

**ITEM 8.04 PLANNING PROPOSAL NO 7 FUNCTIONAL AMENDMENTS 2014
COUNCIL RESOLUTION TO PREPARE AND SUBMIT PLANNING
PROPOSAL TO DEPARTMENT OF PLANNING AND
INFRASTRUCTURE FOR GATEWAY DETERMINATION**

Prepared by: Director Planning
Environment and Strategic Services

File Number: F154.16

Purpose

To obtain a Resolution of Council to prepare the abovementioned planning proposal and submit it to the Department of Planning and Infrastructure for assessment through the LEP Review Panel for Gateway Determination and then public exhibition.

Strategic Link Plan Young - Community Strategic Planning Strategy

- 1.2.1 Urban design, planning and building control that meets community needs
- 1.2.1.1 To provide a sustainable planning system and undertake regular reviews towards best practise of the LEP, planning instruments and the DCP.

Background

Young LEP 2010 commenced in August 2010. Preparation of the LEP commenced prior to 2009 and Councils are required by the Department of Planning and Infrastructure to conduct a review of their LEP each five years to ensure the contents are contemporary.

Six planning proposals have been processed to date since legal commencement of the Young LEP 2010. Some of the previous planning proposals arose from issues identified during public exhibition of the draft Young LEP before it legally commenced. Others have been prepared in response to the actual road testing of the instrument or to the strategic 5 year review that is well underway.

Young LEP is based on the Standard Instrument LEP that applies to councils across NSW. Inevitably there are local issues and problems that need to be addressed. This planning proposal performs that functional task.

Discussion

The First Five Yearly Review of Young LEP 2010 has commenced and has been previously reported to Council.

This planning proposal has arisen from practical use of the LEP and shortcomings identified from functional use. For example in respect of land use tables, the protocol of the Parliamentary Counsel's Office when preparing Young LEP 2010 was to have innominate uses and this was difficult to check prior to commencement of the LEP. This

means that permitted uses in some zone tables are not listed but permissibility comes from words such as "any other use not mentioned etc..." There are over 120 definitions and checking of this type is difficult, even for experienced staff.

Several functional problems have been identified as part of the Review and it is considered that such amendments should be addressed now rather than waiting for any general amendments of the LEP that may arise.

Councils across NSW must respect the Standard Instrument LEP but also have an obligation to local communities to resolve local issues that may arise within the standardisation. It is important for councils to address generic issues rather than attempt to provide "band-aid" solutions to specific problems. When preparing planning proposal councils must provide planning policy and technical justification and ensure that consequential effects are understood.

Planning Proposal No 7 Functional Amendments 2014 has been prepared to address the functional issues and the planning proposal is addressed in this report and the complete document is provided in attachment 1.

Briefly the proposed amendments of Young LEP 2010 can be summarised as follows:

- Issue 1 - Amendment Part 2 Permitted or Prohibited Development Land Use Tables for several zones – amend tables for zones RU1 Primary Production, RU4 Primary Production Small Lots, R1 General Residential and R5 Large Lot Residential;
- Issue 2 - Clause 5.4 Controls relating to miscellaneous permissible uses for defined terms - amend home industry and farm stay land uses;
- Issue 3 - Clause 6.1(3)(b) Erection of dwelling house in certain residential, rural and environment protection zones – amend wording so that original intent is made clear;
- Issue 4 - Schedule 1 Additional permitted uses – amend wording of permitted development for Item 5 relating to premises in Telegraph and Murringo Roads (currently Ambos Stockfeeds) to align it with defined terms in the Standard LEP dictionary. This may permit a potentially broader usage of the premises.

Issue 1 - Part 2 Permitted or Prohibited Development Land Use Tables

Land Use Tables in the Young LEP 2010 must comply with the Standard Instrument Land Use Tables and associated land use matrix issued by the Department of Planning and Infrastructure. Individual councils can negotiate variations to the Matrix and justify the changes on local circumstances. Land uses in the following tables are intended to reflect local needs and may require some negotiation with staff of the Department and possibly Parliamentary Counsel's Office.

Importantly, Council needs to establish the correct permissible and prohibited land uses for the Young local government area. The following list reflects the proposed changes and is intended to reflect local need.

LAND USE TABLE REVIEW

RU1 Primary Production

The following land uses are **currently prohibited** and are **proposed to be permissible**:

- ✓ • boat launching ramps;
- ✓ • boat sheds;
- ✓ • eco-tourist facilities;
- ✓ • **emergency services facilities**;
- ✓ • environmental facilities;
- ✓ • function centres;
- ✓ • helipads;
- ✓ • **home industries**;
- ✓ • hotel and motel accommodation;
- ✓ • information and education facilities;
- ✓ • jetties;
- ✓ • moorings;
- ✓ • mooring pens;
- ✓ • places of public worship;
- ✓ • plant nurseries;
- ✓ • residential care facilities;
- ✓ • restaurants;
- ✓ • secondary dwelling;
- ✓ • signage;
- ✓ • water recreation structures;
- ✓ • wharf and boating facilities;

✓ covered by T/SEPP.

or because light ind. to be prohibited. ~~Food and light industry (which is permitted)~~

The following land uses are **currently permissible** and are **proposed to be prohibited**:

- depots;
- freight transport facilities;
- funeral homes;
- light industries;
- mortuaries;
- rural supplies;

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RU4 Primary Production Small Lots

The following land use is currently permitted with consent and is proposed to be permitted without consent:

- environmental protection works;

The following land uses are **currently prohibited** and are **proposed to be permissible**:

- ✓ • eco-tourist facilities;
- ✓ • environmental facilities;
- ✓ • **intensive plant agriculture**;

already permitted with consent - LUT

- ✓ moorings;
- ✓ mooring pens;
- ✓ residential care facilities;
- ✓ respite day care centres;
- ✓ restaurants *or cafes*
- ✓ secondary dwellings;
- ✓ signage
- ✓ water recreation structures;

The following land uses are **currently permissible** and are **proposed to be prohibited**:

- ✓ Funeral homes;

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R1 General Residential

The following land uses are:

- **currently permissible but permissibility is hidden by the words “any development not specified in item 2 or 4” or**
- **currently prohibited and proposed to be permissible;**

- ✓ Bed and breakfast;
- ✓ Building identification sign;
- ✓ Business identification sign;
- ✓ Exhibition villages; *purple*
- ✓ Home businesses;
- ✓ home industries;
- ✓ jetties;
- residential care facilities;
- secondary dwellings

The following land uses are **currently permissible** and are **proposed to be prohibited**:

- airstrips;
- air transport facilities;
- boat launching ramps;
- farm buildings;
- food and drink premises;
- helipads;
- heliports;
- mortuaries;
- shop top housing;
- truck depots;
- warehouse and distribution centres;
- waste disposal facilities;

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R5 Large Lot Residential

The following land uses are:

- **currently permissible but permissibility is hidden by the words “any development not specified in item 2 or 4” or**
- **currently prohibited and proposed to be permissible;**
- Bed and breakfast accommodation;
- boat launching ramps;
- building identification signs;
- exhibition villages;
- home businesses;
- Home industries;
- Jetties;
- Respite day care facilities;
- Residential care facilities;

The following land uses are **currently permissible** and are **proposed to be prohibited**:

- Airports;
- Airstrips;
- air transport facilities;
- attached dwellings;
- backpackers accommodation;
- commercial premises;
- environmental facilities;
- farm stay accommodation;
- food and drink premises;
- funeral homes;
- group homes;
- group homes (permanent);
- group homes (transitional);
- mortuaries;
- resource recovery centres;
- restaurants;
- retail premises;
- roadside stalls;
- rural industries;
- semi-detached dwellings;
- serviced apartments;
- stock and sale yards;
- take away food and drink premises;
- truck depots;
- warehouse and distribution centres;

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CLAUSE 5.4 CONTROLS RELATING TO MISCELLANEOUS PERMISSIBLE USES

In respect of sub-clause (3) Home industry;

- delete existing sub-clause;
- insert the following sub-clause
 - **(3) Home industries**
If development for the purposes of a home industry is permitted under this Plan, the carrying on of the home industry must not involve the use of more than the following floor area:
In zone RU1 Primary Production, RU4 Primary Production Small Lots and zone RU5 Large Lot Residential – 30 square metres;
In zone R1 General Residential – 30 square metres;
In zone R5 Large Lot Residential – 30 square metres;

In respect of sub-clause (5) Farm stay accommodation;

- delete the words “ consist of no more that 3 bedrooms”;
- insert the following words “consist of no more than 8 guest bedrooms in one or more buildings;

CLAUSE 6 REVIEW

Issue 3 - Clause 6.1(3)(b) Erection of dwelling house in certain residential, rural and environment protection zones

In respect of sub-clause (3) (b);

- delete the existing sub-clause in toto;
- insert the following sub-clause:
 - (3)(b) - a lot created under an environmental planning instrument immediately preceding the commencement of this Plan and on which a dwelling house was permissible.

SCHEDULE 1 AMENDMENT

Issue 4 - Schedule 1 Additional permitted uses

In respect of Item 5 use of certain land at Telegraph Road and Murringo Road, Young

- In sub-clause (2) delete the words “stock feed processing” and insert the words “agricultural produce industries.

Amend wording of permitted development for Item 5 relating to premises in Telegraph and Murringo Roads (currently Ambos Stockfeeds) to align it with defined terms in the Standard LEP dictionary. This may permit a potentially broader usage of the premises.

JUSTIFICATION OF AMENDMENTS

Land Use Tables – Part 2- Justification

The review of land uses has been prompted by several aspects of the Standard Instrument Template.

Firstly, the potential losses of some land uses from the prior LEP. Some councils such as Young LGA had a broad range of land uses in some zones such as primary

production because of the context and scale of the LGA. For example, technically a restaurant is not compatible with a primary production zone. Under the standard Instrument a small 20 seat coffee lounge that happens to fit the definition of a restaurant is not permissible but may be a valuable financial and social land use in an area such as Young LGA.

Secondly, the Standard Instrument Template introduced the concept of parent and subordinate land uses. For example under the Standard Instrument the definition of "residential accommodation" is a parent term with 13 subordinate land uses. Applying standardisation principles it is simpler to use the single term "residential accommodation" than to repeat the 13 definitions every time you apply the land use. For an LGA such as Young, it has been found that such simplicity results in subordinate land uses being prohibited when they could be permissible.

Review of the land use tables provides the opportunity to dissect all definitions and apply a fine grained check to determine the correct uses for the LGA.

Issue 2 - Clause 5.4 Controls relating to miscellaneous permissible uses - Home Industry and Farm Stay – Clause 5.4 – Justification

The proposed amendment will permit small business operators to store in garages on allotments over 1 hectare (not conduct maintenance and repairs) 2 or maybe 3 machines (school bus, bobcat and the like). Development application with assessment of amenity controls will apply.

One example of the effect of the proposed amendment relates to provision of school bus services. Several bus operators located in and around Young Township provide regional school bus services on approximately 20 routes in a geographical area from Koorawatha to Boorowa to Bribbaree to the two high schools and the three primary schools located in Young Township. The proposed sub-clause (2) could permit private owners to operate two or three buses from lots greater than 10,000 square metres. The building floor area is limited to 10 square metres or 1% of the smallest lot area. Amenity, siting and related issues would be address at development application stage.

Similarly, a person on a larger lot would have the ability to garage 2 or maybe 3 machines at their home if they had business types, yet under strict amenity controls. Service and repairs would not be permissible.

Dwelling Entitlement – Clause 6.1(3)(b) Justification

The proposed amendment is justified because Council has received opinion solicitors acting for landowners that they have dwelling entitlement for a lot based on the current wording.

The intent of the proposed amendment is to reduce dwelling entitlement and reduce the fragmentation of potentially agricultural land. Such intent was an important part of Young Shire Strategic Landuse Study Towards 2030

It is recommended that Council resolve to prepare Planning Proposal No 7 Functional Amendments 2014 in accordance with the requirements of section 55 of the Environmental Planning and Assessment Act 1979, as amended and forward the

proposal to the Department of Planning and Infrastructure for processing to the LEP Review Panel for Gateway Determination as soon as feasible.

Amend wording of permitted development for Item 5 relating to premises in Telegraph and Murringo Roads (currently Ambos Stockfeeds) to align it with defined terms in the Standard LEP dictionary. This may permit a potentially broader usage of the premises such as production of human consumable agricultural products not just stock feed, as existing infrastructure has a duality of purpose.

Issue 4 - Schedule 1 Additional permitted uses

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- In sub-clause (2) delete the words "stock feed processing" and insert the words "agricultural produce industries."

Amend wording of permitted development for Item 5 relating to premises in Telegraph and Murringo Roads (currently Ambos Stockfeeds) to align it with defined terms in the Standard LEP dictionary. This may permit a potentially broader usage of the premises such as production of human consumable agricultural products not just stock feed, as existing infrastructure has a duality of purpose.

Consultation

The level of community consultation will be determined as part of the Gateway Determination provisions under the Environmental Planning and Assessment Act.

Budget Implication

There are no capital budget implications for these minor amendments, only staff time to monitor and respond to the procedural side of this matter.

Recommendation

See Amended Recommendation as written on Item 8.04(A).

Attachments

ATTACHMENT 1 Planning Proposal No 7 Functional Amendments 2014