

Bathurst Regional Council - Planning Proposal - Amendment 10 - to amend the zone boundaries on a number of parcels of land

Proposal Title :	Bathurst Regional Council - Planning Proposal - Amendment 10 - to amend the zone boundaries on a number of parcels of land		
Proposal Summary :	To amend the Bathurst LEP 2014 to rectify a 9 zone boundary changes. Council has reviewed the zone boundaries of the environmental, recreation, residential and rural zones within the urban areas of Bathurst. Inconsistencies were identified with a number of zone boundaries which do not reflect the current subdivision pattern, or intended use of the land, remove dwelling houses from zone RE1. The planning proposal seeks to resolve these matters.		
PP Number :	PP_2017_BATHU_001_00	Dop File No :	17/08673-1

Proposal Details

Date Planning Proposal Received :	12-Jun-2017	LGA covered :	Bathurst Regional
Region :	Western	RPA :	Bathurst Regional Council
State Electorate :	BATHURST	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :	Ophir Road		
Suburb :	Llanarth	City :	Bathurst
Land Parcel :	Part Lot 11 DP 778516		Postcode : 2795
Street :	296 Ophir Road		
Suburb :	Stewarts Mount	City :	Bathurst
Land Parcel :	Part Lot 10 DP 842947		Postcode : 2795
Street :	597 Eleven Mile Drive		
Suburb :	Eglinton	City :	Bathurst
Land Parcel :	Part Lots 1 & 2 DP 1215901		Postcode : 2795
Street :	Limekilns Road		
Suburb :	Kelso	City :	Bathurst
Land Parcel :	Part Lot 1 DP 1126786, Part Lot 1 DP 1179973 and Part Lot 1 DP 176203		Postcode : 2795
Street :	Ashworth Drive		
Suburb :	Kelso	City :	Bathurst
Land Parcel :	Part Lot 421, DP 1176436		Postcode : 2795
Street :	197 Limekilns Road		
Suburb :	Kelso	City :	Bathurst
Land Parcel :	Part Lot 5 DP 847225		Postcode : 2795

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Street : Edgells Lane

Suburb : Kelso

City : Bathurst

Postcode : 2795

Land Parcel : Lot A DP 408013

Street :

Suburb :

City :

Postcode :

Land Parcel : Various Lot and DPs, drainage reserves and open space in West Bathurst, Kelso, Eglington, Robin Hill, Windradyne and Llanarth

DoP Planning Officer Contact Details

Contact Name : Amanda Carnegie

Contact Number : 0268412180

Contact Email : amanda.carnegie@planning.nsw.gov.au

RPA Contact Details

Contact Name : Nicholas Murphy

Contact Number : 0263336541

Contact Email : nicholas.murphy@bathurst.nsw.gov.au

DoP Project Manager Contact Details

Contact Name : Wayne Garnsey

Contact Number : 0268412180

Contact Email : wayne.garnsey@planning.nsw.gov.au

Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub
Regional Strategy : Central West and Orana
Regional Plan 2036

Consistent with Strategy : Yes

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 Yes

Lobbyists Code of
Conduct has been
complied with :

If No, comment :

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

If Yes, comment :

Supporting notes

Internal Supporting Notes :

As noted in the proposal the aim of the Planning Proposal is to undertake some minor amendments to a number of zone boundaries which do not reflect the current subdivision pattern, or intended use of the land. Council has drafted this housekeeping amendment to rectify a number of zone changes which are explained in more detail below. The Planning Proposal affects land within the suburbs of Eglinton, Kelso, Llanarth, Stewarts Mount and Windradayne.

It is proposed to amend the current RE1/R1 zone boundary to match the zone boundary with that of the property boundary to Part Lot 11 DP 778516, Ophir Road, Llanarth (Map No 1), Part Lots 1 & 2 DP 1215901, 597 Eleven Mile Drive, Eglinton (Map No 3), Part Lot 1 DP 1126786, Part Lot 1 DP 1179973 and Part Lot 1 DP 176203, Limekilns Road, Kelso (Map No 4) and Part Lot 421, DP 1176436, Ashworth Drive, Kelso (Map No 5). This minor adjustment will ensure that the zone is entirely on the intended lot. It should also be noted that the development potential of the subject land is insignificant and unlikely to have a detrimental impact on the existing road network.

With respect to Part Lot 10 DP 842947, 296 Ophir Road, Stewarts Mount (Map No 2), Council has received correspondence from the landowner who indicated that their land had been inadvertently rezoned from residential to rural as part of the Bathurst Regional Local Environmental Plan 2014. The landowner requested that the portion of the land that was previously zoned residential be reinstated.

Reinstating the historical zoning is considered appropriate given that Council inadvertently rezoned that part of the land as part of the 2014 LEP. As identified in the proposal Council considers that only part of the land should be zoned residential and the residual retained as RE1 Public Recreation to provide minimum buffers to the Mitchell Highway, Sawpit Creek and the rural land to the West of the site. The proposal also notes that the development potential of the subject land is insignificant and unlikely to have a detrimental impact on the existing road network.

The purpose of the zone boundary adjustment for Part Lot 5 DP 847225, 197 Limekilns Road, Kelso (Map No 6) is in response to a proposed subdivision design. The overall gain in land zoned RE1 is approximately 800sqm. This will also see a significant area of open space located adjacent to the existing water reservoir on Marsden Lane. This minor adjustment will ensure that the zone is entirely on the intended lot.

Council has recently purchased Lot A DP 408013, Edgells Lane, Kelso (Map No 7) for environmental conservation purposes. The lot forms part of the land known locally as 'The Brick Pits' and is important environmental habitat. The land is currently zoned RU4 Primary Production Small Lots and it is proposed to zone this land E2 Environmental conservation. The classification of the land, pursuant to Local Government Act 1993, is not being altered.

Council has undertaken a review of the open space and its zoning in existing locations in Kelso, Eglinton, Robin Hill, Llanarth and Windradayne. Council has identified several parcels which are reserved as open space, although its zoning is not reflective of its use. It is proposed to zone relevant parcels of land as RE1 Public Recreation. The classification of the land, pursuant to Local Government Act 1993, is not being altered.

Supporting the rezoning of the land, amendments to the following maps will occur imposing the appropriate controls on the land relevant to the proposed zoning change:

- Land Zoning Map
- Height of Buildings Map
- Lot Size Map
- Land Reservation Acquisition Map
- Minimum Lot Size—Dual Occupancy Map
- Minimum Lot Size—Multi Dwelling Housing and Residential Flat Buildings Map

An additional amendment as noted in the planning proposal is to correct an error that

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occurred whilst drafting the Bathurst Regional Local Environmental Plan 2014 which saw dwelling houses as permissible with consent in the RE1 Public Recreation zone. Dwellings on land that are otherwise identified for Open Space is inconsistent with the zone objectives and therefore, it is appropriate that they are prohibited. It should be noted that in certain circumstances dwellings may still be allowed as ancillary development to an open space or recreation landuse. This proposal is consistent with other Standard Instrument LEPs and is supported.

Council is a landowner for several items proposed and have an interest. Therefore delegation should not be exercised in this case.

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

External Supporting
Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The Planning Proposal identifies that the objective of this planning proposal is to make minor amendments to a number of zone boundaries which do not reflect the current subdivision pattern, or intended use of the land and remove dwelling houses from zone RE1. Council has drafted this housekeeping amendment to rectify several zone changes.

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

Is an explanation of provisions provided? Yes

Comment : The proposed provisions in the Planning Proposal will achieve the intended outcomes by amending the Bathurst Local Environmental Plan 2014 as follows:

•Height of Buildings Map

-HOB_011 A
-HOB_011B
-HOB_011F

•Land Reservation Acquisition Map

-LRA_011A
-LRA_011B
-LRA_011F

•Minimum Lot Size – Dual Occupancy Map

-LSD_011A
-LSD_011B
-LSD_011F

•Minimum Lot Size – Multi Dwelling Housing and Residential Flat Buildings Map

-LSM_011A
-LSM_011B
-LSM_011F

•Lot Size Map

-LSZ_011A
-LSZ_011B
-LSZ_011C
-LSZ_011E
-LSZ_011F

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•Land Zone Map
-LSN_011A
-LSN_011B
-LSN_011C
-LSN_011E
-LSN_011F

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

2.1 Environment Protection Zones

3.1 Residential Zones

3.5 Development Near Licensed Aerodromes

4.3 Flood Prone Land

6.2 Reserving Land for Public Purposes

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

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 :

1.1 Business and Industrial Zones

Lot 33 DP 1070624 is zoned B5 Business Development, although its use is restricted by easements on the Deposited Plan and DCP restrictions. The land was reserved through the DCP as a land use buffer between the commercial and residential land. Whilst the direction applies, the proposal to rezone the land to RE1 Public Recreation does not reduce the land intended for commercial use or reduce the total floor space potential for employment within the B5 zone (Clause 4(b & c)) given the existing DCP provisions.

Lot 15 DP 1049399 is partly zoned IN1 General Industrial. The land is a drainage reserve created in 2003. The area of land being rezoned to RE1 is approximately 4600sqm and whilst the Planning Proposal reduced the land available for industrial purposes, it is likely that any development would require significant buffers to existing residential land uses.

Acting Director Regions Western can be satisfied that the Planning Proposal does not reduce the potential floor space area for industrial land.

1.2 Rural Zones

This Direction applies to Part Lot 10 DP 842947. The land had a historical residential zoning and was zoned RU1 as part of a drafting error for the Bathurst Regional LEP 2014. The rezoning of the land represents a loss of approximately 2.3 hectares from rural. Approximately 0.9 hectares being zoned R1 General Residential and the balance being zoned RE1 Public Recreation. Council considers that the reduction of the rural zoned land is minor in nature and is unlikely to prejudice the rural operations on the adjoining land, given its proximity to Sawpit Creek and the Mitchell Highway, and is unlikely to prejudice the rural operations on the adjoining land.

Acting Director Regions Western can be satisfied that the planning proposal is inconsistent with the requirements of the direction, however is of minor significance (Clause 6(b)) and can be supported.

1.5 Rural Lands

The direction applies due to the inclusion of Part Lot 10 DP 842947 and the rezoning of Lot A DP 408013, Edgells Lane, Kelso from RU4 to E2. The rezoning of the land represents a loss of approximately 2.3 hectares from rural. Approximately 0.9 hectares being zoned R1 General Residential and the balance being zoned RE1 Public

Recreation. Council considers that the reduction of the rural zoned land is minor in nature and is unlikely to prejudice the rural operations on the adjoining land, given its proximity to Sawpit Creek and the Mitchell Highway, and is unlikely to prejudice the rural operations on the adjoining land.

Lot A DP 408013, Edgells Lane, Kelso from RU4 to E2 - the land is currently zoned RU4 Primary Production Small Lots and it is proposed to zone this land E2 Environmental conservation. The land is not currently being used for agricultural purposes and the proposed rezoning does not intensify the development potential of the land, nor does it convert it from a rural use to an urban use.

Acting Director Regions Western can be satisfied that the planning proposal is inconsistent with the requirements of the direction, however is of minor significance (Clause 6(b)) and can be supported.

2.1 Environmental Protection Zones

Lot A DP 408013, Edgells Lane, Kelso from RU4 to E2 - the land is currently zoned RU4 Primary Production Small Lots and it is proposed to zone this land E2 Environmental conservation. The land is not currently being used for agricultural purposes and the proposed rezoning does not intensify the development potential of the land, nor does it convert it from a rural use to an urban use.

Acting Director Regions Western can be satisfied that the planning proposal is inconsistent with the requirements of the direction, however is of minor significance (Clause 6(b)) and can be supported.

3.1 Residential Zones

The planning proposal affects a number of parcels of land which are zoned R1 General Residential. A number of parcels, are included because the subdivision boundaries do not reflect those of the zone boundary. The planning proposal only adjusts the existing zone boundaries and does not significantly change the permissible development or the housing density on the land that exists currently.

Acting Director Regions Western can be satisfied that the planning proposal is inconsistent with the requirements of the direction, however is of minor significance (Clause 6(b)) and can be supported.

3.5 Development Near Licensed Aerodromes

The proposal alters the R1/RE1 zone boundary within 1.3 km of the Bathurst Airport. It is proposed to extend appropriate planning controls onto land that is being rezoned. It should be noted that the planning proposal only adjusts the existing zone boundaries and does not significantly change the permissible development or the housing density on the land that exists currently. The ANEF for the Bathurst Airport was updated in 2013 which illustrates that the 20dBa ANEF is generally contained on the lot associated with the Bathurst Airport. It should also be noted that the proposal does not affect land under the main runway for the Bathurst Airport.

Acting Director Regions Western can be satisfied that the planning proposal is consistent with the requirements of the direction, is of minor significance (Clause 7(d)) and can be supported.

4.3 Flood Prone Land

Lot A DP 408013 is located on the Bathurst Floodplain. The planning proposal rezones the land from RU4 Primary Production Small Lots to E2 Environmental Conservation. The change in zone does not permit a significant increase in development potential of

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the land. The proposal is consistent with this Direction.

5.10 Implementation of Regional Plan

The proposal is consistent with the Central West and Orana Regional Plan.

6.2 Reserving Land for Public Purposes

The Planning Proposal aims to alter the R1 / RE1 zone interface. Council is satisfied that the overall amount of open space is increasing in the locality which will be of benefit to the community. Where the Planning Proposal aims to rezone land from R1 to RE1, the land is in Council's ownership and is not identified for disposal. The Acting Director Regions can be satisfied that the inconsistency with this Direction is of minor significance and can agree with minor changes to RE1 land. No further approval is required in relation to this Direction.

The Planning Proposal is consistent with the relevant State Environmental Planning Policies.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal intends to exhibit the amendment for 28 days. The notification would be placed on Council's website and advertised in the local newspaper. All associated material will also be made publicly available at Council. In addition, a letter will be sent to all landowners of the subject land.

Additional consultation is also expected with key government agencies and stakeholders during the public exhibition period – possibly through a letter or notification including, but not limited to:

- Office of Environment & Heritage ('OEH');
- Roads & Maritime Services ('RMS') (for impacts on The Escort Way);
- Civil Aviation Authority

The proposed community consultation is considered appropriate for the purposes of this proposal.

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 : **November 2014**

Comments in relation to Principal LEP : **The Bathurst LEP was notified on 19 November 2014.**

Assessment Criteria

Need for planning proposal :	The Planning Proposal is the best means of achieving the intended outcomes of the Planning Proposal. The only avenue available to Council to rezone the land and to alter the permissibility of a land use is via a Planning Proposal.
Consistency with strategic planning framework :	The proposal is consistent with the Central West and Orana Regional Plan. The Bathurst Region Urban Strategy 2007 identified continued growth of the city. The Planning Proposal is consistent with the strategy and only modifies zoning boundaries. The land in its current form has been zoned for residential purposes for a number of decades and is located adjacent to existing residential estates. The alteration of the open space arrangements, particularly given the increase in the amount of open space overall should be supported. Buffers to rural lands and open space corridors remain consistent with the recommendations of the Bathurst Region Urban Strategy. The alteration to the permissibility of dwelling houses within the RE1 zone is more consistent with the objectives of the zone. Council notes that dwelling houses as an ancillary development to an open space or recreation use would be permissible.
Environmental social economic impacts :	The proposal identifies that it is not expected that any critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected by the Proposal. It's not anticipated that this proposal would result in any economic, environmental and social effects of this planning proposal.

Assessment Process

Proposal type :	Consistent	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage Transport for NSW - Roads and Maritime Services Other		

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 :

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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
Bathurst LEP 2014 Amendment 12 Planning Proposal.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 3.1 Residential Zones
- 3.5 Development Near Licensed Aerodromes
- 4.3 Flood Prone Land
- 6.2 Reserving Land for Public Purposes

Additional Information : 1.Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 as follows:

(a)the planning proposal must be made publicly available for a minimum of 28 days; and

(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 (Department of Planning & Infrastructure 2013).

2.Consultation is required with the following public authorities under section 56(2)(d) of the Environmental Planning and Assessment Act, 1979 and/or to comply with the requirements of relevant section 117 Directions:

- Office of Environment and Heritage
- Roads and Maritime Services
- Civil Aviation Authority

Each public 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 proposal.

3.A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Environmental Planning and Assessment Act, 1979. 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).

4.Prior to submission of the planning proposal under section 59 of the Environmental

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Planning and Assessment Act, 1979, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.

Supporting Reasons : The proposal will amend several zone boundaries that do not reflect the current subdivision pattern, or intended use of the land.

Signature:

A. Carnegie

Printed Name:

A. Carnegie

Date:

4.7.17

Endorsed

W Hamsey 4/7/17.

TLWR