



Narrandera Shire Council

Memorandum

DATE:	19 July 2016
TRIM FILE No:	Q-14/15-13-109
RELATED No:	Ordinary Meeting 19 July 2016 - Item 8.2
TO:	All Councillors
FROM:	Helen Ryan Manager Development & Environment
RE: PLANNING PROPOSAL AMENDMENT TO NARRANDERA LOCAL ENVIRONMENTAL PLAN 2013	

Garry Salvestro, Salvestro Planning, has provided the following additional comments with reference to Item 8.2 Adoption of Planning Proposal Amendment to Narrandera Local Environmental Plan (LEP):

- Option 1, Pt 4: There is an appeal path for LEP amendments through a challenge under s123 of the Environmental Planning and Assessment Act 1979 (Class 4 appeal), where civil action is taken by requesting the Land & Environment Court to conduct a judicial review of the procedures undertaken by Council to action the new LEP.

However, there are no merits-based appeal rights. An individual landholder cannot challenge the decision of Council because they disagree with the zoning or density (lot size). An appeal is only valid where there are obvious procedural and legal issues with the making of the plan.

These types of appeals are heard before a judge and require a high level of representation (eg: senior counsel, solicitors, etc). It would be advised that anyone contemplating such an appeal would require a legal opinion from their legal representatives before proceeding. Class 4 appeals are quite involved and usually attract a high legal bill because of the need for quality/skilled legal representation.

Council should be aware of this supplementary information about the appeals process.

- The LEP amendment is a shire-wide matter and has come about through considerable work that Council has paid for, including strategic considerations and earlier community input.
- Council has an obligation to continually review the LEP, so there will be further opportunities in the future for landholders to put their case forward for alternative zoning provisions over their land, if appropriate at the time.
- There is nothing to prevent a landholder undertaking their own research to enable them to make a more detailed submission or rezoning proposal to Council in the future. Council has funded its studies, with particular outcomes. If individual landholders are

convinced they have a case, then they are permitted to commission their own studies to support their position and to challenge the findings of the agencies.

- Any future development applications for the two parcels of land under deliberation (Deferred Matters 1.g Lot 187 DP751719 and 1.i Pt Lot 40 DP653269) would be classed as integrated development due to the biodiversity previously identified.

This means that Council would have to refer any application to the Office of Environment & Heritage for concurrence regardless of the zoning/minimum lot size.