

Moree Plains LEP 2011 - Permitting Manufactured Homes as a Principle Dwelling

Proposal Title : **Moree Plains LEP 2011 - Permitting Manufactured Homes as a Principle Dwelling**

Proposal Summary : **This Planning Proposal seeks to introduce a new local provision into the Moree Plains LEP 2011 that will permit with consent, a manufactured home as a principal dwelling, where a dwelling house is permissible with consent.**

PP Number : **PP_2016_MOREE_001_00** Dop File No : **16/08481**

Proposal Details

Date Planning Proposal Received : **22-Jun-2016** LGA covered : **Moree Plains**

Region : **Northern** RPA : **Moree Plains Shire Council**

State Electorate : **NORTHERN TABLELANDS** Section of the Act : **55 - Planning Proposal**

LEP Type : **Policy**

Location Details

Street :
Suburb : City : Postcode :
Land Parcel : **This Planning Proposal applies to all land within the Moree Plains LGA where a dwelling house is permissible with consent**

DoP Planning Officer Contact Details

Contact Name : **Jon Stone**
Contact Number : **0267019688**
Contact Email : **jon.stone@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Murray Amos**
Contact Number : **0267573325**
Contact Email : **murray.amos@moree.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**
Regional / Sub Regional Strategy : **N/A** Consistent with Strategy : **Yes**

Moree Plains LEP 2011 - Permitting Manufactured Homes as a Principle Dwelling

MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
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 :	The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge.		
Have there been meetings or communications with registered lobbyists? :	Yes		
If Yes, comment :	The Northern Region office has not met any lobbyists in relation to this proposal, nor has the Region been advised of any meeting between other officers within the agency and lobbyists concerning this proposal.		

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **Approval of manufactured homes within NSW is complicated due to legal definitions and consent requirements under the Environmental Planning and Assessment Act 1974 (EP&A Act), the Local Government Act 1993 and the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. Manufactured homes are excluded from the definition of 'building' in the EP&A Act.**

The term 'manufactured home' cannot be inserted within the land use tables of a standard instrument LEP and the structure of the land use tables within the Moree Plains LEP 2011 means manufactured homes are not otherwise permissible through the group term 'residential accommodation'. It is considered by Council that the use of a manufactured home as a principal dwelling is otherwise prohibited within the LGA.

The planning proposal will facilitate permissibility under the EP&A Act within the Moree Plains LGA. Approval will still be required to address the Local Government Act and Regulation. Council have advised that all LEP development standards and local development controls that apply to a dwelling house will also apply to a manufactured home and that consent will still be required for the installation of a manufactured home under the provisions of the Local Government Act and Regulations until Council's Local Approvals Policy is finalised.

In the interim under s78A(3) of the EP&A Act a single development application can be submitted for both development consent and approval under the Local Government Act.

A similar Planning Proposal was considered by the Department in 2015. It addressed this issue in the Lake Macquarie LGA. That LEP Amendment was completed in October 2015.

Adequacy Assessment

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

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

Comment : **The statement of objectives adequately describes the intention of the Planning Proposal, which is to introduce a new local provision into the Moree Plains LEP 2011 that will permit with consent, a manufactured home as a principal dwelling, where a dwelling house is permissible with consent.**

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

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

Comment : **The Planning Proposal provides an explanation of the intended provisions to achieve the objectives and intended outcomes. It includes a draft clause as per the approved Lake Macquarie LEP Amendment. The precise wording of the clause may change after exhibition, however the draft clause is adequate for the purpose of public exhibition.**

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

3.1 Residential Zones

3.5 Development Near Licensed Aerodromes

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Exempt and Complying Development Codes) 2008

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

Council has not identified any SEPPs that are relevant to the proposal however both SEPP (Building Sustainability Index: BASIX) 2004 and SEPP (Exempt and Complying Development Codes) 2008 are considered relevant and are discussed below.

Have inconsistencies with items a), b) and d) being adequately justified? **Unknown**

If No, explain :

Consultation with the NSW Rural Fire Service is required to determine whether or not the proposal is consistent with s117 Direction 4.4 and if not whether any inconsistency is justified. This matter is discussed below.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **This Planning Proposal does not propose to amend any LEP Maps.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has proposed a 14 day exhibition period. The proposal is considered of low impact under 'A Guide to Preparing LEPs', and administrative and minor in nature. A minimum exhibition period of 14 days is supported.**

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 :

The Planning Proposal generally satisfies the adequacy criteria. It does this by:

- 1. Providing appropriate objectives and intended outcomes;**
- 2. Providing a suitable explanation of the provisions proposed by the Planning proposal to achieve the outcomes;**
- 3. Providing an adequate justification for the proposal;**
- 4. Indicating that public exhibition of the proposal will be undertaken; and**
- 5. Providing a project timeframe which suggests completion within 2 months.**

Timeline:

The project timeline identifies the LEP Amendment will be completed by late August 2016. It is considered appropriate to provide a 6 month time frame to complete this Planning Proposal.

Delegation:

Council has requested delegation to finalise the proposal and an evaluation checklist has been provided. It is considered that these functions should be delegated to Council given that the proposal relates to a local planning / administrative change to the LEP.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Moree Plains LEP 2011 is a Standard Instrument LEP. It was published on 9 December 2011.

Assessment Criteria

Need for planning
proposal :

A Planning Proposal is the only way to amend the LEP to make manufactured homes permissible as a principal dwelling throughout the LGA (which Council currently considers not be possible due to its interpretation of the definitions). Council has considered a range of options to address this matter and determined that the proposed additional clause provides the clearest and most direct approach to achieving the intended outcome. This position is supported to remove any doubt over the possible permissibility of manufactured homes as a principal dwelling.

Consistency with strategic planning framework :

REGIONAL STRATEGY

The proposal is consistent with the objectives and actions of the New England North West Strategic Regional Land Use Plan.

STATE ENVIRONMENTAL PLANNING POLICIES

Due to the Environmental Planning and Assessment Act 1979 definition of a building, which expressly excludes a manufactured home, certain state policies which refer to a 'building' or 'dwelling house' (where the definition refers to 'building') are not applicable to manufactured homes. This includes State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. In addition a manufactured home cannot be considered a 'dwelling house' under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. The proposed LEP amendment is not considered to be inconsistent with these SEPPs.

The Planning Proposal is considered to be consistent with all other SEPPs.

SECTION 117 DIRECTIONS

Council has identified a number of s117 Directions that apply to the Planning Proposal. The proposal is consistent with the majority of these.

It is considered the Planning Proposal is consistent with Directions 1.2 Rural Zones and 1.5 Rural Lands as it does not propose to increase the density of development in rural area, only provide an alternate housing choice.

The Planning Proposal is considered consistent with s117 Directions 2.1 Environment Protection Zones and 2.3 Heritage Conservation because the proposal will require manufactured homes to comply with the LEP in relation to matters of environment protection and heritage.

The Planning Proposal is consistent with s117 direction 3.1 Residential Zones because it will broaden the choice of building types.

Consistency with s117 direction 4.4 Planning for Bushfire Protection cannot be determined until consultation with the Rural Fire Service has been completed.

The Planning Proposal is considered to be consistent with all other s117 Directions.

LOCAL PLANNING STRATEGIES

The Moree Plains Growth Management Strategy 2009 has been endorsed by the Department. Council indicates that the proposal is not inconsistent with the Strategy. It is considered that it generally aligns with the strategic directions of the Strategy through seeking housing diversity and affordable housing opportunities.

Environmental social economic impacts :

It is considered that the planning proposal will support housing diversity and contribute to affordability of the housing market.

It is not considered that this Planning Proposal will have an impact on any critical habitat or threatened species, populations or ecological communities, or their habitats.

To manage any environmental or social impacts Council should ensure that the development standards and local development controls that apply to a dwelling house within the LGA also apply to a manufactured home.

Council should carefully examine their DCP to ensure that its application to manufactured homes is robust particularly where it refers to controls as they apply to 'buildings'. In addition, as BASIX does not apply to manufactured homes Council should review their development controls to ensure sustainable outcomes can be achieved and that energy efficiency measures to ensure environmental outcomes associated with this type of dwelling are maximised.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d)
: **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
2016-06-22 - Cover Letter.pdf	Proposal Covering Letter	Yes
2016-06-22 - PLANNING PROPOSAL for manufactured homes April 2016.pdf	Proposal	Yes
2016-06-22 - MPSC Council minutes 28 April 2016.pdf	Proposal	Yes

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
3.1 Residential Zones
3.5 Development Near Licensed Aerodromes
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection

Additional Information : **It is recommended that:**

1. The Planning Proposal be supported;

Moree Plains LEP 2011 - Permitting Manufactured Homes as a Principle Dwelling

2. The Planning Proposal be exhibited for 14 days;
3. The Planning Proposal be completed within 6 months;
4. That the Secretary's delegate notes that the inconsistency with s117 Direction 4.4 Planning for Bushfire Protection is outstanding until consultation with the NSW Rural Fire Service is complete; and
5. That a written authorisation for Council to exercise its plan making delegations be granted for this matter.

Supporting Reasons :

The Planning Proposal is supported as it will clarify the permissibility of manufactured homes within the Moree Plains LGA under the Environmental Planning and Assessment Act 1979 and will support housing diversity and contribute to affordability of the housing market.

Signature:



Printed Name:

Craig Dwyer

Date:

26 June 2016