

Narrabri LEP 2012 - Amendment No 9 - Manufactured homes as principal dwellings

Proposal Title : **Narrabri LEP 2012 - Amendment No 9 - Manufactured homes as principal dwellings**

Proposal Summary : **This Planning Proposal seeks to introduce a new local provision into the Narrabri LEP 2012 that will permit with consent, a manufactured home as a principal dwelling, where a dwelling house is permissible with consent.**

PP Number : **PP_2016_NARRB_002_00** Dop File No : **16/10540**

Proposal Details

Date Planning Proposal Received : **08-Aug-2016** LGA covered : **Narrabri**

Region : **Northern** RPA : **Narrabri Shire Council**

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

LEP Type : **Spot Rezoning**

Location Details

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

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Tamara Prentice**
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Land Release Data

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

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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 **Yes**Lobbyists Code of
Conduct has been
complied with :

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 notesInternal 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 Narrabri LEP 2012 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 Narrabri Shire 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.

Similar Planning Proposals have been considered and issued a Gateway determination by the Department recently for the Moree Plains and Lake Macquarie LGAs.

External Supporting
Notes :**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 Narrabri LEP 2012 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 :

* May need the Director General's agreement

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

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

d) Which SEPPs have the RPA identified?

e) List any other matters that need to be considered : **Council has not identified any SEPPs or s117 Directions as being relevant to the proposal however the following are considered relevant and are discussed in more detail later in the report:**

SEPP's

- * (Building Sustainability Index: BASIX) 2004,
- * (Exempt and Complying Development Codes) 2008,

S117 directions

- * 1.2 Rural Zone,
- * 2.1 Environmental Protection Zones,
- * 3.1 Residential Zones,
- * 4.3 Flood Prone Land, and
- * 4.4 Planning for Bushfire Protection

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

If No, explain :

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 and accompanying documentation are considered to satisfy the adequacy criteria by:

- 1. Providing appropriate objectives and intended outcomes;**
- 2. Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes;**
- 3. Providing an adequate justification for the proposal;**
- 4. Outlining a proposed community consultation program; and**
- 5. Providing a project time line.**

Council is seeking an authorisation to exercise its plan making delegations. As the Planning Proposal deals only with matters of local significance, it is considered appropriate that an authorisation to exercise its plan making delegations be issued to Council.

The RPA has provided a project time line which estimates that the LEP will be ready for submission to the Department for notification in April 2017. This 9 month timeframe is considered an adequate period to complete the proposal.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Narrabri LEP was made in December 2012.**

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 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.

LOCAL PLANNING STRATEGIES

The Narrabri Growth Management Strategy & Addendum 2015 has been endorsed by the Department. Council indicates that the proposal is not inconsistent with the Strategy.

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 not identified any applicable s117 Directions. Whilst the proposal is consistent with the majority of these, several warrant further discussion (see below).

1.2 Rural Zones and 1.5 Rural Lands

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.

2.1 Environment Protection Zones and 2.3 Heritage Conservation

The Planning Proposal is considered to be 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.

3.1 Residential Zones

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

4.3 Flood Prone Land

This direction is relevant as there is the potential for the proposed landuse to be located on land affected by flooding. However, there are already flood prone land management provisions in Narrabri LEP 2012 which require that this issue be considered at DA stage. The potential impact of this additional landuse being permitted in floodprone land can be managed through the existing LEP provisions and Council's development assessment processes. The inconsistency with this direction is considered to be of minor significance.

4.4 Planning for Bushfire Protection

This Direction applies as there is potential for the proposed landuse to occur on land that has been mapped as bushfire prone land.

The Direction requires Council to consult with the Commissioner of the NSW Rural Fire Service after a Gateway determination has been issued. Until this consultation occurs the consistency of the proposal with this Direction remains

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

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.

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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.

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 : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **9 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
2016-08-08 Narrabri Shire Council Ordinary Minutes.pdf	Proposal	Yes
NLEP 2012 Amendment No 9 - PP.doc	Proposal	Yes
Narrabri LEP 2012 Amendment no 9 -cover letter.pdf	Proposal Covering Letter	Yes
NLEP 2012 Amendment No 9 -Att 4_completed.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

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

1. The Planning Proposal be supported;
2. The Planning Proposal be exhibited for 14 days;
3. The Planning Proposal be completed within 9 months;
4. That the Secretary (or her delegate) agree that the inconsistency with section 117 Direction 4.3 is of minor significance;
5. That the Secretary (or her delegate) note the current inconsistency with section 117 Direction 4.4 Planning for Bushfire Protection;
7. That the RPA consult with the Commissioner of the NSW Rural Fire Service in accordance with the requirements of S117 Direction 4.4 Planning for Bushfire Protection; and
8. A written authorisation to exercise delegation is issued to Narrabri Shire Council in this instance.

Supporting Reasons : **The Planning Proposal is supported as it will clarify the permissibility of manufactured homes within the Narrabri LGA under the Environmental Planning and Assessment Act 1979 and will support housing diversity, contribute to affordability of the housing market, and does not increase the number of dwelling entitlements across the LGA (just clarifies permissibility of manufactured homes).**

Signature:



Printed Name:

Craig Diss

Date:

12 August 2016