



**Nambucca Shire Council**

**Planning Proposal  
Nambucca Local Environmental Plan  
Amendment No. 22  
Horticulture and Clause 4.2A**

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**Dated:** *February 2018*

**File:** *SF2460*

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## **Preliminary**

This planning proposal has been drafted in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979*, and 'A guide to preparing planning proposals' (DoP, 2016) for amendment to the Nambucca Local Environmental Plan 2010 (LEP). A gateway determination under Section 56 of the Act is requested.

## **Part 1 Objectives and Intended outcomes**

The objective and intended outcomes of this planning proposal are:

- To require development consent prior to undertaking horticulture development within the R5 Large Lot Residential Zone,
- Provide an exemption to the requirement for development consent for specific forms of horticulture within the R5 Large Lot Residential Zone, and
- To ensure that clause 4.2A of the LEP applies to land on which an unlawful dwelling has been erected and land on which a lawful dwelling has been destroyed by events such as a natural disaster or house fire.

## **Part 2 Explanation of Provisions**

### **2.1 Horticulture**

The proposed outcome will be achieved by removing 'horticulture' from 'permitted without consent' in the land use table for the R5 Large Lot Residential zone and relocating it to 'permitted with consent'.

It is also proposed to include a clause in Schedule 2 of the LEP which makes horticulture exempt in the R5 Large Lot Residential zone if the horticultural activity is for the purposes of a crop with a productive duration of less than twelve months.

The proposed clause is as follows:

#### **Horticulture**

Development consent is not required for horticulture within the R5 Large Lot Residential zone if the horticultural activity is for the purposes of a crop with a productive duration of less than twelve months.

### **2.2 Clause 4.2A**

The proposed outcome will be achieved by rewording clause 4.2A (3) and (4) as follows:

<b>Existing Sub-Clauses</b>
<p>(3) Development consent must not be granted for the erection of a dwelling house or a dual occupancy (attached) on a lot in a zone to which this clause applies, and on which no dwelling house or dual occupancy (attached) has been erected, unless the lot is:</p> <ul style="list-style-type: none"><li>(a) a lot that is at least the minimum lot size specified for that lot by the Lot Size Map, or</li><li>(b) a lot created before this Plan commenced and on which the erection of a dwelling house or dual occupancy (attached) was permissible immediately before that commencement, or</li><li>(c) a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house or a dual occupancy (attached) would have been permissible if the plan of subdivision had been registered before that commencement, or</li><li>(d) an existing holding.</li></ul>
<p>Note. A dwelling cannot be erected on a lot created under clause 9 of State Environmental Planning Policy (Rural Lands) 2008 or clause 4.2.</p>
<p>(4) Despite any other provision of this clause, development consent may be granted for the erection of a dwelling house or a dual occupancy (attached) on land in a zone to which this clause applies if:</p>

- (a) there is a lawfully erected dwelling house or dual occupancy (attached) on the land and the dwelling house or dual occupancy (attached) to be erected is intended only to replace the existing dwelling house or dual occupancy (attached), or
- (b) the land would have been a lot or a holding referred to in subclause (3) had it not been affected by:
  - (i) a minor realignment of its boundaries that did not create an additional lot, or
  - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose.

#### **Proposed Sub-Clauses**

- (3) Development consent must not be granted for the erection or use of a dwelling house or a dual occupancy on a lot in a zone to which this clause applies unless the lot is:
  - (a) a lot that is at least the minimum lot size specified for that lot by the Lot Size Map, or
  - (b) a lot created before this Plan commenced and on which the erection of a dwelling house or dual occupancy (attached) was permissible immediately before that commencement, or
  - (c) a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house or a dual occupancy (attached) would have been permissible if the plan of subdivision had been registered before that commencement, or
  - (d) an existing holding.

Note. A dwelling cannot be erected on a lot created under clause 9 of State Environmental Planning Policy (Rural Lands) 2008 or clause 4.2.

- (4) Despite any other provision of this clause, development consent may be granted for the erection of a dwelling house or a dual occupancy on a lot in a zone to which this clause applies if:
  - (a) there is a lawfully erected dwelling house or dual occupancy on the lot and the dwelling house or dual occupancy to be erected is intended only to replace the existing dwelling house or dual occupancy, or
  - (b) there was a lawfully erected dwelling house or dual occupancy on the lot which was destroyed by natural disaster or house fire, or
  - (c) the land would have been a lot or a holding referred to in subclause (3) had it not been affected by:
    - (i) a minor realignment of its boundaries that did not create an additional lot, or
    - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose.

## **Part 3 Justification**

### ***Section A – Need for the Planning Proposal***

#### ***1 Is the planning proposal the result of any strategic study or report?***

The planning proposal is not the result of any strategic study or report.

#### ***2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?***

It is considered that the planning proposal is the best and only means of achieving the objectives and intended outcomes.

With regards to horticulture, the following table compares the permissibility of horticulture within the R5 Large Lot Residential Zone in the Nambucca local government area compared to other local government areas on the north coast.

<b>LGA</b>	<b>Permissibility</b>
Kyogle	Prohibited
Clarence Valley	Permissible with consent
Coffs Harbour	Permissible with consent
Bellingen	Permissible with consent

Nambucca	Permissible without consent
Kempsey	Permissible with consent
Port Macquarie	Prohibited

As can be seen above, Nambucca Shire Council is the only Council out of those mentioned which permit horticulture without development consent within the R5 Large Lot Residential zone.

The objectives of the R5 Large Lot Residential zone are as follows:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

Having regard to the above, the intent of the R5 zone is to promote the development of residential land uses within the zone which minimise conflict with land uses, such as agriculture, within adjoining zones. While it is considered reasonable to require any residential development in the R5 zone to provide the necessary rural buffers from agricultural activities in any adjoining rural zone; it is not considered to be reasonable to require additional buffers to agricultural land uses within the R5 zone. This is not only because it is contrary to the intent of the zone, but because in many cases the residential land uses have commenced first, as promoted by the relevant planning instruments, and implementing the required buffers from the agricultural activities in many situations would result in residential zoned land which cannot practically be developed for residential uses.

Having regard to clause 4.2A of the LEP, it is considered that the following section of subclause (3) should be deleted:

*“and on which no dwelling house or dual occupancy (attached) has been erected”*

It is considered that the above wording should be deleted as it results in the clause only being applicable to a lot which is vacant and has had no dwelling erected on it in the past. It is also considered that the wording of the subclause should be amended to include developments which are seeking to use existing buildings such as unlawful dwellings.

An example of when the existing clause 4.2A would be contrary to the objectives of the clause and result in unplanned rural residential development is if a dwelling house or dual occupancy were to be erected on a lot without development consent. In this situation clause 4.2A does not apply to any development application seeking approval to continue to use the dwelling house or dual occupancy as the dwelling house or dual occupancy has already been erected on the lot. Making the suggested amendment to the clause would reinforce Councils position to refuse such an application where it did not conform with the provisions within subclause (3)(a)-(d).

The proposed change would result in the clause being applicable to any development application for the erection or use of a dwelling house or dual occupancy on a lot within a zone to which the clause applies. Given that the clause would then apply to land on which a dwelling house or dual occupancy has been erected, it is also considered that subclause (4) should be amended by adding a provision which permits the granting of development consent for the erection of a dwelling house or dual occupancy when it is replacing a lawfully erected dwelling house or dual occupancy on the lot which was destroyed by natural disaster or house fire. It is considered that this provision is necessary as the existing provision within sub clause (4) (a) is reliant on there being an “existing” dwelling house or dual occupancy.

An example of a scenario when the above additional provision would be necessary is for a lot created under clause 4.1C of the LEP which was below the minimum lot size and the existing dwelling house or dual occupancy was destroyed by a natural disaster or house fire. Such a provision would allow for the replacement of the previous dwelling house or dual occupancy with development consent which would be consistent with the objective of the clause.

## **Section B – Relationship to strategic planning framework.**

### **3     *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?***

The proposed amendments will not be contrary to any existing or draft plans or strategies.

### **4     *Is the planning proposal consistent with the local Council's Community Strategic Plan, or other strategic plan?***

The proposed amendments will not be contrary to Councils Community Strategic Plan or any other strategic plan. The planning proposal includes housekeeping amendments which are aimed at reinforcing the existing objectives of the R5 Large Lot Residential zone and Clause 4.2A.

### **5     *Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPP's)?***

The following State Environmental Planning Policies (SEPPs) are considered applicable to and have been considered in the preparation of this planning proposal:

- **State Environmental Planning Policy (Rural Lands)**

The aims of this SEPP are:

- (a) *to facilitate the orderly and economic use and development of rural lands for rural and related purposes,*
- (b) *to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,*
- (c) *to implement measures designed to reduce land use conflicts,*
- (d) *to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,*
- (e) *to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.*

The SEPP identifies rural planning principles within clause 7 that must be taken into account when a Council prepares a planning proposal. These are brought into effect through a Section 117 Direction. The Rural Planning Principles are as follows:

- (a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- (b) *recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- (c) *recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- (d) *in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- (e) *the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- (f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- (g) *the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- (h) *ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The proposed amendments are considered to be consistent with the provisions of the SEPP as they will assist in minimising land use conflict within the R5 Large Lot Residential zone by enabling suitable buffers to be provided by way of development consent from horticulture to residential development which is considered to be the preferred and the predominant land use in the zone. Given the intention of the R5 zone is to provide residential housing in a rural setting to contribute to the social and economic welfare of

rural communities; it is considered that protecting the residential uses in the zone from potential land use conflict is important in ensuring consistency with the SEPP and the objectives of the zone.

Furthermore, the proposed amendments to clause 4.2A will ensure rural housing is appropriately located having regard to land use conflict, impacts on services and infrastructure, and protection of opportunities for current and potential productive and sustainable economic activities in rural areas.

- **State Environmental Planning Policy No. 44 – Koala Habitat Protection**

SEPP 44 encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.

Under SEPP 44, potential koala habitat is defined as areas of native vegetation where the trees listed in Schedule 2 of the SEPP constitute at least 15% of the total number of trees in the upper or lower strata of the tree component. A koala habitat assessment is required for any significant development in such areas.

The planning proposal is not considered to be contrary to the requirements of this SEPP as it will ensure development for horticulture within the R5 zone will be assessed against the potential impacts on core koala habitat.

- **State Environmental Planning Policy No 55 – Remediation of Land**

SEPP 55 provides that Council is not to include in a particular zone any specified land if the inclusion of the land in that zone would permit a change of use of the land unless:

*“(a) the planning authority has considered whether the land is contaminated, and  
(b) if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and  
(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.”*

Given that this planning proposal does not include any rezoning of land, it is not considered that the planning proposal is contrary to the SEPP.

- **State Environmental Planning Policy No 71 – Coastal Protection**

The object of this policy is to provide for the protection and management of sensitive and significant areas within the coastal zone. Sections of land to which the planning proposal relates is located within the coastal zone. Therefore, in preparing the final LEP, Council must consider the natural, cultural, recreational and economic attributes of land within the coastal zone to ensure that public access to foreshore areas, Aboriginal heritage, visual amenity, coastal flora and fauna, coastal processes and cumulative impacts are addressed.

The amendments within this planning proposal are not contrary to the requirements of this SEPP.

## **6 *Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?***

Directions under Section 117 of the Environmental Planning and Assessment Act 1979 applicable to this planning proposal are addressed as follows:

### **1 Employment and Resources**

#### **Direction 1.2 Rural Zones**

The objective of this direction is to protect the agricultural production value of rural land.

This direction applies when a council prepares a planning proposal that affects land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). Because clause 4.2A of the LEP applies to rural zones, this direction is applicable.

In accordance with this direction, the planning proposal shall not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. Given the planning proposal does not include rezoning; it is not contrary to this direction.

### **Direction 1.5 Rural Lands**

The objectives of this direction are to:

- a protect the agricultural production value of rural land,
- b facilitate the orderly and economic development of rural lands for rural and related purposes.

This direction applies when:

- a a council prepares a planning proposal that affects land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or
- b a council prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.

What a council must do if this direction applies

- a A planning proposal to which clauses 3(a) or 3(b) apply must be consistent with the Rural Planning Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.
- b A planning proposal to which clause 3(b) applies must be consistent with the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

The amendment to clause 4.2A of the LEP affects land within rural and environmental protection zones. The amendment is considered to be consistent with this direction as outlined under State Environmental Planning Policy (Rural Lands) 2008 earlier in this report.

## **2 Environment and Heritage**

### **Direction 2.1 Environment Protection Zones**

The objective of this direction is to protect and conserve environmentally sensitive areas. This direction applies when a council prepares a planning proposal.

What a council must do if this direction applies:

- a A planning proposal shall include provisions that facilitate the protection and conservation of environmentally sensitive areas.
- b A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP shall not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “*Rural Lands*”.

This direction is applicable to the proposed amendment to clause 4.2A. Given the proposed amendment will ensure all dwellings in the environment protection zones are subject to existing intended provisions which are partly aimed at minimising environmental impacts, it is not considered that the proposal is contrary to this direction.

### **Direction 2.2 Coastal Protection**

The objective of this direction is to implement the principles in the NSW Coastal Policy. This direction applies when a council prepares a planning proposal that applies to land in the coastal zone.

A planning proposal shall include provisions that give effect to and are consistent with:

- a the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, and
- b the *Coastal Design Guidelines 2003*, and



- c the manual relating to the management of the coastline for the purposes of section 733 of the *Local Government Act 1993* (the *NSW Coastline Management Manual 1990*).

The amendments within this planning proposal are consistent with the requirements of this direction. The LEP contains provisions which address coastal development and will not be impacted by the proposal.

### **Direction 2.3 Heritage Conservation**

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. This direction applies when a council prepares a planning proposal.

A planning proposal shall contain provisions that facilitate the conservation of:

- a items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,
- b Aboriginal objects or Aboriginal places that are protected under the *National Parks and Wildlife Act 1974*, and
- c Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the council, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

The amendments within this planning proposal are not contrary to the requirements of this direction as they will not impact the conservation of the above. Furthermore, the LEP contains provisions to address heritage areas and items which will not be impacted by the proposal.

### **Direction 2.4 Recreation Vehicle Areas**

The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.

This direction applies when Council prepares a planning proposal. The planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the *Recreation Vehicles Act 1983*):

- (a) where the land is within an environmental protection zone,
- (b) where the land comprises a beach or a dune adjacent to or adjoining a beach,
- (c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration:
  - (i) the provisions of the guidelines entitled *Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas*, Soil Conservation Service of New South Wales, September, 1985, and
  - (ii) the provisions of the guidelines entitled *Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas*, State Pollution Control Commission, September 1985.

The planning proposal is not contrary to this direction as it does not enable land to be developed for the purpose of a recreation vehicle area.

## **3 Housing, Infrastructure and Urban Development**

### **Direction 3.1 Residential Zones**

The objectives of this direction are:

- a to encourage a variety and choice of housing types to provide for existing and future housing needs,
- b to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- c to minimise the impact of residential development on the environment and resource lands.

This direction applies when a council prepares a planning proposal that affects land within:

- a an existing or proposed residential zone (including the alteration of any existing residential zone boundary),
- b any other zone in which significant residential development is permitted or proposed to be permitted.

A planning proposal shall include provisions that encourage the provision of housing that will:

- a broaden the choice of building types and locations available in the housing market, and
- b make more efficient use of existing infrastructure and services, and
- c reduce the consumption of land for housing and associated urban development on the urban fringe, and
- d be of good design.

A planning proposal shall, in relation to land to which this direction applies:

- a contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and
- b not contain provisions which will reduce the permissible residential density of land.

The amendments within this planning proposal will not impact existing provisions which make the LEP complaint with this direction.

## **4 Hazard and Risk**

### **Direction 4.1 Acid Sulfate Soils**

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

This direction applies when a council prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.

Council shall consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.

When a council is preparing a planning proposal to introduce provisions to regulate works in acid sulfate soils, those provisions shall be consistent with:

- a the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Director-General, or
- b such other provisions provided by the Director-General of the Department of Planning that are consistent with the Acid Sulfate Soils Planning Guidelines.

A council shall not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. Council shall provide a copy of any such study with its statement to the Director-General of the Department of Planning under section 64 of the EP&A Act.

Where provisions referred to under paragraph (5) of this direction have not been introduced and council is preparing a planning proposal that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the planning proposal must contain provisions consistent with paragraph (5).

Given the proposed amendments will not increase potential development with areas mapped on the Acid Sulfate Soils Map and will not regulate works in acid sulfate soils, it is not considered that the proposal will be contrary to this direction.

## **5 Regional Planning**

### **Direction 5.4 Commercial and Retail Development along the Pacific Highway, North Coast**

The objectives for managing commercial and retail development along the Pacific Highway are:

- (a) to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route;
- (b) to prevent inappropriate development fronting the highway;
- (c) to protect public expenditure invested in the Pacific Highway;
- (d) to protect and improve highway safety and highway efficiency;
- (e) to provide for the food, vehicle service and rest needs of travellers on the highway; and
- (f) to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.

This Direction applies to those council areas on the North Coast that the Pacific Highway traverses, being those council areas between Port Stephens Shire Council and Tweed Shire Council, inclusive.

This Direction applies when a relevant planning authority prepares a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.

A planning proposal that applies to land located on "within town" segments of the Pacific Highway must provide that:

- (a) new commercial or retail development must be concentrated within distinct centres rather than spread along the highway;
- (b) development with frontage to the Pacific Highway must consider impact the development has on the safety and efficiency of the highway; and
- (c) for the purposes of this paragraph, "within town" means areas which, prior to the draft local environmental plan, have an urban zone (eg: "village", "residential", "tourist", "commercial", "industrial", etc) and where the Pacific Highway speed limit is less than 80km/hour.

A planning proposal that applies to land located on "out-of-town" segments of the Pacific Highway must provide that:

- (a) new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction;
- (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway; and
- (c) for the purposes of this paragraph, "out-of-town" means areas which, prior to the draft local environmental plan, do not have an urban zone (eg: "village", "residential", "tourist", "commercial", "industrial", etc) or are in areas where the Pacific Highway speed limit is 80km/hour or greater.

The amendments proposed as part of the planning proposal are not contrary to this direction.

### **Direction 5.10 Implementation of Regional Plans**

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. This direction applies to land to which a Regional Plan has been released by the Minister for Planning.

This direction applies when Council prepares a planning proposal. Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.

The two amendments the subject of the planning proposal will not be contrary to the North Coast Regional Plan.

## **6 Local Plan Making**

### **Direction 6.1 Approval and Referral Requirements**

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

A planning proposal shall:

- a minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and
- b not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the council has obtained the approval of:
  - i the appropriate Minister or public authority, and
  - ii the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General),prior to a certificate under section 65 of the Act being issued, and
- c not identify development as designated development unless the council:
  - i can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and
  - ii has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to a certificate being issued under section 65 of the Environmental Planning and Assessment Act 1979.

This Planning Proposal does not require the implementation of any concurrence provisions. The planning proposal is consistent with this direction.

#### **Direction 6.2 Reserving Land for Public Purposes**

The objectives of this direction are:

- a to facilitate the provision of public services and facilities by reserving land for public purposes, and
- b to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

A planning proposal shall not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).

When a Minister or public authority requests a council to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991*, the council shall:

- a reserve the land in accordance with the request, and
- b include the land in a zone appropriate to its intended future use or a zone advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), and
- c identify the relevant acquiring authority for the land.

When a Minister or public authority requests a council to include provisions in a planning proposal relating to the use of any land reserved for a public purpose before that land is acquired, the council shall:

- a include the requested provisions, or
- b take such other action as advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) with respect to the use of the land before it is acquired.

When a Minister or public authority requests a council to include provisions in a planning proposal to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the council shall rezone and/or remove the relevant reservation in accordance with the request.

This Planning Proposal is consistent with this direction

## **Section C – Environmental, social and economic impact**

### **7     *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?***

The proposed amendments will not result in any greater disturbance to the natural environment than what would already occur as horticulture is currently permissible without consent and the amendment to clause 4.2A will assist regulate dwellings within the rural and environmental protection zones.

### **8     *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?***

It is not considered that there are any environmental effects resulting from the planning proposal.

### **9     *Has the planning proposal adequately addressed any social and economic effects?***

The proposed amendments in this planning proposal are aimed at rectifying issues with the LEP which have the potential to result in significant social and economic impacts.

## **Section D – State and Commonwealth Interests**

### **10    *Is there adequate public infrastructure for the planning proposal?***

The planning proposal relates to housekeeping and policy amendments for which additional public infrastructure are not required.

### **11    *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?***

Government authorities have not been formally involved in this planning proposal as it is yet to receive gateway approval. However, the NSW Department of Primary Industries (DPI) were consulted with regards to the amendment to horticulture within the R5 zone prior to Council resolving to proceed with the preparation of the planning proposal. DPI responded with no objections to the proposed amendment.

## **Part 4    Mapping**

No new or amended maps are required as part of the proposed amendments.

## **Part 5    Community Consultation**

It is intended to undertake community consultation by way of an advertisement in the local newspaper and Councils website advising the public of the planning proposal and the opportunity to make a submission. It is intended to advertise the planning proposal for 28 days.

## **Part 6    Project Timeline**

June 2018	Gateway determination issued by Department of Planning & Environment
July 2018	Public exhibition of planning proposal and consultation with government agencies
August 2018	Analysis of public submissions and agency responses Preparation of Council report
September 2018	Endorsed planning proposal submitted to Department of Planning and Environment for finalisation

