

PLANNING PROPOSAL

Dungog Local Environmental Plan 2006 (Amendment No. 10)

Proposed Amendment to Schedule 4 - Additional Development to allow:
**a) subdivision of Lot 100 DP 1089164, No. 4426 Clarence Town Road,
Wirragulla into two (2) lots.**

Introduction

This planning proposal concerns a parcel of land within the Dungog Local Government Area, in particular:

- a) Lot 100 DP 1089164, No. 4426 Clarence Town Road, Wirragulla

A plan showing the location of the subject land is attached as Appendix A. Aerial photos are attached as Appendix B.

Lot 100 DP 1089164, No. 4426 Clarence Town Road, Wirragulla

Lot 100 DP 1089164 is approximately 88 hectares in area and is situated on the eastern side of Clarence Town Road, approximately 7 kilometres south of Dungog. The property, known as "Crooks Park", is also owned by Rocky Hill Pastoral Co. The "Crooks Park" homestead was constructed in 1873 and is listed in Schedule 3 of Dungog LEP 2006 as a heritage item. "The Carriageway" resort was established on the property in 1990 and provides accommodation for up to 60 guests in self contained cottages, spa suites and refurbished train carriages. The resort also includes a restaurant, swimming pool, children's playground and petting zoo.

The property is zoned Rural 1(a) under Dungog LEP 2006. The proposed subdivision is not permissible under the current LEP provisions as one of the lots to be created would be less than 60 hectares in area. An amendment to the LEP is therefore required to enable Council to consider a development application for the proposed two (2) lot subdivision.

Part 1 - Objectives or Intended Outcomes

The objective of the planning proposal is to specify additional development that may be carried out on the subject land, with development consent, under the Dungog LEP 2006. In particular:

- b) the subdivision of Lot 100 DP 1089164, No. 4426 Clarence Town Road, Wirragulla into two (2) lots.

The proposed amendment, in conjunction with Clause 34 of Dungog LEP 2006, will enable development, which is currently prohibited, to be carried out on the subject land, with development consent. It should be noted that the zoning of the subject land is not proposed to change.

Part 2 - Explanation of Provisions

The planning proposal seeks to amend Schedule 4 of Dungog LEP 2006 by inserting in alphabetical order of locality in Columns 1, 2 and 3, respectively:

Wirragulla

4426 Clarence Town Road, Subdivision of the land into	4426 DP 1089164	not more than 2 lots
Nil		

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 specific strategic study or report. The need for the planning proposal is discussed below.

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The subject land is currently zoned Rural 1(a) under Dungog LEP 2006. The proposed subdivision is not permissible under the current LEP provisions as one of the lots to be created would be less than 60 hectares in area. An amendment to the LEP is required to enable Council to consider a development application for the proposed two (2) lot subdivision.

A plan of the proposed subdivision was submitted with the rezoning application. A copy of the plan is provided in Appendix C.

A sound strategic case exists why the proposed two lot subdivision/PP should be supported. It appears there has been a misunderstanding of comments made in the valuation report and business plan regarding the financial viability of the Carriageway Resort. Currently Crooks park (farming enterprise) and Carriageway (tourist resort) are on the one title. The various valuation reports confirm that capital improvements to both properties have been significantly impacted by the same title and do not independently reflect the value added to infrastructure. Both operations are independently financially viable and in fact the Carriageway Resort has recorded three consecutive years of growth in turnover and profitability.

The issue surrounds the ongoing investment needed to maintain the on ground facilities which are then not recognised in the valuation. Most importantly the Carriageway resort has a weekend occupancy rate of 90% and would consider an investment to increase the accommodation levels if it was on a separate title. This, according to the valuer would then be reflected through a higher valuation and guarantee a return of the investment. Rocky Hill Pastoral Co cannot continue to incur substantial costs with maintaining a 4 star resort when those costs reduce the profitability but are not reflected in the valuation. The application is not for the purposes of "propping up" an unviable business, it is in fact for the opposite reason of supporting the continued business enterprise and creating an opportunity for expansion.

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

Amending Schedule 4 of Dungog LEP 2006 to specify additional development that may be carried out on the subject land with consent is considered to be the most effective means of achieving the intended outcomes. An alternative would be to rezone the subject land from Rural 1(a) to another zone, in which the proposed development would be permissible. However, this alternative is not considered appropriate given that the surrounding land is zoned Rural 1(a) and adjoining properties are predominantly used for grazing/agricultural purposes.

3. Is there a net community benefit?

Lot 100 DP 1089164, No. 4426 Clarence Town Road, Wirragulla

The proposed amendment will enable the existing tourist facility to be excised from the remainder of the property, which is used for agricultural purposes. The proposed subdivision will provide a satisfactory return on infrastructure investment and allow the existing business to expand, thereby continuing to provide positive economic benefits for both the owners of the property and the local community. Such benefits could include the preservation of existing and creation of additional employment opportunities.

The Dungog Shire Council Land Use Strategy (LUS) identifies the need for further tourist accommodation in the Dungog area and losing a facility capable of housing 60 tourists would be an extremely poor outcome for the local community.

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 Metro Strategy or exhibited draft strategies)?

The Dungog local government area is not included within the Sydney Metro Strategy or the Lower Hunter Regional Strategy and therefore the objectives and actions do not apply.

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

Dungog LEP 2006 is the principal environmental planning instrument governing land use within the LGA. The proposal's consistency with the provisions of LEP 2006 is discussed below.

Clause 11 – Rural 1(a) Zone Objectives

The proposed two (2) lot subdivision would not be inconsistent with the Rural 1(a) zone objectives.

Clause 25 – Heritage

Pursuant to clause 25 of Dungog LEP 2006, the subdivision of land on which a heritage item is located may only be carried out with development consent. In determining a development application, Council must consider the extent to which the proposed subdivision would affect the heritage significance of the heritage item and may only grant consent if it has considered a heritage impact statement prepared for the proposed development.

Notwithstanding the above, clause 25(5) states that consent that would otherwise be required by this clause is not required if, in the opinion of the Council, the proposed development is of a minor nature.

Given the minor nature of the proposed subdivision, the heritage significance of the 'Crooks Park' homestead would be unlikely to be affected. Therefore consent under this clause would not be required.

Clause 26 – Environmental Protection

The applicant will need to demonstrate, at development application stage, the proposal's compliance with the matters set out in clause 26(1), (2) and (3) of LEP 2006 i.e. that the proposed subdivision can be carried out with minimal disturbance to the environment.

Clause 28(4) Subdivision Requirements

Clause 28(4) of LEP 2006 states that consent must not be granted for a subdivision to create a lot of land in Zone 1(a) or 9(a) unless:

- (a) the lot is for use for intensive agriculture, a utility installation or a community facility, without the need for an additional dwelling, and the consent authority is of the opinion that creation of the lot is justified for this purpose, or
- (b) the land to be subdivided is an established holding with an area in excess of 120 hectares, and:
 - i. where the established holding comprises more than one lot, the land is first consolidated into one lot, and each of the lots to be created by the subdivision contains 60 hectares or more, and

The proposed subdivision would not satisfy any of the above criteria for subdivision and therefore would not be permissible under the current LEP provisions, hence the need for a site-specific amendment to the LEP.

- ii. no lot to be created will, immediately after the subdivision, have on it more than one dwelling-house or more than on dual occupancy, and
- iii. each lot to be created which is vacant is suitable for the erection of a dwelling.

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

The planning proposal's consistency with relevant State Environmental Planning Policies (SEPPs) is summarised in the following table.

SEPP	Relevance	Consistency	Comment
SEPP (Rural Lands) 2008	The SEPP identifies Rural Planning Principles and Rural Subdivision Principles to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State. Clause 10 of the SEPP lists a number of matters which must be considered in determining development applications for rural subdivisions or rural dwellings.	Yes	The planning proposal is generally consistent with the Rural Planning Principles and Rural Subdivision Principles. These matters generally relate to the potential for land use conflict. The proposed subdivision is considered to be compatible with existing or approved uses in the vicinity, which are predominantly rural in nature.
Williams River Catchment REP 1997	The REP aims to protect and improve the environmental quality of the Williams River catchment through the management and use of the catchment's resources in an ecologically sustainable manner.	Yes	The planning proposal will not result in any impacts on the Williams River or the quality of the catchment's water resources.

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

The proposal's consistency with applicable section 117 directions is summarized in the following table.

Ministerial Direction	Relevance	Consistency	Implications
1.2 Rural Zones	The direction applies when a relevant planning authority prepares a planning proposal that will affect land within a rural zone.	Yes	It is not proposed to rezone the subject land to a residential, business, industrial, village or tourist zone, nor increase the permissible density of land within a rural zone. The proposal is therefore consistent with the terms of Direction 1.2.
1.5 Rural Lands	According to the direction, a planning proposal that affects land within a rural zone, or changes the existing minimum lot size on land within a rural zone must be consistent with the Rural Planning Principles and Rural Subdivision Principles listed in SEPP (Rural Lands) 2008 and is therefore consistent with the terms of Direction 1.5.	Yes	The planning proposal is generally consistent with the Rural Planning Principles and Rural Subdivision Principles listed in SEPP (Rural Lands) 2008 and is therefore consistent with the terms of Direction 1.5.
4.4 Planning for Bushfire Protection	The direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. In preparing the planning proposal, Council is required to consult with the NSW Rural Fire Service, following receipt of a gateway determination and prior to undertaking community consultation, and take into account any comments so made.	Yes	Parts of the subject land are mapped as bushfire prone. Bushfire Risk Assessments have been prepared for the property, demonstrating compliance with the provisions of <i>Planning for Bushfire Protection 2006</i> . These will be referred to the RFS for comment during the consultation phase.

Section C - Environmental, Social and Economic Impact

6.3 Site Specific Provisions	The direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.	Yes	It is proposed to amend schedule 4 of Dungog LEP 2006 to permit the subdivision of Lot 100 DP 1089164 into two (2) lots. It is not proposed to impose any development standards or requirements in addition to those already contained in the principal LEP. The planning proposal will not contain or refer to drawings that show details of the development proposal.
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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?

It is unlikely that any native vegetation will need to be cleared to facilitate the proposed subdivision. The proposal is therefore unlikely to adversely impact on any threatened species, populations or ecological communities, or their habitats. The property is predominantly cleared, with native vegetation primarily confined to the banks of the Williams River and associated creeks. Although highly unlikely for the proposed subdivision, should it be necessary to remove any vegetation, a flora and fauna assessment will be required to be submitted with the development application.

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

Any development arising from this planning proposal will need to be assessed under section 79C of the *Environmental Planning and Assessment Act 1979*. Issues such as bushfire hazard, water management and effluent disposal are not considered to be significant constraints to development in this instance and can be dealt with, in detail, at the development application stage. Further, the applicant will need to demonstrate, at the development application stage, the proposal's compliance with the matters set out in clause 26(1), (2) and

(3) of Dungog LEP 2006 i.e. that the proposal can be carried out with minimal disturbance to the environment.

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

The proposal is not expected to generate any significant adverse social or economic effects. In fact, ensuring the proposed facility remains operational will have a pronounced positive effect.

The effect of not proceeding with the proposal at this time would almost certainly be closure of the existing tourist facility, resulting in the loss of jobs and much-needed local tourist accommodation.

Section D- State and Commonwealth Interests

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

Lot 100 DP 1089164 has frontage to Clarence Town Road, which is a classified regional road (MR 301).

The property has access to reticulated electricity and telecommunication services. The property relies on on-site effluent disposal.

Development arising from this planning proposal will not significantly increase the demand for public infrastructure.

12. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal? (To be completed after consultation but prior to gateway)

Council will undertake formal consultation with the relevant State and Commonwealth public authorities, as directed by the Minister for Planning, following gateway determination.

Part 4 - Community Consultation

The planning proposal is considered to be consistent with Council's strategic planning framework and is unlikely to result in any significant environmental, social or economic impacts. It is therefore considered to be a "low impact" planning proposal requiring a 14 day exhibition period only.

Council will undertake the required community consultation in accordance with the Department of Planning's document '*A guide to preparing local environmental plans*'.

APPENDIX A – LOCALITY PLAN

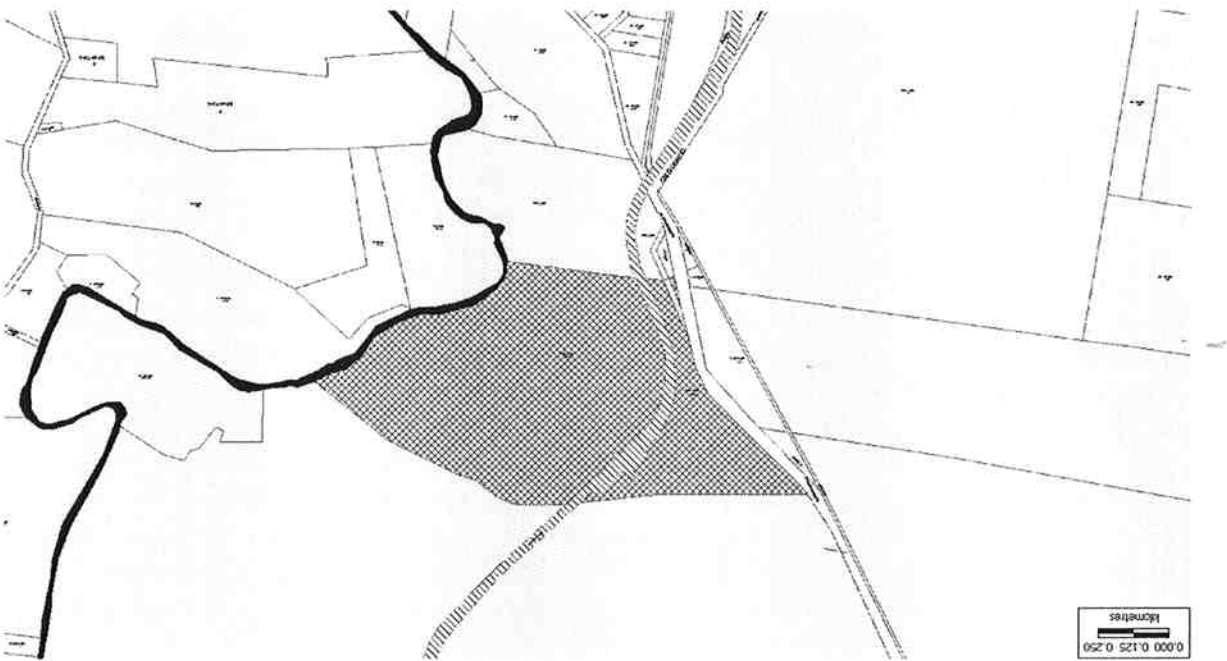


Figure 1: Lot 100 DP 1089164, 4426 Clarence Town Road, WIRAGULLA

APPENDIX B – AERIAL PHOTOS



Lot 100 DP 1089164, No 4426 Clarence Town Road, Wirragulla