

PLANNING PROPOSAL

Amendment to the Merriwa Local Environment Plan 1992



Merriwa Local Environment Plan (Amendment No 1) 1992

Planning Proposal 7/2011 – To Amend the 2(v) Village “V” Zone to require consent for Dwelling-Houses.

**Version 01
21 November 2011**

PART 1: INTRODUCTION AND SITE IDENTIFICATION

The planning proposal explains the intended effect of, and justification for the proposed amendment to the Merriwa Local Environment Plan 1992 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 2000 the Environmental Planning and Assessment Act 1979 (the Act) was amended such as to require dwelling-houses to obtain development consent. Under the Merriwa Local Environment Plan 1992 (MLEP) the 2(v) Village Zone currently provides that dwelling-houses do not need development consent (ie it is under the heading "Without consent"). This was applicable prior to the amendment to the Act, when dwelling-houses were subject to Building Applications. A Saving and Transitional regulation allowed continued acceptance of development applications until July 2000 to enable Council to amend its Local Environment Plan. It would appear that this was overlooked by senior management and the MLEP was never amended in this regard.

This anomaly was detected in 2008 by a relieving Director and it was determined by management to adopt the practice of not charging development application fees for dwelling-houses in the 2(v) Village Zone. This comes at a high cost to Council in lost income and creates confusion in the industry, particularly for private certification.

It is noted that under the Standard Instrument (Local Environment Plan) Order 2006 dwelling-houses in the RU5 Village are permissible without development consent. The Council is in the process of preparing a new Local Environment Plan in accordance with the Standard Instrument (SI). In order to maintain consistency with the SI there is no proposal to change the existing arrangements in relation to the 2(b) Residential and 2(c) Residential C zones in the Scone Local Environment Plan 1986 (which is subject to a similar planning proposal in relation to the 2(a) Residential "A" Zone.

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 MLEP 1992 as follows:

To amend Clause 9 Zones and Development Control Table such as to remove the word Dwelling-houses from the 2(v) Village Zone from under the heading "Without consent" so that development applications for dwelling-houses can be considered.

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 MLEP 1992. 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 MLEP 1992 in this regard will enable Council to charge development application fees for dwelling-houses in the 2(v) Village 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 MLEP 1992. 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 has not been undertaken at this stage. The planning proposal will be placed on public exhibition for 28 days should it be supported by the Gateway. The Planning Proposal is not considered to affect State Agencies and as such consultation is not proposed.