

PLANNING PROPOSAL

Amendment to the Scone Local Environmental Plan 1986



Scone Local Environmental Plan (Amendment No 72) 1986

**Planning Proposal 6/2011 – To Amend the Residential Zones to require
consent for Dwelling-Houses.**

**Version 01
9 May 2012**

PART 1: INTRODUCTION AND SITE IDENTIFICATION

The planning proposal explains the intended effect of, and justification for the proposed amendment to the Scone Local Environmental Plan 1986 which seeks a minor amendment to the zone. It has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 and the relevant Department of Planning and Infrastructure, including A Guide to Preparing Local Environment Plans and a Guide to Preparing Planning Proposals.

In 1998 the Environmental Planning and Assessment Act 1979 (the Act) was amended such as to require dwelling-houses to obtain development consent. Under the Scone Local Environmental Plan 1986 (SLEP) the Residential Zones currently provides that dwelling-houses do not need development consent (ie it is under the heading "Without development consent"). This was applicable prior to the amendment to the Act, when dwelling-houses were subject to Building Applications. The Environmental Planning and Assessment (Saving and Transitional) Regulation 1998 allowed continued acceptance of development applications until July 2000 to enable Council to amend their Local Environmental Plan. It would appear that this was overlooked and the SLEP was never amended in this regard.

PART 2: OBJECTIVES

The objective of this planning proposal is to provide a consistent approach in line with other local government authorities and government policy.

PART 3: EXPLANATION OF PROVISIONS

The objective of this Planning Proposal is intended to be achieved through amending the SLEP 1986 as follows:

To amend Clause 8 Zones and Development Control Table such as to remove the word Dwelling-houses from the Zone No 2(a) (Residential "A" Zone), 2(b) Residential and 2(c) Residential C zones. from under the heading "Without development consent" so that development applications for dwelling-houses can be considered.

Refer to Appendix 1 for Council Resolution.

PART 4: JUSTIFICATION

In accordance with the Department of Planning and Infrastructure's Guide to Preparing Planning Proposals, this section provides a response to the following issues:

- Section A: Need for proposal
- Section B: Policy Context
- Section C: Potential Environmental, Social and Economic Impact; and
- Section D: Other Government Interests

SECTION A – NEED FOR THE PLANNING PROPOSAL

1. Is the planning proposal the result of any strategic study?

No there is no strategic study.

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

Yes. This issue was discussed with the Department of Planning (Hunter Regional Planning Team). The matter was referred to the Department's Legal Branch which advised that achieving this would require amendment to the SLEP 1986. Consideration was given to continuing with the existing situation pending the completion of the new Local Environment Plan in accordance with the SI. However the timeframe for the completion of this project could be at least 12 months. This has financial implications for Council in relation to the loss of development application fees.

3. Is there a community benefit? (Has a Net Community Benefit Test been provided?)

Yes, however no community benefits test has been completed as this is not considered necessary. The amendment to the SLEP in this regard will enable Council to charge development application fees for dwelling-houses in the 2(a) Residential A Zone. In the next 12 months it is anticipated that additional land in this zone will become available for residential development. The income generated will provide Council with financial resources that will facilitate the continued delivery of building and development services. This will assist Council allocate greater resources to development assessment and thereby facilitate the provision of housing and amenities. In this regard the planning proposal is expected to have a community benefit.

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?

Yes. The Planning Proposal is broadly consistent with Upper Hunter Land Use Strategy in that is designed to facilitate residential development applications. Furthermore the Planning Proposal is considered to be a minor amendment to the SLEP.

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

The Planning Proposal is consistent with the Community Strategic Plan in that it seeks to facilitate the delivery of building and development services and contribute to the provision of Housing and Community Facilities.

6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

There are no applicable State Environmental Planning Policies

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

There are no applicable Section 117 Directions.

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

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?

The Planning Proposal is not seeking to rezone land or alter clauses that would impact on flora and fauna.

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

The Planning Proposal is seeing to remove the words "Dwelling-House" from the SLEP 1986. This is unlikely to have any environmental effects.

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

This is not considered to be applicable.

SECTION D – COMMONWEALTH AND STATE INTERESTS

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

Not relevant.

12. What are the views of State and Commonwealth public authorities in accordance with the Gateway determination?

No State or Commonwealth public authorities have been consulted. This is not considered to be an issue that is likely to affect such organisations.

PART 5: COMMUNITY CONSULTATION

Community consultation was undertaken in accordance with Section 56(2) and 57 of the Environmental Planning and Assessment Act 1979. The period of public exhibition was from the 26 March 2012 to the 9 April 2012, no submissions were received.

Refer to Appendix 2 for Gateway Determination and Conditions

APPENDIX 1: COUNCIL REPORT

Ordinary Council Meeting

19 December 2011

Section: Standing Committee Reports

REP-460/11

SC.12.2 DEVELOPMENT AND ENVIRONMENTAL SERVICES COMMITTEE

RECOMMENDATION:

That Council:

1. Note the minutes of the Development and Environmental Services Committee held on 6 December 2011.
2. Adopt the following recommendations:
 - DESC.12.1 Planning Proposals – to amend Scone and Merriwa Local Environmental Plans**
 - That Council support the Planning Proposals to amend the Scone Local Environmental Plan 1986 and the Merriwa Local Environmental Plan 1992, and refer the Planning Proposals to the Department of Planning and Infrastructure for Gateway Determination.
 - DESC.12.2 Development Application No 148/2011 – Liquor Outlet and Signage**
 - That Council approve Development Application 148/2011 as submitted subject to conditions of consent, including a condition requiring the payment of an on-street car parking contribution of \$3,900.00 to compensate for the loss of three car parking spaces.

BACKGROUND:

The Development and Environmental Services Committee met on the 6 December 2011 at the Administration Centre, Scone.

ISSUES:

Refer to attached minutes.

SUSTAINABILITY:

All reports being considered have some relationship with economic, social and environmental matters of sustainability within the local and broader community.

COMMUNITY INTERACTION:

The Development and Environmental Services Committee meeting was attended by a member of the public as identified on the attached minutes.

OPTIONS:

To accept the recommendations of the Committee or amend them as deemed necessary.

FINANCIAL CONSIDERATIONS:

Development application and associated fees of \$843.00 have been paid for DA 148/2011.

RESOLVED that Council:

1. Note the minutes of the Development and Environmental Services Committee held on 6 December 2011.
2. Adopt the following recommendations:
 - DESC.12.1 Planning Proposals – to amend Scone and Merriwa Local Environmental Plans**
 - That Council support the Planning Proposals to amend the Scone Local Environmental Plan 1986 and the Merriwa Local Environmental Plan 1992, and refer the Planning Proposals to the Department of Planning and Infrastructure for Gateway Determination.
 - DESC.12.2 Development Application No 148/2011 – Liquor Outlet and Signage**
 - That Council approve Development Application 148/2011 as submitted subject to conditions of consent, including a condition requiring the payment of an on-street car parking contribution of \$3,900.00 to compensate for the loss of three car parking spaces.

Moved: Cr D Peebles

Seconded: Cr L Carter

CARRIED

APPENDIX 2: GATEWAY DETERMINATION



Planning & Infrastructure



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Department Generated Correspondence (Y)

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Our ref: PP_2012_UJPHUN_002_00 (12/02591)
Your ref: OUT-843/12

Mr Daryl Dutton
General Manager
Upper Hunter Shire Council
PO Box 208
SCONE NSW 2337

UPPER HUNTER SHIRE COUNCIL

27 FEB 2012

Referred to *Paul Smith*

For *info*

Dear Mr Dutton,

Re: Planning proposal to amend the Scone LEP 1986 to require development consent for dwellings in the Zone No 2 (a) (Residential "A" Zone); Zone No 2 (b) (Residential "B" Zone), and Zone No 2 (c) (Residential "C" Zone) zones.

I am writing in response to your Council's letter dated 24 January 2012 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Scone Local Environmental Plan 1986 to require development consent for dwellings in Zone No 2 (a) (Residential "A" Zone), Zone No 2 (b) (Residential "B" Zone), and Zone No 2 (c) (Residential "C" Zone) zones.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

While the intent of Council's planning proposal is supported, it is noted that the operation of *State Environmental Planning Policy (SEPP) No 60 – Exempt and Complying Development* may already allow for development of dwelling houses to proceed in the 2(v) Village "V" zone. Council is encouraged to consider the inter-relationship of the SEPP with its LEP following the completion of this proposed amendment.

The amending Local Environmental Plan (LEP) is to be finalised within 6 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the Planning Proposal within four (4) weeks from the week following this determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact James Shelton of the Regional Office of the Department on 02 4904 2700.

Yours sincerely,

Sam Haddad
Sam Haddad
Director-General

21/2/2012



Gateway Determination

Planning proposal (Department Ref: PP_2012_UPHUN_002_00): to amend the Scone LEP 1986 to require development consent for dwellings in residential zones.

I, the Director General, Department of Planning and Infrastructure, as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Scone Local Environmental Plan 1986 to amend the LEP to require development consent for dwellings in the Zone No 2 (a) (Residential "A" Zone), residential zones should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning 2009)* and must be made publicly available for 14 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
2. No consultation is required with public authorities under section 56(2)(d) of the EP&A Act:
3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
4. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.

Dated 21st day of February 2012.

Sam Haddad
Director-General
Delegate of the Minister for Planning and
Infrastructure