

SIGNIFICANTLY DIFFERENT STATEMENT

PROPOSED SOUTH BURNETT REGIONAL COUNCIL PLANNING SCHEME – MAJOR AMENDMENT

FOR PART 21.3(D) OF THE MINISTERS GUIDELINES AND RULES

1.0 INTRODUCTION

On 24 February 2022, South Burnett Regional Council (Council) resolved to commence making a major amendment (Major Amendment No. 1) to its planning scheme to ensure it remained contemporary, reflected Council's current policy positions and appropriately managed planning and development across the South Burnett Region.

On 3 August 2022, Council gave notice to the chief executive to commence the State interest review.

By letter dated 2 November 2023, the chief executive advised Council of the outcome of the State interest review and that it could proceed to public consultation. In proceeding to public consultation, Council carried out consultation in accordance with the Communications Strategy and Community Engagement Action Plan dated December 2021.

Public consultation of the proposed planning scheme was undertaken between Monday 4 December 2023 to Monday 5 February 2024. In order to progress the major amendment, Council is now required to consider submissions received during public consultation, decide on any changes to be made to the proposed planning scheme, and subsequently request Ministerial approval to proceed to adopt the proposed planning scheme.

The Consultation Report, which has been prepared in compliance with the prescribed plan-making process, demonstrates effective compliance with the public consultation requirements. During the consultation period, the public were invited to make submissions to Council about the proposed planning scheme. Council received 10 properly made submissions (from 9 named submitters) as detailed and considered in the Consultation Report.

Council was required to consider all properly made submissions. Part 19 of the Minister's Guideline and Rules (MGR) states:

The local government may make changes to the proposed amendment to -

- a) address issues raised in submissions;*
- b) amend a drafting error; or*
- c) address new or changed planning circumstances or information.*

The local government must ensure any changes continue to appropriately integrate and address relevant state interests, including those identified in a state interest review.

Some changes have been made to the public consultation version of the proposed planning scheme. The next stage of progressing the plan-making process (Part 21 of the MGR) involves Council obtaining Ministerial approval to adopt the proposed planning scheme. Part 21 requires Council to request approval from the Planning Minister to adopt the proposed planning scheme. This request is required to be accompanied by:

- a) *an electronic copy of the proposed planning scheme, clearly identifying any changes that have been made to the proposed planning scheme since the State interest review;*
- b) *the consultation report prepared under section 18.4*
- c) *a report that includes:*
 - i. *the changes made to the proposed amendment;*
 - ii. *when the changes were made*
 - iii. *why the changes were made*
 - iv. *how the changes relate to any relevant regional plan or SPP or affect a state interest; and*
 - v. *what issues the changes respond to.*
- d) *A statement whether the local government considers any proposed amendment is significantly different from the version for which public consultation has been undertaken and the reasons why the local government formed this view.*
(emphasis added)

This Significantly Different Statement has been prepared for the purpose of being used to satisfy requirement d) above.

If the changes made are “significantly different” to the version released for public consultation, the prescribed process requires that the proposed planning scheme be subject to a repeat of the public consultation step prior to requesting Ministerial approval to adopt (Part 20 of the MGR).

2.0 SIGNIFICANTLY DIFFERENT

“Significantly different” is a term defined in Schedule 8 (Definitions and abbreviations) of the Minister’s Guidelines and Rules to mean:

Significantly different for a proposed local planning instrument is what the local government considers to be significantly different having regard to Schedule 2 but does not include a change as a result of a new or amended state planning instrument that has commenced since the process of making or amending the proposed local planning instrument started. (emphasis added)

Schedule 2 (Determining if a proposed local planning instrument is significantly different), of the Minister’s Guidelines and Rules provides:

1. *A local government may make changes to a proposed local planning instrument or proposed amendment to a local planning instrument after the proposed instrument or proposed amendment is subject to public consultation under the Act or under the MGR.*
2. *In considering whether the proposed instrument or amendment is significantly different, consideration must be given to the change in terms of its intent, extent and effect on both the land use outcomes as well as assessment requirements on individuals, and if the change has affected or altered any of the following—*
 - a) *a material planning issue, such as a policy position;*
 - b) *a significant proportion of the area or landowners covered by the proposed planning instrument;*
 - c) *a matter which is of public interest;*
 - d) *levels of assessment;*
 - e) *the proposed instrument or proposed amendment, so that it is quite different to the version which was released for public consultation; or*
 - f) *any other matter the local government considers relevant.*
3. *If the local government makes a change to the proposed instrument or proposed amendment to include new or amended natural hazard mapping, the proposed instrument or proposed amendment is not significantly different if the local government advises each landowner who is affected by the new or amended natural hazard mapping about the meaning of the mapping and how to obtain further advice by—*
 - a) *sending a letter to each affected property owner when the number of affected owners is relatively low (for example, in the hundreds or less); or*
 - b) *sending a brochure to all property owners in the local government’s area when the number of affected owners is high (for example, in the thousands or more).*

3.0 CONSIDERATIONS AND REASONS

An overview of the changes made since the version released for public consultation on 5 September 2022 are:

Table 1: Drafting revisions made between 2.1 and 2.2

Ref	PS page reference	Revision description Nature of change (intent & extent)	Reason for and nature of revision	Significantly different?
<i>Proposed planning scheme version: 2.1 (Public consultation version)</i>				
01	Page 49	Correct reference to 'section 4' for Dwelling House that is accepted development subject to requirements in table 5.5.1	Minor administrative correction of a typographical error in response to properly made submission received during public consultation. Has insignificant consequence on interpretation or application of planning scheme. Uncorrected, the reference did not make sense although intent was obvious.	No Minor matter.
02	Pages 76 to 81	Correct various references to sections for development that is accepted development subject to requirements in table 5.5.13	Minor administrative correction of a typographical errors, partially in response to properly made submission received during public consultation. Has insignificant consequence on interpretation or application of planning scheme. Uncorrected, references did not make sense although intent was obvious.	No Minor matter.
03	Page 77	Amend maximum size for one dwelling in a Dual Occupancy (via code assessment) in table 5.5.13 to 125m ²	Change in response to properly made submission received during public consultation. Council accepted that the maximum size of a dual occupancy dwelling could be increased to 125m ² to match the maximum size of a caretakers dwelling in the same zone.	No Minor matter.
04	Pages 99 to 101	Remove section 4 of table 6.2.1 to reflect that the scheme is no longer able to regulate secondary dwellings in the Low Density Residential Zone. Update references to other sections as necessary.	Change in response to properly made submission received during public consultation. Council accepted that the section of the code could be removed to reduce confusion.	No Minor matter.
05	92	Correct various references to reflect changes described in changes 02 and 04	Minor administrative correction of a typographical error.	No Minor matter.
06	206	Amend the minimum lot size in PO14 of table 6.2.13 to 20ha to match the minimum lot size in the Reconfiguring a Lot Code	Minor administrative correction of a typographical error.	No Minor matter.
07	Map OM7	Adding Overlay Map OM7.6 which was excluded from the public consultation version of the scheme (despite the map being referenced on the cover sheet).	Minor administrative correction of an error. Has insignificant consequence on interpretation or application of planning scheme.	No Mapping update to reflect existing circumstances. Change does not adversely affect rights.

Council has considered whether any of the changes have affected or altered any of the following:

Table 2: Significantly different assessment

Significantly different consideration	Assessment
A material planning issue, such as a policy position	<p>The changes do not meet this “significantly different” criterion</p> <p>The changes made by Council do not affect or alter a material planning position, for instance such as a policy position.</p> <p>The changes have reinforced or refined the existing planning policy positions and have improved accuracy, currency and workability of the proposed planning scheme.</p>
A significant proportion of the area or landowners covered by the proposed planning instrument	<p>The changes do not meet this “significantly different” criterion</p> <p>There are no changes to zoning. Change 06 will affect land owners in the Winery Precinct however was undertaken to reflect the minimum lot size under the Reconfiguring a Lot Code.</p> <p>There is no change to overlay map OM7 – however an additional map (which was accidentally excluded from the public notification version) has been added for clarity.</p>
A matter which is of public interest	<p>The changes do not meet this “significantly different” criterion</p> <p>There have been no changes to a matter of public interest.</p>
Levels of assessment	<p>The changes do not meet this “significantly different” criterion</p> <p>There have been no changes to the levels of assessment prescribed for development in the proposed planning scheme.</p>
The proposed instrument or proposed amendment, so that it is quite different to the version which was released for public consultation	<p>The changes do not meet this “significantly different” criterion</p> <p>A small number of changes have been made to the proposed planning scheme. All changes have very limited potential to impact or impinge on private property, use and development rights. Most are of an administrative or minor nature.</p> <p>The planning scheme is materially similar to the version that went to public consultation and was considered in the State interest review.</p>
Any other matter the local government considers relevant	<p>The changes do not meet this “significantly different” criterion</p> <p>Council does not consider there are any other relevant matters which could cause it to determine that the proposed planning scheme is “significantly different” to the version published and released for public consultation.</p>

4.0 CONCLUSION AND STATEMENT

In accordance with the plan-making process prescribed in part 19 of the MGR, Council is permitted to make changes the proposed planning scheme after it has been released for public consultation and public consultation activities have been concluded.

In light of the matters considered above, the changes to the proposed planning scheme:

- have been made for a purpose permitted at part 19.1 of the MGR; and
- are not considered to result in the version being submitted for Ministerial approval to adopt being “significantly different” to the version released for public consultation.

Consequently, Council forms the view that it is not required to repeat the public consultation for the proposed planning scheme and may proceed to request Ministerial approval to adopt the instrument under part 21.1 of the MGR.