

SECTION 59 PLANNING REPORT

Planning proposal details:

PP_2016_BLAYN_001 to amend Blayney Local Environmental Plan 2012 to include deferred matters, model boundary adjustment clause, existing holding time extension and minor amendments to Clause 4.2A(3).

Planning proposal summary:

A planning proposal to amend the *Blayney Local Environmental Plan 2012* (LEP) to address the outstanding deferred matters with regard to large Lot Residential Land, to extend the time for the sunset of existing holdings from 3 years to 5 years from commencement of the BLEP2012, to incorporate into BLEP2012 a new standard instrument boundary adjustment clause to permit boundary adjustments in rural areas on lots below the minimum lot size and/or greater than 10% variations in lot sizes, and to carry out minor amendments to Clause 4.2A (3) to clarify building rights and historical entitlements.

Date of Gateway determination:

5 May 2015

1.0 SUMMARY

The brief reasoning for the amendments are that Blayney Council is seeking to review and update the applicable local environmental plan controls for its rural and large lot residential areas. This includes amendments to BLEP 2012, and the revocation of BLEP 1998.

In summary this includes the following amendments:

- a) **Large Lot Residential** (Forest Reefs Road and Browns Creek Road only): To transfer and update the relevant planning controls for the large lot residential lands along Forest Reefs Road and Browns Creek Road that are identified as “Deferred Areas” in BLEP2012, from the operation of BLEP1998 to BLEP2012. As a result, BLEP1998 will no longer be required and will be revoked. The aim is to address (in part) the recommendations of the Subregional Rural and Industrial Land Use strategy 2008, and manage supply of this land use in the Shire.
- b) **Existing holdings**: To modify Clause 4.2A(4) of BLEP2012 to extend the time for the sunset of existing holdings from 3 years to 5 years (an extension of 2 years) from commencement. BLEP2012 commenced on 23 November 2012, so that the new sunset date for existing holdings would be 23 November 2017. Assuming that the LEP amendment occurs in late 2016 this would provide approximately a year to allow for more substantial notification to the community of the sunset date.
- c) **Minor administrative and clarification amendments including:**
 - i) **Boundary adjustments**: To incorporate into BLEP2012 a new standard boundary adjustment clause to permit boundary adjustments in rural areas on lots below the minimum lot size and/or greater than 10% variations in lot size as this is currently not permitted under either exempt development or under

BLEP2012. This will provide increased flexibility for farming operations without creating new dwelling entitlements and is an administrative update to BLEP2012 to correct a “gap” in current controls.

- ii) **Historic dwellings:** Amending Clause 4.2A – erection of dwelling houses or dual occupancies on land in certain rural and environmental protection zones – Subclause (3) (c), to add the words “*under an environmental planning instrument*” before the words “*before this plan*”. The intent is to clarify that dwelling rights only extend to environmental planning instruments (LEPs and Interim Development Orders) but not back to historic Acts of Parliament and /or legislation like Crown or Settlers’ lots created in the early 1900s.

2.0 GATEWAY DETERMINATION

The Gateway determination was issued on 5 May 2016. The time frame given for completion of the proposal was 12 months from this date.

No review request was made by Gateway.

All conditions included in the Gateway determination have been complied with:

1. The planning proposal was adjusted to reflect the Gateway recommended alteration to the RU1 Primary Production land use table.
2. Community consultation was undertaken from 7 June 2016 for 28 days.
3. Agency consultation was undertaken for 28 days from 7 June 2016.
4. Consultation was undertaken with the requisite local government bodies.
5. A public hearing was not required.
6. Current and proposed land zoning maps were included in the planning proposal.
7. The processing of the planning proposal is still within the 12 month period set down by the Gateway Determination.

3.0 COMMUNITY CONSULTATION

Community consultation was undertaken for 28 days from 7 June 2016. A number of submissions were received.

Attachment B to this Report provides a summary of the issues raised and Council's response to each issue.

The planning proposal did not require re-exhibition or amendment and all consultation requirements were met.

4.0 VIEWS OF PUBLIC AUTHORITIES

Agency consultation was undertaken for 28 days from 9 June 2016. The agencies contacted were as per the Gateway Determination.

A number of submissions were received from some agencies in regard to the planning proposal.

Attachment B to this Report provides a summary of the issues raised and Council's response to each issue.

The planning proposal did not require amendment and all consultation requirements were met.

5.0 CONSISTENCY WITH S.117 DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS

The planning proposal provides information to demonstrate how the proposal is consistent, justifiably inconsistent or inconsistent with all relevant Ministerial Directions under s117, SEPPs and other strategic planning documents.

6.0 PARLIAMENTARY COUNSEL OPINION

This report seeks Parliamentary Counsel opinion.

7.0 OTHER RELEVANT MATTERS

A copy of the planning proposal is provided with this Report.

8.0 MAPPING

The following maps are provided within the planning proposal showing the land affected by the proposed draft plan in the context of the LGA.

- Existing zoning maps showing the existing zoning across the LGA and surrounding lands.
- Zoning maps showing the proposed zoning alterations across the LGA and surrounding lands, to be undertaken by Dept of Planning & Environment.

9.0 RECOMMENDATION

Council recommends that this plan be made in accordance with the information provided, without amendments.

NOTES: Council includes copies of all relevant documents referred to in the summary report, properly tagged and clearly identified, as follows:

Attachment A: Planning Proposal, incorporating mapping.

Attachment B: Summary of submissions.

Attachment C: Gateway Determination.