

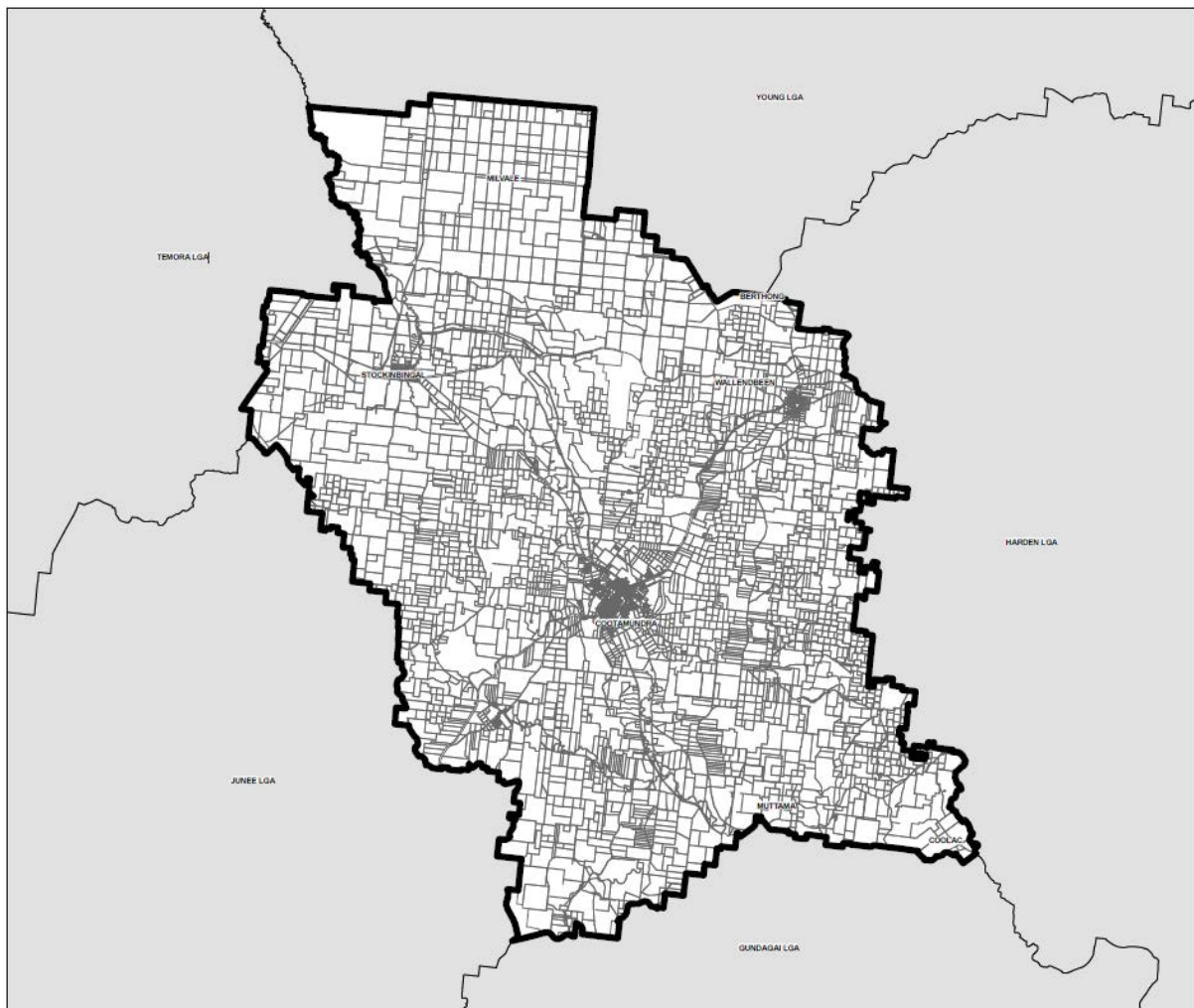


Planning Proposal

Cootamundra LEP 2013

Proposed Amendment No 2

Boundary Adjustments in RU1, RU2, RU4 & E3 Zones



PART 1

OBJECTIVES OR INTENDED OUTCOMES

The objective of the Planning Proposal is to provide flexibility in the consideration of development applications for boundary adjustments in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and E3 Environmental Management zones in the Cootamundra LEP 2013. The Planning Proposal addresses particular circumstances where the areas of the lots do not satisfy the minimum lot size requirements of the Cootamundra LEP 2013.

The intended outcomes of the Planning Proposal are to allow boundary adjustments where the following circumstances apply:

1. The land is situated in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and E3 Environmental Management zones;
2. The boundary adjustment will not result in an increase in the number of lots;
3. The boundary adjustment will retain existing dwelling entitlements;
4. The boundary adjustment will not result in an increase in the number of dwellings on the lots or an increase in the number of dwelling entitlements on the lots;
5. The minimum lot size of a new lot that will result from a boundary adjustment in the RU1, RU2 and E3 zones will be at least five hectares;
6. The minimum lot size for a new lot created in a subdivision of land by a boundary adjustment in the RU4 zone is the lot size shown on the Cootamundra LEP 2013 Lot Size Map for that land.

PART 2

EXPLANATION OF THE PROVISIONS

1. Text

The proposed changes to the Cootamundra LEP 2013 written text are outlined in (a) and (b) below:

(a) Additional Clause

It is proposed that a new clause be inserted into the Cootamundra LEP 2013 written text as an additional clause after *clause 4.6 Exceptions to Development Standards*.

The draft clause is consistent with similar clauses that have been included in amendments made to or proposed in other Local Government Areas.

Clause 4.7 Boundary changes between lots in certain in certain zones

- (1) The objective of this clause is to permit the boundary between 2 or more lots to be altered in certain circumstances to give landowners a greater opportunity to achieve the objectives of a zone.
- (2) This clause applies to land in any of the following zones:
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural Landscape,
 - (c) Zone RU4 Primary Production Small Lots,
 - (d) Zone E3 Environmental Management.
- (3) Despite clause 4.1(3), development consent may be granted to the subdivision of 2 or more adjoining lots, being land to which this clause applies, if the subdivision will not result in:
 - (a) an increase in the number of lots, and
 - (b) an increase in the number of dwelling houses on, or dwelling houses that may be erected on, any of the lots, and
 - (c) The area of any lot created by the boundary adjustment in the RU1, RU2 and E3 zones having an area less than 5 hectares, and
 - (d) The area of any lot created by the boundary adjustment in the RU4 zone having an area less than the area shown on the Minimum Lot Size Map in relation to that land.
- (4) Before determining a development application for the subdivision of land under this clause, the consent authority must consider the following:
 - (a) the existing uses and approved uses of other land in the vicinity of the subdivision,
 - (b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,
 - (c) whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),

- (d) whether or not the subdivision is likely to be incompatible with a use on land in any adjoining zone,
- (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),
- (f) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
- (g) whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land.

(5) This clause does not apply:

- (a) in relation to subdivision of individual lots in a strata plan or a community title scheme, or
- (b) if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.

(b) Additional subclause

It is also proposed that an additional subclause be included in the LEP written text in clause 4.2A *Erection of dwelling houses on land in certain rural and environment protection zones* to ensure that lots still retain a dwelling entitlement after the boundary adjustment:

(e) is a lot created by a boundary adjustment in accordance with clause 4.7 and upon which a dwelling house would have been permissible prior to the adjustment of the boundary.

2. LEP Maps

The Planning Proposal will not require any amendments being made to the Cootamundra LEP 2013 maps.

PART 3 – JUSTIFICATION

SECTION A – NEED FOR THE PLANNING PROPOSAL

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

The Planning Proposal is not the result of any strategic study or report. This matter has become an issue as a result of enquiries from landowners seeking to carry out a boundary adjustment that is not considered to be “minor” in terms of *State Environmental Planning*

Policy (Exempt and Complying Development Codes) 2008 and which does not satisfy the provisions of clause 4.6 *Exceptions to development standards* in the LEP but is considered to have planning merit.

Clause 4.6 of the LEP has replaced the use of *State Environmental Planning Policy No 1 – Development Standards (SEPP1)* as a means of allowing variations to development standards. Whilst the SEPP is no longer relevant to the Cootamundra Shire, Council has noted that under the Department’s guidelines on the application of SEPP 1, the types of boundary adjustments specified in Part 1 of this Proposal would have been permissible and that the Director’s concurrence could be assumed in these cases (subject to the merits of the case and satisfying various assessment criteria).

(Reference: “*Varying Development Standards: A Guide*”, Department of Planning & Infrastructure, August 2011).”

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

The Planning Proposal is considered to be the most appropriate means of achieving the objectives and intended outcomes.

Alternatively, Council could amend the LEP to allow boundary adjustments on a case by case basis. However, this would be a time consuming and inefficient manner of resolving this issue.



SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

1. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

There are currently no regional or sub regional strategies applicable to the Cootamundra Shire.

2. Is the planning proposal consistent with the Council’s local strategy or other local strategic plan?

Council has no local strategy or other local strategic plan that is relevant to the Planning Proposal.

3. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal is considered to be consistent with all applicable State Environmental Planning Policies as detailed in Appendix 1.

4. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Planning Proposal is considered to be consistent with all applicable Ministerial Directions (Section 117 Directions) as detailed in Appendix 2.

Section C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT
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5. 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?

The proposal does not automatically confer a right to adjust rural boundary lines and matters including the effect on critical habitat or threatened species, populations or ecological communities, or their habitats, will be the subject of the development application assessment process.

It is unlikely that critical habitat or threatened species, populations or ecological communities or their habitats, will be subject to any additional adverse impacts as a result of the planning proposal proceeding.

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

It is considered that no adverse environmental impacts are likely to arise as a result of the Planning Proposal.

7. How has the planning proposal adequately addressed any social and economic impacts?

The Planning Proposal will have positive social and economic effects by providing greater flexibility in the subdivision of rural land and creating opportunities for more efficient use of rural land.

Section D – STATE AND COMMONWEALTH INTERESTS

Is there adequate public infrastructure for the planning proposal?

The areas within the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and E3 Environmental Management zones of the Cootamundra Shire are generally serviced by roads, electricity and telecommunications infrastructure. As the Planning Proposal does not provide for an increase in the number of lots or dwelling houses, it is considered that there is likely to be little or no increase in the demand for public infrastructure from that which currently exists.

What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

At this stage a Gateway Determination has not been issued. Council will consult with relevant State and Commonwealth authorities if required to do so when the Gateway Determination has been issued.

PART 4

MAPPING

The Cootamundra LEP 2013 maps will not be affected by the Planning Proposal as the proposed amendment relates solely to the written text of the LEP 2013.

PART 5

COMMUNITY CONSULTATION

Following the Gateway Determination, Council will place the Planning Proposal on public exhibition and undertake any consultation requirements of the Determination.

The Planning Proposal will be placed on public exhibition in the following manner:

- Notice in the local newspaper, "The Cootamundra Herald" for a period of 28 days.
- Notice on Council's website at www.cootamundra.nsw.gov.au
- Display at Council's offices.

As the proposed amendment is a general amendment to the LEP, individual property owners will not be notified.

PART 6

PROJECT TIMELINE

The table below provides an indication of the timeline for the Planning Proposal:

Action	Indicative Date
Gateway Determination	January 2015
Government agency consultation (if required)	January/February 2015
Public hearing	Council anticipates that a Public Hearing will not be required for this Planning Proposal
Public exhibition period	January/February 2015
Consideration of submissions & report to Council	March 2015
Submission to Department Planning and Environment and Parliamentary Counsel to finalise LEP for finalisation	March/April 2015
Anticipated date RPA will make the Plan (if delegated)	April 2015
	April/May 2015
Anticipated date RPA will forward to the Department for notification	

APPENDIX 1

CONSIDERATION OF STATE ENVIRONMENTAL PLANNING POLICIES

APPENDIX 1 - CONSIDERATION OF STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy	Consistent/Inconsistent	Comments
SEPP 1 – Development Standards	Not applicable	Not applicable to Cootamundra Shire LGA as per Clause 1.9 of Cootamundra LEP 2013.
SEPP 4 -Development without Consent and Miscellaneous Exempt and Complying Development	Not applicable	Not applicable to Cootamundra Shire LGA as per Clause 1.9 Cootamundra LEP 2013.
SEPP 14 – Coastal Wetlands	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP 15 – Rural Land Sharing Communities	Consistent	SEPP does not apply to Cootamundra Shire.
SEPP 19 – Bushland in Urban Areas	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP 21 – Caravan Parks	Consistent	The Planning Proposal does not include any provisions that will affect caravan parks.
SEPP 22 – Shops and Commercial Premises	Consistent	The Planning Proposal does not include any provisions that will have an impact on the change of use of commercial premises.
SEPP 26 Littoral Rainforests	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP 29 – Western Sydney Recreation Area	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP 30 – Intensive Agriculture	Consistent	The Planning Proposal does not include any provisions regarding intensive agriculture.

SEPP 32 – Urban Consolidation – (Redevelopment of urban Land)	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.
SEPP 33 – Hazardous and Offensive Development	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.
SEPP 36 – Manufactured Home Estates	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.
SEPP 39 – Spit Island Bird Habitat	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP 41 – Casino Entertainment Complex	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP 44 – Koala Habitat Protection	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP 47 – Moore Park Showground	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP 50 – Canal Estate Development	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP 52 – Farm Dams and Other Works in Land and Water Management Plan Areas	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP 55 – Remediation of Land	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.
SEPP 59 – Central Western Sydney Economic and Employment Area	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP 60 – Exempt and Complying Development	Not applicable	Not applicable as per Clause 1.9 Cootamundra LEP 2013.
SEPP 60 – Sustainable Aquaculture	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.

SEPP 64 – Advertising and Signage	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.
SEPP 65 – Design Quality of Residential Flat Buildings	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.
SEPP 70 – Affordable Housing (Revised Schemes)	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP 71 – Coastal Protection	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP (Affordable Rental Housing) 2009	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.
SEPP (Exempt and Complying Codes) 2008	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP
SEPP (Housing for Seniors or People with a Disability) 2004	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.
SEPP (Infrastructure) 2007	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.
SEPP (Kosciuszko National Park-Alpine Resorts) 2007	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP (Kurnell Peninsula) 1989	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP (Major Developments) 2005	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.

SEPP (Penrith Lakes Scheme) 1989	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP (Rural Lands) 2008	Consistent	The Planning Proposal is consistent with the rural planning principles specified in Part 2 and the rural subdivision principles in Part 3 of the SEPP.
Exempt and Complying Development Codes 2008	Consistent	The Planning Proposal will not impact on the provisions for minor boundary adjustments in the SEPP.
Affordable Rental Housing 2009	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.
SEPP (SEPP 53 Transitional Arrangements) 2011	Not applicable	SEPP does not apply to Cootamundra Shire
SEPP (State and Regional Development) 2011	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.
SEPP (Sydney Drinking Water Catchment) 2011	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP (Sydney Region Growth Centres) 2006	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP (Temporary Structures) 2006	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP
SEPP (Urban Renewal) 2010	Consistent	The Planning Proposal does not include any provisions relevant to this SEPP.
SEPP (Western Sydney Employment Area) 2009	Not applicable	SEPP does not apply to Cootamundra Shire.
SEPP (Western Sydney Parklands) 2009	Not applicable	SEPP does not apply to Cootamundra Shire.

APPENDIX 2

CONSIDERATION OF SECTION 117 MINISTERIAL DIRECTIONS

Section 117 Direction	Consistent/Inconsistent	Comments
Employment and Resources		
1.1 Business and Industrial Zones	Consistent	The Planning Proposal does not include any provisions that will affect business and industrial zones.
1.2 Rural Zones	Consistent	The Planning Proposal will not rezone rural land and does not contain any provisions that will increase the permissible density of land within a rural zone.
1.3 Mining, Petroleum Production and Extractive Industries	Consistent	The Planning Proposal does not include any provisions that will impact on mining, petroleum production and extractive Industries.
1.4 Oyster Aquaculture	Not applicable	Direction does not apply to Cootamundra Shire.
1.5 Rural Lands	Consistent	The Planning Proposal does not include any provisions that will rezone rural land or that will increase the permissible density of land within a rural zone.
2. Environment and Heritage		
2.1 Environment Protection Zones	Consistent	The Planning Proposal does not include any provisions that will affect land within an environment protection zone.
2.2 Coastal Protection	Not applicable	Direction does not apply to Cootamundra Shire.
2.3 Heritage Conservation	Consistent	The Planning Proposal does not include any provisions that will impact on heritage conservation.

2.4 Recreation Vehicle Areas	Consistent	The Planning Proposal does not include any provisions regarding recreation vehicle areas.
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3 Housing , Infrastructure and Urban Development

3.1 Residential Zones	Consistent	The Planning Proposal will not affect the residential zones of the Cootamundra LEP 2013.
3.2 Caravan Parks and Manufactured Homes Estates	Consistent	The Planning Proposal does not change existing land use controls in relation to caravan parks and manufactured homes.
3.3 Home Occupations	Consistent	The Planning Proposal does not change existing land use controls in relation to home occupations.
3.4 Integrated Land Use and Transport	Not applicable	The Planning Proposal will not have an impact on Land Use and Transport.
3.5 Development near Licensed Aerodromes	Consistent	No licensed aerodrome will be affected by the Planning Proposal.
3.6 Shooting Ranges	Consistent	The Planning Proposal will not rezone land adjacent to and/or adjoining an existing shooting range that has the effect of: (a) permitting more intensive land uses which are currently permitted or (b) permitting land uses that are incompatible with the noise emitted by an existing shooting range.

4. Hazard and Risk

4.1 Acid Sulphate Soils	Not applicable	No acid sulphate soils in Cootamundra Shire; Direction does not apply to Cootamundra Shire.
4.2 Mine Subsidence and Unstable Land	Not applicable	No mine subsidence areas within Cootamundra Shire.
4.3 Flood Prone Land	Consistent	The Planning Proposal will not affect existing provisions in the LEP in relation to flood prone land.
4.4 Planning for Bushfire Protection	Consistent	The Planning Proposal does not include any provisions that will affect bushfire prone land.

5.Regional Planning

5.1 Implementation of Regional Strategies	Not applicable	No regional strategy applicable to the Cootamundra Shire.
5.2 Sydney Drinking Water Catchment	Not applicable	Direction does not apply to Cootamundra Shire.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable	Direction does not apply to Cootamundra Shire.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable	Direction does not apply to Cootamundra Shire.
5.8 Second Sydney Airport: Badgerys Creek	Not applicable	Direction does not apply to Cootamundra Shire
5.9 North West Rail Link Corridor Strategy	Not applicable	Direction does not apply to Cootamundra Shire

6 Local Plan Making

6.1 Approval and Referral Requirements	Consistent	The Planning Proposal does not include any referral, concurrence or designated development provisions.
6.2 Reserving Land for Public Purposes	Consistent	The Planning Proposal does not include any provisions that relate to the reservation of land for public purposes.
6.3 Site Specific Provisions	Consistent	The Planning Proposal does not include any site specific provisions.

7 Metropolitan Planning

7.1 Implementation of Metropolitan Plan for Sydney 2036	Not applicable	Direction does not apply to Cootamundra Shire.
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