

PLANNING PROPOSAL

FUNCTION CENTRES IN THE
RU1 PRIMARY PRODUCTION ZONE

OBERON LOCAL ENVIRONMENTAL PLAN 2013

JULY 2016



OBERON COUNCIL

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Introduction

Summary of Planning Proposal

This planning proposal relates to all land within the Oberon Council local government area and within the RU1 Primary Production zone under the *Oberon Local Environmental Plan 2013* (LEP).

The proposal seeks to amend the LEP to make development for the purposes of “function centre” permissible with consent in the RU1 Primary Production zone. This amendment will enable the LEP to meet the demand 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 proposal has been initiated by Oberon Council following requests from landowners in the RU1 zone seeking consent for the use of the land as function centre. If the proposal proceeds to finalisation it will result in “function centre” being added to the suite of permissible land uses in the RU1 zone and will enable landowners to consider this land use option and apply for development consent. As with any permissible land use in any zone, a development proposal is required to demonstrate consistency with the zone objectives and address any environmental impacts in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*.

Planning Context

Development for the purpose of a function centre was permissible with consent under the former *Oberon Local Environmental Plan 1998* prior to its repeal upon gazettal of the *Oberon Local Environmental Plan 2013*. Since that time, the 2013 LEP has been amended to enable a function centre development within the RU1 Primary Production zone as an additional permitted use. This was effected by a planning proposal that subsequently became Amendment 1 to the *Oberon Local Environmental Plan 2013* and authorised “function centre” as an additional permitted use on a single parcel of land.

The identification of a single rural site as being suitable for function centre above all others is an inequitable land use outcome which results in ad hoc and inconsistent land use outcomes. This is particularly relevant when considering the particular site subject to Amendment 1 is no more or no less suitable for function centre use than any other rural property.

Recently, Council has been in receipt of further requests to apply “function centre” as an additional permitted use on another site within the RU1 zone. To achieve good land use planning outcomes and a consistent approach across the Oberon local government area, Council resolved to proceed with a general amendment to the *Oberon Local Environmental Plan 2013* to make “function centre” a permissible use in the RU1 Primary Production zone.

Council considered the recent request to apply “function centre” as an additional permitted use in the RU1 Primary Production zone at its Ordinary Meeting on 17 May 2016 where it resolved that:

1. *Council support the planning proposal in principle to amend the Oberon Local Environmental Plan 2013 and add “function centre” as a permitted use in the RU1 Primary Production zone for the entire Oberon Council area,*

2. *Decline the request to amend the Oberon Local Environmental Plan 2013 to enable a function centre as an additional permitted use on Lot 10 DP 1153955 (397 Mutton Falls Road, Tarana) and refund the applicant's fees,*
3. *Authorise the Acting General Manager to prepare a planning proposal in relation to the above amendment, and*
4. *Authorise the Acting General Manager to submit the above planning proposal to the Department of Planning and Environment requesting Gateway Determination in accordance with the requirements of Section 56 of the Environmental Planning and Assessment Act 1979.*

A copy of the report submitted to Council's May 2016 Ordinary Meeting and the minutes confirming Council's resolution are provided in Appendix A.

This planning proposal seeks to implement the above resolution by amending the *Oberon Local Environmental Plan 2013* by adding "function centre" as a land use permissible with consent in the RU1 Primary Production zone.

Part 1 – Objectives and Intended Outcomes

The objectives of this planning proposal are to:

- Enable development for the purposes of a function centre as a permissible land use in the RU1 Primary Production zone and achieve consistent and equitable land use outcomes across Oberon Council local government area.
- Provide landowners within the RU1 Primary Production zone the ability to consider development for the purposes of a function centre as permissible development subject to that development being consistent with the objectives of the zone and addressing the environmental impacts of the development
- Facilitate diverse but compatible land use outcomes in the RU1 zone that are consistent with the zone objectives, particularly to "enable other forms of development associated with primary production activities, which may require an isolated location or which support tourism or recreational activities".

The intended outcome of this planning proposal is to add "function centre" as a land use permissible with consent in the RU1 Primary Production zone.

Part 2 – Explanation of the Proposal

The proposed outcome will be achieved by amending the zoning table in the *Oberon Local Environmental Plan 2013* as it applies to the RU1 Primary Production zone.

The relevant section of the zoning table for the RU1 Primary Production zone is provided below. It is proposed to amend the list of land uses permitted with consent (section 3) by adding "function centre" as shown in red.

Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
 - To encourage diversity in primary industry enterprises and systems appropriate for the area.
 - To minimise the fragmentation and alienation of resource lands.
 - To minimise conflict between land uses within this zone and land uses within adjoining zones.
 - To enable other forms of development associated with primary production activities, which may require an isolated location or which support tourism or recreational activities.
- 2 Permitted without consent

Environmental protection works; Extensive agriculture; Home businesses; Home occupations; Intensive plant agriculture; Water reticulation systems

3 Permitted with consent

*Advertising structures; Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Building identification signs; Camping grounds; Cellar door premises; Cemeteries; Community facilities; Correctional centres; Crematoria; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; Educational establishments; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; **Function centres**; Freight transport facilities; Helipads; Highway service centres; Home-based child care; Home industries; Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Jetties; Landscaping material supplies; Open cut mining; Plant nurseries; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Roads; Roadside stalls; Rural industries; Sewerage systems; Veterinary hospitals; Water recreation structures; Water supply systems*

4 Prohibited

Any development not specified in item 2 or 3

If the above amendment proceeds to finalisation and gazettal, it will have the effect of making redundant the existing Additional Permitted Use provisions in Schedule 1 as well as the Additional Permitted Uses Map Sheet APU_005. These provisions provide for a function centre as an additional permitted use on the site identified as 280 Burroughs Crossing Road, Oberon (Lot 4, DP 264133) which is in the RU1 Primary Production zone. Because of this it is proposed to include as part of this amendment the deletion of Item 1 in Schedule 1 Additional Permitted Uses and the associated Additional Permitted Uses Map Sheet APU_005.

Part 3 – Justification

Section A – Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the direct result of a strategic study or report. The proposal seeks to increase the options for development permissible with consent in the RU1 Primary Production zone consistent with the zone objectives. The proposal to add

function centres as development permissible with consent in the RU1 Primary Production zone is in response to requests from landowners and reflects Council's established position to encourage and promote land uses in the RU1 Primary Production zone that are consistent with the zone objectives and enable landowners to diversify land uses in sympathy with the prevailing rural nature of the zone.

Enabling function centres as permissible in the RU1 Primary Production zone is consistent with land uses previously permissible under the former *Oberon Local Environmental Plan 1998* and seeks to prevent the proliferation of ad hoc site-by-site planning proposals for the land use.

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

Adding function centres as a land use permissible with consent in the RU1 Primary Production zone is considered to be the best way to achieve the objectives and intended outcomes of the proposal. This approach is an alternative to the previously applied additional permitted use to a single site which is considered to be an inequitable land use planning outcome that is difficult to administer.

The permissibility of function centres as a land use in the RU1 Primary Production zone is consistent with other gazetted LEPs in New South Wales. These include locations geographically similar to Oberon including Armidale-Dumaresq, Bathurst Regional, Blayney, Cabonne, Cooma-Monaro, Goulburn-Mulwaree, Greater Hume, Gundagai, Guyra, Inverell, Kyogle, Liverpool Plains, Mid-Western Regional, Palerang, Tumbarumba, Walcha, Yass Valley and Young.

A function centre is essentially a tourist-related land use which is addressed in the Department of Planning and Environment's Practice Note PN 09-006. This practice note provides guidance for council's in providing for tourism opportunities in Local Environmental Plans.

The *Oberon Local Environmental Plan 2013* applies a single rural zone (RU1 Primary Production zone) generally to all rural land in the local government area. The LEP includes an additional local objective for additional land uses in the RU1 zone, being

To enable other forms of development associated with primary production activities, which may require an isolated location or which support tourism or recreational activities.

The proposal to allow function centres as development permissible with consent is consistent with this objective. The RU1 zone objectives will ensure any development proposals for function centres in the RU1 zone are associated with, complementary to and ancillary to primary production activities on the subject land. This complementary land use and development approach is similarly applied to other permissible land uses in the RU1 zone such as animal boarding and training establishments, camping grounds, cellar door premises, environmental facilities, farm stay accommodation, freight transport facilities, landscaping material supplies and rural industries.

Section B – Relationship to the Strategic Planning Framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

At the time of preparation of this planning proposal, the Draft Central West and Orana Regional Plan was on public exhibition.

The Draft Central West and Orana Regional Plan contains a vision for the region that will be achieved through four overarching goals to influence and inform land use and development. Each goal contains directions and actions to influence and implement land use and development outcomes that will achieve the specified goals.

Of relevance to this proposal are:

GOAL 1: A growing and diverse regional economy, and

GOAL 3: A region that protects and enhances its productive agricultural land, natural resources and environmental assets.

The intent of Goal 1 is to enhance and strengthen the region's economic diversity. This proposal, by allowing function centres as a land use permissible with consent in the RU1 Primary Production zone, will enable landowners in the rural areas of the Oberon Council area to consider function centres as a means of diversifying economic potential.

While the outcome of the proposal will permit function centres in rural areas, any proposal for such uses will be subject to development consent and will be required to address the consistency with the objectives of the RU1 Primary Production zone. These objectives provide a flexible land use approach but prioritise agricultural activity and discourage any land uses that will result in unreasonable impacts on the continuation of agricultural use of the land.

Direction 1.4 under Goal 1 recognises tourism being one of the fastest growing economic sectors in the region. The Oberon Council area, with its close proximity to the Sydney metropolitan area, provides an attractive location for rural landowners to diversify their land use interests and provide facilities for appropriately scaled functions, taking advantage of the appealing rural character of the locality.

This Direction contains Action 1.4.3 which seeks to deliver enabling planning controls to diversify regional tourism markets and increase the range of tourism facilities. Providing for function centres as permissible development in the RU1 Primary Production zone addresses this action. It will enable landowners to diversify their economic interests and consider appropriately scaled and designed function centres in rural localities that take advantage of the appealing nature of the surrounding rural environment.

Allowing function centres in rural localities, where appropriately designed, located and scaled is consistent with the commitment under Action 1.4.3 which states that

“The NSW Government will ... update local plans to remove barriers to appropriate tourism development, to enable innovation and flexibility, while protecting the values that contribute to tourism opportunities.”

Goal 3 of the Draft Central West and Orana Regional Plan seeks to protect and enhance productive agricultural land, natural resources and environmental assets. It references the value of agricultural land and the need to minimise the potential for land use conflict. It contains directions to protect regionally important agricultural land and manage conflicting land use interests. Like any land use requiring consent, any future proposal for use of land for a function centre would be required to address environmental impacts, land use conflict and the suitability of the subject site for the proposed use.

4. Is the planning proposal consistent with the local Council’s Community Strategic Plan, or other local strategic plans?

The proposal is generally consistent with the Council’s adopted Community Strategic Plan (CSP). Of particular relevance is Future Direction 3 – Economic Prosperity. This direction recognises the importance of tourism to the local economy and the desire to take advantage of the natural assets of the region to enhance and facilitate visitor experiences. An identified strategic outcome in the CSP is a thriving tourism sector with “new industry startups” being a key performance indicator.

This planning proposal seeks to achieve and enable the diversification and opportunity for tourism related land uses in the RU1 Primary Production zone by allowing function centres permissible with development consent. This change is considered to be consistent with the desired outcomes contained in the Council’s Community Strategic Plan.

The Oberon Land Use Strategy was prepared in 2011 in the lead up to the drafting of the Oberon Local Environmental Plan 2013. This strategy does not contain details relating to specific land uses in rural areas but identifies the need to reinforce and strengthen primary production as the dominant land use in rural areas. The Strategy relies on the land use planning principles contained in State Environmental Planning Policy (Rural Lands) 2008 in relation to rural areas. This is addressed in greater detail below.

At the time this planning proposal was prepared, the Draft Oberon Council Tourism Strategy 2016 was on public exhibition. This strategy contains a vision for tourism development, being “Using a collaborative approach, promote Oberon’s unique visitor attractions to grow tourism and make a visit to Oberon, its villages and surrounds a memorable experience”. This proposal is consistent with the draft strategy and will enable the provision of services and facilities to achieve the identified strategies and actions. Specifically, the proposal will enable the provision of appropriately scaled and located function centres in the rural zone that can capitalise on the desire for these facilities in rural areas.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The proposal is generally consistent with applicable State Environmental Planning Policies (SEPPs).

6. Is the planning proposal consistent with the applicable Ministerial Directions (s117 directions)?

The proposal is generally consistent with the applicable Ministerial Directions issued under section 117 of the *Environmental Planning and Assessment Act 1979*. An assessment of the proposal against the Ministerial Directions is contained in Appendix C.

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?

No direct impacts on critical habitats or threatened species, populations or ecological communities, or their habitats, are expected as a result of this proposal. The proposal

will enable function centres as permissible development in the RU1 Primary Production zone. Any specific development proposals that result will be required to be assessed on their merits having regard for the constraints of the site in accordance with standard development assessment practice and the requirements of the *Environmental Planning and Assessment Act 1979*.

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

There are no expected other likely environmental effects resulting from this planning proposal. The proposal will enable function centres as permissible development in the RU1 Primary Production zone. Any specific development proposals that result will be required to be assessed on their merits having regard for the constraints of the site in accordance with standard development assessment practice and the requirements of the *Environmental Planning and Assessment Act 1979*.

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

The proposal will enable development for the purposes of a function centre as permissible development in the RU1 Primary Production zone. Any future proposals for function centres will still require development consent and assessment in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and have regard for the environmental constraints of the subject site.

Generally, it is considered appropriate to enable function centres as permissible development in the RU1 Primary Production zone and net positive social and economic benefits to the community are expected as a result.

Section D – State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

The planning proposal will allow function centres as permissible development in the RU1 Primary production zone. The existence of public infrastructure and the limits to its expansion and/or augmentation in rural areas will have a limiting effect on the scale and siting of future function centre proposals. These limits are considered appropriate and will ensure consistency of proposals with the zone objectives and the character of the surrounding locality.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

No consultation has been undertaken in relation to this proposal to date. Future government agency consultation will take place in accordance with directions in the Gateway determination.

Part 4 – Mapping

No mapping changes are needed to facilitate the elements of the planning proposal.

If the planning proposal proceeds to finalisation and function centres are made permissible with consent in the RU1 Primary Production zone, the existing Additional Permitted Uses Map Sheet APU_005 will be redundant and it is proposed to delete this map as part of this planning proposal.

Part 5 – Community Consultation

No community consultation has been undertaken in relation to this planning proposal to date. It is proposed that this planning proposal will be exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979* for a minimum period of 28 days.

Part 6 – Timeline

The proposed timeline for completion of this planning proposal is contained in the table below.

Plan Making Step	Estimated Completion
Gateway Determination	July 2016
Government Agency Consultation	August 2016
Public Exhibition Period	August 2016
Public Hearing	N/A
Submissions Assessment	September 2016
RPA Assessment of Planning Proposal and Exhibition Outcomes	September 2016
Submission of Endorsed LEP to DP&E for Finalisation	October 2016
RPA Decision to Make the LEP Amendment (delegated)	October 2016
Forwarding LEP Amendment to DP&E for Notification (delegated)	October 2016

Appendices

Appendix A – Council Report & Minutes

Oberon Council - Agenda and Business Papers – Ordinary Meeting – 17 May 2016

13.06 PLANNING PROPOSAL – FUNCTION CENTRE – 397 MUTTON FALLS ROAD, TARANA

File No: PRI-397

Author: Lachlan Sims, Town Planner

Summary

A planning proposal has been received seeking to amend the *Oberon Local Environmental Plan 2013* (LEP) and enable "function centre" as an additional permitted use on Lot 10 DP 1153955 at 397 Mutton Falls Road, Tarana. The subject site is within the RU1 Primary Production zone and under the current LEP provisions "function centre" is a prohibited use in the zone.

In consideration of the proposal, it is recommended that Council decline the request to undertake a site-specific amendment to the LEP for the subject site and, as an alternative, request the Department of Planning and Environment to consider a proposal to add "function centre" as a land use permissible with consent in the RU1.

Recommendation:

That:

1. Council support the planning proposal in principle to amend the *Oberon Local Environmental Plan 2013* and add "function centre" as a permitted use in the RU1 Primary Production zone for the entire Oberon Council area,
2. Decline the request to amend the *Oberon Local Environmental Plan 2013* to enable a function centre as an additional permitted use on Lot 10 DP 1153955 (397 Mutton Falls Road, Tarana) and refund the applicant's fees,
3. Authorise the Acting General Manager to prepare a planning proposal in relation to the above amendment, and
4. Authorise the Acting General Manager to submit the above planning proposal to the Department of Planning and Environment requesting Gateway Determination in accordance with the requirements of section 56 of the *Environmental Planning and Assessment Act 1979*.

Comment

Council is in receipt of a planning proposal from Anthony Daintith Town Planning acting on behalf of the owners of 397 Mutton Falls Road, Tarana (Lot 10 DP 1153955). The proposal is seeking to amend the *Oberon Local Environmental Plan 2013* (LEP) to add "function centre" as an additional permitted use on the land enabling the landowners to submit a development application for that use on the land. A copy of the submitted planning proposal is as follows.

The subject site is zoned RU1 Primary Production under the LEP provisions. A function centre is prohibited development in the RU1 zone. Council has previously considered and supported a similar LEP amendment in December 2014 that enabled a function centre as an additional permitted use at 280 Burroughs Crossing Road, Oberon (Lot 4 DP 264133). This proposal proceeded through the legislative amendment process and was gazetted into the LEP on 16 October 2015.

This proposal, seeking to amend the LEP to enable a function centre as permissible development on the land is considered to have merit. The subject site is a small rural holding and allowing the development of the land for the purposes of a function centre will enable the landowner to diversify

the use of the site by enhancing and encouraging visitor experiences in Oberon Council area. It should be noted that amending the LEP to enable function centre as permissible development on the land does not remove the need for development consent. If the LEP is amended, the landowner will still be required to submit a development application for the use of the site as a function centre. The development application will need to address the usual environmental impacts and effects and will be subject to the standard assessment and consent requirements specified in the *Environmental Planning and Assessment Act 1979*.

Council may be inclined to support and authorise the proposal to amend the LEP and allow the permissibility of a function centre on the subject land. This action would be similar to that taken previously to enable permissibility of a function centre the Burroughs Crossing Road site. An alternative option to the current proposal is to consider the suitability of making function centres permissible in general across the entire RU1 Primary Production zone.

Currently in the LEP, a function centre is prohibited development in the land use table for the RU1 Primary Production zone reads as follows:

Zone RU1 Primary Production

1. *Objectives of zone*

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To enable other forms of development associated with primary production activities, which may require an isolated location or which support tourism or recreational activities.*

2. *Permitted without consent*

Environmental protection works; Extensive agriculture; Home businesses; Home occupations; Intensive plant agriculture; Water reticulation systems

3. *Permitted with consent*

Advertising structures; Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Building identification signs; Camping grounds; Cellar door premises; Cemeteries; Community facilities; Correctional centres; Crematoria; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; Educational establishments; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Freight transport facilities; Helipads; Highway service centres; Home-based child care; Home industries; Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Jetties; Landscaping material supplies; Open cut mining; Plant nurseries; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Roads; Roadside stalls; Rural industries; Sewerage systems; Veterinary hospitals; Water recreation structures; Water supply systems

4. *Prohibited*

Any development not specified in item 2 or 3

A function centre is defined in the LEP as:

***function centre** means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.*

A number of the permitted land uses in the RU1 Primary Production zone have the potential for a much greater environmental impact and inconsistency with the zone objectives than a function centre is likely to have. For this reason it is considered that adding "function centre" as a permissible use can generally be supported noting that any proposal to establish a function centre would still be subject to requiring consent and the assessment of the impacts of a proposal in accordance with the requirements of the Environmental Planning and Assessment Act 1979. This means that any proposal for a function centre would still need to be assessed on its merits based on the scale and intensity of the proposal, its environmental impacts, its suitability for the site and its consistency with the zone objectives.

A comparison of other similar areas across NSW has revealed that of the 107 local government areas in the state that have the RU1 Primary Production zone in their local environmental plans, 29 of these permit function centres. Areas geographically similar to Oberon that permit function centres in the RU1 zone include Armidale, Bathurst, Blayney, Cabonne, Cooma-Monaro, Goulburn-Mulwaree, Gundagai, Guyra, Inverell, Mid-Western, Palerang, Tumbarumba, Upper Hunter, Walcha and Yass Valley.

Adding "function centre" as a permissible use in the RU1 Primary Production zone will increase the development potential and land use diversity across the council area. It would add an alternative land use that can be compatible with the rural agricultural nature of the land while also providing increased potential economic opportunities to the area. It would enable development consistent with the zone objective being development associated with primary production activities, which may require an isolated location or which support tourism or recreational activities.

For the reasons outlined above, it is considered appropriate to list "function centre" as development permissible with consent in the zoning table for the RU1 Primary Production zone.

If Council resolves to support the proposal to seek an amendment to the LEP making function centres permissible generally across the RU1 zone it would mean declining the applicant's request for a site specific amendment for the Mutton Falls Road site. While the applicant would ultimately benefit should the recommendation be finalised, because the amendment would benefit the wider community as a whole, it is considered appropriate that their application fees for the site specific application be refunded.

Options

1. Council has the option to authorise the planning proposal submitted by Anthony Daintith Town Planning for 397 Mutton Falls Road, Tarana (Lot 10 DP 1153955) which will amend the LEP to add "function centre" as an additional permitted use on the land. If the proposed amendment proceeds to finalisation and gazettal, it would enable the landowners to submit a development application for a function centre use on the land. If this option is pursued, it will involve the submission of the proposal to the Department of Planning and Environment for Gateway approval and will result in the addition of the subject site to Schedule 1 of the LEP and the amendment to the Additional Permitted Uses map.

This option is not recommended for the reasons outlined in this report. In the circumstances, and based on Council's previous decisions, it is considered more appropriate to authorise "function centre" as a land use generally permissible in the RU1 zone rather than through the

"additional permitted use" provisions. An alternative solution to the applicant's request is proposed in Option 2 below.

2. As an alternative, and as recommended in this report, Council has the option to authorise the Acting General Manager to prepare a new planning proposal to amend the LEP and add "function centre" as a permissible land use in the RU1 Primary Production zone. While this will make "function centre" a use permissible with consent in the RU1 zone, it should be noted that any such use will still require development consent and will be assessed on its merits based on the opportunities and constraints of the subject site and the nature of the development proposed. Because this option potentially results in a wider community benefit, it is considered appropriate that the applicant's fees be refunded and their site-specific planning proposal request be declined.

Acting General Manager's Comment

Guidelines have been issued under Section 23A of the Local Government Act 1993 titled 'Council Decision making During Merger Proposal Periods'. Council must consider the guideline in relation to each decision they make during the proposal period. This matter is considered to comply with the guidelines.

13.06 PLANNING PROPOSAL – FUNCTION CENTRE – 397 MUTTON FALLS ROAD, TARANA

File No: PRI-397

Author: Lachlan Sims, Town Planner

Summary

A planning proposal has been received seeking to amend the *Oberon Local Environmental Plan 2013* (LEP) and enable “function centre” as an additional permitted use on Lot 10 DP 1153955 at 397 Mutton Falls Road, Tarana. The subject site is within the RU1 Primary Production zone and under the current LEP provisions “function centre” is a prohibited use in the zone.

In consideration of the proposal, it is recommended that Council decline the request to undertake a site-specific amendment to the LEP for the subject site and, as an alternative, request the Department of Planning and Environment to consider a proposal to add “function centre” as a land use permissible with consent in the RU1.

Moved: McCarthy

Second: Doney

That:

1. Council support the planning proposal in principle to amend the *Oberon Local Environmental Plan 2013* and add “function centre” as a permitted use in the RU1 Primary Production zone for the entire Oberon Council area,
2. Decline the request to amend the *Oberon Local Environmental Plan 2013* to enable a function centre as an additional permitted use on Lot 10 DP 1153955 (397 Mutton Falls Road, Tarana) and refund the applicant’s fees,
3. Authorise the Acting General Manager to prepare a planning proposal in relation to the above amendment, and
4. Authorise the Acting General Manager to submit the above planning proposal to the Department of Planning and Environment requesting Gateway Determination in accordance with the requirements of Section 56 of the *Environmental Planning and Assessment Act 1979*.

Carried 16 170516

Appendix B – Section 117 Direction Checklist

State Environmental Planning Policy Checklist			
Planning Proposal – Function centres in the RU1 Primary Production zone, Oberon Local Environmental Plan 2013			
State Environmental Planning Policy (SEPP)	Applicable (Y/N)	Consistent (Y/N)	Comments/Justification
SEPP No 1 – Development Standards	N		Not applicable to Oberon LEP
SEPP No 14 – Coastal Wetlands	N		Not applicable in Oberon LGA
SEPP No 15 – Rural Landsharing Communities	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP No 19 – Bushland in Urban Areas	N		Not applicable in Oberon LGA
SEPP No 21 – Caravan Parks	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP No 26 – Littoral Rainforests	N		Not applicable in Oberon LGA
SEPP No 29 – Western Sydney Recreation Areas	N		Not applicable in Oberon LGA
SEPP No 30 – Intensive Agriculture	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP No 32 – Urban Consolidation (redevelopment of urban land)	N		This proposal applies only to rural land.
SEPP No 33 – Hazardous Development	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP No 36 – Manufactured Home Estates	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP No 39 – Spit Island Bird Habitat	N		Not applicable in Oberon LGA
SEPP No 44 – Koala Habitat Protection	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP No 47 – Moore Park Showground	N		Not applicable in Oberon LGA
SEPP No 50 – Canal Estate Development	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP No 52 – Farm Dams and other works in Land and Water Management Plan Areas	N		Not applicable in Oberon LGA
SEPP No 55 – Remediation of Land	Y	Y	The planning proposal will not affect the implementation of this SEPP.

SEPP No 59 – Central Western Sydney Regional Open Space and Residential	N		Not applicable in Oberon LGA
SEPP No 62 – Sustainable Aquaculture	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP No 64 – Advertising and Signage	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP No 65 – Design Quality of residential Apartment Development	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP No 70 – Affordable Housing (Revised Schemes)	N		Not applicable in Oberon LGA
SEPP No 71 – Coastal Protection	N		Not applicable in Oberon LGA
SEPP (Affordable Rental Housing) 2009	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP (Exempt and Complying Development Codes) 2008	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	Y	Y	The planning proposal will not affect the implementation of this SEPP.
State Environmental Planning Policy (Infrastructure)2007	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP (Kurnell Peninsula) 1989	N		Not applicable in Oberon LGA
SEPP (Major Development)2005	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP (Mining, Petroleum Production and extractive Industries) 2007	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP (Miscellaneous Consent Provisions) 2007	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP (Penrith Lakes Scheme) 1989	N		Not applicable in Oberon LGA
SEPP (Rural Lands) 2008	Y		This proposal will enable “function centres” as development permissible with consent in the RU1 Primary Production zone. This land use is generally consistent with the Rural Planning Principles established in this SEPP. Any future development

			proposal facilitated by this planning proposal will need to demonstrate consistency with the Rural Planning Principles contained in this SEPP.
SEPP (SEPP 53 Transitional Provisions) 2011	N		Not applicable in Oberon LGA
SEPP (State and Regional Development) 2008	Y	Y	The planning proposal will not affect the implementation of this SEPP.
SEPP (Sydney Drinking Water Catchment) 2011	Y	Y	This proposal affects land within the Sydney Drinking Water Catchment. There are no inconsistencies with the proposal and the provisions of this SEPP. Any development proposal facilitated by this planning proposal will need to address the requirements of this SEPP as applicable.
SEPP (Sydney Region Growth Centres) 2006	N		Not applicable in Oberon LGA
SEPP (Three Ports) 2013	N		Not applicable in Oberon LGA
SEPP (Urban Renewal) 2010	N		Not applicable in Oberon LGA
SEPP (Western Sydney Employment Area) 2009	N		Not applicable in Oberon LGA
SEPP (Western Sydney Parklands) 2009	N		Not applicable in Oberon LGA

Appendix C – Section 117 Direction Checklist

Section 117 Direction Checklist	
Planning Proposal – Function centres in the RU1 Primary Production zone, Oberon Local Environmental Plan 2013	
Direction	Planning Proposal Compliance
1. Employment and Resources	
1.1 Business and Industrial Zones	Does not apply to this planning proposal
1.2 Rural Zones	This direction seeks to protect the agricultural production of rural land and requires that a planning proposal must not rezone land from a rural zone to a residential, business, industrial or tourist zone. This proposal is consistent with this direction and will not result in the rezoning of rural land.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to this planning proposal
1.4 Oyster Aquaculture	Does not apply to this planning proposal
1.5 Rural Land	<p>This direction seeks to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes. This direction applies when a planning authority prepares a planning proposal that will affect land within an existing rural zone and requires a planning proposal to be consistent with the Rural Planning Principles listed in SEPP (Rural Lands) 2008.</p> <p>The proposal has been assessed against the Rural Planning Principles in SEPP (Rural Lands) 2008 and is considered consistent with those principles. The proposal seeks to enable function centres as ancillary and complementary development to agricultural and primary production activities in the RU1 Primary Production zone.</p>
2. Environment and Heritage	
2.1 Environmental Protection Zones	Consistent. The planning proposal is not expected to affect or alter existing environmentally sensitive areas.
2.2 Coastal Protection	Does not apply to this planning proposal
2.3 Heritage Conservation	Consistent. The effects of this planning proposal will not directly affect or change the existing requirements for heritage management and conservation in the LEP.
2.4 Recreation Vehicle Areas	Consistent. The proposed amendment will not affect development for the purpose of a recreational vehicle area.
3. Housing, Infrastructure and Urban Development	

3.1 Residential Zones	Does not apply to this planning proposal
3.2 Caravan Parks and Manufactured Home Estates	Consistent. This planning proposal will not affect development potential for caravan parks and manufactured home estates.
3.3 Home Occupations	Consistent. This planning proposal will not affect the permissibility of home occupations.
3.4 Integrating Land Use and Transport	Does not apply to this planning proposal
3.5 Development near Licensed Aerodromes	Consistent. This planning proposal will not result in impacts on any land in the vicinity of a licensed aerodrome.
3.6 Shooting Ranges	Consistent. This planning proposal will not rezone land adjacent to or adjoining an existing shooting range.
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Does not apply to this planning proposal
4.2 Mine Subsidence and Unstable Land	Consistent. This planning proposal will not affect land within a mine subsidence district or that has been identified as unstable.
4.3 Flood Prone Land	Consistent. This planning proposal will have the effect of enabling function centres in the RU1 Primary Production zone, some of which may be flood prone. It will add function centres to the existing suite of permitted land uses in the RU1 Primary Production zone. Any development enabled by this proposal will still require a merit assessment and consideration of the constraints of the subject site..
4.4 Planning for Bushfire Protection	Consistent. This planning proposal will have the effect of enabling function centres in the RU1 Primary Production zone, some of which may be identified as bushfire prone. It will add function centres to the existing suite of permitted land uses in the RU1 Primary Production zone. Any development enabled by this proposal will still require a merit assessment and consideration of the constraints of the subject site including bushfire risk.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Does not apply to this planning proposal
5.2 Sydney Drinking Water Catchment	Consistent. This planning proposal will have the effect of enabling function centres in the RU1 Primary Production zone, some of which may be within the Sydney Drinking Water Catchment. It will add function centres to the existing suite of permitted land uses in the RU1 Primary Production zone. Any development enabled by this proposal will still require a merit assessment and consideration of the constraints of the

	subject site including consideration of impacts on the water catchment and the requirement to have a neutral or beneficial effect on water quality..
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Does not apply to this planning proposal
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Does not apply to this planning proposal
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 Jul7 2000, see amended Direction 5.1
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to this planning proposal
5.9 North West Rail Link Corridor Strategy	Does not apply to this planning proposal
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. This planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Consistent. This planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes nor does it propose to reserve land for a public purpose.
6.3 Site Specific Provisions	Consistent. This planning proposal will allow for a new land use that will be permissible in the RU1 Primary Production zone.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to this planning proposal
7.2 Implementation of Greater Macarthur Land Release Investigation	Does not apply to this planning proposal