

Removal of Minimum Lot Size Provisions over land adjacent to the Kyogle CBD in the Groom Street area to facilitate medium density residential development

Proposal Title : **Removal of Minimum Lot Size Provisions over land adjacent to the Kyogle CBD in the Groom Street area to facilitate medium density residential development**

Proposal Summary : **The proposal seeks to amend the Kyogle Local Environmental Plan (LEP) 2012 to encourage greater residential densities and housing diversity adjacent to the Kyogle CBD. This will include the removal of the 1,500m² minimum lot size requirement from the subject land.**

PP Number : **PP_2016_KYOGL_003_00** Dop File No : **16/15175**

Proposal Details

Date Planning Proposal Received : **25-Nov-2016** LGA covered : **Kyogle**

Region : **Northern** RPA : **Kyogle Council**

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

LEP Type : **Policy**

Location Details

Street :

Suburb : City : Postcode :

Land Parcel : **Green Street Precinct, Kyogle**

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**

Contact Number : **0266416612**

Contact Email : **tamara.prentice@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Far North Coast Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :		Date of Release :	
Area of Release (Ha) :		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? : **No**

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 :

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 encourage housing density and diversity within the Precinct.**

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. This includes an amendment to the Lot Size Map – Sheet LSZ_004C to remove the 1,500m2 minimum lot size provision from the subject land.**

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

- 2.3 Heritage Conservation**
- 2.4 Recreation Vehicle Areas**
- 3.1 Residential Zones**
- 3.2 Caravan Parks and Manufactured Home Estates**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**

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- 5.1 Implementation of Regional Strategies
- 5.3 Farmland of State and Regional Significance on the NSW Far North Coast
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes

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 No 15—Rural Landsharing Communities
SEPP No 21—Caravan Parks
SEPP No 30—Intensive Agriculture
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 64—Advertising and Signage
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007
SEPP (Temporary Structures and Places of Public Entertainment) 2007**

e) List any other matters that need to be considered : **An assessment of the applicable directions and SEPPs is provided within the 'Assessment' section of this planning team report.**

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

If No, explain : **See the 'Assessment' section of this planning team report**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The Planning Proposal has included mapping that identifies the subject land and proposed LEP map amendments.**

These maps are however not considered to be of a suitable scale to facilitate public consultation. Maps of a suitable scale showing the current and proposed minimum lot size provisions for the land should therefore be included prior to community consultation.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The Planning Proposal has indicated a 21 day public exhibition/community consultation period.**

The proposal would meet the definition of a 'low impact' proposal, as defined in the Department's Guidelines. This is because the proposed LEP amendment is consistent with the strategic planning framework and does not change zones or permitted land uses. A minimum 14 day exhibition period in this regard would be suitable. There is no issue with Council exhibiting the proposal for longer however.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

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Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Minor amendments are required to the Planning Proposal prior to it being publicly exhibited. This is to include:

- references to all the land zones affected by the proposal;
- a list all of the property addresses and title descriptions that are impacted by the proposal;
- maps of a suitable scale showing the current and proposed minimum lot size provisions for the land; and
- an updated timeline.

The Planning Proposal generally satisfies the adequacy criteria 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. Providing maps which suitably identify the site and intended outcomes (noting the changes required prior to exhibition);
5. Outlining a proposed community consultation program including a 21 day public exhibition period; and
6. Providing a project timeframe which suggests the submission of the proposal to the Department for finalisation within 4 months.

Timeline

- Due to the potential delays around the Christmas period, it is considered that a 9 month time frame would be appropriate. This does not restrict Council from finalising the LEP amendment sooner. Council should update the timeline under the proposal to account for any delays associated with this Christmas period and requirement to update the proposal.

Delegation

- Council's resolution and 'Evaluation for Issuing Plan Making Functions', indicates that Council seeks Plan Making Functions for this LEP Amendment. It is considered that these functions should be delegated to Council given that the proposal is consistent with the Regional and Local Growth Strategies (see below) and will result in a relaxation of development standards that will promote increased development opportunity.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

The Kyogle LEP 2012 is a Principal LEP. The Planning Proposal seeks to amend this planning instrument.

Assessment Criteria

Need for planning proposal :

The facilitation of more housing diversity, affordable living and seniors accommodation in the LGA is recognised as a key local and regional strategy.

The land subject to the proposal is zoned predominantly R1 General Residential and part R3 Medium Density Residential and part B2 Local Centre. The B2 zone only applies to a roadway however. It does not affect private land. The current LEP lot size provisions preclude the subdivision of land into lots less than 1,500m2. Removing this minimum lot size provision will promote housing densities and diversity in the Kyogle CBD, such as facilitating 'small lot housing development'. This is consistent with the R1 and R3 zone objectives.

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It is also noted that other land in the Kyogle CBD also does not have a minimum lot size provisions applied to it. The proposal in this regard is consistent with the strategic planning approach for the Kyogle CBD.

The proposed LEP amendment is the best means for achieving the objectives of the proposal.

Council is updating its DCP to reflect this LEP amendment.

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Consistency with strategic planning framework :

FAR NORTH COAST REGIONAL STRATEGY (FNCRS)

The proposal does not result in the zoning of urban (residential or business) land outside of the Town and Village Urban Growth Boundaries. It seeks to intensify development opportunities on 'infill sites', contributing to housing provision within the existing urban footprint.

The proposal is consistent with the aims, objectives and intent of the Strategy.

DRAFT NORTH COAST REGIONAL PLAN

The Draft North Coast Regional Plan was publicly exhibited for 3 months, which concluded on 2 June 2016. Once adopted this Plan will replace the FNCRS and will guide strategic planning across the North Coast over the next 20 years.

The Draft Plan includes a range of actions for considering LEP amendments. The key actions specific to this proposal relate to focusing growth to the least sensitive and constrained areas and providing sufficient housing supply.

Of particular note, the Draft Plan includes requirements for containing growth to agreed growth areas.

The proposal is consistent with the actions of the Draft Plan given that it will permit new housing opportunity on land identified within the urban growth area.

KYOGLE COMMUNITY STRATEGIC PLAN 2016-2026

The proposed intensification of residential development is a key desired outcome under the Strategy.

STATE ENVIRONMENTAL PLANNING POLICIES

The proposal does not result in any inconsistency with the relevant SEPPs.

In accordance with SEPP 55 – Remediation of Land, Council has considered that the proposed LEP amendment will not affect the ongoing operation of the SEPP. This suggests that Council is confident that land contamination can be appropriately considered at 'development stage'. Future development proposals would need to determine if any potentially contaminating activities (under slab contamination, asbestos, etc.) have occurred on individual sites and identify what remediation works, if any, are required to ensure the land is suitable for redevelopment.

All future development on the land will need to demonstrate consistency with the relevant SEPPs including (but not limited to):

- SEPP 55 Remediation of Land – as noted above.
- SEPP 65 Design Quality of Residential Flat Buildings (where applicable) – ensuring residential flat development achieves high levels of design quality, sustainability and liveability
- SEPP (Affordable Rental Housing) – ensuring the effective delivery of new affordable rental housing opportunities

SECTION 117 DIRECTIONS

The following s117 Directions are applicable to the Planning Proposal.

1.1 Business and Industrial Zones; 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 2.4 Recreational Vehicle Areas, 3.1 Residential Zones, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 4.3 Flood Prone Land; 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements and 6.2 Reserving Land

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for Public Purposes

The proposal is consistent with the relevant Directions, except for those listed below:

Direction 2.1 Environment Protection Zones

• This Direction requires a proposal to include provisions that facilitate the protection and conservation of environmentally sensitive areas. The site does not include these areas however and it is noted that environmental protection provisions are already included under Council's LEP and DCP. The inconsistency with this Direction is of minor significance and justifiable in the terms of the Direction.

Direction 2.3 Heritage Conservation

• This Direction requires a proposal to include provisions that facilitate the conservation of items of heritage significance. The site does not include these areas however and it is noted that heritage conservation provisions are already included under Council's LEP and DCP. The inconsistency with this Direction is of minor significance and justifiable in the terms of the Direction.

Direction 4.3 Flood Prone Land

• A small portion of land in the northern section of the site is mapped as being below the flood planning level. The proposal therefore seeks to increase housing densities on land that is mapped as being flood prone. However, all development on this land would need to be consistent with Council's LEP, DCP and Flood Management Plan (which has been prepared in accordance with the Floodplain Development Manual). The inconsistency is therefore considered to be minor significance. It is however recommended that consultation with the Office of Environment and Heritage still be undertaken in regard to this matter.

Direction 4.4 Planning for Bushfire Protection

• The proposal notes that part of the site is within a bushfire prone buffer area. Consistency with the Direction is currently unresolved. Consultation with the NSW Rural Fire Service would be required post Gateway to satisfy the requirements of the Direction.

Environmental social
economic impacts :

The potential for environmental impact associated with the redevelopment and use of land will be reviewed as part of any future DA. It is considered that any potential impacts would be minor given that it would relate to infill development.

Bushfire and flooding constraints can be suitably managed through development design.

The Planning Proposal has indicated that there is adequate infrastructure in place to service increased development product within the Precinct. It is recognised that upgrades to existing services can be undertaken to increase capacities due to increased loads. A detailed review of service provision including water, sewer, drainage, road, telecoms and electrical capacity would be required with future Development Applications.

The proposal will facilitate increased development opportunities within an existing urban precinct. Increased residential densities will improve housing supply, choice and affordability and will utilise existing infrastructure. The proposal is likely to have a positive social and economic impact.

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Assessment Process

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

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage
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
Planning Proposal.pdf	Proposal	Yes

Planning Team Recommendation

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

- S.117 directions:
- 2.3 Heritage Conservation**
 - 2.4 Recreation Vehicle Areas**
 - 3.1 Residential Zones**
 - 3.2 Caravan Parks and Manufactured Home Estates**
 - 3.3 Home Occupations**
 - 3.4 Integrating Land Use and Transport**
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Additional Information : **It is RECOMMENDED that the Director Regions, Northern, as delegate of the Minister for**

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Planning, determine under section 56(2) of the EP&A Act that an amendment to the Kyogle Local Environmental Plan 2012 to remove the minimum lot size provisions from land adjacent to the Kyogle CBD should proceed subject to the following conditions:

1. The planning proposal is to be amended, prior to community consultation, to include:

- references to all the land zones affected by the proposal;
- a list all of the property addresses and title descriptions that are impacted by the proposal;
- maps of a suitable scale showing the current and proposed minimum lot size provisions for the land; and
- an updated timeline.

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

- (a) the Planning Proposal must be made publicly available for 14 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 local environmental plans (Planning and Environment, 2016)'.

3. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:

- NSW Rural Fire Service; and
- Office of Environment and Heritage

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.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act.

5. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

6. Section 117 Directions - It is recommended that:

- (a) The Secretary's delegate note that the inconsistency with Direction 4.4 Planning for Bushfire Protection can not be unresolved until consultation with the NSW Rural Fire Service has occurred;
- (b) The Secretary's delegate can be satisfied that the Planning Proposal's inconsistency with Direction 2.1 Environment Protection Zones, 2.3 Heritage Conservation and 4.3 Flood Prone Land are justified in accordance with the terms of the Directions; and
- (c) The Secretary's delegate can be satisfied that the Planning Proposal is consistent with all other relevant s117 Directions; and

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

Supporting Reasons :

The proposal is consistent with the Strategic Planning Framework. The recommended conditions to the Gateway are required to provide adequate consultation and accountability.

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Signature:



Printed Name:

Craig Diss

Date:

5 December 2016