

Planning Proposal

Kyogle LEP 2012 Amendment No. 3

- To permit Dual occupancies (detached) in Zones RU1, RU2, RU4 and R5;
 - to permit Secondary dwellings in Zones RU1, RU2, RU4, R1 & R5 and;
 - to amend Clause 5.4(9).
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Kyogle Council March 2014

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Introduction

SUMMARY OF THE PLANNING PROPOSAL

This planning proposal proposes the following amendments to the Kyogle Local Environmental Plan (LEP) 2012;

- to permit with Council consent Dual occupancies (detached) in Zones RU1, RU2 and RU4;
- to permit with Council consent Dual occupancies (attached and detached) in Zone R5;
- to permit with Council consent Secondary dwellings in Zones RU1, RU2, RU4, R1 and R5, and;
- to amend Clause 5.4(9) to permit the total floor area of secondary dwellings to be up to 60% of the area of the principal dwelling.

PLANNING CONTEXT

This Planning Proposal has been drafted in accordance with section 55 of the *Environmental Planning and Assessment Act 1979*, and 'A guide to preparing Planning Proposals' (DoPI, October 2012).

Council Resolution

Council considered the proposed amendments to the Kyogle LEP 2012 at its ordinary meeting of 11 November 2013 and resolved:

1. *That the report Proposal to Amend Kyogle Local Environmental Plan to Permit Detached Dual Occupancies and Secondary Dwellings be received and noted.*
2. *That Council resolve to amend the Kyogle LEP 2012 through the preparation of a planning proposal to:*
 - a) *permit Dual Occupancies (attached or detached) to be approved in the RU1, RU2 & RU4 Rural Zones and R5 Large Lot Residential Zone with the consent of Council;*
 - b) *permit Secondary Dwellings to be approved in the RU1, RU2 & RU4 Rural Zones and R1 & R5 Residential Zones with the consent of Council;*
 - c) *amend clause 5.4(9) of Kyogle Local Environmental Plan to ensure Secondary Dwellings are permissible up to 60% of the size of the Primary Dwelling on the land (currently 43%);*
 - d) *Make the necessary amendments to the relevant sections identified in this report or required by the Department of Planning and Infrastructure (DoPI) or Parliamentary Counsel (PC), to Kyogle LEP 2012.*
3. *Authorise the General Manager to finalise the Planning Proposal and submit the Planning Proposal to the Department of Planning and Infrastructure for review and Gateway Determination.*
4. *That upon an affirmative Gateway Determination being received from the*

Department of Planning and Infrastructure, Council staff carry out the procedural steps associated with the progress of the planning proposal, including community consultation.

5. *That a further report be presented to Council on this matter following the conclusion of community consultation and review of submissions*

Kyogle Local Environmental Plan 2012

The Kyogle LEP 2012 commenced on 11 February 2013. The plan is in the format of the NSW Standard Instrument for LEPs. The Kyogle LEP 2012 currently contains the following provisions:

- The Land Use Table permits with consent Dual occupancies (attached) in Zones RU1, RU2 and RU4.
- The Land Use Table prohibits Dual occupancies (detached) and Secondary dwellings in Zones RU1, RU2, RU4 and R5.
- The Land Use Table prohibits Secondary dwellings in Zone R1.
- Clause 5.4(9) of Kyogle LEP 2012 states that the total floor area of Secondary dwellings must not exceed 60 square metres or 43% of the total floor area of the principal dwelling, whichever is the greater.

Part 1- Objectives or Intended Outcomes

The amendments in this planning proposal aim to increase the range of permissible housing types in the Kyogle Council area. Specifically, the objectives of this planning proposal are:

- To ensure secondary dwellings are available as an additional form of housing for urban and rural residents. Secondary dwellings are considered to provide an affordable housing option that would generally be occupied or developed to accommodate family or persons associated with residents of the principal dwelling.
- To introduce dual occupancies (detached) as an additional form of housing in rural areas in order to support elderly rural landholders and households seeking more affordable rural land and housing.
- To increase the permitted size of secondary dwellings to a more reasonable proportion of the principal dwelling, as the current 43% maximum is considered unreasonably small or restrictive.

Part 2- Explanation of Provisions

It is proposed that the Kyogle Local Environmental Plan 2012 be amended as follows:

1. Amend Land Use Table as detailed in Appendix 1 to permit Dual Occupancies (attached or detached) in Zones RU1, RU2, RU4 and R5 with the consent of Council;
2. Amend Land Use Table as detailed in Appendix 1 to permit Secondary Dwellings in Zones RU1, RU2, RU4, R1 & R5 with the consent of Council;
3. Amend clause 5.4(9) as detailed in Appendix 1 to allow the total floor area of Secondary Dwellings to be up to 60% of the size of the Principal Dwelling on the land.

Part 3- Justification

Section A – Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

Size of Secondary Dwellings

The proposal is not the result of any strategic study or report. The current 43% is considered to be unduly restrictive and therefore a minor increase is proposed.

Secondary Dwellings in Rural Zones

The proposal is not the result of any strategic study or report however, there is a wealth of research and policy that finds housing affordability is an issue and that it is desirable to increase the supply of affordable housing. The proposal to permit secondary dwellings in the rural areas

will provide an additional mechanism for provision of affordable housing. The proposal will also provide a number of other benefits or opportunities, including;

- Allowing elderly rural property owners to accommodate workers, renters or family which will provide financial, physical and social support and assist them to age in their homes.
- Allowing younger rural property owners to accommodate their ageing parents on their properties.

Dual occupancies (detached) in rural zones

The proposal is not the result of any strategic study or report. Dual occupancies (attached) are currently permissible with Council consent however dual occupancies (attached) offer limited privacy and independence between households and do not appear to be a desirable or realistic development option. The proposed amendment seeks to offer a more reasonable and desirable option for dual occupancy development.

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

Yes. There is no means of achieving the intended outcomes other than amending the LEP:

- a) Size of Secondary dwellings- to increase the potential size of Secondary dwellings Clause 5.4(9) must be amended.
- b) Secondary dwellings in rural zones- to achieve the intended outcome the land use tables must be amended to allow Secondary dwellings as permissible with consent.
- c) Dual occupancies (detached) in rural zones- to achieve the intended outcome the land use tables must be amended to allow Dual occupancies (detached) as permissible with consent.

Whilst the LEP needs to be amended to permit the development of dual occupancies and secondary dwellings in the relevant Zones, Council intends to ensure the achievement of good development outcomes and Zone objectives through the introduction of development guidelines in Kyogle Development Control Plan 2014. The guidelines will apply to applications for dual occupancies and secondary dwellings and Council will be required to take into consideration the DCP provisions under section 79C of the *Environmental Planning and Assessment Act 1979*.

It is proposed to introduce concurrently with the proposed LEP amendments a new Chapter in Kyogle Development Control Plan (DCP) 2014 to apply to development of dual occupancies in Zones RU1, RU2, RU4, RU5, R1 and R5. Chapter 3 of the DCP presently contains guidelines for development of secondary dwellings in Zones R3 and RU5. It is proposed to draft additional provisions to apply to development of secondary dwellings in Zones RU1, RU2, RU4, R1 and R5.

Consistent with the existing objectives of Kyogle DCP 2014, the additional guidelines will seek to ensure that development of dual occupancies and secondary dwellings in rural areas achieves the following outcomes:

- a) Development does not have adverse impacts on the potential and viability of good quality agricultural.
- b) Dwellings are appropriately buffered from surrounding land uses and are not subject to amenity impacts.
- c) Dwellings are designed and sited to minimise the visual impact on the character of the rural landscape and significant views or settings.
- d) Buildings and structures are designed and sited to minimise cut and fill.
- e) Buildings and structures are designed and sited to minimise impacts on ecological functions and biodiversity values.
- f) Dwellings are sited to avoid unacceptable risk from natural hazards and contaminated land.
- g) Buildings and structures do not adversely impact on the ecological or hydrological functions of watercourses and water bodies.
- h) Dwellings have appropriate vehicular access and are appropriately serviced.

Consistent with the existing objectives of Kyogle DCP 2014, the additional guidelines will seek to ensure that development of dual occupancies and secondary dwellings in urban areas achieves the following outcomes:

- a) Dwellings and ancillary development are designed and constructed to complement the character of their surroundings.
- b) Buildings and structures are designed and sited to minimise cut and fill.
- c) Development does not impact the amenity of surrounding residential development.
- d) Buildings and structures are designed and sited to minimise impacts on ecological functions and biodiversity values.
- e) Dwelling houses and ancillary development are sited to avoid exposure to unacceptable risk from natural hazards and contaminated land.
- f) Development does not adversely impact on the ecological or hydrological functions of watercourses and water bodies.
- g) Dwellings have appropriate vehicular access and are appropriately serviced.

3. Is there a net community benefit?

Yes. The proposed changes will provide the following community benefits:

- a) Secondary dwellings in rural zones- will create additional opportunities for ageing in place, retaining the rural social fabric, farm succession planning, care of elderly parents, affordable housing for children of rural landowners and additional income from rent for rural landowners.
- b) Dual occupancies in rural zones- as for a) and; pooling of resources between households, improving affordability of rural land and housing.
- c) Size of Secondary dwellings- provides additional flexibility for secondary dwellings which may make this form of development more viable or attractive in some circumstances and which may therefore result in development of more affordable housing.

Whilst the proposed amendments will provide benefits, the development of additional dwellings on lots in rural and urban areas has potential to create adverse impacts such as; land use conflict, environmental impact, traffic generation, visual impact, impacts on residential amenity and impacts on potential or viability of agricultural land. These impacts will need to be assessed and managed through the development application process by assessment of development applications against the proposed development guidelines of Kyogle DCP 2014 as detailed above.

Section B – Relationship to the strategic planning framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Yes. The proposal is consistent with the Far North Coast Regional Strategy 2006-2031 in the following ways:

- a) Part 2 Regional Challenges, page 6; one of the challenges facing the region is to *'provide choice in housing form and affordability in appropriate locations that responds to changing demographics'*. One of the key issues facing the Kyogle Council area is its ageing population. The proposed changes will provide additional opportunities for elderly rural landholders to age on their properties or for children of elderly parents living in rural areas to accommodate their ageing parents. The proposed changes will also provide additional opportunities for affordable housing.
- b) 'Part 4 Environment and Natural Resources, Actions, page 18; *'local environmental plans will include provisions to limit dwellings in the rural and environmental protection zones'*. The Kyogle LEP 2012 currently limits dwellings in rural areas to Dwelling houses, Dual occupancies (attached) and Rural workers' dwellings. The proposed amendments will not substantially increase the opportunities for rural dwellings above the existing limitations. The proposal to allow Dual occupancies (detached) simply provides the option of an additional dwelling type.
- c) Part 7 Settlement and Housing; Actions, page 29-
 - *'Councils will plan for a range of housing types of appropriate densities, location and suitability that are capable of adapting and responding to the ageing of the population.'* The proposed amendments increase opportunities for housing in locations where there is demand for elderly residents to accommodate family or be accommodated on their family's properties.
 - *'Local government will consider a range of affordable housing strategies, including forms of low-cost housing....to improve housing choice...'* The proposed amendments increase opportunities for affordable housing in rural and urban areas.

The proposals are also consistent with the State government's Northern Rivers Regional Action Plan 2021 which seeks to improve housing affordability as a priority. Actions proposed in response to this priority include;

- a) *'that the Department of Planning and Infrastructure work with local councils to deliver new local environmental plans, presumably with measures intended to increase the supply or opportunities for affordable housing.'* The amendments to the Kyogle Local Environmental Plan 2012 proposed within this planning proposal will provide this.
- b) *'Develop strategies and initiatives that improve access to affordable housing.'* The proposed amendments are considered to be an initiative that will improve access to affordable housing.

5. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plans?

Yes. The planning proposal is consistent with the Kyogle Community Strategic Plan 2012-2025 which identifies the following strategic initiative: *'The community's lifestyle and social needs are supported.'* The proposal is consistent with this strategy.

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

Yes. The proposal is consistent with applicable State Environmental Planning Policies (SEPP). A SEPP checklist for the planning proposal is contained in Appendix 2.

7. Is the planning proposal consistent with the applicable Ministerial Directions (S. 117 directions)?

Yes. The proposal is consistent with the relevant Section 117 Directions. A Section 117 Direction checklist for the planning proposal is contained in Appendix 3.

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?

No. The proposal will permit additional forms of residential development to occur in rural and rural residential areas. Development consent would be required for any proposal to undertake such an activity on the land and any development application would be subject to the section 5A of the *Environmental Planning and Assessment Act 1979* and the provisions of the *Threatened Species Conservation Act 1995*. Should the proposal be likely to result in a significant impact to any threatened species, community or population then the matter would be subject to additional assessment in the form of a species impact statement.

As detailed above, in conjunction with the proposed amendments to the LEP it is proposed to introduce new provisions in the Kyogle DCP 2014 to allow assessment and avoidance of impacts on biodiversity and ecological functions.

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

No. There are no direct environmental effects resulting from the proposed amendment. However, the development of additional dwellings in rural areas may result in impacts that will need to be assessed and managed through the development application process. The common issues are likely to be:

- effluent management;
- management of bushfire hazard;
- vehicular access and traffic generation;
- visual impacts, and;
- land use conflict and impacts on use of agricultural land.

As mentioned previously, it is proposed to introduce development provisions as part of Kyogle Development Control Plan 2014 to avoid or manage these issues through the development application process.

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

As stated above, development of additional dwellings in rural areas has potential to create social and economic impacts. Potential impacts are to be managed through development guidelines in Kyogle DCP 2014 that will be applied in assessment of applications for dual occupancy or secondary dwellings in the rural area.

Section D – State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

Yes. The planning proposal does not create the need for any additional public funded infrastructure. Required infrastructure provisioning for any additional development upon the site will be met via Section 94 contributions or required as conditions of development consent.

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

Consultation will be undertaken with relevant agencies following the gateway determination stage of the LEP amendment.

Part 4- Mapping

The proposed amendment does not require amendments to mapping.

Part 5- Community Consultation

Council has not undertaken any community consultation concerning this planning proposal. It is anticipated that this will occur as part of the formal exhibition of the planning proposal and as directed through the gateway determination process.

Council considers that this proposal is not a low impact proposal in accordance with Section 4.5 of '*A guide to preparing local environmental plans*'. As such it is expected that the exhibition period for the Planning Proposal will be a minimum of 28 days and the exhibition will be undertaken in accordance with Section 5.5.2 of '*A guide to preparing local environmental plans*'.

Council anticipates that community consultation would involve public notification of the planning proposal in a local newspaper, Council's monthly newsletter and on Council's website. Comments and submissions would be sought from the community.

Council intends to publicly exhibit concurrently the proposed amendments to Kyogle DCP 2014.

Part 6- Project Timeline

The proposed timeline for completion of the planning proposal is as follows:

Plan Making Step	Estimated Completion Date
Gateway Determination (anticipated)	March 2014
Completion of Technical Assessment	April 2014
Government Agency Consultation	June 2014
Public Exhibition Period	July 2014
Public Hearing (if required)	Not required
Submissions Assessment	August 2014
RPA Assessment of PP and Exhibition Outcomes	August 2014
Council adoption	September 2014
Forward to Department for drafting and making	October 2014

Appendices

Appendix 1 Proposed LEP amendments

Land Use Table

Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To ensure that the productive capacity of agricultural land is appropriately recognised and managed.

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations; Intensive plant agriculture.

3 Permitted with consent

Airstrips; Aquaculture; Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Cellar door premises; Community facilities; ~~Dual occupancies (attached); Dual occupancies~~; Dwelling houses; Environmental facilities; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Helipads; Home businesses; Home Industries; Industrial training facilities; Intensive livestock agriculture; Open cut mining; Recreation areas; Roads; Roadside stalls; Rural industries; Rural worker's dwellings; ~~Secondary dwellings~~; Turf farming; Veterinary hospitals; Water supply systems.

4 Prohibited

Any development not specified in item 2 or 3.

Zone RU2 Rural Landscape

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To provide for agricultural processing and support facilities directly related to the use and development of resources in the zone.
- To encourage development that involves restoration and/or enhancement of the natural environment where consistent with the production and landscape character of the land.
- To enable development that does not adversely impact on the natural environment, including habitat and waterways.

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations; Intensive plant agriculture.

3 Permitted with consent

Airstrips; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Building identification signs; Business identification signs; Camping grounds; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Community facilities; Crematoria; ~~Dual occupancies (attached); Dual occupancies~~; Dwelling houses; Eco-tourist facilities; Environmental facilities; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Function centres; Helipads; Home businesses; Home Industries; Industrial training facilities; Intensive livestock agriculture; Places of public worship; Recreation areas; Recreation facilities (outdoor); Restaurants or cafes; Roads; Roadside stalls; Rural industries; Rural worker's dwellings; ~~Secondary dwellings~~; Turf farming; Veterinary hospitals; Water supply systems.

4 Prohibited

Any development not specified in item 2 or 3.

Zone RU4 Primary Production Small Lots

1 Objectives of zone

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations; Intensive plant agriculture.

3 Permitted with consent

Agricultural produce industries; Animal boarding or training establishments; Backpackers' accommodation; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cellar door premises; Community facilities; Dairies (pasture-based); ~~Dual occupancies (attached); Dual occupancies~~; Dwelling houses; Entertainment facilities; Environmental facilities; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Function centres; Home businesses; Home Industries; Neighbourhood shops; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Restaurants or cafes; Roads; Roadside stalls; Turf farming; Veterinary hospitals; Viticulture; Water supply systems.

4 Prohibited

Any development not specified in item 2 or 3.

Zone R1 General Residential

1 Objectives of zone

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To promote housing development that efficiently utilises existing communities, infrastructure, services and employment centres.
- To enable non-residential land uses where they are compatible with the amenity of the area.

2 Permitted without consent

Home-based child care; Home occupations.

3 Permitted with consent

Attached dwellings; Boarding houses; Boat sheds; Building identification signs; Business identification signs; Caravan parks; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Home businesses; Home industries; Hostels; Multi dwelling housing; Neighbourhood shops; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Residential flat buildings; Respite day care centres; Restaurants or cafes; Roads; **Secondary dwellings**; Semi-detached dwellings; Seniors housing; Shop top housing; Tourist and visitor accommodation; Water recreation structures; Water recycling facilities; Water supply systems.

4 Prohibited

Farm stay accommodation; Any other development not specified in item 2 or 3.

Zone R5 Large Lot Residential

1 Objectives of zone

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To increase housing choice where it is appropriately linked to the nearest urban centre.

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations.

3 Permitted with consent

Backpackers' accommodation; Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Child care centres; Community facilities; **Dual occupancies**; Dwelling houses; Emergency services facilities; Environmental facilities; Exhibition homes; Flood mitigation works; Home businesses; Home industries; Neighbourhood shops; Places of public worship; Recreation areas; Research stations; Respite day care centres; Restaurants or cafes; Roads; Roadside stalls; **Secondary dwellings**; Seniors housing; Shop top housing; Water recreation structures; Water recycling facilities; Water supply systems.

4 Prohibited

Bee keeping; Dairy (pasture-based); Any other development not specified in item 2 or 3.

4.2A Erection of dwelling houses and dual occupancies ~~(attached)~~ on land in certain rural and environmental protection zones

- (1) The objectives of this clause are as follows:
 - (a) to minimise unplanned rural residential development; and
 - (b) to enable the replacement of lawfully erected dwelling houses or dual occupancies ~~(attached)~~ in rural and environmental protection zones.
- (2) This clause applies to land in the following zones:
 - (a) Zone RU1 Primary Production;
 - (b) Zone RU2 Rural Landscape; and
 - (c) Zone RU4 Primary Production Small Lots.
- (3) Development consent must not be granted for the erection of a dwelling house or dual occupancy ~~(attached)~~ on a lot in a zone to which this clause applies, and on which no dwelling house or dual occupancy ~~(attached)~~ has been erected, unless the land:
 - (a) is at least the minimum lot size specified for that lot by the Lot Size Map, or
 - (b) is a lot created before this Plan commenced and on which the erection of a dwelling house or dual occupancy ~~(attached)~~ was permissible immediately before that commencement, or
 - (c) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house or dual occupancy ~~(attached)~~ would have been permissible if the plan of subdivision had been registered before that commencement, or
 - (d) is an existing holding, or
 - (e) would have been a lot or a holding referred to in subclause (3) had it not been affected by:
 - (i) a minor realignment of its boundaries that did not create an additional lot, or
 - (ii) a subdivision creating or widening a public road, public reserve or for another public purpose, or

Note. A dwelling cannot be erected on a lot created under clause 9 of *State Environmental Planning Policy (Rural Lands) 2008* or clause 4.2.

(4) Development consent may be granted for the erection of a dwelling house or a dual occupancy ~~(attached)~~ on a lot in a zone to which this clause applies if there is a lawfully erected dwelling house or dual occupancy (attached) on the land and the dwelling or dual occupancy ~~(attached)~~ house to be erected is intended only to replace the existing dwelling house or dual occupancy ~~(attached)~~.

(5) In this clause:

Existing holding means all adjoining land, even if separated by a road or railway, held in the same ownership:

(a) on;

(i) 22 October 1976 for land where *Interim Development Order No. 1-Shire of Kyogle* applied prior to the commencement of this Plan, or

(ii) 29 November 1974 for land where *Interim Development Order No. 1-Shire of Terania* applied prior to the commencement of this Plan, and

(b) at the time of lodging a development application for the erection of a dwelling house under this clause, and includes any other land adjoining that land acquired by the owner since the dates referred to in (i) and (ii) above.

Note. The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

5.4 Controls relating to miscellaneous permissible uses

(9) Secondary dwellings

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

(a) 60 square metres,

(b) ~~43~~ 60% of the total floor area of the principal dwelling.

Appendix 2 State Environmental Planning Policies Checklist

State Environmental Planning Policy (Affordable Rental Housing) 2009

One of the key aims of this SEPP is to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards. The SEPP permits secondary dwellings to be approved with Council consent in Zones R1, R5 and RU5. The proposed amendments seek to build on the aims of the SEPP and provide further opportunities for affordable housing.

State Environmental Planning Policy No 44 – Koala Habitat Protection

SEPP 44 encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range. Under SEPP 44, potential koala habitat is defined as areas of native vegetation where the trees listed in Schedule 2 of the SEPP constitute at least 15% of the total number of trees in the upper or lower strata of the tree component. A koala habitat assessment is required for any significant development in such areas.

State Environmental Planning Policy No 55 – Remediation of Land

Introduces state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. Should land with potential contamination be identified through a Development Assessment process the applicant would be required to address the provisions of this SEPP and associated guidelines. Council staff would need to be satisfied that a proposed development would be suitable in relation to any contamination on site or if further investigation or remediation would be required.

State Environmental Planning Policy (Rural Lands) 2008

The aim of this policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. The principles contained within the policy are required to be addressed through related s117 Directions. They would also be required to be addressed as part of any development application for dual occupancy or secondary dwellings on a site in a rural zone.

The Rural Planning Principles are as follows:

- a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas.*

The planning proposal is consistent with this principle. The Kyogle LEP 2012 contains objectives for Zones RU1, RU2 and U4 that seek to minimise land use conflict and ensure development is compatible with agricultural use of the land. Applications for dual occupancies and secondary dwellings in rural areas would be assessed against Council's DCP 2014 which is proposed to include requirements for minimum buffer distances between dwellings and certain rural activities.

- b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State.*

Although the planning proposal will allow additional dwellings in rural areas, the corresponding development controls in Kyogle DCP 2012 will avoid creating adverse impacts on productivity of agricultural land, especially mapped Regionally Significant Farmland and Class 1, 2 or 3 agricultural land. One of the key objectives of the Kyogle DCP 2014 is protection of the productive capacity and viability of good quality agricultural land. Furthermore, the Kyogle LEP 2012 prevents subdivision of land that will result in a lot that is less than the minimum lot size.

- c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development*

As for b) above.

- d) in planning for rural lands, to balance the social, economic and environmental interests of the community*

The Planning Proposal is consistent with this principle. The proposal may assist in meeting this balance by providing land owners with additional options or choice in relation to the future of their land.

- e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*

As stated previously these requirements would be subject to a merit based assessment through the development application process.

- f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*

For the reasons identified previously in this planning proposal, the proposed amendments are likely to provide a number of benefits to rural lifestyle, social and economic welfare of the rural communities.

- g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing.*

This planning proposal is not expected to adversely impact on services and infrastructure as the majority of rural residential and rural areas are not serviced (other than by roads) and the cost of additional demand on roads will be met by development contributions which will be levied in accordance with Council's s94 developer contributions plans.

- h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General*

This planning proposal is consistent with the principles and actions contained within the Far North Coast Regional Strategy 2006-2031, as outlined previously.

Appendix 3 Section 117 Directions Checklist

DIRECTION NUMBER	COMPLIANCE OF PLANNING PROPOSAL
1. Employment and Resources	
1.1 Business and Industrial Zones	Does not apply to planning proposal.
1.2 Rural Zones	Consistent: a) The planning proposal does not rezone rural land. b) The only additional development density that will be permitted by the proposed amendments is Secondary dwellings. Secondary dwellings must be developed in conjunction with a principal dwelling and can therefore only ever occur on parcels that are legally able to accommodate a dwelling.
1.3 Mining, petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Lands	Consistent: planning proposal is consistent with planning principles in <i>State Environmental Planning Policy (Rural Lands) 2008</i> .
2. Environment and Heritage	
2.1 Environmental Protection Zones	Does not apply to planning proposal.
2.1 Coastal Protection	Does not apply to planning proposal.
2.3 Heritage Conservation	Does not apply to planning proposal.
2.4 Recreational Vehicle Areas	Does not apply to planning proposal.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent: the planning proposal will increase the range of dwelling types permitted in Zones R1 and R5.
3.2 Caravan Parks and Manufactured Home Estates	Does not apply to planning proposal.
3.3 Home Occupations	Does not apply to planning proposal.
3.4 Integrating Land Use & Transport	Does not apply to planning proposal.
3.5 Development Near Licensed Aerodromes	Does not apply to planning proposal.
3.6 Shooting Ranges	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Does not apply to planning proposal.
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	Consistent. Any development applications would be subject to the provisions of Clause 6.2 Flood Planning of the LEP and relevant provision of DCP 2014.

4.4 Planning for Bushfire Protection	It is anticipated any Gateway Determination will require consultation with Rural Fire Service.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent. Proposal is consistent with principles and actions of the Far North Coast Regional Strategy.
5.2 Sydney Drinking Water Catchment	Does not apply to planning proposal.
5.3 Farmland of State and Regional Significance	Consistent: the planning proposal does not rezone land that is mapped as State Significant Farmland, Regionally Significant Farmland or Significant Non-contiguous Farmland.
5.4 Commercial and Retail Development	Does not apply to planning proposal.
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to planning proposal.
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent.
6.2 Reserving Land for Public Purposes	Does not apply to planning proposal.
6.3 Site Specific Provisions	Does not apply to planning proposal.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to planning proposal.