

Attached and Semi Detached Dwellings - Amendment 3 Rockdale LEP

Proposal Title : **Attached and Semi Detached Dwellings - Amendment 3 Rockdale LEP**

Proposal Summary : **The purpose of this planning proposal is to amend the Rockdale Local Environmental Plan (LEP) 2011 to restrict the minimum lot sizes for attached dwellings and semi-detached dwellings in the R2 Low Density Residential Zone.**

PP Number : **PP_2012_ROCKD_004_00** Dop File No : **qA222453**

Proposal Details

Date Planning Proposal Received : **18-Oct-2012** LGA covered : **Rockdale**

Region : **Sydney Region East** RPA : **Rockdale City Council**

State Electorate : **HEFFRON
KOGARAH
ROCKDALE** Section of the Act : **55 - Planning Proposal**

LEP Type : **Housekeeping**

Location Details

Street : **0**

Suburb : **Rockdale** City : **Sydney** Postcode : **2216**

Land Parcel :

DoP Planning Officer Contact Details

Contact Name : **Emily Marriott-Brittan**

Contact Number : **0292286358**

Contact Email : **e.marriott-brittan@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Jacky Wilkes**

Contact Number : **0295621683**

Contact Email : **Jwilkes@rockdale.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : Release Area Name :

Regional / Sub Regional Strategy : **Metro South subregion** Consistent with Strategy : **Yes**

Attached and Semi Detached Dwellings - Amendment 3 Rockdale LEP

MDP Number :	0	Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment : The Department is not aware of any meetings or communications with registered lobbyists concerning this Planning Proposal.

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment : The statement of objectives is considered to be adequate.

The purpose of this planning proposal is to amend Rockdale LEP to restrict the minimum lot sizes for attached dwellings and semi-detached dwellings in the R2 Low Density Residential Zone.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : The explanation of provisions is considered to be adequate.

The planning proposal proposes to insert the DP&I's model clause 4.1C Exceptions to minimum lot sizes for certain residential development in Part 4 of Rockdale LEP, which is tailored to Council's needs - as follows:

- (1) The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.
- (2) This clause applies to development on land in the R2 Low Density zone.
- (3) Development consent may be granted to a single development application for development to which this clause applies that is both of the following:
 - (a) the subdivision of land into 2 or more lots,
 - (b) the erection of an attached dwelling and a semi-detached dwelling on each lot resulting from the subdivision, if the size of each lot is equal or greater than:
 - i. for the erection of an attached dwelling - 350 m²;

ii. for the erection of a semi-detached dwelling - 350 m2.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA : **3.1 Residential Zones**

* May need the Director General's agreement

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified? **SEPP No 4—Development Without Consent and Miscellaneous Exempt and Complying Development
SEPP No 55—Remediation of Land
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007**

e) List any other matters that need to be considered : **The Affordable Rental Housing SEPP 2009 was also identified by Council.**

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **The proposal does not require a mapping amendment.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council proposes a 28 day exhibition period with the following targeted consultation mechanisms:
1. Public exhibition material to be made available at the Rockdale Library for the 28 day exhibition period
2. Public notice in the St. George and Sutherland Leader.
3. Council's website - all exhibition material will be made available on Council's website for the duration of the exhibition period.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **December 2011**

Comments in relation to Principal LEP : The Rockdale LEP was gazetted in December 2011. This amendment is the third amendment to the LEP since its gazettal.

Council received \$156,000 under the LEP Acceleration Fund. The funding was allocated for:

- The preparation of the Princes Highway Corridor Strategy.

Assessment Criteria

Need for planning proposal :

The planning proposal is required to amend a loop-hole that currently exists within the Rockdale LEP.

The loop-hole lies in the definition of an "attached dwelling," as defined in the Standard Instrument (Local Environmental Plan) Order 2006, and subsequently the Rockdale LEP, to be a building containing 3 or more dwellings, where:

- (a) each dwelling is attached to another dwelling by a common wall, and
- (b) each of the dwellings is on its own lot of land, and
- (c) none of the dwellings is located above any part of another dwelling.

As part (b) of the definition refers to "its own lot of land" but does not explicitly exclude individual lots on a strata plan or community title scheme, this creates an avenue for proponents to build attached dwelling developments in the R2 Low Density Residential zone on lots which are smaller than the minimum lot size requirement of 450m² for Torrens title lots.

Council are seeking to restrict the minimum lot sizes for attached and semi-detached dwellings in the R2 zone to 350m². Council's Capacity Analysis and Built Form Study (September 2011) prepared for the comprehensive LEP process identified that Council should still be able to meet its target of 7,000 dwellings by 2031.

Council are proposing the following changes to Clause 4.1C Exceptions to minimum lot sizes for certain residential development in part 4 of the Rockdale LEP:

- (1) The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.
- (2) This clause applies to development on land in the R2 Low Density zone.
- (3) Development consent may be granted to a single development application for development to which this clause applies that is both of the following:
 - (a) the subdivision of land into 2 or more lots,
 - (b) the erection of an attached dwelling and a semi-detached dwelling on each lot resulting from the subdivision, if the size of each lot is equal to or greater than:
 - i. for the erection of an attached dwelling - 350 m²; or
 - ii. for the erection of a semi-detached dwelling - 350 m².

Legal Services branch was consulted on the 27 September 2012 regarding clause 4.1C and Council's proposed drafting of the clause (prior to the submission of the planning proposal). Legal Services agreed with Council's interpretation of the clause, and specifically the reduction of the minimum lot size for an attached or semi-detached dwelling to 350m².

It is recommended that clause 4.1C be amended so that it is clear that the minimum lot size for attached dwellings and semi detached dwellings resulting from subdivision is 350m².

Consistency with strategic planning framework :

Metropolitan Plan for Sydney 2036 and the draft South Subregional Strategy:

The amendment to the Rockdale LEP could be seen as inconsistent with some of the objectives of the Metropolitan Plan and the draft South Subregional Strategy as Rockdale City Council has not undertaken an appropriate detailed strategic analysis of its residential land which supports medium density housing in the R2 zone.

However, the Rockdale LEP will still allow for housing choice with Council adopting both the R3 and R4 Medium and High Density Residential zones in its LEP. Council have also stated that it is still on track to meet its dwelling target of 7,000 by 2031.

Rockdale City Community Strategic Plan:

The amendment to the Draft Rockdale LEP 2011 is considered consistent with strategy 2.1 Strategic Planning for a Sustainable Future - Protect, preserve and promote the City's built and natural environment. The amendment is also deemed to be consistent with strategy 2.5 Land Planning and Management - Promote high quality, well designed and sustainable development that enhances the City.

Consistency with SEPPs:

Council has identified 7 SEPPs applicable to the planning proposal. The planning proposal is consistent with the SEPPs.

Consistency with s.117 Directions

The following directions apply to the proposed amendment:

3.1 Residential Zones:

Council has identified one direction which is applicable to the planning proposal. The Planning Proposal, which seeks to restrict the minimum lot sizes for attached dwellings and semi-detached dwellings in the R2 zone, is considered of minor significance because:

- Council is seeking to return the policy it intended when it prepared the comprehensive RLEP 2011
- The retainment of the current clause is contrary to Council's Capacity Analysis and Built Form Study (September 2012) which identified that Council is well placed to meet its dwelling target of 7,000 dwellings by the year 2031.

It is considered that the planning proposal is justifiably inconsistent with Direction 3.1 Residential Zones.

Environmental social economic impacts :

Environmental, Social and Environmental Impact

No social or economic impacts are anticipated as a result of the planning proposal. The planning proposal will amend an anomaly in the LEP.

Conclusion:

The planning proposal is considered to have merit. It is acknowledged that Council have not undertaken appropriate detailed strategic analysis of its residential land which supports medium density housing in the R2 zone and as such the planning proposal is inconsistent with some objectives of the Metropolitan Plan and the Draft South Subregional Strategy. It is considered however, that because this planning proposal is seeking to return to the original policy outcome intended by Council when it adopted the Rockdale LEP, that it should be supported.

It is unlikely that the proposed amendment to the LEP will have any significant impact on Council achieving its dwelling target under the Metropolitan Plan.

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Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **9 Month** Delegation : **DG**

Public Authority
Consultation - 56(2)(d)
:

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
PLANNING PROPOSAL - Attached dwellings and semi detached dwellings.pdf	Proposal	No
Cover Letter Rockdale PP.pdf	Proposal Covering Letter	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **3.1 Residential Zones**

Additional Information : **It is recommended that the Planning Proposal proceed subject to the following conditions:**

- 1. The Planning Proposal is exhibited for 14 days.**
- 2. The Planning Proposal should be completed within 9 months of the Gateway Determination.**
- 3. The Planning Proposal is considered consistent with Section 117 Directions, including Direction 3.1 Residential Zones, and Council does not need to address these directions further.**
- 4. No consultation with Public Authorities is required.**
- 5. No further studies are required to be carried out.**

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The Planning Proposal is the third amendment to the Rockdale LEP. The Planning Proposal will return the original policy outcome intended by council when it adopted the Rockdale LEP 2011.

Supporting Reasons :

Signature:

D. Pitney

Printed Name:

DAVID PITNEY

Date:

26/10/12

