

Berrigan LEP 2013 - Amendment 4 - To remove Backpackers Accommodation as a prohibited use in the zone RU1 Primary Production Land Use Table

Proposal Title :	Berrigan LEP 2013 - Amendment 4 - To remove Backpackers Accommodation as a prohibited use in the zone RU1 Primary Production Land Use Table		
Proposal Summary :	The proposal seeks to remove Backpackers Accommodation as a prohibited use in zone RU1 Primary Production Land Use Table of the Berrigan Local Environmental Plan 2013.		
PP Number :	PP_2016_BERRI_002_00	Dop File No :	16/06449-1

Proposal Details

Date Planning Proposal Received :	03-May-2016	LGA covered :	Berrigan
Region :	Western	RPA :	Berrigan Shire Council
State Electorate :	MURRAY DARLING	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :			
Suburb :		City :	Postcode :
Land Parcel :	This planning proposal applies to all land within zone RU1 Primary Production.		

DoP Planning Officer Contact Details

Contact Name :	Ella Wilkinson
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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :	Wayne Garnsey
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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 Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment : There have been no known meetings or communications with registered lobbyists.

Supporting notes

Internal Supporting Notes : The subject planning proposal seeks to remove Backpackers Accommodation as a prohibited use in zone RU1 Primary Production Land Use Table of the Berrigan Local Environmental Plan 2013 and allow it with consent.

Since the Berrigan LEP 2013 came into force on 4 October 2013 "Backpackers Accommodation" has been prohibited in the zone RU1 Primary Production, despite the inclusion of parent definition, Tourist and Visitor Accommodation being included as Development Permitted with Consent.

One of the main objectives of zone RU1 Primary Production of the Berrigan LEP 2013 is 'to permit development that enhances the agricultural and horticultural production potential of land in the locality'. Council seeks the inclusion of Backpackers Accommodation as a permitted use to enhance agricultural and horticultural production by providing accommodation which is in close proximity to the location of the production, assisting backpackers from unnecessarily having to drive each day to and from the place of employment. This amendment will also allow rural landholders to entice backpackers to come and work for them, by including accommodation as part of backpacker's remuneration.

There are no local or regional strategies applying to Berrigan Shire Council.

The proposal will provide Council with the flexibility to consider accommodation for and encourage rural workers.

Council has requested to be authorised to exercise delegations to complete the planning proposal and this is considered appropriate.

External Supporting Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? **Yes**

Comment : **It is the intention of the planning proposal to remove Backpackers Accommodation as prohibited development in item 4 of zone RU1 Primary Production and allow such use with Council consent.**

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

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions supports the statement of objectives.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA : **1.2 Rural Zones**

* May need the Director General's agreement **1.5 Rural Lands**

Is the Director General's agreement required?

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

d) Which SEPPs have the RPA identified? **SEPP (Rural Lands) 2008**
Murray REP No. 2 - Riverine Land

e) List any other matters that need to be considered :

Section 117 Directions:

Council has identified that the planning proposal is considered with all section 117 Directions and State Environmental Planning Policies (SEPP) with the following comments:

1.2 - Rural Zones

This direction is applicable to the proposed LEP amendment as it affects land within an existing rural zone and it is intended to amend the land use table of zone RU1 Primary Production to remove Backpackers Accommodation as prohibited development.

The proposal has identified that the planning proposal is inconsistent with this direction, as it has the potential to "increase the permissible density of land" in zone RU1.

The Director Region, Western can be satisfied in this case that the inconsistency is considered to be minor as it is anticipated that in most instances the uptake of backpackers accommodation is not expected to be high and impacts of the proposal on rural land will be assessed on merit by Council.

Council is proposing to permit this use to encourage itinerant rural workers. No further work is required in relation to this matter.

1.5 Rural Lands

This direction is applicable to the proposed LEP amendment as it affects land within an existing rural zone and it is intended to amend the land use table of zone RU1 Primary Production to remove Backpackers Accommodation as prohibited development.

The planning proposal is considered to be consistent with this direction as it is consistent with the Rural Planning Principles expressed in the SEPP (Rural Lands). Agricultural viability of land will be assessed on merit by Council.

SEPPs:

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State Environmental Planning Policy (Rural Lands) 2008

The proposal doesn't reduce agricultural viability of land and provides for the removal of use from land use table that is already permissible and is not inconsistent with Clause 7 Rural Planning Principles of SEPP.

Murray Regional Environmental Plan No 2 – Riverine Land

Specific development will be assessed, and applicable agencies will be consulted at Development Application stage.

LEP Practice Note PN09-006 - Providing for tourism in Standard Instrument Local Environmental Plans - provides a guide to tourism land uses. This Practice Note does not specifically identify Backpackers Accommodation as being suitable in zone RU1 Primary Production. This is a guide and it is considered that Council has provided adequate justification, to provide flexibility for rural workers, to enable support for this proposal.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **Mapping is not applicable to this proposal.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has indicated that it is of the opinion that the planning proposal is considered to be of low impact to the rural landholders of the Berrigan Shire.**

However, future community consultation will be in accordance with the provisions of section 56(2)(c) of the Environmental Planning and Assessment Act 1979, A Guide to Preparing Local Environmental Plans (DPI, 2013) and pursuant to any conditions imposed by a gateway determination.

Council has proposed a 28 day community consultation which is appropriate.

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 :

Proposal Assessment

Principal LEP:

Due Date : **October 2013**

Comments in relation to Principal LEP : **The Berrigan LEP was notified on 4 October 2013**

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Assessment Criteria

Need for planning proposal :	As Backpacker Accommodation is currently prohibited within zone RU1 an amendment to the Berrigan LEP 2013 is required to allow this development to be permissible. The proposal is seen as an overall benefit to the community, given that rural employment provided to backpackers by local primary producers assists in finding employees on a seasonal or short term basis. Currently, local producers find it difficult to source employees, particularly if affordable accommodation is not available. The proposal will therefore create opportunities for employment by allowing backpacker accommodation at or near the source. A planning proposal is the most appropriate mechanism to achieve this.
Consistency with strategic planning framework :	There is no endorsed strategy applicable to Berrigan Shire Council. The amendment to the land use table of zone RU1 Primary Production to remove Backpackers Accommodation as prohibited development is considered appropriate and consistent with broader Government Policy. Impacts associated with the establishment of Backpacker Accommodation in this zone will be assessed at the development application stage.
Environmental social economic impacts :	Overall, the proposal will create a positive social and economic effect for the Berrigan Shire through an increase in population (albeit temporarily and with a high turnover), though the recognition of backpacker accommodation as a permissible use in zone RU1. This will provide an accommodation option and flexibility for primary producers and itinerant workers. Environmental impacts will be required to be addressed by Council at the development application stage.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d)			
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			

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Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Attachment 4 - Evaluation Criteria for the Delegation of Plan Making Functions (PP_2016_BERRI_002_00).pdf	Proposal	No
Council Meeting Minutes(PP_2016_BERRI_002_00).pdf	Proposal	No
Planning Proposal (PP_2016_BERRI_002_00).pdf	Proposal	No
Planning Proposal - Attachment A (PP_2016_BERRI_002_00).pdf	Proposal	No
Planning Proposal - Attachment B - Consistency with Ministerial Directions (PP_2016_BERRI_002_00).pdf	Proposal	No
Planning Proposal Document (PP_2016_BERRI_002_00).pdf	Proposal	No
Request for Initial Gateway Determination (PP_2016_BERRI_002_00).pdf	Proposal	No
Correspondence received from Council dated 20 April 2016.pdf	Proposal Covering Letter	No

Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones
1.5 Rural Lands**

Additional Information : **1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 (EP&A Act) as follows:**
(a) The planning proposal is required to be made publicly available on exhibition for 28 days as described in A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013).
(b) The relevant planning authority must comply with the notice requirements for public exhibition of planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs.

No Consultation with agencies is required.

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

3. Berrigan Shire Council be authorised to exercise plan making delegations in this instance.

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

Supporting Reasons : **The amendment to the land use table of zone RU1 Primary Production to remove Backpackers Accommodation as prohibited development is considered appropriate and the Director Regions, Western can use delegation as the proposal is consistent with broader Government Policy. Impacts associated with the establishment of Backpacker Accommodation in these zones will be assessed at the development application stage.**

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Signature:			
Printed Name:		Date:	

Endorsed
W Gannsey 13/5/16
TLWR