

Oberon LEP 2013 - Amendment 5 - Insert Function Centre as a land use permissible with consent in zone RU1 Primary Production

Proposal Title :	Oberon LEP 2013 - Amendment 5 - Insert Function Centre as a land use permissible with consent in zone RU1 Primary Production		
Proposal Summary :	To amend the Oberon LEP 2013 to make development for the purposes of 'function centre' permissible with consent in the RU1 Primary Production zone. The amendment will also repeal the existing Additional Permitted Use Map APU_005 and Schedule 1, which provide for a function centre as an additional permitted use on the site identified as 280 Burroughs Crossing Road, Oberon.		
PP Number :	PP_2016_OBERO_001_00	Dop File No :	16/08633-1

Proposal Details

Date Planning Proposal Received :	08-Jul-2016	LGA covered :	Oberon
Region :	Western	RPA :	Oberon Council
State Electorate :	BATHURST	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :			
Suburb :		City :	Postcode :
Land Parcel :	All zone RU1 Primary Production land in Oberon LGA		

DoP Planning Officer Contact Details

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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 (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

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

If No, comment :

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

If Yes, comment : **There have been no known meetings or communications with registered lobbyists.**

Supporting notes

Internal Supporting Notes : **The proposed amendment seeks to include 'function centres' as development permissible with consent within zone RU1 Primary Production.**

A number of other Councils in the surrounding areas including Blayney, Bathurst, Mid Western and Lithgow Councils view this type of development favorably in rural zones by permitting functions centres subject to the development consent of Council.

It is noted that function centres were permitted with consent under the previous Oberon Local Environmental Plan 1998.

Council seek to enable the LEP to provide for appropriately sited and scaled function centres in rural areas that seek to take advantage of the desirable environmental attributes and characteristics of rural landscapes.

The Oberon LEP 2013 has been amended previously to permit a function centre as an additional permitted use in Schedule 1 for land at 280 Burroughs Crossing Road, Oberon. Since that time, Council has been in receipt of further requests to apply 'function centre' as an additional permitted use on another site within zone RU1. This request was refused, with Council instead resolving to amend the land use table of zone RU1 instead of the site specific proposal.

The Department does not have a definitive policy position on the inclusion of function centres within zone RU1, however precedent has been set in numerous regional LGAs providing for this type of development. The proposed amendment is supported by objectives of the zone RU1 Primary Production land use table which supports tourism related uses within the zone.

Council has not resolved to request authorisation to undertake plan making delegations, however has stated in documentation that it is Council's intention to utilise the delegations and have submitted the checklist for the review of a request for delegation of plan making

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functions. It is considered appropriate that Council be issued delegation to exercise plan making functions for this proposal.

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

External Supporting Notes :

The planning proposal has potential to increase tourism and employment opportunities in the Oberon LGA and provide consistent and equitable land use development opportunities across the LGA.

Adequacy Assessment

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

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

Comment : A statement of objectives has been provided, which states that the objective of the proposal is to enable development for the purposes of 'function centres' as permissible land use within zone RU1 to achieve consistent and equitable land use outcomes across the Oberon LGA.

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

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

Comment : The explanations of provisions is consistent with the statement of objectives.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.2 Rural Zones

1.5 Rural Lands

* May need the Director General's agreement

2.1 Environment Protection Zones

2.3 Heritage Conservation

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.2 Sydney Drinking Water Catchments

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP (Rural Lands) 2008

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

Section 117 Directions

1.2 - Rural Zones

The proposal does not propose to rezone the subject land and will not increase the permissible density of zone RU1 land. It is for this reason that the Proposal is considered consistent with the direction.

1.5 - Rural Lands

The use of zone RU1 land as a Function Centre will be required to meet the objective of the zone RU1 land within the land use table by including function centres as a complimentary development type to agricultural production activities within the zone. However consultation with DPI - Agriculture is required prior to this direction being satisfied and before the plan being finalised.

2.1 - Environment Protection Zones

The proposal does not relate to land within an environmental protection zone. The proposal does include land that is identified in Environmentally Sensitive Area mapping, however the proposal does not include provisions to remove this mapping.

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The Director Regions, Western can be satisfied that the proposal is consistent with this Direction.

2.3 - Heritage Conservation

The effects of the planning proposal will not affect or change the existing protection requirements within the Oberon LEP and the proposal is consistent with this Direction.

4.3 - Flood Prone Land

The proposal includes a portion of zone RU1 land that is identified as flood prone land. The Director Regions, Western can be satisfied that the proposal is consistent with this Direction as there is no change to the flooding consideration.

4.4 - Planning for Bushfire Protection

The planning proposal is inconsistent with this Direction at this time. Consultation with the NSW RFS is to be undertaken and addressed prior to community consultation.

5.2 - Sydney Drinking Water Catchments

This Direction is applicable as Oberon LGA falls within the Sydney Drinking Water Catchment. The proposal relates only to a policy change within the zone RU1 land - any development applications will be required to be assessed on merit to the specific location for compliance with this direction. The proposal is therefore inconsistent with this direction. This issue is to be addressed by consultation with the Sydney Catchment Authority prior to community consultation being undertaken.

SEPPS

Rural Lands (2008)

The proposal is considered to be consistent with this Direction as the proposal is generally consistent with the rural planning principles of the SEPP. Future development for function centres within RU1 zones will be assessed at the time on merit. The inclusion of the land use term 'function centre' within the land use table of the RU1 zone will require Council to assess each application's impact on primary production on merit.

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 : This amendment does not include a change to any land zoning maps. The amendment will repeal Additional Permitted Use Map Sheet APU_005 as this map sheet relates to a function centre permissible within zone RU1.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has proposed 28 days community consultation. This is considered to be appropriate.

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 :

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Proposal Assessment

Principal LEP:

Due Date : **December 2013**

Comments in relation to Principal LEP : **The Oberon LEP 2013 was notified on 20 December 2013.**

Assessment Criteria

Need for planning proposal :

The planning proposal is not the result of a strategic study or a report. Function centres were permissible with consent under the former Oberon LEP 1998. Since that time, the Oberon LEP 2013 has been amended to enable development for a 'function centre' as an additional permitted use on a single parcel of land.

Council has determined that the identification of a single rural site being suitable for a function centre is an inequitable land use outcome, and also ad hoc and inconsistent land use outcomes.

It is noted that function centres were permissible in the (now repealed) Oberon LEP 1998.

Council has recently been in receipt of a request to amend the Oberon LEP 2013 to apply a function centre as an additional permitted use on another site within the RU1 zone.

Council has resolved to refuse that application and instead apply 'function centre' as a use permissible with consent throughout zone RU1.

A planning proposal is the most appropriate mechanism to achieve this.

Consistency with strategic planning framework :

The Oberon Land Use Strategy and Oberon Land Use Strategy Amendment were endorsed by the Department on 23 December 2013.

The Strategy identifies zone RU1 land as being suitable for agricultural purposes throughout the Oberon LGA. It is considered that as the amendment relates to the potential use of land for the purpose of a function centre, the agricultural production capability of the land is not compromised at this time, and the inconsistency with the Strategy is considered to be of minor significance and appropriately justified as such use is deemed appropriate in many regional Council areas. The impacts on the agricultural production capability of land within the RU1 zone will be assessed at the development application stage on a site specific basis.

The proposal is not inconsistent with the aims, objectives and actions of the draft Central West and Orana Regional Plan (2016).

Environmental social economic impacts :

The insertion of 'function centres' as a land use permissible with consent does not pose any immediate environmental impacts. Any specific proposals that result from the amendment will be assessed on their merits having regard for the constraints of the site.

Positive social and economic impacts are expected, providing increased flexibility for tourism-related opportunities within the Oberon LGA.

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Assessment Process

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

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

Public Authority **Sydney Catchment Authority**
Consultation - 56(2)(d) **NSW Department of Primary Industries - Agriculture**
: **NSW Rural Fire Service**

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**
1.5 Rural Lands
2.1 Environment Protection Zones
2.3 Heritage Conservation
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
5.2 Sydney Drinking Water Catchments

Additional Information : **1. Prior to community consultation being undertaken consultation is required with the NSW Rural Fire Service and Sydney Catchment Authority under section 56(2)(d) of the Environmental Planning and Assessment Act 1979 to comply with the requirements of section 117 Direction 4.4 Planning for Bushfire Protection and Direction 5.2 – Sydney Drinking Water Catchment respectively. Council is to forward the NSW Rural Fire Service and Sydney Catchment Authority response to the Department and seek approval to**

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proceed to community consultation.

The NSW Rural Fire Service and Sydney Catchment Authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the planning proposal.

2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 (EP&A Act) as follows:

(a) The planning proposal is required to be made publicly available on exhibition for 28 days as described in A Guide to Preparing LEPs (Department of Planning and Infrastructure 2012).

(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.

3. Consultation is required with the Department of Primary Industries - Agriculture under section 56(2)(d) of the Environmental Planning and Assessment Act 1979 and/or to comply with the requirements of section 117 Directions 1.5 Rural Lands.

The Department of Primary Industries - Agriculture is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the planning proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. 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).

5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

6. Oberon Council is authorised to exercise plan making delegations.

Supporting Reasons :

The planning proposal has potential to increase tourism and employment opportunities in the Oberon LGA and provide consistent and equitable land use development opportunities across the LGA. The proposed development type is consistent with many regional LEPs where 'function centres' are permissible in zone RU1 Primary Production.

Signature:



Printed Name:

Jenna Menadob

Date:

15/7/16.

Endorsed

Wjamsch

ADR, W 15/07/16