

1.1.1 Planning Proposals: Yamble Close, Lot 113 DP755433 Snelson's Lane Gulgong and Lot Size for Multi-unit housing

REPORT BY THE MANAGER STRATEGIC PLANNING TO 21 MAY 2014 COUNCIL MEETING
Planning Proposals report
GOV400038, LAN900046

RECOMMENDATION

That:

1. **the report by the Manager Strategic Planning on the Planning Proposals: Yamble Close, Lot 113 DP755433 Snelson's Lane Gulgong and Lot Size for Multi-unit housing be received;**
 2. **Council prepare a Planning Proposal to**
 - a) **amend the minimum lot size in Yamble Close to 2000m²,**
 - b) **facilitate the development of a Transport depot in Snelson's Lane Gulgong and**
 - c) **reduce the minimum lot size for Multi-unit housing from 400m² to 300m²; and**
 3. **the Planning Proposal be forwarded to the Gateway for determination.**
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Executive summary

Council receives a number of Planning Proposals over the course year all of which generate a significant amount of administration in addition to the technical requirements for assessment. Recently, Mid-Western Regional Local Environmental Plan 2012 (LEP 2012) Amendment No. 7 was published. This amendment was a merging of five individual Planning Proposals which had reached conclusion around the same time prompting a decision to submit them to the Parliamentary Counsel and subsequently Planning and Infrastructure at the same time with a significant efficiency saving.

Following on from this, it is proposed that, where practical to do so and timing allows, Planning Proposals are bundled together to reduce administration and time for both staff and the proponents.

This report represents the first of such processes combining three matters into a single amendment. It is important to note that, if a particular issue threatens to delay a separate proposal, the amendment can once again be divided and those controversial issues dealt with as a separate amendment so as not to disadvantage individual proponents or proposals.

In this case the report relates to three Planning Proposals as follows:

- 1) Yamble Close – an amendment to the Lot Size Map to permit the subdivision of land within the R1 General Residential zone consistent with the former area excluded from DCP South Mudgee.
- 2) An amendment to Schedule 1 to enable the development of a bus depot on Lot 113 DP 755433 in 10 Snelson's Lane Gulgong.
- 3) Amendment of the minimum lot size for multi unit housing from 400m² to 300m²

The specific detail of each of the proposals is outlined in the report.

Detailed report

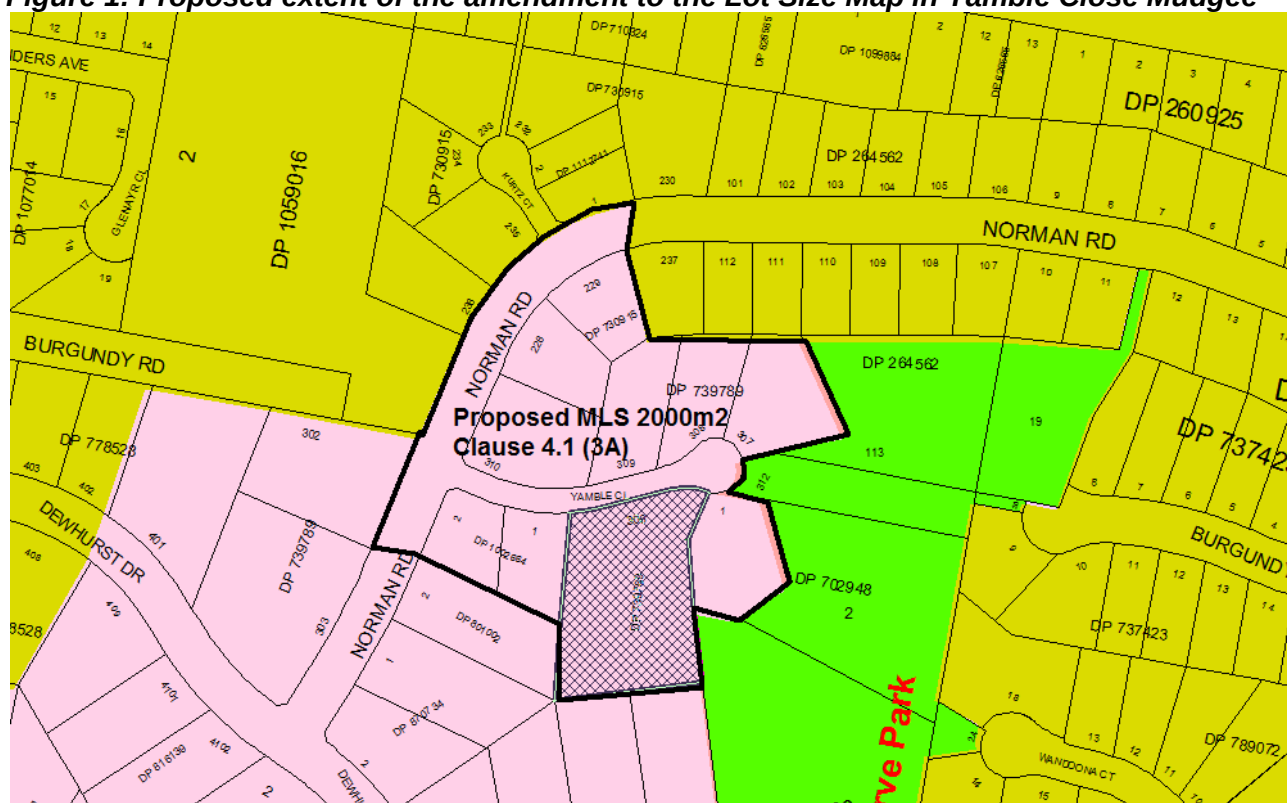
Amendment to Minimum Lot Size - Yamble Close

South Mudgee DCP sat under Mid-Western Regional Interim LEP 2008 but was originally drafted in 1985 to prevent the subdivision of land on steeply sloping land in the vicinity of Dewhurst Drive from creating lots below 2000m² (attachment 1). The intention of the LEP 2012 in applying a minimum lot size (MLS) for 10ha in this area was to ensure that no further subdivision occurred generally consistent with the DCP. However, in drafting the LEP, the mapping inadvertently included land in Yamble Close that was outside the DCP and not necessarily intended to be caught up in the provisions.

All of the lots in Yamble Close have achieved a lot size of between 1400-2000m² other than the subject Lot 306 DP 739789 shown hatched in the Figure below. A Planning Proposal has been prepared on behalf of the owner of Lot 306 requesting that Council consider reducing the MLS consistent with the surrounding area to 2000m² (attachment 2). In order to maintain consistency in the Lot Size Map, it is proposed to extend the provisions of clause 4.1 (3A), Area A with a MLS of 2000m² to all of Yamble Close.

The planning proposal would only result in one additional residential lot and it is not considered relevant to the Urban Release Strategy currently being undertaken.

Figure 1: Proposed extent of the amendment to the Lot Size Map in Yamble Close Mudgee



An amendment to Schedule 1 to enable the development of a bus depot on Lot 113 DP 755433 in 10 Snelson's Lane Gulgong

This issue has come about as one of the local bus operators in Gulgong currently houses two buses on his property in Snelson's Lane as exempt development (under the previous planning instrument), however, is now seeking approval for the housing of another two buses at the site.

The land is zoned Primary Production RU1 with an area of 3.7ha. The use is defined in the LEP 2012 as a “transport depot” as follows:

transport depot means a building or place used for the parking or servicing of motor powered or motor drawn vehicles used in connection with a business, industry, shop or passenger or freight transport undertaking.

The definition replaces the definition of “bus depot” in the previous Interim LEP 2008.

A transport depot is prohibited in the RU1 zone.

There are three definitions in the Standard Instrument Dictionary relevant to “depots”. Transport depot as above, “depot” and “truck depot”.

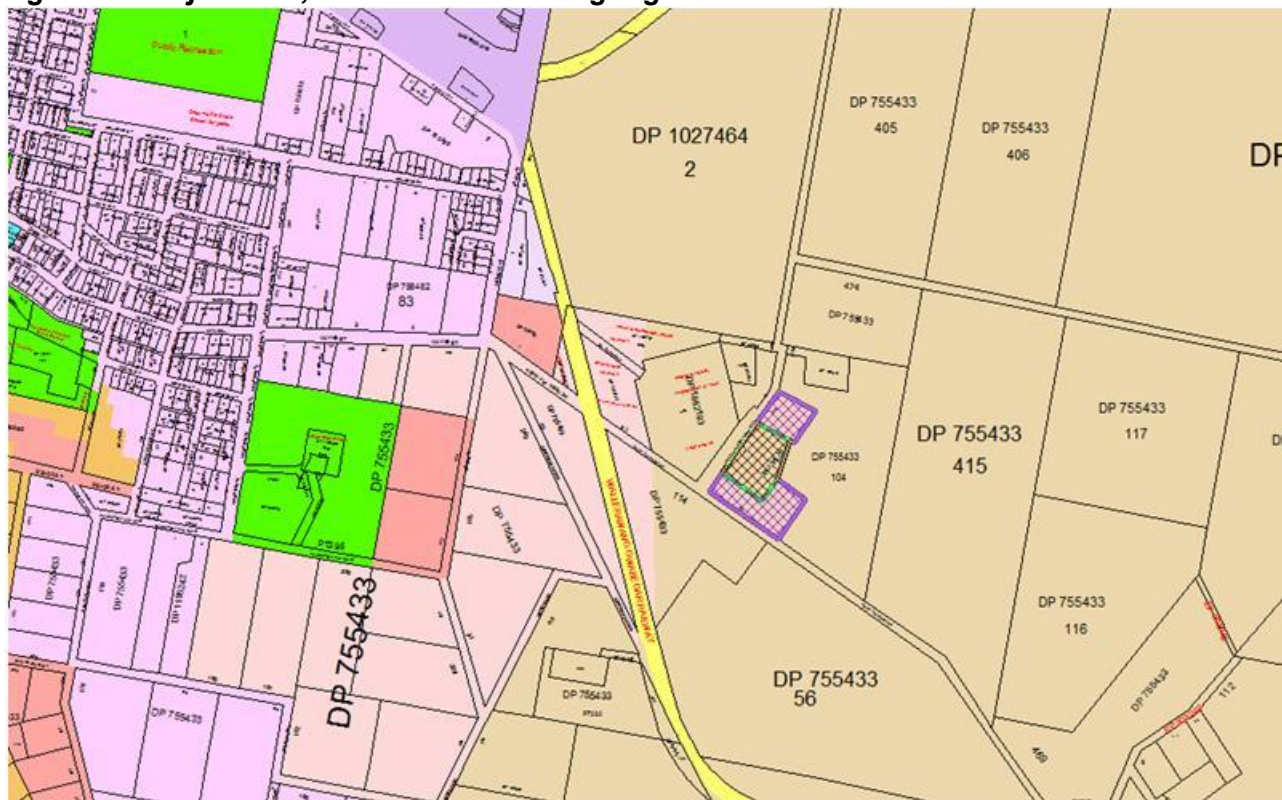
depot means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use, but does not include a farm building.

truck depot means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.

Depots of any kind can cause land use conflict in particular circumstances. The smaller scale operations have, in the past, been recognised as exempt development, however, as an operation increases in scale the merit assessment of the application is very site specific. Transport and truck depots are not uses that are seen as generally compatible with the objectives to the Primary Production, Primary Production Small Lots and Large Lot Residential zones and the intent is not to amend the land use tables (LUT) for any or all of these zones to accommodate all of these uses. It may be the case however, that failing an attempt to utilise Schedule 1, Council consider amending the LUT for the RU1 zone to include “transport depots” but not extend the amendment to “truck depots”.

A preliminary assessment has been undertaken of the proposal at Snelson’s Lane and the circumstances of that particular case. The site is already being used to accommodate school buses. The land is on the fringe of Gulgong and while it is zoned RU1 Primary Production, the use of the land is primarily residential with the bus business.

Figure 2: Subject Site, Snelson's Lane Gulgong



The preferred option is to amend Schedule 1 of the LEP 2012 to enable this particular use to occur on this specific parcel of land. Should that not be acceptable by Planning and Infrastructure the alternative is to rezone the site Industrial or amend the LUT for all land in the RU1 zone to include "Transport depots" as a development permissible with consent.

The purpose of Schedule 1 is provide an opportunity to permit a particular class of development on a specific parcel or parcels of land not ordinarily or otherwise permissible in the particular zone. Council have recently used these provisions in the case of the Motel in Sydney Road and to achieve a dwelling at Botobolar. There are always going to be circumstances specific to a particular site, hence, the inclusion of Schedule 1 in the Standard Instrument LEP. In this case the use is existing as exempt (under the previous planning instrument) and intensification of that use could reasonably be considered through the development application process.

The alternative mechanisms available are rezoning the site or all land in Snelson's Lane or an amendment to the Land Use Table.

Difficulties arise in the rezoning of the site to an Industrial zone in terms of the consistency with the Comprehensive Land Use Strategy, expectation of adjoining land owners and implications for development of infrastructure and servicing of an industrial zone. While it is acknowledged that the vicinity of Snelson's Lane is already representative of a non-agricultural zone, the uncertainty associated with actually changing the zone to industrial for the purpose of facilitating the development of a site to accommodate additional buses is unacceptable.

The other option would be to amend the LUT for the Primary Production RU1 zone to include "Transport depot" as a permissible use. This would open the use up to all parcels in the RU1 zone and as suggested above and is not considered generally consistent with the objectives of the zone and would mean that Council could potentially have transport or bus depots anywhere in the rural area.

Amendment of the minimum lot size for multi unit housing from 400m2 to 300m2

In the Ordinary Council meeting on May 7 2014, Council resolved to follows:

“a planning proposal be prepared for consideration with the next amendment to the Local Environmental Plan which would seek to reduce the minimum lot size for multi unit housing from 400m2 to 300m2.”

The background to this resolution as per the report presented has been extracted as follows.

Dual occupancy development essentially takes two forms; attached and detached. There are different requirements in terms of the lot sizes and how that then relates to the ability to subdivide. This is discussed further below.

In addition the LEP provides for the development of *multi dwelling housing*, defined as three or more dwellings whether attached or detached on a single lot of land, and *residential flat buildings* which is a single building containing three or more dwellings (Note: this is not a form of development typical in the LGA)

The specific provisions in the LEP are as follows:

4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

(1) The objective of this clause is to achieve planned residential density in certain zones.

(2) This clause applies to the following land:

- (a) land within Zone R1 General Residential,*
- (b) land within Zone R3 Medium Density Residential,*
- (c) land in Rylstone or Kandos that is within Zone RU5 Village.*

(3) Despite any other provision of this plan, development consent may be granted to development on land to which this clause applies:

- (a) for the purposes of a dual occupancy (attached), if the area of the lot is equal to or greater than 600 square metres, or*
- (b) for the purpose of a dual occupancy (detached), if the area of the lot is equal to or greater than 800 square metres, or*
- (c) for the purposes of multi dwelling housing, if the area of the lot is equal to or greater than 1,200 square metres, or*
- (d) for the purposes of a residential flat building, if the area of the lot is equal to or greater than 1,200 square metres.*

In addition there are provisions that facilitate subdivision of land below the MLS in certain circumstances.

4.1B Exceptions to minimum lot sizes for certain residential development

(1) This clause applies to the following land:

- (a) land within Zone R1 General Residential,*
- (b) land within Zone R3 Medium Density Residential,*
- (c) land in Rylstone or Kandos that is within Zone RU5 Village.*

(2) Despite any other provision of this Plan, development consent may be granted to the subdivision of land to which this clause applies if:

- (a) multi dwelling housing or a dual occupancy is lawfully erected on the land, and*

- (b) the area of each resulting lot will not be less than:*
 - (i) 300 square metres for a dual occupancy (attached), or*
 - (ii) 400 square metres for a dual occupancy (detached) or multi dwelling housing, and*
- (c) only one dwelling will be located on each lot resulting from the subdivision.*
- (3) Development consent may be granted to a single development application for development to which this clause applies that is both of the following:*
 - (a) the subdivision of land into 2 or more lots,*
 - (b) the erection of a dual occupancy (attached), dual occupancy (detached) or multi dwelling housing on each lot resulting from the subdivision, if the size of each lot is equal to or greater than:*
 - (i) 300 square metres for a dual occupancy (attached), or*
 - (ii) 400 square metres for a dual occupancy (detached) or multi dwelling housing.*

Of particular interest are dual occupancies and multi dwelling housing where the application is for three or four free standing dwellings. In such cases the circumstance may arise whereby the development proponent could undertake the development as attached dual occupancy with a minimum subdivision lot size of 300m² rather than multi dwelling housing which has a 400m² MLS.

This was the case in a recent development in Gulgong. Clause 4.1A(2)(b)(ii) of the LEP allows for subdivision of multi dwelling housing. The clause stipulates a minimum area of 400m² per lot/unit. The four units in the Gulgong case failed to meet this requirement. The same outcome could have been achieved by subdividing the parent 1300m² lot into two 650m² lots, then make an application for an attached dual occupancy on each of the 650m² lots and then subdividing those lots to create lots of 325m² each with a unit attached.

While it may not be in the best interest of Council to revise down the MLS for residential lots generally, consideration could be given to a review of the MLS for multi unit housing in clause 4.1B(2) and (3) from 400m² to 300m². Multi unit housing is, in terms of gross floor area generally of a scale consistent with if not less than attached dual occupancy, therefore, to have the MLS align with attached rather than detached dual occupancy would make practical sense as well as reducing the labyrinth of processes that a proponent could go through (as described in the example above) to achieve the same built outcome.

In order to avoid this scenario again and to provide a more efficient and streamlined development process, an amendment to the LEP to amend clause 4.1B(2) and (3) from 400m² to 300m² for multi unit housing.

The planning proposal will be prepared by Council and include the proposal submitted by the proponent for Yamble Close and a detailed proposal from the proponent for Snelson's Lane and forwarded to Planning and Infrastructure for a Gateway determination.

Financial and Operational Plan implications

Not applicable

Community Plan implications

The strategic planning function sits under the theme Looking After Our Community in the Community Plan. Should be recommendation proceed it will have implications for land use development as a result of an amendment to the LEP 2012.



ELIZABETH DENSLEY
MANAGER, STRATEGIC PLANNING

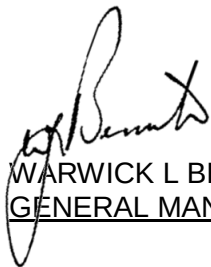


CATHERINE VAN LAEREN
DIRECTOR, DEVELOPMENT & COMMUNITY
SERVICES

9 May 2014

Attachments: 1. Planning Proposal Yamble Close (included at the end of the business paper)

APPROVED FOR SUBMISSION:



WARWICK L BENNETT
GENERAL MANAGER