

Minutes of the Ordinary Meeting of Wollondilly Shire Council held in the Council Chamber, 62-64 Menangle Street, Picton, on Monday 20 July 2015, commencing at 6.33pm

Planning and Economy

PE3 **Planning Proposal – Addition of Clause 4.1AA to Wollondilly Local Environmental Plan, 2011 (Community Title Subdivision)**
211 TRIM 8479

114/2015 **Resolved on the Motion of Crs M Banasik and Hannan:**

That Council initiate a planning proposal to adopt Clause 4.1AA of the Standard Instrument LEP into Wollondilly LEP 2011 and forward it to the Department of Planning and Environment to seek a Gateway Determination.

On being put to the meeting the motion was declared CARRIED.

Vote: Crs Law, B Banasik, Terry, Hannan, Amato, M Banasik, Mitchell, Gibbs and Landow

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EXECUTIVE SUMMARY

- The purpose of this report is to initiate a planning proposal to adopt Clause 4.1AA of the Standard Instrument - Principal Local Environmental Plan Order into Wollondilly Local Environmental Plan, 2011.
- Clause 4.1AA is an optional standard instrument clause which requires community title subdivisions to comply with the minimum lot size under the plan.
- This clause was introduced after Wollondilly LEP 2011 was finalised and therefore does not form part of Council's LEP. This means that a developer could seek consent for undersized lots in a community title scheme.
- The addition of Clause 4.1AA will give greater clarity to the appropriate use of community title subdivision in the Shire.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this matter.
- It is recommended that Council initiate a planning proposal to adopt Clause 4.1AA of the Standard Instrument LEP into Wollondilly LEP 2011.

REPORT

Wollondilly Local Environmental Plan was made on 23 February 2011. On the same day an amendment was made to the Standard Instrument (Local Environmental Plans) Amendment Order. This amendment included the addition of Clause 4.1AA to the standard instrument. This clause provides:

4.1AA Minimum subdivision lot size for community title schemes
[optional if clause 4.1 is adopted]

- (1) *The objectives of this clause are as follows:*
 - (a) *[set out objectives of the clause]*
- (2) *This clause applies to a subdivision of land (being land under a community title scheme and shown on the Lot Size Map) that requires development consent and is carried out after the commencement of this Plan.*

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Note. Part 6 of State Environmental Planning Policy (Exempt and Complying Development) Codes 2008 provides that the strata subdivision of a building in certain circumstances is specified complying development.

- (3) *The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property within the meaning of the Community Land Development Act 1989) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*

Direction. An exception to the minimum size shown on the Lot Size Map may be provided in certain circumstances, for example, in the case of land that is to be used for attached dwellings.

Clause 4.1 in Wollondilly LEP 2011, which sets minimum lot sizes, does not apply to “the subdivision of individual lots in a Strata Plan or Community Title Scheme”. A developer could, in theory, seek consent for undersized lots in a community title scheme and not be subjected to standards on the minimum lot size map. While it is unlikely that such a development application would be supported, such an application could be a significant resource drain on Council in both its assessment and any appeal that could result.

This standard instrument clause was introduced after Wollondilly LEP 2011 was finalised. This means that it was not available to Council when the LEP was drafted.

The addition of Clause 4.1AA will give greater clarity to the appropriate use of community title subdivision in the Shire.

CONSULTATION

No consultation has been undertaken at this stage. Minimal community consultation is likely to be required by the NSW Department of Planning as part of a gateway determination.

It should be noted that once a planning proposal has been formally exhibited it becomes a relevant consideration for any development application in the Shire.

FINANCIAL IMPLICATIONS

This matter has no financial impact on Council's adopted budget or forward estimates.

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ATTACHMENTS:

Nil.

RECOMMENDATION

That Council initiate a planning proposal to adopt Clause 4.1AA of the Standard Instrument LEP into Wollondilly LEP 2011 and forward it to the Department of Planning and Environment to seek a Gateway Determination.