

# **Wagga Wagga City Council**

## **Planning Proposal**

### **Amendment to the Wagga Wagga Local Environmental Plan 2010**

#### **LEP20/0001 – Boundary Adjustments**

- New local provision clause for boundary changes
- New subclause in Clause 4.2A

#### **Date of Planning Proposal:**

15 June 2020

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## INTRODUCTION

In accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979*, this planning proposal has been prepared to amend provisions of the Wagga Wagga Local Environmental Plan 2010 (WWLEP) to respond to external applications, internal requests (by Council), and housekeeping amendments/anomalies. The planning proposal has been prepared in accordance with the NSW Department of Planning and Environment's Guideline 'A guide to preparing planning proposals'.

A Gateway determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979* is requested.

The items included in the Planning Proposal have been supported by Council. A copy of the report and minutes is provided with this proposal.

Council is seeking delegations to make this plan as the matters contained in the Planning Proposal are of local significance. The evaluation criteria for the delegation of plan making functions checklist is provided along with the completed Information Checklist.

## PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The planning proposal intends to introduce a new local provision clause and include an additional subclause within Clause 4.2A to increase flexibility for minor boundary adjustments.

## PART 2 – EXPLANATION OF THE PROVISIONS

The proposed outcomes will be achieved by:

1. Introducing a local provision clause for boundary changes between lots in certain rural and environmental protection zones to increase flexibility for boundary adjustments.
2. Introducing an additional subclause within Clause 4.2A to ensure that lots resulting from boundary adjustments as a result of the introduction of the above clause retain a dwelling entitlement if it existed prior to the boundary adjustment.

The proposed outcomes will be achieved by inserting the following as shown below:

### Local Provisions – Boundary changes between lots in certain rural and environmental protection zones

#### **4.7 Boundary changes between lots in certain rural and environmental protection zones**

- (1) *The objective of this clause is to permit the boundary between 2 or more lots to be adjusted in certain circumstances to give landowners a greater opportunity to achieve the objectives of a zone.*
- (2) *This clause applies to land in the following zones—*
  - (a) *Zone RU1 Primary Production,*
  - (b) *Zone RU2 Rural Landscape,*



- (c) *Zone RU4 Primary Production Small Lots,*
- (d) *Zone E3 Environmental Management.*
- (3) *Despite clause 4.1 (3), development consent may be granted to the subdivision of 2 or more adjoining lots that are land to which this clause applies if the subdivision will not result in—*
  - (a) *an increase in the number of lots, and*
  - (b) *an increase in the number of dwelling houses on, or dwelling houses that may be erected on, any of the lots, and*
  - (c) *any lot created by a boundary adjustment in Zone RU1 Primary Production, Zone RU2 Rural Landscape or Zone E3 Environmental Management having an area of less than 5 hectares, and*
  - (d) *any lot created by a boundary adjustment in Zone RU4 Primary Production Small Lots having an area of less than the minimum size shown on the [Lot Size Map](#) in relation to that land.*
- (4) *Before determining a development application for the subdivision of land to which this clause applies, the consent authority must consider the following—*
  - (a) *the existing uses and approved uses of other land in the vicinity of the subdivision,*
  - (b) *whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,*
  - (c) *whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),*
  - (d) *whether or not the subdivision is likely to be incompatible with a use on land in any adjoining zone,*
  - (e) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),*
  - (f) *whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,*
  - (g) *whether or not the subdivision is likely to have an adverse impact on the environmental values, heritage vistas or landscapes or agricultural viability of the land.*
- (5) *This clause does not apply—*
  - (a) *in relation to the subdivision of individual lots in a strata plan or a community title scheme, or*
  - (b) *if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.*



Additional Subclause – Clause 4.2A – Erection of dwelling houses and dual occupancies on land in certain residential, rural and environmental protection zones:

*(e) is a lot created by a boundary adjustment in accordance with clause 4.7 and upon which a dwelling house would have been permissible prior to the adjustment of the boundary.*

## **PART 3 – JUSTIFICATION**

### **Section A – Need for the planning proposal**

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

No, the planning proposal is not the result of any strategic study or report.

The proposal is a result of development enquiries for boundary adjustments in rural areas where existing holdings are separated by roads or where lots are below the minimum lot size and cannot be achieved under the existing provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) and the Wagga Wagga Local Environmental Plan Clause 4.6 Exemptions to development standards.

The proposal will allow flexibility for boundary adjustments.

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

The proposed changes are the best way to achieve the intended outcome.

Amending the Codes SEPP or the standard clause for exemptions to development standards may not be suitable for all local government areas. An additional local provision clause is the best way to achieve the intended outcome.

The proposed local provision clause has been adopted in other Local Environmental Plans across the State.

### **Section B – Relationship to strategic planning framework**

#### **Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?**

The planning proposal is consistent with the Riverina Murray Regional Plan in that it will retain existing environmental protection provisions and not result in unnecessary fragmentation of rural land as it won't create any additional lots or dwelling entitlements.

#### **Is the planning proposal consistent with the council's local strategy or other local strategic plan?**

The planning proposal will continue to protect agricultural and environmental land by not increasing total lots or removing environmental protection measures.



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

State Environmental Planning Policies	
Policy	Compliance
<i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>	<p>The Codes SEPP provides opportunities for subdivision of land for the purpose of realigning boundaries where the subdivision will not result in more than a minor change or not result in a change in the area by more than 10%.</p> <p>The purpose of this planning proposal is to create opportunities not captured by the Codes SEPP.</p>

## Is the planning proposal consistent with applicable Ministerial Directions (s. 9.1 directions)?

Relevant directions are assessed against the proposed amendments in the table below:

Section 9.1 Ministerial Directions	
Direction	Compliance
<i>1.2 Rural Zones</i>	The planning proposal is consistent with this direction as it is not proposing to rezone land or increase permissible density.
<i>1.5 Rural Lands</i>	The planning proposal is consistent with this direction as it is continuing to reduce fragmentation of rural land by not creating dwelling entitlements.
<i>2.1 Environmental Protection zones</i>	The planning proposal is consistent with this direction as it is not proposing to reduce environmental protection standards.
<i>5.10 Implementation of Regional Plans</i>	The planning proposal is consistent with this direction as it is consistent with the objectives of the Riverina Murray Regional Plan.

## Section C – Environmental, social and economic impact

### 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?

There are no known impacts on critical habitat or threatened species, populations or ecological communities, or their habitats.

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

There are no known environmental effects as a result of the planning proposal.

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

The planning proposal will create flexibility for boundary adjustments. For existing holdings that are already fragmented by roads, this can create economic activity for farmers both in selling land and purchasing additional land to increase agricultural viability.



## **Section D – State and Commonwealth interests**

### **Is there adequate public infrastructure for the planning proposal?**

There are no public infrastructure requirements resulting from this planning proposal.

### **What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

Consultation required with State and Commonwealth public authorities will be undertaken as per Gateway Determination requirements.

## **PART 4 – MAPPING**

There are no mapping changes proposed as part of this planning proposal.

## **PART 5 – COMMUNITY CONSULTATION**

Whilst the planning proposal is considered to be minor in nature, it will be beneficial to conduct a 28-day exhibition period to enable the community sufficient time to provide comment.

Whilst affected and adjoining neighbour notification is a general requirement for planning proposals, this planning proposal will affect a significant number of landowners and an exemption from notifying all affected land owners is sought.

## **PART 6 – PROJECT TIMELINE**

<b>Task</b>	<b>Anticipated timeframe</b>
Anticipated date of Gateway Determination	August 2020
Anticipated timeframe for completion of required technical information	N/A
Timeframe for Government agency consultation	September 2020
Commencement and completion dates for public exhibition.	September – October 2020
Dates for public hearing	N/A
Timeframe for consideration of submissions	November 2020
Timeframe for the consideration of a proposal post exhibition	December 2020
Date of submission to the Department to finalise the LEP	January 2020
Anticipated date RPA will make the plan	February 2020
Anticipated date RPA will forward to the Department for notification	March 2020

