

Addendum

Planning Proposal Burrundulla – Additional Information

SEPP (Rural Lands) 2008

The SEPP (Rural Lands) is addressed in the planning proposal submitted to Council under the Ministerial Directions 1.2 and 1.5 (refer page 21 of the report prepared by Barnson Pty Ltd dated December 2015).

The aims of this SEPP (Rural Lands) are as follows:

- (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.*

Under section 117 of the Act, the Minister has directed that councils exercise their functions relating to changes in minimum lot sizes under local environmental plans in accordance with the Rural Planning Principles and the Rural Subdivision Principles. The Planning Proposal as supported by Council will result in both a change to the land use zone from Primary Production Small Lots (RU4) to Large Lot Residential (R5) together with a corresponding reduction in the minimum lot size from 20ha to 2ha. In this regard the Rural Planning Principles are required to be addressed in a Planning Proposal which relates to land zoned rural.

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 Rural Planning Principles were addressed by the Mid-Western Regional Council in the formulation of the Comprehensive Land Use Strategy (CLUS) adopted in 2010. The strategy generally recognises the need to provide rural lifestyle opportunities within the curtilage of the towns of Mudgee, Gulgong, Rylstone and Kandos. The issue of rural lifestyle lots has been more recently addressed by Council in their decision to amend the CLUS to provide 2-5ha rural residential lots subject to specific criteria. It is understood that these criteria have regard to the Rural Planning Principles and the need to provide a balance between standard residential opportunities and larger lots.

The proposal is consistent with the Rural Planning Principles including due consideration of impacts on services and infrastructure and appropriate location when providing for rural housing. The proposal considers impacts on services and infrastructure and appropriate lot sizes have been proposed to accommodate the additional dwellings with minimum impact. The site is consistent with the criteria established by the Council in preparation of the amendment to the CLUS and this was addressed in the report prepared by Council staff in support of the proposal.

Rural Subdivision Principles

The Rural Subdivision Principles are as follows:

- (a) the minimisation of rural land fragmentation,*
- (b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,*
- (c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,*
- (d) the consideration of the natural and physical constraints and opportunities of land,*
- (e) ensuring that planning for dwelling opportunities takes account of those constraints.*

Again the Rural Subdivision Principles have been considered in the context of the amendment to the CLUS to enable the consideration of the proposal. The site has been selected based on its proximity to the urban area of Mudgee, gentle slope, absence of significant biodiversity and bounded by a sealed road.

SEPP 55 (Remediation of Land)

The objective of SEPP 55 is to provide for a Statewide planning approach to the remediation of contaminated land.

In particular, the SEPP aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:

- (a) by specifying when consent is required, and when it is not required, for a remediation work, and*
- (b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and*
- (c) by requiring that a remediation work meet certain standards and notification requirements.*

In terms of a SEPP 55 evaluation pre-Gateway the following comments are made having regard to the Guidelines:

the subject site or land in the vicinity is, or may be, associated with activities listed in Table 1 but it is not known whether contamination exists.

The subject site and land in the vicinity are associated with agricultural activities which is listed in Table 1 of the SEPP 55 Guidelines. Inspection of the site and discussions with the owners revealed

that the agricultural activities predominantly involve grazing and no associated potentially contaminating activities.

the land was, or is, regulated by the EPA or other regulatory authority in relation to land contamination, and there is insufficient information available about the nature and extent of contamination.

The subject site has not in the past or currently been regulated by the EPA or other regulatory authority in relation to contamination.

the land has been investigated or remediated but there is insufficient information available about the nature and extent of contamination, or the circumstances have changed

The site has not previously been the subject of an investigation or remediation for contamination.

there are restrictions on, or conditions attached to, the use of the site by regulatory or planning authorities that are, or may be, related to contamination, but there is insufficient information available about the nature and extent of contamination

There are no known restrictions or conditions attached to the use of the site by regulatory authorities relating to contamination.

council records have demonstrated that the land is associated with complaints about pollution or illegal dumping of wastes but it is not known whether contamination exists

There is no evidence to suggest nor does Council hold records that the land is associated with complaints about pollution or illegal dumping of wastes.

a use such as residential, educational, recreational, hospital or childcare is proposed on the land and records on the site history are unclear about whether the land has been used in the past for a purpose listed in Table 1.

A residential use is proposed for the land, however the history of the site is clear with the present owners carrying out agricultural activities and retaining a connection with the site since the 1800's.

Given the previous use of the site the likelihood of contamination indicating the land is not suitable for the proposed concept is minimal. Any localised surface soil contamination will require remediation before the land can be used for residential development. Should remediation be required, it is anticipated that this can occur at future development application stage. The Planning Proposal is consistent with SEPP 55.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

The SEPP (Mining, Petroleum Production and Extractive Industries) 2007 applies to the whole of the state. The policy is not considered applicable in the context of the planning proposal.

Ministerial Directions

Section 117 of the Environmental Planning and Assessment Act 1979 (EP&A Act) enables the Minister for Planning and Environment to issue directions regarding the content of planning proposals to the extent that the content must achieve or give effect to particular principles, aims, objectives or policies set out in those directions as relevant to the particular circumstance.

The proposal as submitted addresses the following directions as being relevant to the proposal:

1.2 Rural Zones

1.5 Rural Land

The other Ministerial directions were considered and are either irrelevant or the proposal is not inconsistent. These are included in the table below.

Table 1 Section 117 Directions

Section 117 Direction	Compliance/Applicability
1. Employment and Resources 1.1 Business and Industrial Zones 1.2 Rural Zones 1.3 Mining, Petroleum Production and Extractive Industries 1.4 Oyster Aquaculture 1.5 Rural Lands	1.2 and 1.5 Addressed in Barnson report. 1.1 and 1.4 Not Applicable 1.3 – Refer comment below.
2. Environment and Heritage 2.1 Environment Protection Zones 2.2 Coastal Protection 2.3 Heritage Conservation 2.4 Recreation Vehicle Areas	Not Applicable
3. Housing, Infrastructure and Urban Development 3.1 Residential Zones 3.2 Caravan Parks and Manufactured Home Estates 3.3 Home Occupations 3.4 Integrating Land Use and Transport 3.5 Development Near Licensed Aerodromes 3.6 Shooting Ranges	Consistent
4. Hazard and Risk 4.1 Acid Sulfate Soils 4.2 Mine Subsidence and Unstable Land 4.3 Flood Prone Land 4.4 Planning for Bushfire Protection	The subject land is free from hazards. Mid-Western Regional LGA has a bushfire prone land map. The planning proposal is not affected by the mapped bushfire prone land. Consistent
5. Regional Planning 5.1 Implementation of Regional Strategies 5.2 Sydney Drinking Water Catchments 5.3 Farmland of State and Regional Significance on the NSW Far North Coast 5.4 Commercial and Retail Development along the Pacific Highway, North Coast 5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010) 5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1) 5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1) 5.8 Second Sydney Airport: Badgerys Creek	There are no Regional Strategies applicable to the proposal

Section 117 Direction	Compliance/Applicability
5.9 North West Rail Link Corridor Strategy	
6. Local Plan Making 6.1 Approval and Referral Requirements 6.2 Reserving Land for Public Purposes 6.3 Site Specific Provisions	This direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. The planning proposal does not include LEP provisions requiring concurrence, consultation or referral.
7. Metropolitan Planning 7.1 Implementation of A Plan for Growing Sydney 7.2 Implementation of Greater Macarthur Land Release Investigation	Not Applicable

Extract <http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Environmental-Plans/~media/01CC77DE8E6A441F83508CCDD205B1DD.ashx>

Direction 1.3 Mining, Petroleum Production and Extractive Industries

The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

This direction applies when a relevant planning authority prepares a planning proposal that would have the effect of:

- (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or*
- (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.*

The proposal will result in the rezoning of land to a residential zone which will likely restrict the potential for mining. However, in addressing the direction it is noted that:

The site is not identified in the MWRC Comprehensive Land Use Strategy as a significant resource of coal, other minerals, petroleum or extractive material,

There are no existing mines, petroleum production operations or extractive industries occurring in the area subject to the planning proposal, and

the site is already adjacent to the residential fringe of Mudgee and therefore unsuitable for mining and extractive industry.

Therefore, while the direction is applicable and the proposal may be considered inconsistent, the inconsistency is of a minor nature.