

Planning Services

Gateway Determination Report

LGA	Narrabri
RPA	Narrabri Shire Council
NAME	Amend Narrabri LEP 2012 to clarify that clause 4.2B which relates to the erection of dwelling houses on land in certain rural and environmental protection zones also applies to dual occupancies.
NUMBER	PP_2017_NARRB_003_00
LEP TO BE AMENDED	Narrabri LEP 2012
ADDRESS	Narrabri LGA
DESCRIPTION	Land zoned RU1, RU4, R5 & E3
RECEIVED	09/10/2017
FILE NO.	17/14039
QA NUMBER	qA420041
POLITICAL DONATIONS	There are no known donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of Planning Proposal

Amend Narrabri LEP 2012 to clarify that clause 4.2B which relates to the erection of dwelling houses on land in certain rural and environmental protection zones also applies to dual occupancies.

Site Description

The Planning Proposal applies to all land zoned RU1 Primary Production, RU4 Primary Production Small Lots, R5 Large Lot Residential and E3 Environmental Management.

Surrounding Area

N/A

Summary of Recommendation

Approval subject to conditions.

PROPOSAL

Objectives or Intended Outcomes

The Planning Proposal has adequately outlined the objectives and intended outcomes that relate to amending clause 4.2B of Narrabri LEP 2012, which relates to the erection of dwelling houses on land in certain rural and environmental protection zones, by including a reference to 'dual occupancy' where appropriate.

Explanation of Provisions

The explanation of provisions adequately addresses the manner by which Narrabri LEP 2012 is to be amended in accordance with the planning proposal. Council have included a draft clause 4.2B which has included the words 'dual occupancy' where appropriate.

It is recommended that Council amend the Planning Proposal prior to community consultation to include only a plain English explanation of the intention of the clause. The drafting of the clause can then be conducted by Parliamentary Counsel's Office to ensure it properly achieves the purposes outlined.

Mapping

As the Planning Proposal only relates to changes to the written document, no mapping is required.

NEED FOR THE PLANNING PROPOSAL

The planning proposal has not resulted from any strategic study or specific report.

During an operational review of the LEP, Council found that the current wording of clause 4.2B could potentially allow the erection of a dual occupancy on land where a dwelling house would not be permitted. This would be an undesirable result in terms of maintaining the objectives of the established strategic planning framework for these areas. The purpose of the Planning Proposal is therefore to clarify the wording of clause 4.2B so that it also applies to dual occupancies. This would involve a change to the written instrument only.

STRATEGIC ASSESSMENT

State

The Planning Proposal does not contain any matters of state or regional significance.

Regional / District

New England North West Regional Plan (NENWRP) 2036

The Planning Proposal has only addressed the draft NENWRP and has also included discussion on the former New England North West Strategic Regional Land Use Plan that has been now been superseded. The proposal should be amended prior to community consultation to address these matters.

The Planning Proposal is not considered to be inconsistent with the goals, directions and actions of the NENWRP 2036.

Local

The Planning Proposal has not resulted from any local strategic study or specific report but rather the need to ensure that dual occupancies are not inadvertently permitted on land considered unsuitable in accordance with clause 4.2B of Narrabri LEP 2012.

Section 117(2) Ministerial Directions

The proposal is considered to be consistent with all applicable section 117 Directions except in relation to the following:

4.4 Planning for Bushfire Protection

The planning proposal applies to land spread across the entire LGA and as such has the potential to contain bushfire prone land. The Direction requires Council as the Relevant

Planning Authority to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

The planning proposal is considered to be consistent with all relevant SEPP's.

SITE SPECIFIC ASSESSMENT

Social

The planning proposal is unlikely to result in any detrimental social impacts within the LGA but will assist in ensuring that the objectives of the relevant zones are met.

Environmental

It is not anticipated that the Planning Proposal will have any detrimental environmental impact on land the subject of the Planning Proposal.

Economic

It is not anticipated that the Planning Proposal will have a detrimental economic impact on land the subject of the Planning Proposal.

Infrastructure

The provision and funding of State infrastructure is not necessary for this proposal.

Regarding local infrastructure, it is not expected that the Planning Proposal will create any increase in demand for additional infrastructure.

Heritage

No items of heritage significance have been identified as being potentially impacted by the Planning Proposal.

CONSULTATION

Community

Council has indicated a 14 day public exhibition/community consultation period.

Considering the broad nature of the Planning Proposal, affected individual landholder notification would not be viable however notification in the local newspaper and Council's website will take place.

This level of consultation is considered appropriate in these circumstances.

Agencies

Council has not indicated consultation with any specific agencies due to the minor nature of the Planning Proposal. Consultation with the NSW Rural Fire Service is recommended due to the outstanding inconsistency with s117 direction 4.4 Planning for Bushfire Protection.

TIMEFRAME

The planning proposal has included a timeline that indicates completion in January 2018. As this will occur over the Christmas period, it is recommended that Council be given a 6 (six) month period to complete the Planning Proposal.

DELEGATION

Council has requested an authorisation to exercise delegation for this proposal. It is recommended that an authorisation be issued in this instance as the proposal does not contain matters of State or regional significance.

CONCLUSION

The Planning Proposal is supported to proceed subject to conditions. Support for the Planning Proposal is based on the following:

- it meets the adequacy criteria by providing appropriate objectives and intended outcomes; a suitable explanation of the provisions and justification for the proposal; outlines appropriate community consultation; provides a project timeline; and an evaluation for the delegation of plan making functions;
- it is consistent with all relevant s117 directions and SEPPs apart from 4.4 Planning for Bushfire Protection (which can only be determined after consultation with the NSW Rural Fire Service);
- it is not inconsistent with the New England North West Regional Plan 2036; and
- it is unlikely to have any detrimental impact on the environment or the socio-economic welfare of the Local Government Area.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Note the outstanding inconsistency with section 117 Direction 4.4 Planning for Bushfire Protection.

It is recommended that the delegate of the Minister for Planning determine that the Planning Proposal should proceed subject to the following conditions:

1. Prior to community consultation the Planning Proposal is to be amended to:
 - (a) remove references to the *draft New England North West Regional Plan* and update the discussion in Part 3 Section B 'Relationship to Strategic Planning Framework' to apply to the *New England North West Regional Plan 2036*;
 - (b) remove the draft clause in Part 2 'Explanation of Provisions' and replace with a plain English explanation of the intention of the clause; and
 - (c) remove the discussion relating to the *New England North West Strategic Regional Land Use Plan* which has been replaced by the *New England North West Regional Plan 2036*.
2. The planning proposal should be made available for community consultation for a minimum of 14 days.
3. Consultation is required with the following public authority:
 - NSW Rural Fire Service
4. The timeframe for completing the LEP is to be 6 months from the date of the Gateway determination.

5. Given the nature of the planning proposal, Council should be authorised to exercise delegation to make this plan.



17/10/17

Craig Diss
Team Leader, Northern



20-10-2017

Jeremy Gray
Director Regions, Northern
Planning Services

Contact Officer: Gina Davis
Senior Planner, Northern
Phone: (02) 6701 9687