustments, use of land for intensive agricultural purposes and flexibility in land uses along zone boundaries where it enables a more logical and appropriate development on the site.

The proposal allows the creation of additional lots for the purposes of intensive agriculture, and an increase in the number of dwellings permitted on rural land (where there is a nexus between the use of the land for the purpose of intensive agriculture and the proposed dwelling). The inconsistency with the Direction is of minor significance as the intent of the proposal is to allow for the sustainable economic use of land for

agricultural purposes; subdivision and associated dwellings are only permitted to support sustainable agricultural use of rural land.

2.1 Environment Protection Zones: This Ministerial Direction is not relevant to the planning proposal. The model clause for boundary adjustments relates only to land zoned RU1 Primary Production. The model clause for intensive agriculture relates only to land zoned RU1 Primary Production. The model clause for development near zone boundaries excludes land zoned E1 National Parks and Nature Reserves and E3 Environmental Management.

2.3 Heritage Conservation: The Ministerial Direction requires that a planning proposal contain provisions that facilitate the conservation of items, areas, objects and places of environmental heritage significance and indigenous heritage significance. The planning proposal applies to all land in the Weddin Local Government Area (excluding land zone E1 National Parks and Nature Reserves and E3 Environmental Management). This land contains items of heritage significance. The planning proposal does not alter the protection of these sites under the Environmental Planning and Assessment Act 1979 and the National Parks and Wildlife Act 1974. The planning proposal is consistent with this Direction.

3.4 Integrating Land Use and Transport: The Ministerial Direction is relevant as the model clause relating to development near zone boundaries alters a provision relating to urban land, by allowing uses permitted on land in an adjoining zone within 50 meters of the zone boundary, where it enables a more logical and appropriate development on the site. The planning proposal does not alter the location of zones for urban purposes or alter provisions relating to transport choice. The planning proposal is consistent with this Direction.

4.3 Flood Prone Land: The Ministerial Direction is relevant to the planning proposal as the planning proposal includes model clauses that alter the provisions affecting flood prone land. The Direction requires that the planning proposal include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. The Direction requires a planning proposal not rezone land within the flood planning area from rural to residential and restricts the provisions that can be applied to flood prone land, including those that permit development in floodway areas, result in significant flood impacts to other properties, or permit a significant increase in development on the land. The planning proposal is consistent with this Direction.

4.4 Planning for Bushfire Protection: The Ministerial Direction is relevant as the planning proposal includes model clauses that alter the provisions affecting bush fire prone land. Consultation the with NSW Rural Fire Service is required to comply with this Direction.

5.10 Implementation of Regional Plans: The planning proposal achieves the overall intent of the draft Central West and Orana Regional Plan and is considered to be consistent with this Direction because it facilitates flexibility in the primary production zone.

SEPP 30 Intensive Agriculture: The objective of the SEPP is to provide the requirements for obtaining development consent for cattle feedlots and piggeries. The planning proposal seeks to include a model clause in the Weddin LEP to allow subdivision below the minimum lot size (to create a lot with an area no less than 100ha) for the purpose of intensive agriculture. There are no matters in the SEPP that require further consideration as part of the planning proposal.

SEPP 44 Koala Habitat Protection: The objective of the SEPP is to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas. Weddin Local Government Area is identified as land to which the SEPP applies. The proposal includes amendments to provisions on land zoned RU1 Primary Production, notably permitting subdivision below the minimum lot size on rural land for

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the purpose of intensive agriculture. Impacts on koala habitat will be assessed on a case-by-case basis at the development application stage. There are no matters in the SEPP that require further consideration as part of the planning proposal.

SEPP 55 Remediation of Land: The objective of the SEPP is to provide for a Statewide planning approach to the remediation of contaminated land. The SEPP provides requirements relating to the rezoning of land. The planning proposal does not propose to rezone land. There are no matters in the SEPP that require further consideration as part of the planning proposal.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007: The proposal is broadly consistent with this SEPP. No mining or other extractive industry uses are proposed as part of this planning proposal. Consultation with NSW DPI - Resources and Energy is being recommended.

SEPP(Rural Lands) 2008: The planning proposal is consistent with the rural planning principles and rural subdivision principles in the SEPP (Rural Lands) 2008 and supports productive sustainable economic activities by providing a mechanism which permits low impact boundary adjustments, use of land for intensive agricultural purposes and flexibility in land uses along zone boundaries, where it enables a more logical and appropriate development on the site.

The proposal allows the creation of additional lots for the purposes of intensive agriculture, and an increase in the number of dwellings permitted on rural land (where there is a nexus between the use of the land for the purpose of intensive agriculture and the proposed dwelling). The intent of the proposal is to allow for the sustainable economic use of land for agricultural purposes; subdivision and associated dwellings are only permitted to support sustainable agricultural use of rural 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 : **No changes to mapping are proposed.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The planning proposal shall be publicly exhibited for a period of 28 days.**

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 proposal is adequate in the information provided.**

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Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Weddin Local Environmental Plan 2011 was notified on 5 December 2011.

Assessment Criteria

Need for planning proposal :

The planning proposal is required to:

- a) Permit low impact boundary adjustments on land zone RU1 Primary Production.
- b) Permit subdivision for sustainable intensive plant agriculture and sustainable intensive livestock agriculture and dwellings associated with these uses (MLS 100ha).
- c) Provide flexibility for development near zone boundaries (land within a distance of 50 metres of the zone boundary).

Consistency with strategic planning framework :

The draft Weddin Primary Production Strategy (PPS) and draft Rural Settlement Supply and Demand Analysis (RSSDA) are applicable to the planning proposal. The PPS and RSSDA have been endorsed by Council, however have not been endorsed by the Department.

The PPS and RSSDA were prepared in 2011/2012, and provided land use strategies for most of the major land uses in Weddin.

Council has updated the Rural Settlement Project with draft Addendum to reflect current supply and demand figures, as well as the future desired land use outcomes of the community. The Addendum also reflects the land use constraints in the certain areas and provides amended lot yields and proposed minimum lot sizes for the land.

At this stage, it is intended that the 2012 draft Strategy be further reviewed by Council prior to endorsement by the Department. The outstanding agency objection from NSW Department of Primary Industries regarding the proposed reduction to the minimum lot size on rural land shall also be resolved.

Consultation with NSW Department of Primary Industries is recommended to inform the agency of Council's actions in respect of the draft Strategy, draft Addendum and the planning proposals provisions relating to rural land.

It is noted that the adoption of model clauses permitting low impact boundary adjustments on rural land, subdivision for the purposes of intensive agriculture and development near zone boundaries are consistent with the outcomes of the draft Addendum and the Primary Production Strategy.

Environmental social economic impacts :

Environmental impacts relating to development permitted under the model clauses will be assessed under Section 79C of the Environmental Planning and Assessment Act 1979 during assessment of a development application by Council, as the consent authority.

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Assessment Process

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

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

Public Authority **NSW Department of Primary Industries - Agriculture**
Consultation - 56(2)(d) **NSW Department of Primary Industries - Minerals and Petroleum**

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
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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**
- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 5.10 Implementation of Regional Plans**

Additional Information : **That Ministers delegate determines and supports the Planning Proposal, subject to the following conditions:**

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1. Prior to community consultation, the planning proposal is to be amended to remove reference to the indicative clause wording where provided. The plain English explanation of the intention of the proposed provisions, which has been included, is appropriate in this instance.

2. Prior to community consultation, Council is to prepare draft Development Control Plan content to guide development for the purpose of intensive plant agriculture and intensive livestock agriculture. The content is to be endorsed by the Department of Planning and publicly exhibited with the planning proposal.

3. 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 (Department of Planning & Infrastructure 2013).

4. Consultation is required with the following State Agencies under Section 56 (2)(d) of the Environmental Planning and Assessment Act 1979 and/or to comply with the requirements of relevant section 117 Directions:

- (a) Department of Primary Industries – Water and Agriculture
- (b) Department of Industry - Resources and Energy
- (c) NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal, the draft Rural Settlement Project documentation and any relevant supporting material, and given at least 21 days to comment on the planning proposal.

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. 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 subject to consultation with NSW Department of Primary Industries and NSW Rural Fire Service. Council is to be authorised to complete the amendment.

Signature:



Printed Name:

Jessica Holland

Date:

10.4.17

Endorsed
Whymsey
TLWR 11/4/2017

