

10/04547

Enquiries to: **Robyn Hawes**
02 6578 7247

Our Ref: LA76/2009

16 December 2009



Regional Director
Department of Planning - Hunter and Central Coast Region
PO Box 1226
NEWCASTLE NSW 2300

Attention: Ms Amy Blakely

Dear Ms Blakely

**Planning Proposal – Request For Gateway Determination
Amendment to Clause 17 in Singleton LEP 1996 to rationalise dwelling
entitlements over land zoned 1(a) Rural**

Singleton Council has agreed to an amended timeframe for the preparation of its SI LEP. As such, a number of more urgent items have been extracted from the principal plan and progressed as separate Planning Proposals.

This Planning Proposal seeks to amend clause 17 in the Singleton LEP 1996 to rationalise dwelling entitlements over land currently zoned 1(a) Rural. This approach will assist in streamlining the preparation and public exhibition phase of the SI LEP by addressing this significant component of the SI LEP as a stand-alone proposal. A copy of the relevant Council reports and minutes are enclosed.

Council requests a gateway determination on the Planning Proposal under section 56 of the *Environmental Planning and Assessment Act 1979*.

Should you have any further queries regarding this matter, please contact Robyn Hawes of Council's Strategy & Governance Group on (02) 6578 7247 (Tuesdays-Thursdays) or by email on rhawes@singleton.nsw.gov.au

Please note that I will be on extended leave until 2 February 2010.

Yours faithfully

A handwritten signature in black ink that reads "Rhawes".

Robyn Hawes
Special Projects – Strategic Landuse
Encls.



1. Council report and minutes on SI LEP
2. Council report and minutes on LA 76/2009 – Planning Proposal

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Planning Proposal

Subject: Singleton Local Environmental Plan 1996 – Amendment to clause 17 to rationalise and standardise dwelling entitlement provisions for lands currently zoned 1(a) Rural in support of the preparation of the Standard Instrument LEP (SI LEP).

Part 1 - Objectives or Intended Outcomes

The Standard Instrument (SI LEP) is based on a format of standard clauses, with local variations addressed through the use of schedules, map layers, or both. While this conversion process is relatively straightforward in relation to the development standard for subdivision, through the generation of a Lot Size Map, addressing complex dwelling entitlement provisions over rural lands is not.

Clause 17 in the Singleton LEP 1996 outlines specific provisions for a dwelling entitlement in relation to lands zoned 1(a) Rural. The clause contains a development standard (40ha) as well as a number of 'local variations' and a definition of 'existing holding'.

The objective or intended outcome of this planning proposal is to adopt a standard clause for dwelling entitlements similar to that used for subdivision, and to map any 'local variations'. In order to map the variations, it must first be established how many dwelling entitlements that vary from the development standard remain, and how many should be retained. This amendment to clause 17 and the associated Dwelling Entitlement Map will then be carried forward into the SI LEP.

This outcome will support the integrity of the SI LEP, in that:

- the standardised format is maintained, and
- the format will simplify the interpretation of dwelling entitlements that vary from the development standard for subdivision.

It is proposed to amend the Singleton LEP 1996 at this stage. Should the SI LEP timelines correspond; the amendment will be amalgamated into the SI LEP.

Part 2 - Explanation of the Provisions

It is proposed to amend clause 17 by deleting subclause (5) and replacing subclauses (2), (b), (c) and (d) with a standardised clause and a corresponding Dwelling Entitlement Map, as outlined below. The final Dwelling Entitlement Map will reflect the outcomes of Council's analysis and community consultation.

Singleton LEP 1996 (clause 17) - EXISTING

17 On what land in the Rural Zone can a dwelling-house or dual occupancy-attached be erected?

- (1) This clause applies to land within Zone 1 (a).
- (2) A dwelling-house or dual occupancy-attached can be erected only on the following land in Zone 1 (a):
 - (a) an allotment which has an area of 40 hectares or greater,

- (b) *an allotment with an area of less than 40 hectares where the land is the whole of an allotment consented to by the Council on or after 7 January 1966, or*
- (c) *an allotment of land with an area of less than 40 hectares where the land is an allotment created prior to 7 January 1966 and comprises the whole of an existing holding, or*
- (d) *an allotment of land with an area of less than 40 hectares where the land is an allotment created prior to 7 January 1966 which has an area of not less than 10 hectares and was owned at 17 December 1980 by a person who at that date did not own any lot, portion or parcel of land adjoining or adjacent to the allotment, or*
- (e) *an allotment which already contains a dwelling-house where the proposed dwelling-house is intended to wholly replace an existing dwelling-house.*
- (3) * * * * *
- (4) * * * * *
- (5) *In this clause, existing holding means any area of adjoining or adjacent land held in the same ownership on and from 7 January 1966 and includes the residue of any such area from which land has been excised only for a public purpose after that date. Adjoining or adjacent land does not cease to be an existing holding only because the land has been transferred as a whole after 7 January 1966*

Singleton LEP 1996 (clause 17) – PROPOSED

17 On what land in the Rural Zone can a dwelling-house or dual occupancy-attached be erected?

- (1) This clause applies to land within Zone 1 (a).
- (2) A dwelling-house or dual occupancy-attached can be erected only on the following land in Zone 1 (a):
 - (a) an allotment which has an area of 40 hectares or greater, or
 - (b) *where identified on the Dwelling Entitlement Map, where applicable, or*
 - (c) *repealed*
 - (d) *repealed*
 - (e) an allotment which already contains a dwelling-house where the proposed dwelling-house is intended to wholly replace an existing dwelling-house.
- (3) * * * * *
- (4) * * * * *
- (5) *repealed*

Part 3 - Justification

Section A – Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

The endorsed Singleton Land Use Strategy does not directly address dwelling entitlements over rural lands. However, it is necessary to address this issue to prepare the SI LEP.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Council is of the opinion that this planning proposal is the best means of achieving the objectives of intended outcomes, for four (4) main reasons:

a) Transition Process

In order to support the integrity of the SI LEP, Council cannot continue to carry forward outdated provisions for dwelling entitlements into each successive principal LEP.

Clause 17 sets in place a transition process in relation to specific dwelling entitlements that vary from the development standard. Given the passage of time since these provisions were introduced, it is likely that the majority of entitlements have been taken up, where practical to do so. The crux of the planning issue is how to address the remaining dwelling entitlements.

Analysis of the subdivision pattern across the rural lands within the LGA suggests that, prior to the introduction of the 40ha standard, the minimum lot size within Singleton was 40 acres (or 16.19ha). Given the existing fragmented nature of the subdivision pattern, it is recognised that a number of remaining dwelling entitlements that have their legal right established under this clause may have planning merit and should be retained under the SI LEP. Conversely, others may not. Therefore, rather than removing all remaining entitlements that vary from the development standard, Council proposes to engage in a detailed mapping analysis and community consultation process to identify and rationalise the remaining entitlements.

The SI LEP sets in place a standardised format that can be adapted for this purpose. Clause 17 in the Singleton LEP 1996 can be standardised to a format similar to the SI LEP. The map layer can be used to identify remaining dwelling entitlements that vary from the development standard that are worthy of retention.

b) Streamlining the SI LEP

It was originally proposed to include this intended outcome as part of the SI LEP. However, given that Singleton is not a prioritised Council, progression of some of the analytical work that can be exhibited and addressed prior to the SI LEP is seen as assisting the process time of the SI LEP.

This issue has been extracted for progression before the SI LEP, as no consultation with government agencies is considered to be required. No additional dwelling entitlements will be created as a result of this exercise. As a result, this planning proposal can be placed on exhibition prior to the SI LEP and the analytical work progressed.

c) Community consultation

The issue of how to address dwelling entitlements in the rural areas is problematic. Extracting this component from the principal plan and addressing it as a stand-alone planning issue will assist in the transparency of the intended outcome, by engaging the community on this issue only. Council also intends to enlist the assistance of the general public, by inviting written submissions on the location of remaining dwelling entitlements.

d) E-planning processes

Confirmation of whether a property has a dwelling entitlement under this clause (where it does not meet the development standard) currently requires detailed and time-consuming manual research by council staff.

Council is moving towards an electronic processing system, including the generation of section 149 certificates. Adopting this map layer approach will assist this process, by removing the need to manually research dwelling entitlements on rural lands. Progressing this issue ahead of the SI LEP will ensure that administrative planning for this computerised process will not be unnecessarily delayed.

3. Will the net community benefit outweigh the cost of implementing and administering the planning proposal?

Council is of the opinion that a Net Community Benefit test is not required. The planning proposal seeks to rationalise and standardise dwelling entitlement provisions over lands currently zoned 1(a) Rural only. As such, this approach has limited application with regard to this consideration and is expected to present no significant changes that would impact upon the community as a whole.

Section B – Relationship to strategic planning framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies).

Not applicable.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The endorsed Singleton Land Use Strategy does not directly address dwelling entitlements over rural lands. However, it is necessary to address this issue to prepare the SI LEP.

6. Is the planning proposal consistent with applicable state environmental planning policies?

SEPP (Rural Lands) 2008

Clause 10 in *State Environmental Planning Policy (Rural Lands) 2008* contains matters for consideration when determining development applications for rural dwellings, as reproduced below.

10 Matters to be considered in determining development applications for rural subdivisions or rural dwellings

- (1) This clause applies to land in a rural zone, a rural residential zone or an environment protection zone.
- (2) A consent authority must take into account the matters specified in subclause (3) when considering whether to grant consent to development on land to which this clause applies for any of the following purposes:
 - (a) subdivision of land proposed to be used for the purposes of a dwelling,
 - (b) erection of a dwelling.
- (3) The following matters are to be taken into account:
 - (a) the existing uses and approved uses of land in the vicinity of the development,
 - (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,
 - (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),
 - (d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,
 - (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).

The methodology for determining whether there is any planning merit in retaining a dwelling entitlement will include the matters for consideration outlined in clause 10 of the Policy.

7. Is the planning proposal consistent with applicable Ministerial Directions (s117 directions)?

Directions 1.2 Rural Zones

Status: Not applicable. The planning proposal does not seek to rezone rural land.

Direction 1.5 Rural Lands

Status: Limited application but consistent with Rural Planning Principles, where applicable.

This direction has limited application, in that the planning proposal relates only to dwelling entitlements. In this regard, the planning proposal is considered to be consistent with 4(a) in that the methodology for determining whether a dwelling entitlement will be retained will include the matters for consideration outlined in clause 7 of SEPP (Rural Lands) 2008.

Section C – Environmental, social and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

10. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal is not considered to create any detrimental social or economic effects in relation to its impact on the community as a whole. It may be that some landowners lose their legal right to a dwelling entitlement through this analysis. However, in this instance, it is expected that this approach would only be taken where the likelihood of securing development consent for a dwelling-house is remote. In such a circumstance, the planning process recognises that the transitional effect of clause 17 has run its course, in a similar fashion to the removal of the 'concessional lot' provisions under *State Environmental Planning Policy (Rural Lands) 2008*.

Section D – State and Commonwealth interests.

11. Is there adequate public infrastructure for the planning proposal?

Not applicable.

Part 4 - Community Consultation

As part of the community consultation exercise, Council proposes to invite written submissions from the general public to assist in the identification of any remaining dwelling entitlements that vary from the development standard. In addition, the community consultation process will advise that any remaining dwelling entitlements that are determined to have no planning merit will not be retained and carried forward into the SI LEP, e.g. holdings may no longer exist (coal mines) or within heavily constrained areas.

As such, Council is of the opinion that it should exhibit the planning proposal for 28 days, in accordance with Section 4.5 Community consultation – *A Guide to Preparing Local Environmental Plans*, with one exception. Council does not believe it is practical to write to adjoining landowners, given the nature of the planning proposal and the number of landowners of land currently zoned 1(a) Rural.

* * * * *

1. **Planning Proposal: Amendment to clause 17 under Singleton LEP 1996 - Rationalisation of Dwelling Entitlements Provisions for lands zoned 1(a) Rural** **FILE: LA76/2009**
Author: Robyn Hawes
-

Executive Summary:

Clause 17 in the Singleton LEP 1996 outlines provisions for a dwelling entitlement in relation to lands zoned 1(a) Rural. The clause contains a development standard (40ha) as well as a number of 'local variations'. Confirmation of whether a property has a dwelling entitlement under this clause (where it does not meet the development standard) requires detailed and time-consuming manual research by council staff.

A mechanism is needed to standardise the way in which these local variations to the development standard for dwelling entitlements are presented in the SI LEP.

The objective or intended outcome of this planning proposal is to adopt a standard clause for dwelling entitlements similar to that used for subdivision, and to map any 'local variations'. In order to map the variations, it must first be established how many dwelling entitlements that vary from the development standard remain, and how many should be retained. This amendment to clause 17 and the associated Dwelling Entitlement Map will then be carried forward into the SI LEP.

The outcome will support the integrity of the SI LEP, in that the standardised format is maintained, making interpretation of the LEP structure easier to understand for the general public.

An automated process will also complement the e-planning process, assisting in the reduction in manual handling of section 149 certificates.

Background:

An information report was presented to Council at its meeting on 23 November 2009, outlining the current status with regard to the preparation of the new comprehensive LEP, otherwise known as the Standard Instrument LEP (SI LEP).

This Planning Proposal represents one planning issue considered appropriate to extract from the SI LEP in order to progress the analytical work involved. The intended outcome is to present the resolution of this issue in a standardised format suitable for inclusion in the SI LEP.

Legislation:

Recent legislative amendments have altered the way in which planning authorities process amendments to the local environmental plan (LEP). The first step in this process is the preparation of a 'planning proposal'. A planning proposal is a document that explains the intended effect of the proposed amendment to the LEP and the justification for making it.

The relevant planning authority (usually Council) must be satisfied with the planning proposal in order to support the amendment and be prepared to forward it to the Minister for the next step in the process, being the gateway determination.

The gateway determination is issued by the Minister for Planning (or delegate) and specifies whether a planning proposal can proceed and, if so, under what circumstances. Importantly, the gateway determination will indicate the following:

- Whether the planning proposal should proceed (with or without variation);
- Whether the planning proposal should be resubmitted for any reason (including for further studies or other information, or for the revision of the planning proposal);
- The community consultation required before consideration is given to the making of the proposed instrument (the community consultation requirements);
- Any consultation required with State or Commonwealth Public Authorities;
- Whether a public hearing is to be held into the matter by the Planning Assessment Commission or other specified person or body;
- The times within which the various stages of the procedure for the making of the proposed LEP are to be completed;
- Whether the function of making the LEP is to be exercised by the Minister for Planning or delegated to the relevant planning authority.

Council must await the gateway determination before it can proceed any further with the planning proposal.

Planning Proposal:

The planning proposal has been prepared in accordance with the Department of Planning's guidelines.

Part 1 - Objectives or Intended Outcomes

The Standard Instrument (SI LEP) is based on a format of standard clauses, with local variations addressed through the use of schedules, map layers, or both. While this conversion process is relatively straightforward in relation to the development standard for subdivision, through the generation of a Lot Size Map, addressing complex dwelling entitlement provisions over rural lands is not.

Clause 17 in the Singleton LEP 1996 outlines specific provisions for a dwelling entitlement in relation to lands zoned 1(a) Rural. The clause contains a development standard (40ha) as well as a number of 'local variations' and a definition of 'existing holding'.

The objective or intended outcome of this planning proposal is to adopt a standard clause for dwelling entitlements similar to that used for subdivision, and to map any 'local variations'. In order to map the variations, it must first be established how many dwelling entitlements that vary from the development standard remain, and how many should be retained. This amendment to clause 17 and the associated Dwelling Entitlement Map will then be carried forward into the SI LEP.

This outcome will support the integrity of the SI LEP, in that:

- the standardised format is maintained, and
- the format will simplify the interpretation of dwelling entitlements that vary from the development standard for subdivision.

It is proposed to amend the Singleton LEP 1996 at this stage. Should the SI LEP timelines correspond; the amendment will be amalgamated into the SI LEP.

Part 2 - Explanation of the Provisions

It is proposed to amend clause 17 in the Singleton LEP 1996 by deleting subclause (5) and replacing subclauses (2), (b), (c) and (d) with a standardised clause and a corresponding Dwelling Entitlement Map, as outlined below. The final Dwelling Entitlement Map will reflect the outcomes of Council's analysis and community consultation.

Singleton LEP 1996 (clause 17) - EXISTING

17 On what land in the Rural Zone can a dwelling-house or dual occupancy-attached be erected?

- (1) This clause applies to land within Zone 1 (a).
- (2) A dwelling-house or dual occupancy-attached can be erected only on the following land in Zone 1 (a):
 - (a) an allotment which has an area of 40 hectares or greater,
 - (b) *an allotment with an area of less than 40 hectares where the land is the whole of an allotment consented to by the Council on or after 7 January 1966, or*
 - (c) *an allotment of land with an area of less than 40 hectares where the land is an allotment created prior to 7 January 1966 and comprises the whole of an existing holding, or*
 - (d) *an allotment of land with an area of less than 40 hectares where the land is an allotment created prior to 7 January 1966 which has an area of not less than 10 hectares and was owned at 17 December 1980 by a person who at that date did not own any lot, portion or parcel of land adjoining or adjacent to the allotment, or*
 - (e) an allotment which already contains a dwelling-house where the proposed dwelling-house is intended to wholly replace an existing dwelling-house.
- (3) * * * * * (not relevant to this planning proposal)
- (4) * * * * * (not relevant to this planning proposal)
- (5) *In this clause, existing holding means any area of adjoining or adjacent land held in the same ownership on and from 7 January 1966 and includes the residue of any such area from which land has been excised only for a public purpose after that date. Adjoining or adjacent land does not cease to be an existing holding only because the land has been transferred as a whole after 7 January 1966*

Singleton LEP 1996 (clause 17) – PROPOSED

17 On what land in the Rural Zone can a dwelling-house or dual occupancy-attached be erected?

- (1) This clause applies to land within Zone 1 (a).
- (2) A dwelling-house or dual occupancy-attached can be erected only on the following land in Zone 1 (a):
 - (a) an allotment which has an area of 40 hectares or greater, or
 - (b) *where identified on the Dwelling Entitlement Map, where applicable, or*
 - (c) *repealed*
 - (d) *repealed*
 - (e) an allotment which already contains a dwelling-house where the proposed dwelling-house is intended to wholly replace an existing dwelling-house.

- (3) * * * * * (unchanged)
- (4) * * * * * (unchanged)
- (5) *repealed*

Part 3 - Justification

Section A – Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

The endorsed Singleton Land Use Strategy does not directly address dwelling entitlements over rural lands. However, it is necessary to address this issue to prepare the SI LEP.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Progression of this planning proposal is considered to be the best means of achieving the objectives or intended outcomes, for four (4) main reasons:

a) Transition Process

In order to support the integrity of the SI LEP, Council cannot continue to carry forward outdated provisions for dwelling entitlements into each successive principal LEP.

Clause 17 sets in place a transition process in relation to specific dwelling entitlements that vary from the development standard. Given the passage of time since these provisions were introduced, it is likely that the majority of entitlements have been taken up, where practical to do so. The crux of the planning issue is how to address the remaining dwelling entitlements.

Analysis of the subdivision pattern across the rural lands within the LGA suggests that, prior to the introduction of the 40ha standard, the minimum lot size within Singleton was 40 acres (or 16.19ha). Given the existing fragmented nature of the subdivision pattern, it is recognised that a number of remaining dwelling entitlements that have their legal right established under this clause may have planning merit and should be retained under the SI LEP. Conversely, others may not. Therefore, rather than removing all remaining entitlements that vary from the development standard, Council proposes to engage in a detailed mapping analysis and community consultation process to identify and rationalise the remaining entitlements.

The SI LEP sets in place a standardised format that can be adapted for this purpose. Clause 17 in the Singleton LEP 1996 can be standardised to a format similar to the SI LEP. The map layer can be used to identify remaining dwelling entitlements that vary from the development standard that are worthy of retention.

b) Streamlining the SI LEP

It was originally proposed to include this intended outcome as part of the SI LEP. However, given that Singleton is not a prioritised Council, progression of some of the analytical work that can be exhibited and addressed prior to the SI LEP is seen as assisting the overall process time of the SI LEP.

This issue has been extracted for progression before the SI LEP, as no consultation with government agencies is considered to be required. No additional dwelling entitlements will be

created as a result of this exercise. As a result, this planning proposal can be placed on exhibition prior to the SI LEP and the analytical work progressed.

c) Community consultation

The issue of how to address dwelling entitlements in the rural areas is problematic. Extracting this component from the principal plan and addressing it as a stand-alone planning issue will assist in the transparency of the intended outcome, by engaging the community on this issue only. Council also intends to enlist the assistance of the general public, by inviting written submissions on the location of remaining dwelling entitlements.

d) E-planning processes

Confirmation of whether a property has a dwelling entitlement under this clause (where it does not meet the development standard) currently requires detailed and time-consuming manual research by council staff.

Council is moving towards an electronic processing system, including the generation of section 149 certificates. Adopting this map layer approach will assist this process, by removing the need to manually research dwelling entitlements on rural lands. Progressing this issue ahead of the SI LEP will ensure that administrative planning for this computerised process will not be unnecessarily delayed.

3. Will the net community benefit outweigh the cost of implementing and administering the planning proposal?

Council is of the opinion that a Net Community Benefit test is not required. The planning proposal seeks to rationalise and standardise dwelling entitlement provisions over lands currently zoned 1(a) Rural only. As such, this approach has limited application with regard to this consideration and is expected to present no significant changes that would impact upon the community as a whole.

Section B – Relationship to strategic planning framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies).

Not applicable.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The endorsed Singleton Land Use Strategy does not directly address dwelling entitlements over rural lands. However, it is necessary to address this issue to prepare the SI LEP.

6. Is the planning proposal consistent with applicable state environmental planning policies?

SEPP (Rural Lands) 2008

Clause 10 in *State Environmental Planning Policy (Rural Lands) 2008* contains matters for consideration when determining development applications for rural dwellings, as reproduced below.

10 Matters to be considered in determining development applications for rural subdivisions or rural dwellings

- (1) This clause applies to land in a rural zone, a rural residential zone or an environment protection zone.
- (2) A consent authority must take into account the matters specified in subclause (3) when considering whether to grant consent to development on land to which this clause applies for any of the following purposes:
 - (a) subdivision of land proposed to be used for the purposes of a dwelling,
 - (b) erection of a dwelling.
- (3) The following matters are to be taken into account:
 - (a) the existing uses and approved uses of land in the vicinity of the development,
 - (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,
 - (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),
 - (d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,
 - (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).

The methodology for determining whether there is any planning merit in retaining a dwelling entitlement will include the matters for consideration outlined in clause 10 of the Policy.

7. Is the planning proposal consistent with applicable Ministerial Directions (s117 directions)?**Directions 1.2 Rural Zones**

Status: Not applicable. The planning proposal does not seek to rezone rural land.

Direction 1.5 Rural Lands

Status: Limited application but consistent with Rural Planning Principles, where applicable.

This direction has limited application, in that the planning proposal relates only to dwelling entitlements. In this regard, the planning proposal is considered to be consistent with 4(a) in that the methodology for determining whether a dwelling entitlement will be retained will include the matters for consideration outlined in clause 7 of SEPP (Rural Lands) 2008.

Section C – Environmental, social and economic impact**8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

10. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal is not considered to create any detrimental social or economic effects in relation to its impact on the community as a whole. It may be that some landowners lose their legal right to a dwelling entitlement through this analysis. However, in this instance, it is expected that this approach would only be taken where the likelihood of securing development consent for a dwelling-house is remote. In such a circumstance, the planning process recognises that the transitional effect of clause 17 has run its course, in a similar fashion to the removal of the 'concessional lot' provisions under *State Environmental Planning Policy (Rural Lands) 2008*.

Section D – State and Commonwealth interests.

11. Is there adequate public infrastructure for the planning proposal?

Not applicable.

Part 4 - Community Consultation

As part of the community consultation exercise, Council proposes to invite written submissions from the general public to assist in the identification of any remaining dwelling entitlements that vary from the development standard. In addition, the community consultation process will advise that any remaining dwelling entitlements that are determined to have no planning merit will not be retained and carried forward into the SI LEP, e.g. holdings may no longer exist (coal mines) or within heavily constrained areas.

As such, Council is of the opinion that it should exhibit the planning proposal for 28 days, in accordance with Section 4.5 Community consultation – *A Guide to Preparing Local Environmental Plans*, with one exception. Council does not believe it is practical to write to adjoining landowners, given the nature of the planning proposal and the number of landowners of land currently zoned 1(a) Rural.

Associated Processes:

Council is moving towards the implementation of the e-planning process, automating certain tasks and administrative functions of Council. The approach taken in mapping remaining dwelling entitlements will assist this process, by removing the need for staff to manually research any request to confirm the legal right to construct a dwelling (a dwelling entitlement).

Conclusions:

The planning proposal represents a way forward in the preparation of the SI LEP. Resolving the complex issue of dwelling entitlement provisions that vary from the development standard in the current 1(a) Rural zone ahead of the SI LEP will assist in streamlining the overall processing time of the SI LEP. Engaging the community on this single issue also ensures that a transparent process is maintained with regard to this particular approach.

RECOMMENDED that:

1. Council support the amendment to the Singleton Local Environmental Plan 1996, in advance of the preparation of the new principal plan (the Standard Instrument LEP) as detailed in this report and the embedded Planning Proposal.
2. Council forward the Planning Proposal to the Department of Planning in accordance with section 56 of the *Environmental Planning and Assessment Act 1979* with a request for a gateway determination.



Henry Wilson

Executive Manager Strategy and Governance

Attachments

There are no attachments for this report.

MINUTES OF MEETING OF SINGLETON COUNCIL HELD IN THE COUNCIL CHAMBERS QUEEN STREET SINGLETON ON MONDAY 7 DECEMBER 2009, COMMENCING AT 5:30 pm.

PRESENT:

Cr S Moore (Mayor and Chairperson), Crs G Adamthwaite, R Rogers, L Gallagher, F Harvison, L MacBain, J Martin OAM, A McNamara, P Nichols, V Scott, and M Smith.

APOLOGIES

- 443/09 **RESOLVED** that the apology from Cr Howlett for non-attendance at the meeting be accepted and leave of absence be granted.

(MacBain/Adamthwaite)

IN ATTENDANCE

Acting General Manager, Director Operations, Manager Parks and Facilities, Manager Works, Manager Design & Contracts, Manager Community Services, and Executive Secretary. There was 1 representative of the Singleton Argus and 1 member of the public present in the gallery.

CONFIRMATION OF MINUTES

- 444/09 **RESOLVED** that the minutes of Meeting of Singleton Council held on Monday 2 November 2009, be confirmed.

(Martin/Scott)

MINUTE'S SILENCE

- 445/09 The Mayor **MOVED** from the Chair that a Minute's Silence be observed for the passing of Cr Gallagher's father-in-law.

(Moore)

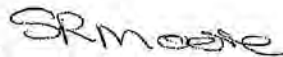
Executive Manager Strategy & Governance Report No. 31/09

1. **Planning Proposal: Amendment to clause 17 under Singleton LEP 1996 - Rationalisation of Dwelling Entitlements Provisions for lands zoned 1(a) Rural** **FILE:LA76/2009**

Clause 17 in the Singleton LEP 1996 outlines provisions for a dwelling entitlement in relation to lands zoned 1(a) Rural. The clause contains a development standard (40ha) as well as a number of 'local variations'.



Acting General Manager



Mayor

446/09 **RESOLVED** that :

1. Council support the amendment to the Singleton Local Environmental Plan 1996, in advance of the preparation of the new principal plan (the Standard Instrument LEP) as detailed in this report and the embedded Planning Proposal.
2. Council forward the Planning Proposal to the Department of Planning in accordance with section 56 of the *Environmental Planning and Assessment Act 1979* with a request for a gateway determination.

(Gallagher/Adamthwaite)

Upon being put to the meeting, the motion was declared carried.

For the Motion were Councillors Moore, Martin, Scott, McNamara, Adamthwaite, Harvison, MacBain, Gallagher, Nichols, Smith and Rogers Total (11).

Against the Motion was Nil Total (0).

Director Operations Report No. 10/09

1. 2009 National Local Roads and Transport Congress

FILE:03/0070

The 10th National Local Roads and Transport Congress was held in Mackay, Queensland between 8 – 10 November, 2009 with the conference theme being “Roads to the Future”. The Congress was attended by Cr John Martin OAM, Manager Works, Mursaleen Shah and Director Operations, Gary Woodman.

To date, Singleton Council has received the following funding under the Roads to Recovery Program:

2000/2005	Standard Roads to Recovery	\$ 1,858,803
2005/2009	Standard Roads to Recovery	\$ 1,873,423
	Supplementary Roads to Recovery	\$ 468,356
		\$ 4,200,582

NOTED

2. Wambo Coal Singleton Hall of Fame

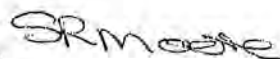
FILE:08/0250

The minutes of the Wambo Coal Singleton Hall of Fame Committee Meeting held on Wednesday, 18 November, 2009 were submitted.

NOTED



Acting General Manager



Mayor

4. Preparation of new comprehensive Local Environmental Plan
Author: Robyn Hawes**FILE:** 08/0101**Detail**

The purpose of this report is to update Council on the amended timeframes for the gazettal of the new comprehensive Local Environmental Plan, also known as the Standard Instrument LEP (SI LEP), and the revised approach to the preparation of the SI LEP as a result.

Background

As part of a package of major planning reforms, the Department of Planning gazetted a Standard Instrument template on 31 March 2006. The template is designed so that all councils will essentially use the same planning language, making it easier for all sectors of the community to understand the planning system. Local variations are addressed through the addition of specific local provisions clauses, map layers and schedules, or various combinations.

It was intended that all councils across NSW would have a new Standard Instrument LEP (SI LEP) in place within 5 years from the gazettal of the template, that is, by March 2011. 152 councils were allocated a timeframe to complete this project, staggered over 1, 2, 3 and 5 years. 92 councils, including Singleton Council, were required to have a plan in place by March 2009. As with the majority of other councils within this staggered timeframe, completion of this project on task has not been met, due to the complexity of the processes involved. At the time of writing, only 3 SI LEPs have been gazetted.

New Priority Listing

In recognition of this escalating situation, the Department of Planning wrote to all councils in April 2009 advising that the Standard LEP Program was to be reviewed. As a result, 67 councils across NSW are on the priority list to have an SI LEP in place by 2011. Singleton Council is not on the priority list. Notwithstanding this omission, councils have been advised that they can continue with the preparation of the SI LEP, but resourcing from the Department of Planning will be allocated initially to the priority councils.

Revised Timeframe for SI LEP

In order to service the preparation of Council's SI LEP, the Department of Planning has advised staff that significant milestones in the preparation phase should be offset against the agreed timelines for the priority councils. In this regard, referral of the final adopted draft plan to the Hunter Regional Office is preferred late 2010, with gazettal expected to occur in 2011.

Revised Timeframe

March/April 2010	Draft plan prepared.
April/ May 2010	Section 64 submission to Dept of Planning (request to exhibit).
June/July 2010	Public exhibition.
Sept/October 2010	Section 68 report to council – seeking adoption of final draft plan.
November 2010	Referral to DoP – request to gazette plan.
2011	Gazettal of SI LEP.

Interim Processes

Given the revised timeframe for the preparation of the SI LEP, it is now considered prudent to extract a number of components from the SI LEP and progress them independently. Processing a number of separate planning proposals that involve some lead-in analysis will ultimately streamline the preparation of the SI LEP by resolving particular elements of the overall plan. Separate reports will be presented to Council in due course.

Spot Rezoning

The SI LEP does not include the rezoning of any land that requires the preparation of detailed environmental studies or reports, commonly known as 'spot' or site-specific rezonings. These proposals are being processed as separate LEP amendments or planning proposals, as they are now known. This process will continue unaltered, with site-specific rezonings either amending the current Singleton LEP 1996 (if they are gazetted before the SI LEP) or processed as an amendment to the SI LEP if it is gazetted beforehand.

FOR COUNCIL'S INFORMATION**Attachments**

There are no attachments for this report.

1. Annual Report 2008/2009**FILE:03/0254**

The Annual Report required under Section 428 of the Local Government Act, 1993, has been completed and is tabled for Council's information. The report is also supported by a comprehensive State of the Environment Report as required under the Local Government (General) Regulations 2005.

- 431/09 **RESOLVED** that the Annual Report and the State of the Environment Report for 2008/2009 be received and noted.

(MacBain/Adamthwaite)

2. September 2009 Quarterly Review of the 2009/2010 Management Plan - Progress to 30 September 2009**FILE:09/0191**

The Quarterly Review of the 2009/2010 to 2011/2012 Management Plan was received, noted and laid on the table.

- 432/09 **RESOLVED** that the Quarterly Review of the 2009/10 to 2011/2012 Management Plan for the period to 30 September 2009, be received and noted.

(McNamara/Smith)

3. Singleton Council - Corporate Name**FILE:08/0082**

As previously advised the corporate name of Council was revoked from Singleton Shire Council to Singleton Council in May 2007. Once revoked the corporate name cannot again be changed as legislation currently stands.

- 433/09 **RESOLVED** that the General Manager write to the Minister for Local Government seeking the Minister's consideration for a referendum to allow the change of the Local Government Area to Singleton Shire Local Government Area.

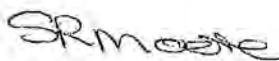
(Howlett/Scott)

4. Preparation of new comprehensive Local Environmental Plan**FILE:08/0101**

A report was provided on the amended timeframes for the gazettal of the new comprehensive Local Environmental Plan, also known as the Standard Instrument LEP (SI LEP), and the revised approach to the preparation of the SI LEP as a result.

NOTED

General Manager



Mayor