



REPORT: Planning Proposal - Operational Review of the Wellington Local Environmental Plan 2012 (PDC17/11)

AUTHOR: Manager City Strategy Services
REPORT DATE: 1 May 2017
TRIM REFERENCE: ID17/731

EXECUTIVE SUMMARY

Council at its meeting on 24 April 2017 considered a report from the Manager City Strategy Services in respect of Planning Proposal – Operational Review of the Wellington Local Environmental Plan 2012 (PDC 17/11).

During Public Forum, Council heard from Mr Wes Maas in respect of item PDC 17/10 which is for Planning Proposal – Operational Review of the Dubbo Local Environmental Plan 2011. Mr Maas also tabled correspondence in relation to PDC 17/10. In respect of the item, Mr Maas requested the following:

“That Council support the proposed amendments contained in the Operational review of the Dubbo Local Environmental Plan 2011 with the exception of the following:

- *The recommended changes to permissible land use activities for the RE2 Private Recreation Zone; and*
- *The recommended changes to the subdivision controls for Community Title and Torrens Title development for R1 and R2 zoned land.”*

In relation to Mr Maas’ request, the following justification was provided for the amendments sought to PDC 17/10 and while not specifically mentioned, it has been determined that they should consequently apply to PDC17/11 in respect of the Wellington Local Environmental Plan as well.

“As these matters are not considered minor operational matters and are not simply a ‘translation’ of the planning uses or requirements as currently drafted in the Dubbo LEP 2011 and any further amendment from what exists would have significant impact on the greater community. This would make community title development unfeasible and therefore would impact many.”

The submission made by Mr Maas is provided here in **Appendix 1**.

PDC 17/11, Planning Proposal, Operational Review of the Wellington Local Environmental Plan 2012, also includes similar amendments in respect of the controls for Community Title and Torrens Title subdivision as proposed to be included in the Dubbo Local Environmental

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Plan 2011. Given the synergies between the Dubbo LEP 2011 and the Wellington LEP 2012, Council in consideration of PDC 17/11 resolved as follows:

“That the matter be deferred pending further consideration as a result of the submission received by Council during public forum.”

This report provides details of Council’s consideration of the submission made by Mr Maas and recommends that Council endorse the recommendations of the Manager City Strategy Services in his report dated 18 April 2017.

ORGANISATIONAL VALUES

Customer Focused: The Operational Review will provide cohesion between the use of the Wellington Local Environmental Plan 2012 and the Dubbo Local Environmental Plan 2011 for professionals and the community alike.

Integrity: The Operational Review will provide professionals with a local planning instrument that meets the requirements of the new Dubbo Regional Council.

One Team: Input and comments from across Council have been included in the report.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

POLICY IMPLICATIONS

The Planning Proposal is provided for consideration and endorsement to seek a Gateway Determination. Receipt of the Gateway Determination from the Department of Planning and Environment will allow Council to further the proposed amendments to the LEP including consultation with the community and state agencies.

RECOMMENDATION

- 1. That in respect of PDC17/11, the reports of the Manager City Strategy Services dated 18 April 2017 and 1 May 2017 be adopted.**
- 2. That Mr Wes Maas be advised of Council’s determination in this matter.**

Steven Jennings
Manager City Strategy Services

REPORT

1. Overall Intent of the Planning Proposal

The objectives of the Operational Review are to amend/address any administrative concerns with the operation of the Wellington LEP 2012 and to seek to provide a level of parity between the provisions as contained in the Wellington LEP 2012 and the Dubbo LEP 2011.

It should also be noted that the Operational Review of the Wellington LEP 2012 has considered the need for developable residential land in Wellington in an attempt to meet the potential growing demand for housing associated with the new Wellington Gaol.

It is considered that each of the proposed amendments as included in the Planning Proposal are of an administrative nature only.

2. Community Title and Torrens Title Subdivision

The Wellington LEP 2012 includes specific minimum lot size mapping which provides a minimum allotment size for the majority of land subject to the provisions of the Wellington LEP 2012. It should be noted that some lands do not have a minimum allotment size for subdivision. In addition, the Wellington LEP 2012 also provides specific requirements associated with the subdivision of land under Community Title.

Council over time has had numerous representations from developers and land owners that have sought to undertake a Greenfield Community Title subdivision below the minimum lot size as included in the Wellington LEP 2012. Council has also had representations from developers and land owners that have sought to undertake either Community Title or Torrens Title subdivision of a dual occupancy or multi-dwelling housing development that has not been completed in accordance with the requirements of an applicable development consent, but which is reliant on the proposed development to ensure compliance with the subdivision objectives.

(a) Clause 4.1AA Minimum Subdivision Lot Size for Community Title Schemes

Clause 4.1AA regulates the minimum lot size provisions for Community Title subdivisions. The Clause aims to ensure speculative subdivision is not undertaken below the minimum lot size. The subject Planning Proposal has sought to amend Clause 4.1AA to ensure the subdivision of Greenfield land under Community Title meets the minimum allotment size for the land. It is also proposed to extend the operation of Clause 4.1AA to the following zones:

- R1 General Residential;
- R2 Low Density Residential;
- R5 Large Lot Residential; and
- RU5 Village.

The Planning Proposal has also proposed to amend the Wellington LEP 2012 to ensure subdivision of an approved dual occupancy or multi-dwelling housing development is only released following the completion of the subject development. However, it should be noted that for land subject to the Clause that does not have a minimum allotment size for subdivision in the Wellington LEP 2012, the proposed amendments to the subject clause will still allow for a Community Title subdivision to be undertaken that is not in connection with a development consent for dual occupancy or multi-dwelling housing.

(b) Clause 4.1A Minimum Subdivision Lot Size for zones RU5 and R2

The Wellington LEP 2012 does not currently allow for the subdivision of an approved residential development, including dual occupancies or multi-dwelling housing below the minimum allotment size for subdivision in the relevant zone. Often in these situations a proponent will not have the ability to undertake a Torrens Title subdivision of an approved development.

It is proposed to include a new Clause 4.1A that will allow Torrens Title subdivision of an approved residential development on land zoned RU5 Village, R1 General Residential or R2 Low Density Residential. In this instance an approved residential development will include a dual occupancy or multi-dwelling housing. However, it is also proposed that the residential development on the land is required to be completed prior to the Torrens Title subdivision being undertaken.

It should be noted that for land subject to the Clause that does not have a minimum allotment size for subdivision in the Wellington LEP 2012, the Clause will allow a Torrens Title subdivision to be undertaken that is not in connection with a development consent for dual occupancy or multi dwelling housing.

Steven Jennings
Manager City Strategy Services

Appendices:

- 1 Submission from Mr W Maas dated 24 April 2017