

GENERAL MANAGER

Ordinary Meeting - 24 July 2013

**Planning Proposal for Minor Local Environmental Plan Amendments
(Ref: SF130815; Author: Carswell/Power)****Integrated Planning Framework**

Community Strategic Plan:	Strategic Priority No. 6
Delivery Program Title:	The Environment
Operational Plan:	Program No. 528

Introduction

The purpose of this report is to seek Council's agreement to commence and submit for gateway determination a planning proposal to make two minor amendments to the *Queanbeyan Local Environmental Plan 2012 (QLEP 2012)*.

The first amendment is to include various types of signage which meet specified standards within Schedule 2 Exempt Development. The second is to include the "home businesses and home industries" within the Permitted with Consent land use zones where a dwelling house is permitted.

A draft planning proposal has been prepared and is attached (Attachment 1).

Comment***Amendment No. 1***

The planning proposal has been prompted as a result of minor signage requiring development consent as signage is not captured currently through the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)* or within the *QLEP 2012*. When the *Queanbeyan Development Control Plan 2012 (QDCP 2012)* was adopted it repealed the previous development control plans, including *Development Control Plan 49 - Exempt Development* which previously allowed signage to be considered as exempt development subject to meeting specified standards.

As it currently stands under the *QDCP 2012* and the *QLEP 2012* all signage requires development consent. The aim of this planning proposal is to amend the *QLEP 2012, Schedule 2 Exempt Development* to include various types of signage meeting specified standards (Attachment A) thereby removing the need for development consent for those signs that meet the specified standards. The amendments will apply to signs in the residential, environmental, industrial and business zones within Queanbeyan.

Amendment No. 2

The second amendment for the inclusion of home businesses and home industries into the residential zones was prompted by section 76B of the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)* which states:

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76B Development that is prohibited

If an environmental planning instrument provides that:

- a) specified development is prohibited on land to which the provision applies, or*
- b) development cannot be carried out on land with or without development consent,*

a person must not carry out the development on the land.

Therefore as *QLEP 2012* does not list home businesses and home industries within all zones that permit dwelling houses then the development is considered to be prohibited. As a result home businesses and home industries are prohibited and can't be captured under the exempt development provisions of the *Codes SEPP*. This is not an acceptable position for Council. If a development for home businesses and home industries is acceptable after a merit assessment then the development should be able to be approved.

The draft planning proposal aims to include home businesses and home industries into all zones where dwelling houses are permitted with consent. This will enable home businesses and home industries to be captured under the *Codes SEPP*, as well as enable development consent for home businesses and home industries if the development falls outside the exempt and complying provisions of the *Codes SEPP*.

Overview of a Planning Proposal:

A planning proposal is prepared pursuant to section 55 of the *EP&A Act 1979*. This section requires a document to be prepared explaining the intended effect of the proposed instrument and sets out the justification for making the proposed instrument (Attachment 1). After preparation of the planning proposal, it is forward to the Minister or their delegate for a "Gateway Determination". The Minister will then determine if the matter should proceed with or without conditions including community consultation requirements.

Community Consultation

In accordance with Section 57 of the *EP&A Act 1979* before consideration is given to the making of the a local environmental plan the community must be consulted in accordance with the community consultation requirements for the proposed instrument from the Minister. Should consultation be required it is likely to be limited.

Environmental Implications

The proposed amendments to *QLEP 2012* will not result in any significant environmental implications.

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Financial Implications

These include the administrative costs in preparing the planning proposal and submission to Department of Planning and Infrastructure as well as other processing costs if it receives a positive gateway determination.

Legal/Compliance Considerations

The process of amending *QLEP 2012* through a planning proposal is governed by the *EP&A Act 1979* which will be followed.

Should Council adopt the recommendation of this report staff will submit the draft planning proposal (with possible minor amendments) to the Minister for a Gateway Determination. The Minister will make a determination with or without conditions.

Conclusion

It is concluded that Council should proceed with the draft planning proposal (with possible further minor amendments) to amend *QLEP 2012* to include exempt controls for various types of signage meeting specified standards within Schedule 2 as well as to include home businesses and home industries in the permissible with consent land use tables for zones that permit a dwelling house.

Recommendation

It is recommended that:

- 1) *Schedule 2 Exempt Development of Queanbeyan Local Environmental Plan 2012* be amended to include various types of signage meeting specified standards.
 - 2) *Queanbeyan Local Environmental Plan 201* be amended to include home businesses and home industries in the permissible with consent land use tables for zones that permit a dwelling house.
 - 3) A planning proposal incorporating the above two amendments be forwarded to the Minister for a Gateway Determination.
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