

PLANNING PROPOSAL No. 1

BOOROWA LEP 2012

SUNDRY AMENDMENTS 2013



BOOROWA COUNCIL

Date Council resolved to prepare:	25 November 2013
Date Gateway Determination dated	XX
[Amended to satisfy Gateway Determination]	
Date Council Meeting determined submissions:	XX
Date Final Version sent to Department:	XX

LOCAL GOVERNMENT AREA: Boorowa Council

ADDRESS OF LAND: VARIOUS LOTS AS LISTED

MAPS AND AERIAL PHOTOS: REFER TO ATTACHMENTS

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PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The purpose of the planning proposal is to address issues deferred by Council at the time of considering submissions following public exhibition of draft Boorowa LEP 2012.

Each amendment proposed in the planning proposal is generally compatible with the intent of Boorowa Strategic Land Use Plan 2006.

Council at its Meeting on 28 November 2011 considered the matters identified in this planning proposal and resolved that a planning proposal be prepared following commencement of Boorowa LEP 2012. Boorowa LEP 2012 was placed on the legislation website and legally commenced on 15 June 2012.

PART 2 – EXPLANATION OF THE PROVISIONS OF THE PROPOSED LEP

The proposed LEP will amend the Boorowa LEP 2012 as described below.

Written instrument will be amended as follows:

- Delete Clause 1.3 (1A) relating to Deferred Matter (DM) land when the Carinya Estate land is rezoned;
- Additional sub-clause to section 1.9A of Boorowa LEP 2012 as a result of the deliberations on the Carinya Estate matter.

Mapping will be amended as follows:

In respect of former Submission No 3 relating to land located at Ballyryan and Geraldine Roads and Lachlan Valley Way identified in the report:

- Amend map LZN_003A for the relevant lots to zone R1 General Residential;
- Amend map LSZ_003A for the relevant lots to minimum lot size of 700 sqm;

In respect of former Submission No 13 relating to Alloway Road identified in the report:

- Amend LZN_003A for the relevant lots to zone R5 Residential Large Lot
- Amend map LSZ_003A for the relevant lots to minimum lot size of 2 hectares;

In respect of former Submissions no 14 and 16 relating to Carinya Estate for land identified in the report:

- Amend LZN_001 to show zoneRU1 as recommended;
- Amend LSZ_001 to show the minimum lot size 40ha as recommended;

Note: clause 4.2A (2) (b) preserves entitlement

In respect of former Staff Submission C relating to land in Market Street, as identified in the report:

- Amend LZN_003A to show Zone B2 Local Centre;
- Amend LSZ_003A to show no minimum lot size.

PART 3 – JUSTIFICATION

Section A – Need for the planning proposal

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

No. A specific strategic study or report has not been done for the proposed amendments but the proposed amendments comply generally with the provisions of Boorowa Strategic Land Use Plan 2006.

In respect of the four following Submissions a planning issues assessment has been done and provided in Attachment 1 to this planning proposal:

- Submission No 3 Ballyryan and Geraldine Roads and Lachlan Valley Way;
- Submission No 13 Alloway Road;
- Submissions No 14 and 16 Carinya Estate;
- Staff Submissions C Market Street.

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

It is considered that the planning proposal is the best means of achieving the intended outcomes.

An alternative means of achieving the objectives would be to defer these issues to a review of the Boorowa LEP 2012. Council's resolution of 28 November 2011 however gave a public commitment to undertake the current planning proposal and it is considered important that the planning proposal proceed now to resolve all original outstanding matters.

Section B – Relationship to strategic planning framework

3 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)?

There are no regional or sub-regional strategies applying to land in Boorowa Local Government Area.

4 Is the planning proposal consistent with Council's Local Landuse Strategy 2010, Council's Community Strategic Plan, or other local strategic plan?

The planning proposal is consistent with the following provisions of the Boorowa Community Strategic Plan 2032.

Council's Community Strategic Plan has been adopted by Council and the relevant section is explained below.

Section 3.4.1 – land use planning delivers balance between development and conservation;

Section 3.4.2 – Environmental hazards and risks will be responded to and managed;

Section 3.4.3- Encourage environmentally sustainable building and design.

5 Is the planning consistent with applicable State Environmental Planning Policies?

SEPPs identified below relate to the issues in the planning proposal and their consistency and relevance are addressed.

SEPP (Rural Lands) 2008

The aim of the policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes.

Relevance to planning proposal:

The planning proposal includes some rezoning of land from zone RU1 Primary Production to zone R5 Residential Large Lot. The lands lost to zone RU1 are currently not considered prime agricultural lands being moreover grazing lands.

Consistency:

The planning proposal is consistent with the SEPP.

Implications:

There are no implications.

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

S117 Ministerial Directions impose certain requirements on the preparation of a draft LEP. Directions identified below relate to the issues in the planning proposal and their consistency and relevance is addressed.

Ministerial Direction: 1.2 - Rural Zones

The objective is to protect the agricultural production value of rural land.

Relevance:

For the land in zone RU1 Primary Production that are proposed for rezoning to zone R5 Residential Large Lot.

Consistency:

The planning proposal is consistent with the Direction because the relevant lands are generally small in area (in agricultural terms) and not currently used for intensive or high value primary production.

Implications:

There are no implications.

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Ministerial Direction: 1.5 - Rural Lands

The objective is to protect the agricultural production value of rural land and facilitate orderly and economic development of rural lands for rural and related purposes.

Relevance:

For the land in zone RU1 Primary Production that is proposed for rezoning to zone R5 Residential Large Lot.

Consistency:

The planning proposal is consistent with the Direction because the relevant lands are relatively small in area, not currently used for primary production and are adjacent to the existing cemetery.

Implications:

There are no implications.

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Ministerial Direction: 3.1 Residential Zones

The objective is to encourage a variety and choice of housing types to provide for existing and future housing needs.

Relevance:

For the lands in zone R1 General Residential that are proposed to be rezoned to zone B2 Local Centre.

Consistency:

The planning proposal is consistent with the Direction because the relevant lands are generally small in area and housing variety can readily be provided in other lands zoned R1 General Residential that are close to the Boorowa Town Centre.

Implications:

There are no implications.

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Section C – Environmental, social and economic impact

7 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 minimal land use changes in the planning proposal will not have any detrimental effect on any critical habitat or other environmental circumstances.

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

Similar comments to those in Item 7 above, except for the land in Submission No 3 located at Ballyryan and Geraldine Roads and Lachlan Valley Way. The proposal has been modified to reduce potential flooding risk and related environmental impacts of potential flooding for such lands.

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

In respect of social effects, the lands generally except for Carinya Estate, are located close to Boorowa Town Centre and local educational and recreational facilities are currently provided.

In respect of economic effects, the lands generally except for Carinya Estate provide opportunity zoning to determine whether there is a supply/demand market for such land close to Boorowa Town Centre.

Section D – State and Commonwealth Interests

10 Is there adequate public infrastructure for the planning proposal?

Due to the minor nature of the proposed amendments, it is unlikely that there will be any impacts on public infrastructure, except for Carinya Estate.

Road upgrades in the Alloway Road R5 area may be required.

11 What are the views of State and Commonwealth public authorities consulted in accordance within this gateway determination?

The views of Commonwealth and State public authorities will be sought as required by the Gateway Determination when issued by the Department of Planning and Infrastructure.

PART 4 MAPPING

Mapping to be carried out in accordance with mapping requirements

PART 5 – COMMUNITY CONSULTATION

Consultation with the Community and public authorities will be carried out in accordance with the requirements of the Gateway Determination issued by the Department of Planning and Infrastructure.

PART 6 – PROJECT TIMELINES

Action	Timeline
Commencement date –	Date of Gateway Determination
Commencement date - Public Exhibition	February 2014
Completion date - Public Exhibition	28 days after commencement of public exhibition.
Timeframe for consideration of submissions	One month after close of public exhibition.
Council Meeting Date for consideration of submissions	Next available Council Meeting date.
Letter sent to Department of Planning and Infrastructure post Submissions determination by Council.	Within one week of Council Meeting date.
Last date Council must lodge to Department to satisfy Gateway Determination	As prescribed by Gateway Determination
Completion date for LEP amendment	As prescribed by Gateway Determination.

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Attachment 1 (Report) / Attachment 1 (Planning Proposal)

Intended Mapping

Post Assessment

Maps

See attached files on CD

Attachment 2 (Report) / Attachment 2 (Planning Proposal)

Former Submissions at LEP

SUBMISSION No 3

Land location/Issue:

Land facing Ballyryan Road, Geraldine Road and Lachlan Valley Way

Submission request:

Submission requests that land zone be changed from RU1 Primary Production to R5 Large Lot Residential with minimum lot size of 2 hectares.

Justification provided in submission:

Several reasons:

- Believes there is shortfall of available land with 2 hectare lot size on the western side of Boorowa;
- Landowners in the area shown and they want to sell and believe their land is prime location for 2 hectares and will encourage development on the western side;
- Land is within walking distance to schools, showground and park.

Submission Map No. 3

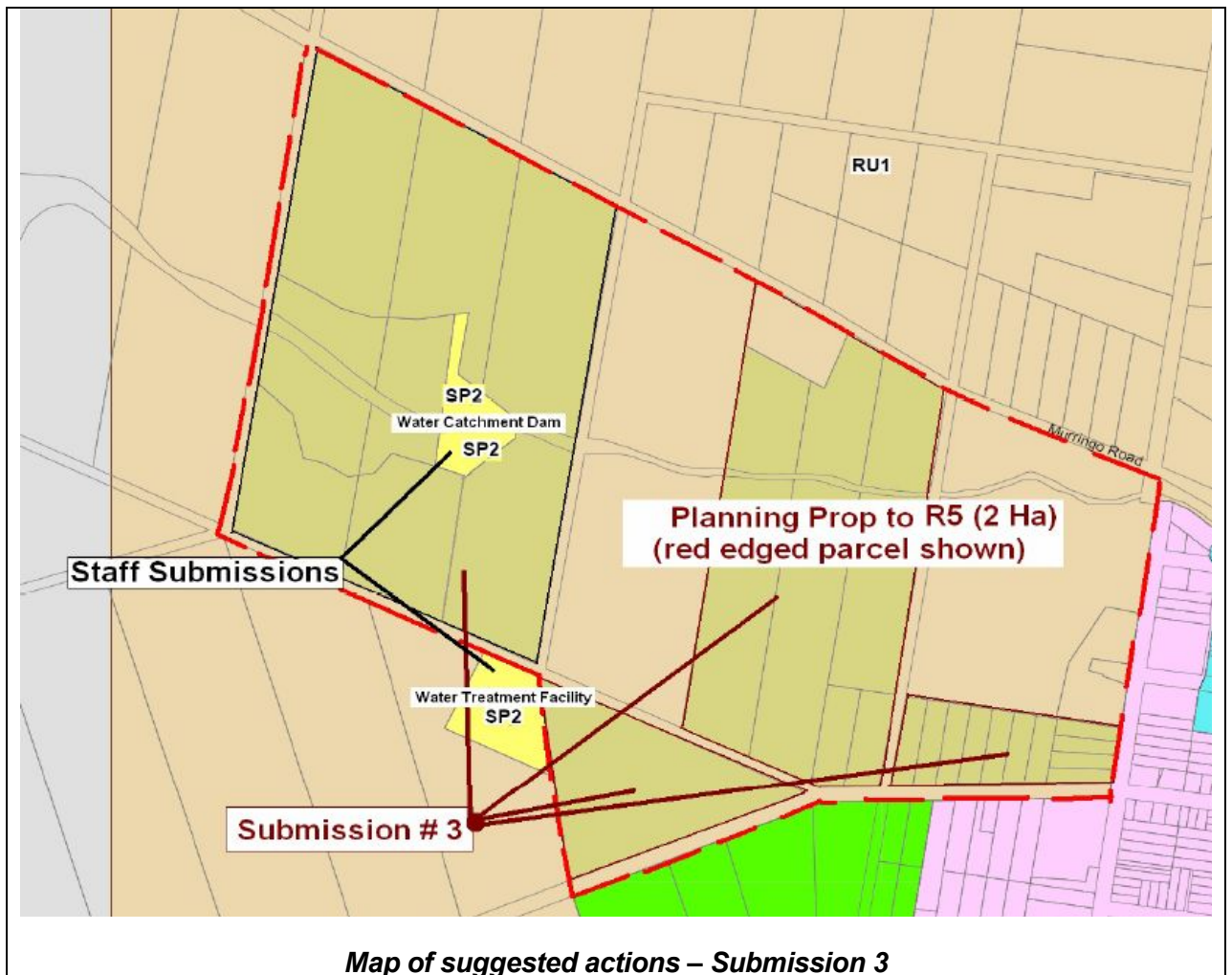
Submission by:

Mr John and Mrs Thora Regan

RESPONSE

Land is located on the western side of Boorowa Township and within two kilometres of the land zoned B2 Local Centre. The land has merit for rezoning to zone R5 Large Lot Residential. However part of the land could be flood prone. This and other issues need investigation.

Submission has some justification and it is recommended that after this conversion LEP is progressed that this rezoning request be considered with other similar requests in a planning proposal to be prepared, with further input from landowners.



SUBMISSION No 13**Land location/Issue:**

Land located to the south of Alloway Road that is proposed to be minimum 40 hectares and zone RU1 Primary Production.

Submission request:

Request that certain land located to the south of Alloway Road be changed from zone RU1 Primary Production with minimum lot size of 40 hectares to zone R5 Large Lot Residential with minimum lot size for 2 hectares.

Justification provided in submission:

Several reasons:

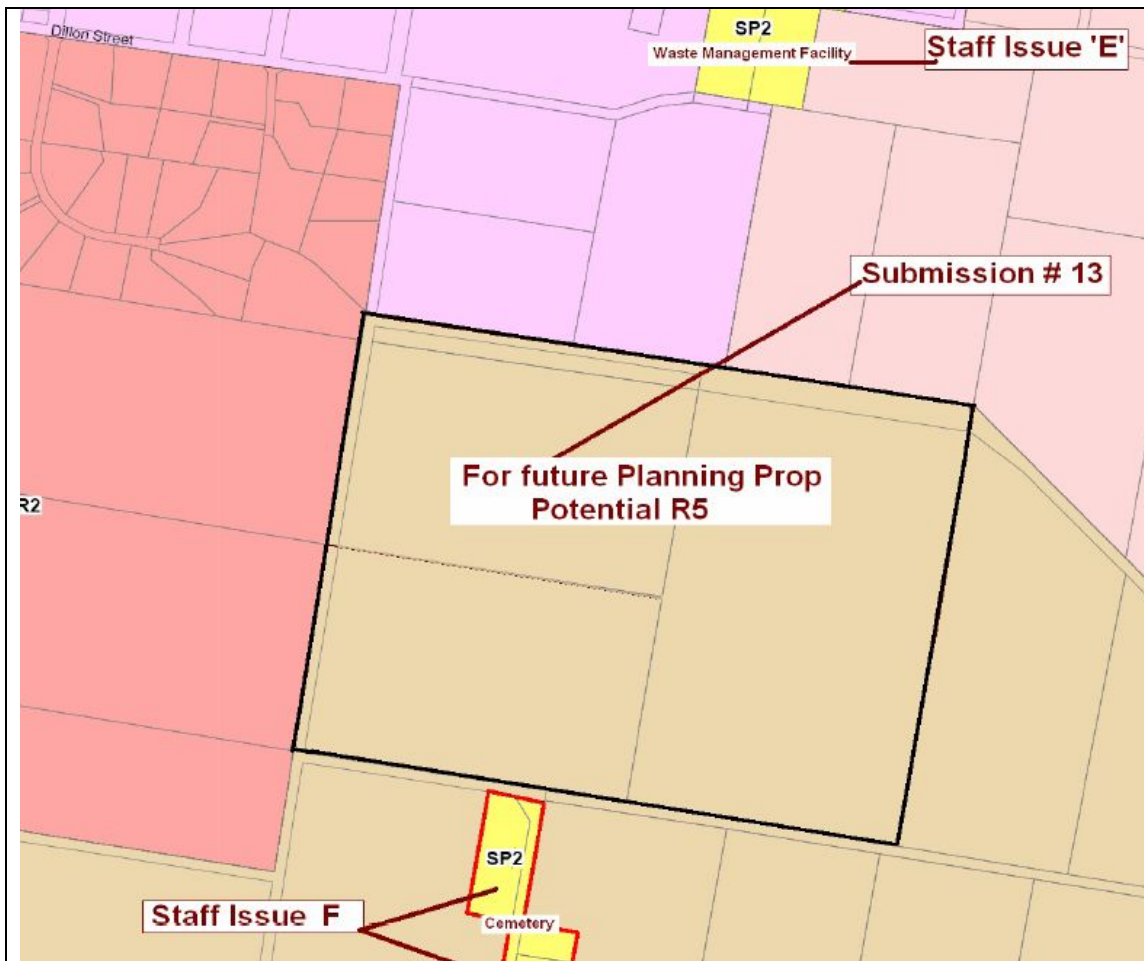
- Land to the north is zoned residential;
- Land to the west is proposed to be zoned 4000 square metres;
- My client is willing developer;
- Land has frontage to three formed roads, access to town water and electricity and close proximity to town centre;
- Demand for rural residential land;
- Good natural boundary exists to the south being the cemetery.

Submission Map No. 13**Submission by:**

CPC Land Development Consultants Pty Ltd.

RESPONSE:

Submission provides reasons for the rezoning. It is considered that the land should be investigated regarding environmental and other planning policy issues in a planning proposal. As this has potential impacts greater than those as exhibited, on neighbouring lands, it is suggested that this review form a Planning Proposal to commence immediately after making this conversion LEP.



Land South of Alloway Road for Planning Proposal

SUBMISSION No 14**Land location/Issue: - see also Submission No 16 relating to Carinya Estate**

Land known as the Carinya Estate and located approximately 40 kilometres north west of the Boorowa township.

Submission request:

Land zone be changed from zone RU1 Primary Production to zone R5 Large Lot Residential.

Justification provided in submission:

Several reasons including the following:

- “Area is rich in biodiversity, almost completely clothed in High Conservation Value Vegetation the estate is a valuable habitat to native flora and fauna and valuable water shed.”
- Submissions refers to objective for zone R5 is “to provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.”

Submission Map No. nil**Submission by:**

Ms R Smith.

RESPONSE:

Examination of the issue has revealed the following details:

- Amendments No 3 and 4 of the Boorowa IDO No 1 granted development rights for a dwelling on each lot in the estate;
- A development consent has been issued by Council for subdivision and a Deposited Plan has been registered for the land;
- Section 88B Restriction as to User has been placed on lots in the Estate. This Instrument prevents construction of a dwelling on each lot and is contrary to the amendment to the IDO.

On site, several sheds have been constructed with Council approval including condition that they are not used for human habitation as a dwelling.

This issue has multiple complexities and it is considered that a planning proposal is the correct process to ensure the rights of all parties are addressed.

To protect the existing legal rights of the landowners it is suggested that the land be declared a Deferred Matter and be marked DM on the draft plan. The effect of this action is to legally permit the existing development rights to remain and the existing LEP's to remain in force over the subject land until the legal advice can be analysed and a solution proposed.

SUBMISSION No 16**Land location/Issue: - see also Submission No 14 relating to Carinya Estate**

Land known as the Carinya Estate and located approximately 40 kilometres north west of the Boorowa township.

Submission request:

Land zone be changed from zone RU1 Primary Production to zone R5 Large Lot Residential with a minimum lot size of 2 hectares.

Justification provided in submission:

Several reasons:

- Land is located at the end of Woolpack Road and has good access;
- Land been subdivided into 30 lots and subdivision plan is included with submission;
- All lots have good access and power is available;

Submission Map No. no map**Submission by:**

Mr A Osmond

RESPONSE:

Examination of the issue has revealed the following details:

- Amendments No 3 and 4 of the Boorowa IDO No 1 granted development rights for a dwelling on each lot in the estate;
- A development consent has been issued by Council for subdivision and a Deposited Plan has been registered for the land;
- Section 88B Restriction as to User has been placed on lots in the Estate. This Instrument prevents construction of a dwelling on each lot and is contrary to the amendment to the IDO.

On site, several sheds have been constructed with Council approval including condition that they are not used for human habitation as a dwelling.

This issue has multiple complexities and it is considered that a planning proposal is the correct process to ensure the rights of all parties are addressed.

To protect the existing legal rights of the landowners it is suggested that the land be declared a Deferred Matter and be marked DM on the draft plan. The effect of this action is to legally permit the existing development rights to remain.

STAFF SUBMISSIONS

ISSUE C:

Boorowa Council Administration Offices including the Council Chamber are located on land in Market Street that is shown as zone RE1 Public Recreation. Such zoning would restrict future possible expansion of the Administration Offices including the Council Chambers.

In addition Council considers that it is reasonable to have adjoining land that is zoned for appropriate business activity that is compatible with those in close proximity of the land to the Town Centre. Land uses such as retail or commercial and identified as permissible uses in the Land Use table for zone B2 Local Centre would be justifiable.

It is common practice for many councils to operate commercial enterprises on land adjoining their civic centre as a means of generating funding for the benefit of the community. Types of activities would fit within the permissible land uses for zone B2 and could include a motel, if demand arose.

The draft LEP is a conversion LEP only. Council has advised the community that wholesale rezoning would not be part of the current draft LEP. However it is considered that this rezoning is minor in nature, justified on planning policy grounds and the amendment of the draft LEP now is justified.

It is therefore recommended that the land in the draft LEP be rezoned from RE1 Public Recreation to zone B2 Local Centre for the reasons mentioned above.

As this decision leaves some existing residential allotments “sandwiched” between the two B2 zones, it is strongly suggested that these be reviewed in Planning Proposal 4 for CBD amendments.

Proposed amendment:

Amend map LZN_003A to rezone the land shown on the map in Attachment 4 as zone B2 Local Centre.

Amendment justification:

Justification for the proposed rezoning includes the following reasons:

- Council Administration offices should not be restricted by zone RE1 Public Recreation. Zone RE1 restricts business and commercial operation such as those of a local council;
- Subject land is adjacent to zone B2 Local Centre land at the corner of Market and Pudmore Streets;
- Land area to be rezoned is relatively small and would not detrimentally impact demand and supply criteria for the existing land in the same zone;
- Existing Council swimming pool, recreation area and registered club will remain unchanged;
- If and when Council expanded the Administrative Offices, the existing walkways, shade cloth and related structures and public areas would be incorporated in such expansion that would be done by Council;
- Council retains ownership of the land and has public responsibility for redevelopment of the land in the interest of the Community;

ISSUE MAP C

