

Section 59 Planning Report

To Amend Wollondilly Local Environmental Plan 2011

Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Schemes

Applies to all land in the Wollondilly Shire

February 2018

SECTION 59 PLANNING REPORT

Planning proposal details: PP_2016_WOLLY_004_00

To introduce minimum subdivision lot sizes for community title schemes, and allow boundary adjustments in certain zones.

Planning proposal summary:

To prevent land fragmentation and inappropriate densities across the shire which result from community title schemes in inappropriate locations.

To enable boundary adjustments within all rural land use zones, E4 Environmental Living and R5 Large Lot Residential to provide greater flexibility to landowners.

Date of Gateway determination:

The Gateway determination was issued 6 September 2016

1.0 SUMMARY

- The Planning Proposal seeks to introduce two (2) provisions into the Wollondilly LEP to control certain types of subdivision.
- Wollondilly Shire Council has reviewed the minimum lot size for community title scheme subdivision proposals. Council has also reviewed a separate part of the LEP in the allowance of boundary adjustment with development consent within certain land use zones.
- It is considered that these changes will prevent inappropriate densities and the creation of new rural lots under the minimum lot size. Allowing minor realignment of lot boundaries is also considered to provide many benefits to rural land owners throughout the Shire.
- The two (2) additional clauses to be introduced by this proposal are:
 - Clause 4.1AA Minimum subdivision lot size for community title schemes
 - Clause 4.2B Boundary adjustment to certain rural, residential, environmental protection zones
- The public exhibition was held for 30 days from 1 February 2017 until 3 March 2017. One (1) submission was received supporting the proposed changes. The submission noted that:

- Changes to boundary adjustment allowances will allow the respondent to combine two (2) lots of their land into one (1).

The outcome of the consultation was reported to the Ordinary Meeting of Council on 19 June 2017. The report is included at Appendix H of the planning proposal.

- One (1) public agency requested a change to the wording for the proposed boundary adjustment clause. The proposed wording does not change the intent but strengthens the application of the clause as it would relate to heritage. The proposed wording has been included within the current Planning Proposal.
- No other amendments have been made to the Planning Proposal in response to the issues raised during the public exhibition.

2.0 GATEWAY DETERMINATION

- The Gateway determination was issued on 6 September 2016
- The timeframe for completion of the planning proposal was 13 December 2017
- No alterations have been sought or issued to the Gateway determination.
- The Gateway determination has not been subject to a review request.
- The conditions of the Gateway determination have been complied with.

3.0 COMMUNITY CONSULTATION

Dates of exhibition: 1 February 2017 – 3 March 2017

Number of submissions received: one (1)

- The issues raised during the exhibition and a response to these issues are provided in the Planning Proposal and have been addressed in a report to Council on 16 October 2017. The report is included at Appendix H to the Planning Proposal.
- The proposal was not re-exhibited.
- The consultation requirements included in the Gateway determination were complied with.
- No amendments have been made to the planning proposal to response to the issues raised during the public exhibition.

4.0 VIEWS OF PUBLIC AUTHORITIES

- The following agencies were consulted for this Planning Proposal;
 - NSW Rural Fire Service (NSW RFS)
 - Office of Environment and Heritage (OEH)
 - Transport - Roads and Maritime Services

- All public agencies consulted responded and raised no objection to the Planning Proposal.
- OEH requested an alteration in the wording for the proposed boundary adjustment clause as it related to heritage. OEH recommended that the wording for Clause 4.2B(4)(d) be slightly amended from:

(d) 'will no adversely impact the curtilage of a heritage item,'

to:

(d) 'will not impact on the heritage significance of a heritage item including its curtilage, character or the setting'.

- The proposed wording does not change the intent but strengthens the application of the clause as it would relate to heritage. Subsequently, the suggested amended wording has been accepted and incorporated into the proposed clause.
- Agency consultation was undertaken in accordance with the requirements of the Gateway determination.
- A more detailed discussion on the outcome of consultation with public agencies is provided within the Planning Proposal (section D 3.11).

5.0 CONSISTENCY WITH S.117 DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS

- Refer to the Planning Proposal for information on how the proposal is consistent, justifiably inconsistent or inconsistent with all relevant s117 Directions (section B 3.6), SEPPs (section B 3.5) and other strategic planning documents (section B 3.3 and B 3.4).
- No consultation with any agencies was required by the Gateway Determination under a Section 117 Direction.
- The planning proposal is considered to be consistent with all relevant Section 117 Directions.

6.0 PARLIAMENTARY COUNSEL OPINION

Plan making powers have been delegated to Wollondilly Shire Council for this Planning Proposal.

Parliamentary Counsel provided an Opinion on 14 February 2018 (reference e2017-314.d06).

7.0 OTHER RELEVANT MATTERS

- No representations have been received on the planning proposal from State or Federal members of Parliament
- Council has not met with the Minister in relation to the planning proposal.

8.0 MAPPING

There is no GIS data or mapping necessary for this amendment.

9.0 RECOMMENDATION

It is recommended that the plan shall be made as detailed in this report and supporting documentation.

NOTES:

The following relevant documents referred to in the summary report are included:

Document Required	Title	Location
Planning Proposal Document	Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Schemes	Separately Attached
Gateway Determination	Gateway Determination -	In planning proposal separately attached (Appendix M)
Council's Final Report and Resolution	PE3 Post Exhibition Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme Planning Proposal GR6 Planning Proposal – Boundary Adjustment and Minimum Subdivision Lot Size for Community Title Scheme & Associated Amendments to Wollondilly Development Control Plan 2016	In planning proposal separately attached (Appendix K & L)
Parliamentary Counsel Opinion	Ref. e2017-314.d06	Separately Attached