



PLANNING PROPOSAL

CLAUSE AMENDMENTS TO COWRA LEP 2012

Prepared For:

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1.0

Introduction

This section of the Planning Proposal identifies the purpose and confirms the approach that is to be taken as part of the process to amend

1.1. Background

To commence the plan making process, Cowra Council prepared an Issues Paper for the Review of Cowra Local Environmental Plan 2012 (the Issues Paper).

The purpose of the Issues Paper was to review the effectiveness of the existing land-use planning framework under Cowra Local Environmental Plan 2012, identify relevant planning issues and recommend appropriate actions for consideration as part of the preparation of a Local Environmental Plan amendment.

The Issues Paper was also prepared as the primary guiding document for Council as part of the preparation of an amendment, or series of amendments to Cowra Local Environmental Plan 2012.

The Issues Paper was endorsed for the purposes of public exhibition by Council at the Ordinary Meeting held 24 July 2017. The public exhibition occurred from Tuesday 1 August 2017 to Monday 28 August 2017. All submissions were considered by Council at the Ordinary Meeting on 23 October 2017.

1.2. Approach

The Issues Paper identified the need to amend Cowra Local Environmental Plan 2012 in a variety of ways. Owing to the varying nature and complexities of the proposed amendments, NSW Planning & Environment have recommended to Cowra Council that 5 separate Planning Proposals be prepared, with each one intending to address amendments that are of a similar nature.

A description of the issues to be addressed by the five Planning Proposals is included below:

- Planning Proposal – Clause Amendments.
- Planning Proposal – Land-use Table Amendments.
- Planning Proposal – Rezoning.
- Planning Proposal – Public Land Reclassifications.
- Planning Proposal – Heritage Listings.

This particular paper relates to clause amendments to Cowra Local Environmental Plan 2012.

1.3. Introduction

This Planning Proposal has been prepared by Cowra Shire Council in accordance with the requirements of Section 55 of the Environmental Planning & Assessment Act 1979 and the NSW Department of Planning & Environment's guidelines for the preparation of Planning Proposals.

The Planning Proposal seeks to amend Cowra Local Environmental Plan 2012 by inserting a number of new clauses and amending the wording of a number of existing clauses. The new clauses are either model clauses, or clauses that have been settled by the NSW Department of Planning & Environment and are therefore available to be inserted into Standard Instrument LEP's.

A Gateway Determination is requested from the Department in accordance with Section 56 of the Environmental Planning & Assessment Act 1979.

2.0

Rural Boundary Adjustments

This Section of the Planning Proposal explains and justifies the proposal to amend Cowra Local Environmental Plan 2012 by inserting the Department's settled local clause for boundary adjustments.

2.1. Issues Paper Findings

Section 2.2 of the Issues Paper for the Review of Cowra Local Environmental Plan 2012 included a detailed analysis of a policy gap in the local and state planning framework which prevents the boundary adjustment of rural land when the lots involved have areas less than the minimum lot size, and accommodate existing dwelling(s).

For ease of reference, the main discussion points from the Issues Paper are included below.

- Planning policy for rural boundary adjustments is currently centred around two instruments, being the LEP and the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, which is known generally as the Codes SEPP.
- The SEPP allows for the adjustment of boundaries without Council consent where there are no additional lots created, no opportunities for additional dwellings created, only minor changes to the area of affected lots, and where undersized lots (less than MLS) will only be increased in area.
- The LEP currently allows for the adjustment of boundaries with consent provided each of the affected lots comply with the MLS requirements for the zone, which rural land, is 100 hectares.
- The current framework under the Codes SEPP and LEP fails to allow for the rational alteration of rural land to meet agricultural needs. The problem arises when a proposed boundary

adjustment involves a lot, or lots that are already below the MLS for the zone (i.e. 100 hectares in the RU1 and RU4 zones). The current framework makes it very difficult for most boundary adjustment proposals to comply. This is simply because the nature of a boundary adjustment means that one lot is always increasing in size, and one lot is always decreasing in size.

- Since the commencement of the LEP, Council staff has encountered numerous situations where the current provisions are just not flexible enough to permit a rural boundary adjustment, despite the proposal being of minor significance and representing a rational alteration of agricultural land.

The recommended planning response was to explore options with the NSW Department of Planning & Environment to amend Cowra Local Environmental Plan 2012 to include a rural boundary adjustment clause.

It should be noted that since the preparation of the Issues Paper, the provisions of the SEPP relating to rural boundaries (in particular Clause 2.75(b) have been amended by the Department. The effect of the amendment is that an existing undersized lot does not always have to increase in land area as the result of a boundary adjustment. This amendment has largely addressed the gap in policy framework that was recognised by Council in the Issues Paper, however Council plans to pursue to amendment to Cowra LEP 2012 that provides more certainty for rural landowners, despite the provisions of the SEPP, which may change from time to time.

2.2. Objectives

Section 55(2)(a) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include a statement of the objectives or intended outcomes of the proposed amendments.

In relation to the issue of rural boundary adjustments, the objective of this Planning Proposal is to:

To amend Cowra Local Environmental Plan 2012 by enabling greater flexibility to undertake boundary adjustments involving land in the RU1 or RU4 zones, and where the lots involved have areas less than the minimum lot size and accommodate existing dwelling(s).

2.3. Explanation of Provisions

Section 55(2)(b) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include an explanation of the provisions that are to be included in the proposed amending instrument. The explanation of provisions is a more detailed statement of how the objectives or intended outcomes are to be achieved by means of amending Cowra Local Environmental Plan 2012.

The objective (detailed in Section 2.2) will be achieved by inserting the boundary adjustment model clause that has already been settled by the NSW Department of Planning & Environment.

The wording of the clause is detailed in Appendix 1 to this report.

There are no new maps required to be inserted into Cowra Local Environmental Plan 2012 to accommodate this amendment.

2.4. Justification

Section 55(2)(c) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include justification for the objectives, outcomes and provisions and the process for the implementation (including whether the proposed instrument will comply with relevant directions under Section 9.1. The Justification sets out the case for making the proposed LEP amendment.

The NSW Department of Planning & Environment's guidelines for the preparation of Planning Proposals requires the proposed LEP amendment to be justified against a number of considerations. These justifications are included as follows:

2.4.1. Need for the Planning Proposal

Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is a result of the recommendations contained in the Issues Paper for the Review of Cowra Local Environmental Plan 2012 (Issues Paper).

The Issues Paper was endorsed for the purposes of public exhibition by Council at the Ordinary Meeting held 24 July 2017. The public exhibition occurred from Tuesday 1 August 2017 to Monday 28 August 2017. All submissions were considered by Council at the Ordinary Meeting on 23 October 2017.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

In the time since the preparation of the Issues Paper for the Review of Cowra Local Environmental Plan 2012, the NSW Department of Planning has made changes to the provisions of State Environmental Planning (Exempt and Complying Development Codes) 2008, (the Codes SEPP) and in particular Clause 2.75 which provides for the re-alignment of property boundaries without development approval where a number of pre-determined criteria can be satisfied.

The recent changes mean that the Clause 2.75 of the Codes SEPP can now be used to achieve a boundary adjustment involving land in the RU1 or RU4 zones,

where the lots involved have areas less than the minimum lot size, and accommodate existing dwellings. One of the lots no longer needs to increase in size, which was main issue with Clause 2.75 that Cowra Council identified in the Issues Paper for the Review of Cowra Local Environmental Plan 2012.

The recent changes to the Codes SEPP are therefore seen by Cowra Council as a positive step towards creating a planning framework that enables the rational alteration of rural land to meet agricultural needs.

However, the Codes SEPP still requires Council to be satisfied that a boundary adjustment involving rural land will not result in more than a minor change in the area of any lot. For this reason, Council is of the view that the settled boundary adjustment clause (included in Appendix 1) would better enable rural boundary adjustments that might involve more than a minor change in land area, but still satisfy the various assessment criteria relating to land-use compatibility and impact on the viability of agricultural land.

Amending Cowra Local Environmental Plan 2012 to include the settled boundary adjustment clause is therefore considered to be best way of enabling greater flexibility to undertake boundary adjustments involving land in the RU1 or RU4 zones, and where the lots involved have areas less than the minimum lot size and accommodate existing dwelling(s).

2.4.2. Consistency with Regional Plan

The Planning Proposal is generally consistent with the Central West Orange Regional Plan 2036 (Regional Plan), which was released by the NSW Department of Planning & Environment in June 2017.

The proposal to amend Cowra Local Environmental Plan 2012 by enabling greater flexibility to undertake boundary adjustments involving rural land aligns particular with Strategic Directions 1, 2, 12. An assessment of the proposal against these Strategic Directions is included as follows.

Direction 1 – Protect the region's diverse and productive agricultural land.

The Central West Orana Regional Plan 2036 places a significant focus on the need to protect the regions valuable agricultural resource. This is a particularly

important issue for Central West, including Cowra Shire, which contains some of the most productive agricultural lands in NSW.

The Regional Plan proposes to achieve this through a number of actions, one of which is to protect important agricultural land from land-use conflict and fragmentation, and manage the interface between important agricultural lands and other land-uses. The proposal to adopt the Department's settled local clause for rural boundary adjustments is consistent with this action for the following reasons:

- The clause would enable greater flexibility to ensure the rational alteration of farming property boundaries. The current gap in planning policy is preventing the transfer of agricultural land between neighbouring property holdings.
- The clause does not allow the creation of any new allotments and will therefore not enable an increase in the fragmentation of important agricultural resources.
- The clause requires Council to consider a number of important matters before granting consent, including potential for land-use conflict, land-use compatibility, and agricultural viability. The clause therefore has in-built safeguards to prevent planning outcomes that are inconsistent with the Direction 1 of the Regional Plan.

Direction 2 – Grow the agribusiness sector and supply chains

The Central West Orana Regional Plan 2036 recognises the important role that agribusiness plays in sustaining the regional economy of Central West NSW. It also recognises that industry growth is dependent on future planning that allows agribusiness to respond to emerging opportunities.

The Regional Plan proposes to support growth in the agribusiness sector through a number of actions, one of which is to guide local and strategic planning to protect agricultural land, and manage the interface with other land-uses. The proposal to adopt the Department's settled local clause for rural boundary adjustments is consistent with this action for the following reasons:

- The clause would enable greater flexibility to ensure the rational alteration of farming property boundaries. The current gap in planning policy is preventing the transfer of agricultural land

between neighbouring property holdings, and this can be a major constraint to a farm up-sizing and down-sizing.

- The clause does not allow the creation of any new allotments and will therefore not enable an increase in the fragmentation of important agricultural resources.
- The clause requires Council to consider a number of important matters before granting consent, including potential for land-use conflict, land-use compatibility, and agricultural viability. The clause therefore has in-built safeguards to prevent planning outcomes that are inconsistent with the Direction 2 of the Regional Plan.

2.4.3. Consistency with Local Strategy

Cowra Local Environmental Plan 2012 was prepared based on the strategic recommendations contained in the Cowra Shire Land-use Strategy and the Cowra LEP Justification Report.

The proposal to amend Cowra Local Environmental Plan 2012 by inserting the Department's settled local clause for rural boundary adjustments is not inconsistent with the strategic direction for rural lands set originally by the Cowra Shire Land-use Strategy. The proposal aligns with the following planning principles detailed in Section 6.4 of the Strategy:

- Ensure that agricultural production continues to be the mainstay of the local economy.
- Protect areas suitable for continuing agricultural land-uses and encourage sustainable agricultural operations.
- Protect productive agricultural land from further fragmentation.
- Minimise the potential for land-use conflicts to occur resulting from inappropriately located rural residential development and other forms of settlement intensification.
- Prevent further subdivision for rural residential purposes in isolated rural settlements.
- Consider the environmental capacity of the land and ensure that any development within rural areas is within the capability of, and is suitable for the land having regard to a constraints and opportunities analysis and mapping.

The proposal is also consistent with the strategic recommendations contained in Section 6.6.1.6 of the Cowra Shire Land-use Strategy.

2.4.4. Consistency with relevant SEPPs

The following State Environmental Planning Policies are assessed as not applying to the Cowra Local Government area:

- SEPP No. 14 – Coast Wetlands
- SEPP No. 19 – Bushland in Urban Areas
- SEPP No. 19 – Bushland in Urban Areas
- SEPP No. 26 – Littoral Rainforests
- SEPP No. 44 – Koala Habitat Protection
- SEPP No. 47 – Moore Park Showground
- SEPP No. 52 – Farm Dams and Other Works
- SEPP No. 70 – Affordable Housing
- SEPP No. 71 – Coastal Protection
- SEPP (Kosciuszko National Park – Alpine Resorts) 2007
- SEPP (Kurnell Peninsula) 1989
- SEPP (Penrith Lakes Scheme) 1989
- SEPP (Sydney Drinking Water Catchment) 2011
- SEPP (Sydney Region Growth Centres) 2006
- SEPP (Three Ports) 2013
- SEPP (Urban Renewal) 2010
- SEPP (Western Sydney Employment Area) 2009
- SEPP (Western Sydney Parklands) 2009

The following State Environmental Planning Policies apply to the Cowra Local Government Area, but do not contain provisions which are particularly relevant or inconsistent with the proposed clause amendment to Cowra Local Environmental Plan 2012:

- SEPP No. 1 – Development Standards
- SEPP No. 21 – Caravan Parks
- SEPP No. 30 – Intensive Agriculture
- SEPP No. 33 – Hazardous & Offensive Dev.
- SEPP No. 36 – Manufactured Home Estates

- SEPP No. 50 – Canal Estate Development
- SEPP No. 55 – Remediation of Land
- SEPP No. 55 – Remediation of Land
- SEPP No. 62 – Sustainable Aquaculture
- SEPP No. 64 – Advertising and Signage
- SEPP No. 65 – Design of Quality Res. Apartments
- SEPP (Affordable Rental Housing) 2009
- SEPP (BASIX) 2004
- SEPP (Educational Establishments & Child Care Facilities) 2017
- SEPP (Housing for Seniors & People with a Disability) 2004
- SEPP (Infrastructure) 2007
- SEPP (Integration & Repeals) 2016
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007
- SEPP (Miscellaneous Consent Provisions) 2007
- SEPP (State and Regional Development) 2011
- SEPP (Vegetation in Non-Rural Areas) 2017

The following State Environmental Planning Policies apply to the Cowra Local Government Area, and warrant an assessment to ensure consistency with the proposed clause amendment to Cowra Local Environmental Plan 2012.

SEPP (Rural Lands) 2008

The proposal to insert the Department's settled local clause for boundary adjustments has been assessed against the Rural Lands SEPP. A statement of consistency is detailed as follows:

- The proposal is consistent with the aims of the SEPP and in particular will facilitate the orderly and economic use and development of rural lands for rural and related purposes.
- The proposal is consistent with the rural subdivision principles. Safeguards are built into the wording of the proposed clause to ensure that new rural boundary adjustments do not increase fragmentation or land-use conflict potential, and to ensure that natural and physical constraints and opportunities of affected land is taken into

consideration by Council as part of the development assessment process.

- The proposal will not enable the erection of a new dwelling on a lot that does not meet the minimum lot size for the applicable zone under Cowra Local Environmental Plan 2012.

The proposal will not affect land that has been identified as a State Significant Agricultural land.

SEPP (Exempt and Complying Development Codes) 2008

The proposed clause amendment to Cowra Local Environmental Plan 2012 has been settled by the NSW Department of Planning & Environment for use in Standard Instrument LEPs, and does not create any issues of inconsistency with the existing provisions contained in the SEPP relating to boundary adjustments involving rural land.

The proposed clause includes additional layers of assessment criteria to be considered for rural boundary adjustments that cannot be achieved under the provisions of the SEPP.

2.4.5. Consistency with Section 9.1 Directions

The following Section 9.1 Ministerial Directions are assessed as not applying to the proposed clause amendment:

- Direction 1.1 – Business and Industrial Zones
- Direction 1.3 – Mining, Petroleum Production and Extractive Industries
- Direction 1.4 – Oyster Aquaculture
- Direction 2.2 – Coastal Protection
- Direction 2.3 – Heritage Conservation
- Direction 2.4 – Recreation Vehicle Areas
- Direction 2.5 – Application of E2 and E3 Zones
- Direction 3.1 – Residential Zones
- Direction 3.2 – Caravan Parks and Manufactured Home Estates
- Direction 3.3 – Home Occupations
- Direction 3.4 – Integrated Land Use and Transport
- Direction 3.5 – Development Near Licensed Aerodromes
- Direction 3.6 – Shooting Ranges
- Direction 4.1 – Acid Sulfate Soils
- Direction 4.2 – Mine Subsidence and Unstable Land
- Direction 4.3 – Flood Prone Land
- Direction 4.4 – Planning for Bushfire Protection
- Direction 5.1 – Implementation of Regional Strategies
- Direction 5.2 – Sydney Drinking Water Catchments
- Direction 5.3 – Farmland of State and Regional Significance
- Direction 5.4 – Commercial and Retail Development along the Pacific Hwy
- Direction 5.5 – Development in the vicinity of Ellalong, Paxton & Millfield
- Direction 5.6 – Sydney to Canberra Corridor
- Direction 5.7 – Central Coast
- Direction 5.8 – Second Sydney Airport: Badgerys Creek
- Direction 5.9 – North West Rail Link Corridor Strategy
- Direction 5.10 – Implementation of Regional Plans
- Direction 6.1 – Approval and Referral Requirements
- Direction 6.2 – Reserving Land for Public Purposes
- Direction 6.3 – Site Specific Provisions
- Direction 7.1 – Implementation of A Plan for Growing Sydney
- Direction 7.2 – Implementation of Greater Macarthur Land Release Inv.
- Direction 7.3 – Parramatta Road Corridor Urban Transformation Strategy
- Direction 7.4 – Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan.
- Direction 7.5 – Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan.

- Direction 7.6 – Implementation of Wilton Priority Growth Area Land Use and Infrastructure Implementation Plan.

The following Section 9.1 Ministerial Directions apply to the proposed clause amendment to Cowra Local Environmental Plan 2012. An assessment has been carried out to ensure consistency with the terms of the direction.

Direction 1.2 – Rural Zones

The Planning Proposal affects rural land generally, but there is no proposal to rezone land from a rural zone to a residential, business, industrial, village or tourist zone.

Direction 1.5 – Rural Lands

This Ministerial Direction applies as the Planning Proposal affects land within an existing rural or environment protection zone.

The Ministerial Direction requires the Planning Proposal to be consistent with the Rural Planning Principles listed in SEPP (Rural Lands) 2008. An assessment of the proposal against each principal is included below:

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

The proposed clause includes assessment criteria to ensure that rural boundary adjustments do not compromise the viability of productive agricultural land, either through increasing fragmentation, increasing land-use conflict, or creating further opportunities for dwelling entitlement.
- (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.

Building more flexibility into Cowra Local Environmental Plan 2012 for rural boundary adjustments is a positive way to recognise the importance of the rural land-use base. The new provisions will enable rural landowners with increased control over farm size, regardless of pre-existing situations related to lot size or the

existence of a dwelling(s). Changing the size of a farm by adjusting boundaries with a neighbour is a normal way that rural landowners might respond to emerging pressures and issues, and provides pathways for farming families to transition into retirement without changing the amount of land that is available to sustainable agriculture.

- (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.

The proposed clause is likely to have positive social and economic impacts on rural land-use by enabling more flexible planning provisions that allow for the rational alteration of property boundaries. The current planning framework under Cowra Local Environmental Plan 2012 and State Environmental Planning Policy (Rural Lands) 2008 has proven to be too restrictive and falls short of enabling farm adjustment exercises which are in the best interest of the rural community. The wording of the clause safeguards against inappropriate development by requiring Council to assess issues relating to land-use compatibility, natural and physical land constraints, and impacts on environmental values or agricultural viability.

- (d) In planning for rural lands, to balance the social, economic and environmental interests of the community.

Planning for rural lands in the Cowra Shire is a complex task; however it is predominantly controlled through the use of minimum lot size provisions which govern the permissibility of new subdivision and dwelling activity. The current minimum lot size for rural land in the Cowra balances the social, economic and environmental interests of the community and this has been justified extensively as part of the strategic process leading to the preparation of Cowra Local Environmental Plan 2012. The current proposal to insert the Department's settled local clause for boundary adjustments will strengthen the rural planning framework for the Cowra Shire and is considered to be in the best interests of the farming community. Safeguards are built into the wording of the clause to ensure proper consideration of social, economic and environmental issues.

- (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.

The proposed clause is intended to apply to all rural land. It is not considered necessary to identify areas of specific environmental sensitivity that should be excluded from operation of the clause. Safeguards are built into the wording of the clause to ensure proper consideration of natural resource issues.

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

The operation of the proposed clause does not allow for an increase in the number of lots, or an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots. For this reason, the proposed clause will not contribute the opportunities for new rural settlement. The provision of new opportunities for rural settlement is not a primary objective for this amendment to Cowra Local Environmental Plan 2012.

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

The proposed clause is unlikely to impact on the provision of services and infrastructure for rural housing. The aim of the clause is to provide for the rational alteration of rural property boundaries and does not allow for the creation of new allotments, or new opportunities for rural dwellings.

- (h) Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

The proposed clause is not inconsistent with Central West and Orana Regional Plan. The clause is a local clause that has been settled by the NSW Department of Planning & Environment for use in relevant Standard Instrument LEPs.

Direction 2.1 – Environment Protection Zones

This Ministerial Direction applies to the preparation of all Planning Proposals.

The Ministerial Direction requires that the Planning Proposal includes provisions that facilitate the protection and conservation of environmentally sensitive areas. Additionally, the Planning Proposal must not reduce the environmental protection standards that apply to land in an environment protection zone.

The proposal to insert the Department's settled local clause for boundary adjustments is not inconsistent with the terms of this Ministerial Direction. There is no proposal to reduce the amount of land zoned for environmental protection, and safeguards are built into the wording of the clause to ensure proper consideration of environmental values.

2.4.6. Environmental, Social & Economic Impact Assessment

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?

The proposed clause amendment will apply generally to a number of land-use zones in the Cowra Shire, and in particular:

- RU1 Primary Production
- RU3 Forestry
- RU4 Primary Production Small Lots
- R5 Large Lot Residential
- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- E3 Environmental Management

The proposed clause does not operate so as to exclude land that contains, or is likely to contain critical habitat or threatened species, however Council would be required to assess the potential for adverse impacts on environmental values as part of each Development Application.

The clause would also be supported by the existing environmentally sensitive land overlay mapping in Cowra Local Environmental Plan 2012.

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

It is not possible to accurately measure potential impacts because the clause would enable development on any land in the RU1 or RU4 zones.

Potential impacts associated with the proposed boundary adjustments would vary on a case by case basis and would need to be properly assessed as part of individual Development Applications. The wording of the settled clause will enable this assessment to occur.

Has the planning proposal adequately addressed any social and economic impacts?

The proposal is unlikely to create unacceptable social and economic impacts.

The proposed boundary adjustment clause is expected to benefit the farming community in Cowra by providing more flexibility in the rural planning framework. It is expected that the proposal will also provide increased ability for agricultural enterprises to respond to emerging economic pressures and issues by adjusting farm size with neighbouring properties.

Detailed social and economic assessment is considered unnecessary due to the nature of the Planning Proposal.

2.4.7. State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

The planning proposal does not increase demand for public infrastructure including public transport, roads, utilities, waste management or essential services.

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

Consultation with relevant government agencies will occur as part of the public exhibition of the Planning Proposal.

2.5. Mapping

The Department's settled local clause for boundary adjustments is not supported by any mapping.

The clause will apply generally to the following zones in Cowra Local Environmental Plan 2012:

- RU1 Primary Production.
- RU3 Forestry.
- RU4 Primary Production Small Lots.
- R5 Large Lot Residential.
- E1 National Parks and Nature Reserves.
- E2 Environmental Conservation.
- E3 Environmental Management.

3.0

Karst (Cave) Systems

This Section of the Planning Proposal explains and justifies the proposal to amend Cowra Local Environmental Plan 2012 by inserting the Department's model clause for Karst (cave) systems.

3.1. Issues Paper Findings

Section 8.1 of the Issues Paper for the Review of Cowra Local Environmental Plan 2012 reviewed the adequacy of the existing planning framework in terms of the ongoing protection and management of the natural resource base in the Cowra Shire.

For ease of reference, the main discussion points from the Issues Paper are included below.

- A key aspect of the Standard Instrument Principal Local Environmental Plan (LEP Template) is a range of model clauses that enable Council's to better manage, protect and conserve the natural resource base. Councils can choose to adopt the model clauses in their LEPs.
- The existing provisions of Cowra Local Environmental Plan 2012 (Clauses 7.3, 7.4 and 7.5) together with the use of the relevant environmentally sensitive land mapping have significantly improved Council's ability to manage and protect and natural resource base in the Cowra Shire. These provisions, however, only relate to vulnerable groundwater aquifers, wetland environments, and biodiversity, and do not address sensitive land resource issues (and in particular known karst systems).
- When the LEP written instrument and mapping was being drafted in 2012, Council was provided with instruction from the NSW Department of Planning & Environment that a model clause

dealing with sensitive land resources had not at that time been settled, meaning a standard clause was not available for Council's to use in their LEPs.

- The current LEP review provides Council with a new opportunity to pursue the inclusion of provisions and mapping that would assist Council is protecting and managing sensitive land resources in the Cowra Shire.
- One of the most significant land resources that exists in the Cowra Shire, and potentially one of the most vulnerable, is the extensive karst system known as the Cliefden Caves. The cave system straddles the local government border between Cowra and Blayney, and is located in the area known generally as Needles Gap. There is also a known karst system located to the north west of the Village of Woodstock.
- The recommended planning response was to insert the NSW Department of Planning & Environment's model clause for karst systems into Cowra Local Environmental Plan 2012, as well as a new Map Series showing all land in the Cowra Shire affected by known karst systems.
- This approach would provide Council with an increased ability to ensure that new development in the vicinity of the karst system does not create significant impacts on this important ecosystem.

3.2. Objectives

Section 55(2)(a) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include a statement of the objectives or intended outcomes of the proposed amendments.

In relation to the issue of karst systems, the objective of this Planning Proposal is to:

To amend Cowra Local Environmental Plan 2012 by including provisions which increase Council's ability to manage and protect known karst systems in the Cowra Shire.

3.3. Explanation of Provisions

Section 55(2)(b) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include an explanation of the provisions that are to be included in the proposed amending instrument. The explanation of provisions is a more detailed statement of how the objectives or intended outcomes are to be achieved by means of amending Cowra Local Environmental Plan 2012.

The objective (detailed in Section 3.2) will be achieved by inserting the karst model clause that has already been settled by the NSW Department of Planning & Environment.

The wording of the clause is detailed in Appendix 2 to this report.

A new Map series will also be prepared and inserted into Cowra Local Environmental Plan 2012 showing the location and extent of the known karst systems in the Cowra Shire. A draft map is also included in Appendix 2.

3.4. Justification

Section 55(2)(c) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include justification for the objectives, outcomes and provisions and the process for the implementation (including whether the proposed instrument will comply with relevant directions under Section 9.1. The Justification sets out the case for making the proposed LEP amendment.

The NSW Department of Planning & Environment's guidelines for the preparation of Planning Proposals requires the proposed LEP amendment to be justified against a number of considerations. These justifications are included as follows:

3.4.1. Need for the Planning Proposal

Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is a result of the recommendations contained in the Issues Paper for the Review of Cowra Local Environmental Plan 2012 (Issues Paper). The Issues Paper was endorsed for the purposes of public exhibition by Council at the Ordinary Meeting held 24 July 2017. The public exhibition occurred from Tuesday 1 August 2017 to Monday 28 August 2017. All submissions were considered by Council at the Ordinary Meeting on 23 October 2017.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending Cowra Local Environmental Plan 2012 to include the karst model clause and associated environmentally sensitivity mapping is considered to be best way of increasing Council's ability to manage and protect known karst systems in the Cowra Shire.

Other environmentally sensitive land resources (i.e. vulnerable ground waters, wetlands and biodiversity lands) are already managed in a similar way through appropriate clauses and maps in Cowra Local Environmental Plan 2012. This strategy is consistent across all Standard Instrument LEPs in the Cowra Shire.

3.4.2. Consistency with Regional Plan

The Planning Proposal is generally consistent with the Central West Orange Regional Plan 2036 (Regional Plan), which was released by the NSW Department of Planning & Environment in June 2017.

The proposal to amend Cowra Local Environmental Plan 2012 by inserting the karst model clause and an associated LEP map series aligns particularly with Strategic Direction 13.

Direction 13 – Protect and manage environmental assets.

The Central West Orana Regional Plan 2036 places a significant focus on the need to protect the regions environmental assets. This is important for communities and the economic and environmental wellbeing of the region more generally.

The Regional Plan proposes to achieve this through a number of actions, including:

- Action 13.1 - Protect high environmental value assets through local environmental plans.
- Action 13.2 – Minimise potential impacts arising from development in areas of high environmental value, and consider offsets or other mitigation mechanisms for unavoidable impacts.

The proposal to adopt the Department's model clause for karsts is consistent with Actions 13.1 and 13.2. The various Cave systems in the Cowra Shire are of high environmental value. The Cliefden Caves in particular are one of the most significant land resources that exist in Cowra Shire, and potentially one of the most vulnerable. This system straddles the local government border between Cowra and Blayney and is located in the area known generally as Needles Gap. The proposed LEP clause will provide Council with an increased ability to protect karsts, by requiring a comprehensive assessment of potential impacts when a Development Application involves affected land.

3.4.3. Consistency with Local Strategy

Cowra Local Environmental Plan 2012 was prepared based on the strategic recommendations contained in the Cowra Shire Land-use Strategy and the Cowra LEP Justification Report.

The proposal to amend Cowra Local Environmental Plan 2012 by inserting the Department's model clause for karts is consistent with following planning principles detailed in Section 6.4 of the Strategy.

- Ensure that environmentally sensitive areas are protected from development that would create a risk of exacerbating such problems as salinity, erosion, landslip, groundwater and surface water contamination.
- Ensure that significant sites can be identified, protected and promoted as a key component of the Shire identity.
-

3.4.4. Consistency with relevant SEPPs

The following State Environmental Planning Policies are assessed as not applying to the Cowra Local Government area:

- SEPP No. 14 – Coast Wetlands
- SEPP No. 19 – Bushland in Urban Areas
- SEPP No. 19 – Bushland in Urban Areas
- SEPP No. 26 – Littoral Rainforests
- SEPP No. 44 – Koala Habitat Protection
- SEPP No. 47 – Moore Park Showground
- SEPP No. 52 – Farm Dams and Other Works
- SEPP No. 70 – Affordable Housing
- SEPP No. 71 – Coastal Protection
- SEPP (Kosciuszko National Park – Alpine Resorts) 2007
- SEPP (Kurnell Peninsula) 1989
- SEPP (Penrith Lakes Scheme) 1989
- SEPP (Sydney Drinking Water Catchment) 2011
- SEPP (Sydney Region Growth Centres) 2006
- SEPP (Three Ports) 2013
- SEPP (Urban Renewal) 2010
- SEPP (Western Sydney Employment Area) 2009
- SEPP (Western Sydney Parklands) 2009

The following State Environmental Planning Policies apply to the Cowra Local Government Area, but do not contain provisions which are particularly relevant or

inconsistent with the proposed clause amendment to Cowra Local Environmental Plan 2012:

- SEPP No. 1 – Development Standards
- SEPP No. 21 – Caravan Parks
- SEPP No. 30 – Intensive Agriculture
- SEPP No. 33 – Hazardous & Offensive Dev.
- SEPP No. 36 – Manufactured Home Estates
- SEPP No. 50 – Canal Estate Development
- SEPP No. 55 – Remediation of Land
- SEPP No. 55 – Remediation of Land
- SEPP No. 62 – Sustainable Aquaculture
- SEPP No. 64 – Advertising and Signage
- SEPP No. 65 – Design of Quality Res. Apartments
- SEPP (Affordable Rental Housing) 2009
- SEPP (BASIX) 2004
- SEPP (Educational Establishments & Child Care Facilities) 2017
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Housing for Seniors & People with a Disability) 2004
- SEPP (Infrastructure) 2007
- SEPP (Integration & Repeals) 2016
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007
- SEPP (Miscellaneous Consent Provisions) 2007
- SEPP (Rural Lands) 2008
- SEPP (State and Regional Development) 2011
- SEPP (Vegetation in Non-Rural Areas) 2017

3.4.5. Consistency with Section 9.1 Directions

The following Section 9.1 Ministerial Directions are assessed as not applying to the proposed clause amendment:

- Direction 1.1 – Business and Industrial Zones
- Direction 1.3 – Mining, Petroleum Production and Extractive Industries

- Direction 1.4 – Oyster Aquaculture
- Direction 2.2 – Coastal Protection
- Direction 2.4 – Recreation Vehicle Areas
- Direction 2.5 – Application of E2 and E3 Zones
- Direction 3.1 – Residential Zones
- Direction 3.2 – Caravan Parks and Manufactured Home Estates
- Direction 3.3 – Home Occupations
- Direction 3.4 – Integrated Land Use and Transport
- Direction 3.5 – Development Near Licensed Aerodromes
- Direction 3.6 – Shooting Ranges
- Direction 4.1 – Acid Sulfate Soils
- Direction 4.2 – Mine Subsidence and Unstable Land
- Direction 4.3 – Flood Prone Land
- Direction 4.4 – Planning for Bushfire Protection
- Direction 5.1 – Implementation of Regional Strategies
- Direction 5.2 – Sydney Drinking Water Catchments
- Direction 5.3 – Farmland of State and Regional Significance
- Direction 5.4 – Commercial and Retail Development along the Pacific Hwy
- Direction 5.5 – Development in the vicinity of Ellalong, Paxton & Millfield
- Direction 5.6 – Sydney to Canberra Corridor
- Direction 5.7 – Central Coast
- Direction 5.8 – Second Sydney Airport: Badgerys Creek
- Direction 5.9 – North West Rail Link Corridor Strategy
- Direction 5.10 – Implementation of Regional Plans
- Direction 6.1 – Approval and Referral Requirements
- Direction 6.2 – Reserving Land for Public Purposes
- Direction 6.3 – Site Specific Provisions

- Direction 7.1 – Implementation of A Plan for Growing Sydney
- Direction 7.2 – Implementation of Greater Macarthur Land Release Inv.
- Direction 7.3 – Parramatta Road Corridor Urban Transformation Strategy
- Direction 7.4 – Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan.
- Direction 7.5 – Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan.
- Direction 7.6 – Implementation of Wilton Priority Growth Area Land Use and Infrastructure Implementation Plan.

The following Section 9.1 Ministerial Directions apply to the Planning Proposal. An assessment has been carried out to ensure consistency with the terms of the direction.

Direction 1.2 – Rural Zones

The Planning Proposal affects rural land generally, but there is no proposal to rezone land from a rural zone to a residential, business, industrial, village or tourist zone.

Direction 1.5 – Rural Lands

This Ministerial Direction applies as the Planning Proposal affects land within an existing rural or environment protection zone.

The Ministerial Direction requires the Planning Proposal to be consistent with the Rural Planning Principles listed in SEPP (Rural Lands) 2008. An assessment of the proposal against each principal is included below:

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

The production capacity and economic sustainability of rural land in the Cowra Shire is unlikely to be affected by the proposed clause amendment to Cowra Local Environmental Plan 2012. Known karst systems in the Cowra Shire

affect land only within the RU1 primary production zone. Agriculture is permissible within this zone without consent and therefore the new karst model clause will not restrict the use of affected land for agricultural related purposes.

- (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.

See planning response for planning principle (a) above.

- (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.

See planning response for planning principle (a) above.

- (d) In planning for rural lands, to balance the social, economic and environmental interests of the community.

See planning response for planning principle (a) above.

- (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.

The various Cave systems in the Cowra Shire are of high environmental value and are some of the most significant land resources that exist in Cowra Shire. The proposed LEP clause will provide Council with an increased ability to protect karsts, by requiring a comprehensive assessment of potential impacts when a Development Application involves affected land.

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

The proposed clause amendment does not contribute to opportunities for rural lifestyle, settlement and housing in rural areas. New development on land affected by karst systems will however need to satisfy an assessment of the various criteria in the model clause before Council can grant consent.

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

See planning response for planning principle (e) above.

- (h) Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

The proposed clause is not inconsistent with Central West and Orana Regional Plan. A detailed assessment of consistent has been included in Section 4.4.2 of this Planning Proposal.

Direction 2.1 – Environment Protection Zones

This Ministerial Direction applies to the preparation of all Planning Proposals.

The Ministerial Direction requires that the Planning Proposal includes provisions that facilitate the protection and conservation of environmentally sensitive areas. Additionally, the Planning Proposal must not reduce the environmental protection standards that apply to land in an environment protection zone.

The proposal to amend Cowra Local Environmental Plan 2012 by inserting the karst model clause and associated mapping will facilitate the protection and conservation of all environmentally sensitive karst systems in the Cowra Shire. The new provisions will increase the environmental protection standards in Cowra Local Environmental Plan 2012 and strengthen Council's ability to properly manage land-use in the vicinity of the karst systems.

Direction 2.3 – Heritage Conservation

This Ministerial Direction applies to the preparation of all Planning Proposals.

The Ministerial Direction requires the Planning Proposal to contain provisions that facilitate the conservation of items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance.

The Cliefden Caves are listed on the State Heritage Register. There is no proposal to alter the terms of, or remove this listing.

The proposal is not inconsistent with the requirements of this Minister Direction.

3.4.6. Environmental, Social & Economic Impact Assessment

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?

Karsts are intricate and sensitive ecosystems. The Cliefden Caves in particular are of state significance for its importance in the geological evolution of NSW, are rich in biodiversity, and likely contain threatened flora and fauna species, communities, populations and habitats. There is no risk of any adverse impacts on karst systems as a result of the Planning Proposal, as the model clause will only improve the Council's ability to protect these important ecosystems from inappropriate types of development.

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

There is no risk of any adverse impacts on karst systems as a result of the Planning Proposal. The karst model clause is likely to result in better environmental outcomes for karst systems in the Cowra Shire, by triggering more detailed assessment process when development is proposed on affected land.

Has the planning proposal adequately addressed any social and economic impacts?

Whilst karst systems are important for their environmental values, they also have significant social value, particularly to the traditional owners of the land who continue to visit these systems for ritual purposes and cultural obligations to the land. Cave systems, and in particular the Cliefden Caves are also highly regarded by scientific and speleological organisations and individuals, both in Australia and internationally abroad. The Cliefden Caves is also the subject of current, ongoing research in the areas of palaeontology, karst processes, climate change, geology, hydrology and archaeology, and is an outstanding resource with the potential for research in

all these areas of study to contribute to an understanding of natural history in NSW.

Recognition of these social values at the State and Local level reinforces the importance of amending Cowra Local Environmental Plan 2012 by inserting the karst model clause and associated mapping.

There are no foreseeable economic impacts associated with this Planning Proposal.

3.4.7. State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

The planning proposal does not increase demand for public infrastructure including public transport, roads, utilities, waste management or essential services.

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

The Cliefden Caves are listed on the State Heritage Register. The NSW Office of Environment and Heritage, and other relevant government agencies will be consulted as part of the public exhibition of the Planning Proposal.

3.5. Mapping

The karst model clause needs to be supported by a new map series for Cowra Local Environmental Plan 2012 that shows the extent and location of known karst systems in the Cowra Shire. This mapping will be used to determine when a Development Application requires assessment against the provisions in karst clause.

A copy of the karst mapping that has been prepared for Cowra Local Environmental Plan 2012 is included in Appendix 2.

4.0

Varying Residential Lot Sizes

This Section of the Planning Proposal explains and justifies the proposal to amend Cowra Local Environmental Plan 2012 by inserting the Department's model allowing subdivision in the R1 General Residential zone below the minimum lot size where a dwelling design is included with the Development Application.

4.1. Issues Paper Findings

Section 9.2 of the Issues Paper for the Review of Cowra Local Environmental Plan 2012 included a review of all of the current model clauses that have been prepared by the NSW Department of Planning & Environment. The aim of the review was to determine the need for Cowra Local Environmental Plan 2012 to be amended to include any model clauses settled by the Department since the commencement of the Plan.

The review recommended that Cowra Local Environmental Plan 2012 be amended to include Model Clause 4.1C. Model Clause 4.1C is used when Council has identified, through a strategic analysis, areas where medium density housing and smaller lots would be most suitable based on the current and future neighbourhood character and provision of infrastructure and services.

The clause allows Council to consent to subdivisions involving lot sizes smaller than the minimum shown on the LEP lot size map, provided the Development Application also incorporates the dwelling design for consideration at the same time. This allows Council to ensure the dwelling is suited to and is appropriate for the smaller lot size.

The clause is currently not in Cowra Local Environmental Plan 2012.

The Issues Paper identified the need for further strategic evaluation and justification before Model Clause 4.1C is inserted into Cowra Local Environmental Plan 2012. The NSW Department of Planning & Environment has also requested further justification in relation to the use of Model Clause 4.1C, and its applicability to specific mapped areas, or all land where residential development is permitted. This work is presented in Section 5.1.1 of this report.

4.2. Objectives

Section 55(2)(a) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include a statement of the objectives or intended outcomes of the proposed amendments.

The objective of this Planning Proposal is to:

To amend Cowra Local Environmental Plan 2012 by including provisions which enable Council to approve the subdivision of land in the R1 General Residential zone, where the lots are smaller than the minimum lot size for the area, but still suitable for dwelling development.

4.3. Explanation of Provisions

Section 55(2)(b) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include an explanation of the provisions that are to be included in the proposed amending instrument. The explanation of provisions is a more detailed statement of how the objectives or intended outcomes are to be achieved by means of amending Cowra Local Environmental Plan 2012.

The objective (detailed in Section 4.2) will be achieved by inserting the Model Clause 4.1C that has been settled by the NSW Department of Planning & Environment for use in Standard Instrument LEP's.

Model Clause 4.1C is included in Appendix 3.

It is intended that Model Clause 4.1C will apply to the Torrens Title subdivision of any land in the R1 General Residential zone under Cowra Local Environmental Plan 2012, and where:

- The number of lots proposed in the subdivision is not less than 2.
- The size of each proposed lot is equal to or greater than 300m² for the erection of a dwelling, semi-detached dwelling, or attached dwelling.

These parameters align with the existing provisions contained in the Cowra Shire Comprehensive Development Control Plan 2014, and in particular Part E.2 relating to medium density residential development.

Note: the Model Clause has been drafted by Department so that it may only be applied to subdivisions involving not less than 3 lots. Cowra Council is proposing to alter the provisions of the clause so that it may also be applied to subdivisions involving 2 lots. This change will enable the provisions of the clause to capture the most popular medium density housing choice in the Cowra Shire, being a semi-detached dwelling.

4.4. Justification

Section 55(2)(c) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include justification for the objectives, outcomes and provisions and the process for the implementation (including whether the proposed instrument will comply with relevant directions under Section 9.1). The Justification sets out the case for making the proposed LEP amendment.

The NSW Department of Planning & Environment's guidelines for the preparation of Planning Proposals requires the proposed LEP amendment to be justified against a number of considerations. These justifications are included as follows:

4.4.1. General Planning Justification

There are a number of general planning reasons why the adoption of Model Clause 4.1C (within Cowra Local Environmental Plan 2012) is considered to be justified. These justifications are explored below.

Planning Process

The planning framework used by Council's to deal with development proposals that do not comply with the minimum lot size controls has changed over the years.

Historically, in the Cowra Shire at least, minimum lot size standards for residential subdivision were typically included within a Development Control Plan, giving Council total control over proposals involving variations to nominated standards. When the NSW Government introduced the Standard Instrument LEP program, minimum lot size controls for residential subdivision were transferred to Cowra Local Environmental Plan 2012. Variations to nominated standards are now only possible subject to Council's consideration of the matters specified in Clause 4.6 of the LEP, and subject to concurrence of the Secretary of NSW Department of Planning & Environment. Whilst the Council can assume the concurrence of the Secretary for certain variations, any variation that is greater than 10% must be concurred by the Secretary.

Some developers and property owners have expressed frustration to Council about the complexity of the decision making process for Development Applications involving lot size variations (greater than 10%) for

proposals that would otherwise comply with relevant planning standards, guidelines and controls.

Adopting Model Clause 4.1C will facilitate an easier decision making process for Council when dealing with medium density developments that involve variations to the minimum lot size.

Choice

The most common types of medium density housing constructed within Cowra are generally semi-detached dwellings and attached dwellings. Cowra Council Development Control Plan 2014 allows for one dwelling unit per 300m² of site area, subject to compliance with other site design controls being satisfied. For these types of developments, the subdivision of the land to create a separate lot around each individual dwelling has only been possible under Strata Title. Limiting the choice of land title to Strata is an unnecessary planning restriction.

If the built form of a development (i.e. dwelling design, landscaping, setbacks, open space etc.) complies with relevant Council requirements, then it matters little whether the subdivision of the land occurs under Strata Title or Torrens Title. The form of title chosen does not create any physical differences to the appearance of the development, and does not create the potential for additional or adverse amenity impacts on the neighbourhood.

Adopting Model Clause 4.1C will therefore provide the community with greater choice when deciding on the most appropriate form of land title for subdivisions involving medium density developments.

Location

The NSW Department of Planning & Environment requires Council to assess whether the provisions of Model Clause 4.1C would be more suitably applied to specific areas or broadly throughout the R1 General Residential zone. This assessment is to be in the form of a strategic analysis to identify where medium density and smaller lots would be most suitable based on the current and future neighbourhood character and provision of infrastructure and services.

The main residential areas of the Cowra Township can be broadly defined as follows:

- Mulyan. This area is generally considered to be any residential area west of Redfern Street. One of the older areas of Cowra Township, the area is characterised by a traditional grid based neighbourhood structure, with an average lot size

of approximately 1000m². Dwelling stock in this area is generally older, and there are limited opportunities to develop vacant land. All necessary urban services are connected to this part of the Township

- North Cowra. This area is generally considered to be any residential area north of the Cowra CBD and east of Redfern Street. This area is also characterised by a traditional grid based neighbourhood structure, with an average lot size of between 700m² to 1100m². Dwelling stock in this area is generally newer, and there are a number of different residential subdivisions located towards the urban edge where the mainstay of new residential growth is occurring. Despite being located on the urban edge, these areas are still highly accessible to services and facilities closer to the town centre. North Cowra provides the mainstay of current opportunities to develop vacant land, and it is where Council is receiving interest for medium density housing as developers seek to maximise a return on investment, and buyers seek more affordable housing choices in new release areas.
- West Cowra. The majority of residential development in West Cowra is focused around Lyall Street, Walker Street, Hartley Street & Mirage Drive. There are generally fewer instances of medium density housing proposals in this area; however the average size of the lots would enable the redevelopment of existing housing stock for this purpose.
- South Cowra. Locally known as “Taragala”, this is the older area of the Cowra Township, with the majority of lots created closer to the 1900’s. This area is also characterised by a traditional grid based neighbourhood structure, with an average lot size of between 700m² to 1100m². Property prices are generally lower in this area of town, reflecting the age of buildings; however this can help to satisfy the demand for affordable housing, and can be stimulant for redevelopment.
- CBD. Focused around Liverpool Street, Vaux Street and Railway Street, this area has attracted the bulk of new medium density developments in recent times. The trend in this area is for property developers to redevelop existing housing stock into medium density housing, with or without a subdivision component. Ideally situated in close proximity to local services and facilities, new

dwelling stock in this area attracts premium prices.

The analysis shows that whilst each of the broadly defined areas has varying levels of growth and development, there are no vast differences in prevailing lot size and general suitability for medium density housing. Some areas offer greater advantage in terms of access to infrastructure and services, whilst others offer more advantage in terms of land affordability or quality of existing housing stock for example.

For reasons above, Council does not wish to define specific areas where Model Clause 4.1C should apply. Allowing the provisions to apply generally within the R1 General Residential zone provide more flexibility in dwelling and lot design for all residential areas, and allow the residential property market to influence where new development occurs.

4.4.2. Need for the Planning Proposal

Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is a result of the recommendations contained in the Issues Paper for the Review of Cowra Local Environmental Plan 2012 (Issues Paper). The Issues Paper was endorsed for the purposes of public exhibition by Council at the Ordinary Meeting held 24 July 2017. The public exhibition occurred from Tuesday 1 August 2017 to Monday 28 August 2017. All submissions were considered by Council at the Ordinary Meeting on 23 October 2017.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The objective is to amend Cowra Local Environmental Plan 2012 by including provisions which enable Council to approve the subdivision of land in the R1 General Residential zone, where the lots are smaller than the minimum lot size for the area, but still suitable for dwelling development.

Currently, where Torrens Title subdivision is proposed and the lot sizes are less than the minimum, but within 10% of the standard, Council has the ability to approve the DA using the assumed concurrence provisions provided to all NSW Council’s in Planning Circular PS

S18-003, and subject to consideration of the provisions contained in Clause 4.6 of the LEP.

However since most applications would involve more than a 10% variation to a numerical standard, the concurrence of the Secretary of Planning and Environment (Planning Circular PS18-003) cannot be assumed by Council and the applicant must be referred to the Department.

The adoption of Model Clause 4.1C would improve the decision making process by removing the need for concurrence, and is considered to be the best means of achieving the objects of the Planning Proposal.

4.4.3. Consistency with Regional Plan

The Planning Proposal is generally consistent with the Central West Orange Regional Plan 2036 (Regional Plan), which was released by the NSW Department of Planning & Environment in June 2017.

The proposal to amend Cowra Local Environmental Plan 2012 by inserting Model Clause 4.1C is particularly consistent with Direction 25 and 26.

Direction 25 – Increase housing diversity and choice

The Central West Orana Regional Plan 2036 places a significant focus on the need to plan for a range of housing types and to develop strategies which are flexible and responsive to shifts in local housing demand and supply. The Plan also encourages opportunities for medium density development near town centres to take advantage of existing services.

The Regional Plan proposes to achieve this through a number of actions, including:

- Action 25.1 – Prepare local housing strategies that increase housing choice, including affordable housing options.
- Action 25.4 – Locate higher density development close to town centres to capitalise on existing infrastructure and increase housing choice.

The proposal to adopt the Department's Model Clause 4.1C is consistent with these actions. Increasing housing choice is about making sure the residential housing market continues to meet the needs of a broad cross section of the community. Smaller lot living is becoming an increasingly popular choice of housing

for the Cowra community, which has an ageing population. The redevelopment of existing housing stock into medium density units is an existing trend in areas close to the Cowra CBD, however there is increasing demand for similar development types in newer subdivision areas on the periphery of town as developers seek to maximise a return on investment and buyers seek more affordable housing choices in new release areas.

4.4.4. Consistency with relevant SEPPs

The following State Environmental Planning Policies are assessed as not applying to the Cowra Local Government area:

- SEPP No. 14 – Coast Wetlands
- SEPP No. 19 – Bushland in Urban Areas
- SEPP No. 19 – Bushland in Urban Areas
- SEPP No. 26 – Littoral Rainforests
- SEPP No. 44 – Koala Habitat Protection
- SEPP No. 47 – Moore Park Showground
- SEPP No. 52 – Farm Dams and Other Works
- SEPP No. 70 – Affordable Housing
- SEPP No. 71 – Coastal Protection
- SEPP (Kosciuszko National Park – Alpine Resorts) 2007
- SEPP (Kurnell Peninsula) 1989
- SEPP (Penrith Lakes Scheme) 1989
- SEPP (Sydney Drinking Water Catchment) 2011
- SEPP (Sydney Region Growth Centres) 2006
- SEPP (Three Ports) 2013
- SEPP (Urban Renewal) 2010
- SEPP (Western Sydney Employment Area) 2009
- SEPP (Western Sydney Parklands) 2009

The following State Environmental Planning Policies apply to the Cowra Local Government Area, but do not contain provisions which are particularly relevant or inconsistent with the proposed clause amendment to Cowra Local Environmental Plan 2012:

- SEPP No. 21 – Caravan Parks

- SEPP No. 30 – Intensive Agriculture
- SEPP No. 33 – Hazardous & Offensive Dev.
- SEPP No. 36 – Manufactured Home Estates
- SEPP No. 50 – Canal Estate Development
- SEPP No. 55 – Remediation of Land
- SEPP No. 55 – Remediation of Land
- SEPP No. 62 – Sustainable Aquaculture
- SEPP No. 64 – Advertising and Signage
- SEPP No. 65 – Design of Quality Res. Apartments
- SEPP (Affordable Rental Housing) 2009
- SEPP (BASIX) 2004
- SEPP (Educational Establishments & Child Care Facilities) 2017
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Housing for Seniors & People with a Disability) 2004
- SEPP (Infrastructure) 2007
- SEPP (Integration & Repeals) 2016
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007
- SEPP (Miscellaneous Consent Provisions) 2007
- SEPP (Rural Lands) 2008
- SEPP (State and Regional Development) 2011
- SEPP (Vegetation in Non-Rural Areas) 2017

The following State Environmental Planning Policies apply to the Cowra Local Government Area, and warrant an assessment to ensure consistency with the proposed clause amendment to Cowra Local Environmental Plan 2012.

SEPP No. 1 – Development Standards

SEPP 1 provides flexibility in the application of planning controls by allowing Council's to approve a development application that does not comply with a development standard where this can be shown that compliance is unreasonable or unnecessary.

Model Clause 4.1C operates in a similar manner to the provisions of SEPP 1, by allowing Council to consider a

Development Application for a subdivision where the new lot sizes are below the minimum for the zone.

SEPP 1, however, no longer applies to land in the Cowra Shire. This is because Cowra Local Environmental Plan 2012 was prepared in accordance with the Standard Instrument (LEP Template) and adopts Clause 4.6 Exception to Development Standard. This clause effectively replaces SEPP 1.

For reasons above, Model Clause 4.1C does not create an issue of inconsistency with the provisions contained in SEPP No. 1 – Development Standards.

SEPP No. 65 – Design of Quality Residential Apartments

The proposal to insert the Department's settled Model Clause 4.1C does not create any issues of inconsistency with SEPP No. 65. A statement of consistency is detailed as follows:

- The SEPP applies only to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component and where the building concerned is at least 3 storeys in height and contains at least 4 dwellings.
- Model Clause 4.1C facilitates development involving the erection of dwellings, semi-attached dwellings, or attached dwellings. None of these development types require assessment under SEPP No. 65.

4.4.5. Consistency with Section 9.1 Directions

The following Section 9.1 Ministerial Directions are assessed as not applying to the proposed clause amendment:

- Direction 1.1 – Business and Industrial Zones
- Direction 1.2 – Rural Zones
- Direction 1.3 – Mining, Petroleum Production and Extractive Industries
- Direction 1.4 – Oyster Aquaculture
- Direction 1.5 – Rural Lands
- Direction 2.1 – Environment Protection Zones
- Direction 2.2 – Coastal Protection

- Direction 2.3 – Heritage Conservation
- Direction 2.4 – Recreation Vehicle Areas
- Direction 2.5 – Application of E2 and E3 Zones
- Direction 3.2 – Caravan Parks and Manufactured Home Estates
- Direction 3.3 – Home Occupations
- Direction 3.4 – Integrated Land Use and Transport
- Direction 3.5 – Development Near Licensed Aerodromes
- Direction 3.6 – Shooting Ranges
- Direction 4.1 – Acid Sulfate Soils
- Direction 4.2 – Mine Subsidence and Unstable Land
- Direction 4.3 – Flood Prone Land
- Direction 4.4 – Planning for Bushfire Protection
- Direction 5.1 – Implementation of Regional Strategies
- Direction 5.2 – Sydney Drinking Water Catchments
- Direction 5.3 – Farmland of State and Regional Significance
- Direction 5.4 – Commercial and Retail Development along the Pacific Hwy
- Direction 5.5 – Development in the vicinity of Ellalong, Paxton & Millfield
- Direction 5.6 – Sydney to Canberra Corridor
- Direction 5.7 – Central Coast
- Direction 5.8 – Second Sydney Airport: Badgerys Creek
- Direction 5.9 – North West Rail Link Corridor Strategy
- Direction 5.10 – Implementation of Regional Plans
- Direction 6.1 – Approval and Referral Requirements
- Direction 6.2 – Reserving Land for Public Purposes
- Direction 6.3 – Site Specific Provisions
- Direction 7.1 – Implementation of A Plan for Growing Sydney
- Direction 7.2 – Implementation of Greater Macarthur Land Release Inv.

- Direction 7.3 – Parramatta Road Corridor Urban Transformation Strategy
- Direction 7.4 – Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan.
- Direction 7.5 – Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan.
- Direction 7.6 – Implementation of Wilton Priority Growth Area Land Use and Infrastructure Implementation Plan.

The following Section 9.1 Ministerial Directions apply to the proposed clause amendment to Cowra Local Environmental Plan 2012. An assessment has been carried out to ensure consistency with the terms of the direction.

Direction 3.1 – Residential Land

This Ministerial Direction applies as the Planning Proposal affects land within an existing residential zone. The Ministerial Direction requires the Planning Proposal to include provisions that:

- broaden the choice of building types and locations available in the housing market, and
- make more efficient use of existing infrastructure and services, and
- reduce the consumption of land for housing and associated urban development on the urban fringe, and
- Provides for housing that is of good design.

The objective of Model Clause 4.1C is to encourage housing diversity without adversity impacting on residential amenity. This objective aligns closely with the requirements of this Ministerial Direction. The new clause will enable higher density living opportunities in the Cowra Township and ensure that future dwelling design is considered upfront to ensure suitability of lot design and residential amenity.

The proposal is consistent with the requirements of this Minister Direction.

Direction 3.4 – Integrated Land Use and Transport

This Ministerial Direction applies as the Planning Proposal creates a new provision that affects land zoned for residential purposes. The Ministerial Direction requires the Planning Proposal to be consistent with the aims, objectives and principles of

- *Improving Transport Choice – Guidelines for planning development (DUAP 2001), and*
- *The Right Place for Business and Services – Planning Policy (DUAP 2001).*

These policy documents generally encourage local planning that supports and enables development that is highly accessible by walking, cycling and public transport.

Model Clause 4.1C will apply to all land in the existing R1 General Residential zone under Cowra Local Environmental Plan 2012. For this reason, individual developments will likely have varying levels of accessibility to local services and facilities by means of walking, cycling and public transport.

Notwithstanding, Cowra Township is a relatively small community but still enjoys high levels of transport accessibility for all residents. The pedestrian and cycleway network connects the CBD to key areas of residential growth, and public transport options extend to most areas of town.

The Planning Proposal is consistent with the terms of Ministerial Direction 3.4.

4.4.6. Environmental, Social & Economic Impact Assessment

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?

It is not possible to accurately measure potential impacts because the clause would enable development on any land in the R1 General Residential zone.

Council would however be required to assess the potential for adverse impacts on environmental values as part of each Development Application.

The clause would also be supported by the existing environmentally sensitive land overlay mapping in Cowra Local Environmental Plan 2012. =Are there any

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

It is not possible to accurately measure potential impacts because the clause would enable development on any land in the R1 General Residential zone.

Potential impacts associated with the new developments seeking consent under Model Clause 4.1C of the LEP would vary on a case by case basis and would be need to be properly assessed as part of individual Development Applications.

Has the planning proposal adequately addressed any social and economic impacts?

Detailed social and economic impact assessment is considered unnecessary because of the nature of the Planning Proposal.

Positive impacts may be created by:

- Increased employment opportunities linked to new activity in the local housing construction market.
- Increased choice for the local residential housing market.

4.4.7. State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

The planning proposal does not increase demand for public infrastructure including public transport, roads, utilities, waste management or essential services, beyond the capacity of the existing system.

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

The Planning Proposal is likely to be of minor significance to State and Commonwealth public authorities. Notwithstanding, appropriate consultation will be completed as part of the public exhibition of the Planning Proposal following the gateway determination.

4.5. Mapping

Council intends to apply the provision of Model Clause 4.1C to all land in the R1 General Residential zone. In this regard, the Planning Proposal does not need to be supported by a new map series for Cowra Local Environmental Plan 2012.

5.0

Intensive Livestock Agriculture

This Section of the Planning Proposal explains and justifies the proposal to amend Cowra Local Environmental Plan 2012 by amending the existing wording to Clause 4.2A. This Clause provides for the subdivision of land for the purposes of intensive plant or livestock agriculture, and / or erection of dwellings that support uses of land for intensive plant or livestock agriculture.

5.1. Issues Paper Findings

Section 2.4 of the Issues Paper for the Review of Cowra Local Environmental Plan 2012 included a review of existing planning provisions relating to the carrying out of development associated with intensive livestock agriculture.

For ease of reference, the main discussion points from the Issues Paper are included below.

- Intensive livestock agriculture, by definition, means the keeping or breeding, for commercial purposes, of cattle, poultry, pigs, goats, horses or other livestock that are fed wholly or substantially on externally-sourced feed, and includes dairies, feedlots, piggeries and poultry farms.
- The focus of the review in the Issues Paper was centred around the water supply requirements for intensive livestock agricultural activities.
- Currently, Cowra Local Environmental Plan 2012 does not specify the source of water supply when a Development Application is proposed for intensive livestock agriculture. The adequacy of the proposed water supply is assessed by Council planners as part of the Section 4.15 (formerly 79C) considerations.
- Clause 4.2A does however require the water supply to be in the form of licenced irrigation when a subdivision lots is proposed for intensive livestock and ancillary dwelling purposes, or where a dwelling is proposed separately as an ancillary aspect of the intensive livestock agricultural activity. The need for the water supply to be in the form of licenced irrigation for these kinds of proposals is considered to be unnecessarily restrictive.
- Depending on the nature and scale of the intensive livestock agricultural activity, the water supply requirements are typically varied. The provision of licenced irrigation may not be critical to the longer term sustainability of the development, particularly if it is possible to secure adequate water supplies from other sources, including, for example, the extensive Council network of rural water supply mains and services.
- For example, a commercial horse breeding facility is by definition an intensive livestock agricultural use, and would typically not need to be located on agricultural land that benefits from licenced irrigation. An adequate water supply could be obtained from the rural water reticulated supply network (where available), or depending on the scale of the activity, from surface water dams or on-site rain water collection techniques.
- The recommended planning response was to remove (from clause 4.2A) the requirements for licenced irrigation supply to be provided to subdivisions for intensive livestock and ancillary dwelling-house purposes. Safeguards still need to

be incorporated into local planning provisions to ensure that the water supply for these developments is adequate and sustainable having regard to the nature and scale of the activity.

5.2. Objectives

Section 55(2)(a) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include a statement of the objectives or intended outcomes of the proposed amendments.

The objectives of this Planning Proposal are to:

To amend Cowra Local Environmental Plan 2012 by removing the requirement for licenced irrigation when a new subdivision lot is proposed for intensive livestock agriculture and ancillary dwelling-house purposes.

To amend Cowra Local Environmental Plan 2012 by removing the requirement for licenced irrigation when a new dwelling is proposed as an ancillary component to an intensive livestock agricultural activity.

To amend Cowra Local Environmental Plan 2012 to ensure that adequate and sustainable water supply is provided when subdivision or ancillary dwelling development is proposed in relation to intensive livestock agricultural uses.

5.3. Explanation of Provisions

Section 55(2)(b) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include an explanation of the provisions that are to be included in the proposed amending instrument. The explanation of provisions is a more detailed statement of how the objectives or intended outcomes are to be achieved by means of amending Cowra Local Environmental Plan 2012.

The objective of this Planning Proposal will be achieved by amending the wording contained in existing Clause 4.2A of Cowra Local Environmental Plan 2012.

The suggested wording of the clause is detailed in Appendix 4 to this report.

There are no new maps required to be inserted into Cowra Local Environmental Plan 2012 to accommodate this amendment.

5.4. Justification

Section 55(2)(c) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include justification for the objectives, outcomes and provisions and the process for the implementation (including whether the proposed instrument will comply with relevant directions under Section 9.1. The Justification sets out the case for making the proposed LEP amendment.

The NSW Department of Planning & Environment's guidelines for the preparation of Planning Proposals requires the proposed LEP amendment to be justified against a number of considerations. These justifications are included as follows:

5.4.1. Need for the Planning Proposal

Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is a result of the recommendations contained in the Issues Paper for the Review of Cowra Local Environmental Plan 2012 (Issues Paper). The Issues Paper was endorsed for the purposes of public exhibition by Council at the Ordinary Meeting held 24 July 2017. The public exhibition occurred from Tuesday 1 August 2017 to Monday 28 August 2017. All submissions were considered by Council at the Ordinary Meeting on 23 October 2017.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The wording of existing Clause 4.2A of Cowra Local Environmental Plan 2012 is very specific about the water supply being in the form of licenced irrigation.

Altering the wording of the Clause 4.2A is considered to be the only means of achieving the objective of this Planning Proposal.

5.4.2. Consistency with Regional Plan

The Planning Proposal is generally consistent with the Central West Orange Regional Plan 2036 (Regional Plan), which was released by the NSW Department of Planning & Environment in June 2017.

The proposal to amend Clause 4.2A of Cowra Local Environmental Plan 2012 aligns particularly with Strategic Directions 1 and 2. An assessment of the proposal against these Strategic Directions is included as follows.

Direction 1 – Protect the region’s diverse and productive agricultural land.

The Central West Orana Regional Plan 2036 places a significant focus on the need to protect the regions valuable agricultural resource. This is a particularly important issue for Central West, including Cowra Shire, which contains some of the most productive agricultural lands in NSW.

The Regional Plan proposes to achieve this through a number of actions, one of which is to protect important agricultural land from land-use conflict and fragmentation, and manage the interface between important agricultural lands and other land-uses.

Cowra Council places a high value on the Shire’s productive agricultural resources, and has implemented a planning framework (as part of Cowra Local Environmental Plan 2012) that aims to prevent the fragmentation of rural land for inappropriate purposes. This is achieved primarily through the use of minimum lot size controls to ensure that rural settlement is always linked to agricultural uses of the land. The minimum lot size for rural land is 100 hectares.

Clause 4.2A of Cowra Local Environmental Plan 2012 does however allow for the subdivision of land into smaller lots where the purpose of the subdivision is for intensive livestock or plant agriculture. In circumstances where there is an existing or proposed ancillary dwelling, a lot size of 40 hectares must be maintained and there are additional provisions to be satisfied that aim to ensure the dwelling use is a necessary component of a legitimate intensive livestock or plant based agricultural use. There is no proposal to remove any provisions in Clause 4.2A which requires an assessment of these matters.

The wording to Clause 4.2A relating to licenced irrigation will be replaced with new provisions requiring applicants to demonstrate, instead, that an adequate and sustainable water supply is available to the development.

The proposed amendments to Clause 4.2A should therefore not compromise broader planning objectives related to the protection of agricultural land.

Direction 2 – Grow the agribusiness sector and supply chains

The Central West Orana Regional Plan 2036 recognises the important role that agribusiness plays in sustaining the regional economy of Central West NSW. It also recognises that industry growth is dependent on future planning that allows agribusiness to respond to emerging opportunities.

The Regional Plan proposes to support growth in the agribusiness sector through a number of actions, one of which is to guide local and strategic planning to protect agricultural land, and manage the interface with other land-uses. The proposed amendment to Clause 4.2A of the LEP is consistent with this action. Cowra Shire has some of the most productive agricultural land in the Central West of NSW with highly fertile lands and alluvial plains adjoining the banks of the Lachlan River. The types of intensive agriculture common in the Cowra Shire include viticulture, intensive vegetable growing, poultry farming, piggeries, cattle and lamb feedlots and dairies. The proposed clause amendments supports continued growth within the agri-business sector by removing planning provisions which might unnecessarily restrict development that is ancillary to legitimate intensive livestock uses of the land.

5.4.3. Consistency with relevant SEPPs

The following State Environmental Planning Policies are assessed as not applying to the Cowra Local Government area:

- SEPP No. 14 – Coast Wetlands
- SEPP No. 19 – Bushland in Urban Areas
- SEPP No. 19 – Bushland in Urban Areas
- SEPP No. 26 – Littoral Rainforests

- SEPP No. 44 – Koala Habitat Protection
- SEPP No. 47 – Moore Park Showground
- SEPP No. 52 – Farm Dams and Other Works
- SEPP No. 70 – Affordable Housing
- SEPP No. 71 – Coastal Protection
- SEPP (Kosciuszko National Park – Alpine Resorts) 2007
- SEPP (Kurnell Peninsula) 1989
- SEPP (Penrith Lakes Scheme) 1989
- SEPP (Sydney Drinking Water Catchment) 2011
- SEPP (Sydney Region Growth Centres) 2006
- SEPP (Three Ports) 2013
- SEPP (Urban Renewal) 2010
- SEPP (Western Sydney Employment Area) 2009
- SEPP (Western Sydney Parklands) 2009

The following State Environmental Planning Policies apply to the Cowra Local Government Area, but do not contain provisions which are particularly relevant or inconsistent with the proposed clause amendment to Cowra Local Environmental Plan 2012:

- SEPP No. 1 – Development Standards
- SEPP No. 21 – Caravan Parks
- SEPP No. 33 – Hazardous & Offensive Dev.
- SEPP No. 36 – Manufactured Home Estates
- SEPP No. 50 – Canal Estate Development
- SEPP No. 55 – Remediation of Land
- SEPP No. 55 – Remediation of Land
- SEPP No. 62 – Sustainable Aquaculture
- SEPP No. 64 – Advertising and Signage
- SEPP No. 65 – Design of Quality Res. Apartments
- SEPP (Affordable Rental Housing) 2009
- SEPP (BASIX) 2004
- SEPP (Educational Establishments & Child Care Facilities) 2017
- SEPP (Housing for Seniors & People with a Disability) 2004
- SEPP (Infrastructure) 2007

- SEPP (Integration & Repeals) 2016
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007
- SEPP (Miscellaneous Consent Provisions) 2007
- SEPP (State and Regional Development) 2011
- SEPP (Vegetation in Non-Rural Areas) 2017

The following State Environmental Planning Policies apply to the Cowra Local Government Area, and warrant an assessment to ensure consistency with the proposed clause amendment to Cowra Local Environmental Plan 2012.

SEPP (Rural Lands) 2008

The proposed amendment to Clause 4.2A of Cowra Local Environmental Plan 2012 has been assessed against the Rural Lands SEPP. A statement of consistency is detailed as follows:

- The proposal is consistent with the aims of the SEPP and in particular will facilitate the orderly and economic use and development of rural lands for rural and related purposes.
- The proposal is consistent with the rural subdivision principles. No changes are proposed to minimum lot size provisions. Changes to the water supply requirements for development associated with intensive livestock agricultural uses of the land is not expected to lead to increases in rural land-use conflict issues. Council is not proposing to remove or alter existing provisions in Clause 4.2A which are designed to make sure rural settlement is ancillary to and necessary to support an intensive livestock agricultural activity.

The proposal will not affect land that has been identified as State Significant Agricultural land.

SEPP No. 30 – Intensive Agriculture

The proposed amendment to Clause 4.2A of Cowra Local Environmental Plan 2012 has been assessed against the Intensive Agriculture SEPP.

The provisions of the SEPP do not apply to development scenarios involving the creation of new subdivision lots or construction of ancillary dwelling-

houses linked to intensive livestock agricultural uses of the land. For this reason, the proposed amendments to Clause 4.2A of Cowra Local Environmental Plan 2012 do not create any issues of inconsistency with the provisions of the Intensive Agriculture SEPP.

5.4.4. Consistency with Section 9.1 Directions

The following Section 9.1 Ministerial Directions are assessed as not applying to the proposed clause amendment:

- Direction 1.1 – Business and Industrial Zones
- Direction 1.3 – Mining, Petroleum Production and Extractive Industries
- Direction 1.4 – Oyster Aquaculture
- Direction 2.2 – Coastal Protection
- Direction 2.3 – Heritage Conservation
- Direction 2.4 – Recreation Vehicle Areas
- Direction 2.5 – Application of E2 and E3 Zones
- Direction 3.1 – Residential Zones
- Direction 3.2 – Caravan Parks and Manufactured Home Estates
- Direction 3.3 – Home Occupations
- Direction 3.4 – Integrated Land Use and Transport
- Direction 3.5 – Development Near Licensed Aerodromes
- Direction 3.6 – Shooting Ranges
- Direction 4.1 – Acid Sulfate Soils
- Direction 4.2 – Mine Subsidence and Unstable Land
- Direction 4.3 – Flood Prone Land
- Direction 4.4 – Planning for Bushfire Protection
- Direction 5.1 – Implementation of Regional Strategies
- Direction 5.2 – Sydney Drinking Water Catchments
- Direction 5.3 – Farmland of State and Regional Significance

- Direction 5.4 – Commercial and Retail Development along the Pacific Hwy
- Direction 5.5 – Development in the vicinity of Ellalong, Paxton & Millfield
- Direction 5.6 – Sydney to Canberra Corridor
- Direction 5.7 – Central Coast
- Direction 5.8 – Second Sydney Airport: Badgerys Creek
- Direction 5.9 – North West Rail Link Corridor Strategy
- Direction 5.10 – Implementation of Regional Plans
- Direction 6.1 – Approval and Referral Requirements
- Direction 6.2 – Reserving Land for Public Purposes
- Direction 6.3 – Site Specific Provisions
- Direction 7.1 – Implementation of A Plan for Growing Sydney
- Direction 7.2 – Implementation of Greater Macarthur Land Release Inv.
- Direction 7.3 – Parramatta Road Corridor Urban Transformation Strategy
- Direction 7.4 – Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan.
- Direction 7.5 – Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan.
- Direction 7.6 – Implementation of Wilton Priority Growth Area Land Use and Infrastructure Implementation Plan.

The following Section 9.1 Ministerial Directions apply to the proposed clause amendment to Cowra Local Environmental Plan 2012. An assessment has been carried out to ensure consistency with the terms of the direction.

Direction 1.2 – Rural Zones

The Planning Proposal affects rural land generally, but there is no proposal to rezone land from a rural zone to a residential, business, industrial, village or tourist zone.

Direction 1.5 – Rural Lands

This Ministerial Direction applies as the Planning Proposal affects land within an existing rural or environment protection zone.

The Ministerial Direction requires the Planning Proposal to be consistent with the Rural Planning Principles listed in SEPP (Rural Lands) 2008. An assessment of the proposal against each principal is included below:

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

The Planning Proposal is consistent. The suggested changes to Clause 4.2A are proposed in the best interests of agricultural production in the Cowra Shire, by recognising that many forms of intensive livestock agriculture require are sustainable without licenced irrigation, and that the ability to live on the land and manage the agricultural activity is an important part of most intensive agricultural pursuits.

- (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.

The Planning Proposal is consistent. See assessment response to (a) above.

- (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.

The Planning Proposal is consistent. See detailed responses to the Central West Orange Regional Plan 2036 under Section 5.4.12.

- (d) In planning for rural lands, to balance the social, economic and environmental interests of the community.

The Planning Proposal is consistent. The minimum lot size provisions for rural land in the Cowra Shire have been determined following detailed consideration of social, economic and environmental issues as part of the study process leading to the preparation of Cowra LEP 2012. The Planning Proposal is not changing any of the existing minimum lot size provisions applying to rural land in the Cowra Shire.

- (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.

The Planning Proposal is consistent. Cowra LEP includes written provisions and associated mapping identifying areas of environmental sensitivity, including biodiversity, vegetation and water resources. The Planning Proposal does not alter these provisions.

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

The Planning Proposal does not aim to create opportunities for rural lifestyle settlement and housing. Adequate opportunities for rural housing are created by provisions in Cowra LEP 2012 that are separate to Clause 4.2A.

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

Increasing settlement density in rural areas can lead to unacceptable impacts on infrastructure and services. This is generally a result of unsustainable increases in the demand for upgrades to rural roads and provision of services to outlying areas. These potential impacts are managed by adopting appropriate minimum lot size (MLS) controls. The MLS for subdivision / dwelling development associated with intensive agriculture is 40 hectares. There are no changes to this MLS as part of the Planning Proposal.

The Planning Proposal will therefore not lead to unacceptable impacts on services and infrastructure associated with rural housing.

- (h) Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

The Planning Proposal is consistent. See detailed responses to the Central West Orange Regional Plan 2036 under Section 4.4.15.

Direction 2.1 – Environment Protection Zones

This Ministerial Direction applies to the preparation of all Planning Proposals.

The Ministerial Direction requires that the Planning Proposal includes provisions that facilitate the protection and conservation of environmentally sensitive areas. Additionally, the Planning Proposal must not reduce the environmental protection standards that apply to land in an environment protection zone.

The Planning Proposal is not inconsistent with the terms of this Ministerial Direction. There is no proposal to reduce the amount of land zoned for environmental protection, and safeguards are built into provisions separate to Clause 4.2A of the LEP to ensure proper consideration of environmental values.

5.4.5. Environmental, Social & Economic Impact Assessment

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?

It is not possible to accurately measure potential impacts because the clause would enable development on any land in the RU1 or RU4 zones.

Council would however be required to assess the potential for adverse impacts on environmental values as part of each Development Application.

The clause would also be supported by the existing environmentally sensitive land overlay mapping in Cowra Local Environmental Plan 2012.

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

There is a low chance of significant environmental impacts occurring as a result of the Planning Proposal. Potential impacts associated with the new developments seeking consent under Clause 4.2A would vary on a case by case basis and would need to be properly assessed as part of individual Development Applications.

Has the planning proposal adequately addressed any social and economic impacts?

Detailed social and economic impact assessment is considered unnecessary because of the nature of the Planning Proposal.

Positive impacts may be created by removing existing planning provisions which might unnecessarily restrict subdivision or dwelling development associated with sustainable uses of land for intensive livestock agricultural development.

5.4.6. State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

The planning proposal does not increase demand for public infrastructure including public transport, roads, utilities, waste management or essential services, beyond the capacity of the existing system.

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

The Planning Proposal is likely to be of minor significance to State and Commonwealth public authorities. Notwithstanding, appropriate consultation will be completed as part of the public exhibition of the Planning Proposal following the gateway determination. The view of the NSW Office of Water will be particularly relevant to the Planning Proposal.

5.5. Mapping

The provisions of Clause 4.2A of the LEP apply generally to all land in the RU1 Primary Production and RU4 Primary Production Small Lots zones. In this regard, the Planning Proposal does not need to be supported by a new map series for Cowra Local Environmental Plan 2012.

6.0

Community Title Subdivision

This Section of the Planning Proposal explains and justifies the proposal to amend Cowra Local Environmental Plan 2012 by amending existing Clause 4.1A to enable community title subdivisions below the minimum lot size in the R1 General Residential zone.

6.1. Issues Paper Findings

Section 3.1 of the Issues Paper for the Review of Cowra Local Environmental Plan 2012 included a detailed review of the adequacy of the existing minimum lot size provisions relating to the subdivision of residential land. One of the main issues that were identified was the unnecessary need for community title lots to be subject to minimum lot size controls in Cowra Local Environmental Plan 2012.

For ease of reference, the main discussion points from the Issues Paper are included below:

- Community Title subdivision is becoming an increasingly popular choice for medium density housing developments in Cowra. One of the biggest advantages of a Community Title subdivision over a Strata Subdivision is that owners arrange their own insurance and are responsible for their own lot. Community Title also allows for the orderly staging of a development.
- Currently, the subdivision of R1 General Residential zoned land into Community Title lots is controlled under Clause 4.1AA of the LEP. This clause currently operates so as to require new Community Title lots in the R1 General Residential zone to be not less than the MLS of 700m². This clause is considered prohibitive and is placing unnecessary restriction on the choice of subdivision for medium density housing.
- The recommended planning response was to amend Clause 4.1AA of Cowra Local Environmental Plan 2012 by removing the R1 General Residential zone from subclause (2).

6.2. Objective

Section 55(2)(a) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include a statement of the objectives or intended outcomes of the proposed amendments.

In relation to this clause amendment, the objective of this Planning Proposal is to:

To amend Cowra Local Environmental Plan 2012 by enabling land in the R1 General Residential zone to be subdivided into new Community Title lots that are less than the minimum lot size prescribed for the zone.

6.3. Explanation of Provisions

Section 55(2)(b) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include an explanation of the provisions that are to be included in the proposed amending instrument. The explanation of provisions is a more detailed statement of how the objectives or intended outcomes are to be achieved by means of amending Cowra Local Environmental Plan 2012.

The objective of this Planning Proposal (detailed in Section 6.2) will be achieved by amending the wording contained in existing Clause 4.1AA of Cowra Local Environmental Plan 2012.

The suggested wording of the clause is detailed in Appendix 5 to this report.

There are no new maps required to be inserted into Cowra Local Environmental Plan 2012 to accommodate this amendment.

6.4. Justification

Section 55(2)(c) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include justification for the objectives, outcomes and provisions and the process for the implementation (including whether the proposed instrument will comply with relevant directions under Section 9.1. The Justification sets out the case for making the proposed LEP amendment.

The NSW Department of Planning & Environment's guidelines for the preparation of Planning Proposals requires the proposed LEP amendment to be justified against a number of considerations. These justifications are included as follows:

6.4.1. Need for the Planning Proposal

Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is a result of the recommendations contained in the Issues Paper for the Review of Cowra Local Environmental Plan 2012 (Issues Paper). The Issues Paper was endorsed for the purposes of public exhibition by Council at the Ordinary Meeting held 24 July 2017. The public exhibition occurred from Tuesday 1 August 2017 to Monday 28 August 2017. All submissions were considered by Council at the Ordinary Meeting on 23 October 2017.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The objective of the Planning Proposal is to amend Cowra Local Environmental Plan 2012 by enabling land in the R1 General Residential zone to be subdivided into new Community Title lots that are less than the minimum lot size prescribed for the zone.

Currently, where Community Title subdivision is proposed and the lot sizes are less than the minimum, Council has the ability to approve the DA using assumed concurrence of the Director-General (provided to all NSW Council's in Planning Circular PS08-003) and subject to consideration of Clause 4.6 of Cowra Local Environmental Plan 2012. This framework works adequately for Council's planners, but does not

address an obvious inconsistency created by the existing provisions of Clause 4.1AA which expressly prohibits the creation of new Community Title lots below the minimum lot size in the R1 General Residential zone.

The removal of the R1 General Residential zone from the provisions of Clause 4.1AA is a necessary action to ensure there is clarity for the community about the appropriateness of Community Title subdivision in the R1 General Residential zone.

6.4.2. Consistency with Regional Plan

The Planning Proposal is generally consistent with the Central West Orange Regional Plan 2036 (Regional Plan), which was released by the NSW Department of Planning & Environment in June 2017.

The Planning Proposal is particularly consistent with Direction 25.

Direction 25 – Increase housing diversity and choice

The Central West Orana Regional Plan 2036 places a significant focus on the need to plan for a range of housing types and to develop strategies which are flexible and responsive to shifts in local housing demand and supply. The Plan also encourages areas with stable populations to meet demand for new housing by providing for a variety of housing types, including medium density developments that take advantage of existing services.

The Regional Plan proposes to achieve this through a number of actions, including:

Action 25.1 – Prepare local housing strategies that increase housing choice, including affordable housing options.

Action 25.4 – Locate higher density development close to town centres to capitalise on existing infrastructure and increase housing choice.

Enabling Community Title Subdivision below the minimum lot size in the R1 General Residential will have positive impacts on the local residential housing market. Community Title subdivision is an increasingly popular choice of land title for medium density housing in the Cowra Shire, however current planning controls have cast some uncertainty for the community over the last 5 years because of the existing provisions

contained in Clause 4.1AA of Cowra Local Environmental Plan 2012.

Increasing housing choice is about making sure the residential housing market continues to meet the needs of a broad cross section of the community. Smaller lot living is becoming an increasingly popular choice of housing for the Cowra community, which has an ageing population. The redevelopment of existing housing stock into medium density housing is an existing trend in areas close to the Cowra CBD, however there is increasing demand for similar development types in newer subdivision areas on the periphery of town as developers seek to maximise a return on investment and buyers seek more affordable housing choices in new release areas. For many years, the use of Strata Title was the only way to achieve separation of ownership for these types of developments. Council has received feedback of many occasions that Strata Title is the least preferred option for many development scenarios because of the complexities associated with the creation and on-going operation of a Body Corporate. Community Title is preferred because it still enables separation of landownership, but increases independence for property owners and better facilitates the staging of new developments.

The Planning Proposal is therefore likely to have only positive impacts on housing diversity and choice in Cowra.

6.4.3. Consistency with relevant SEPPs

The following State Environmental Planning Policies are assessed as not applying to the Cowra Local Government area:

- SEPP No. 14 – Coast Wetlands
- SEPP No. 19 – Bushland in Urban Areas
- SEPP No. 19 – Bushland in Urban Areas
- SEPP No. 26 – Littoral Rainforests
- SEPP No. 44 – Koala Habitat Protection
- SEPP No. 47 – Moore Park Showground
- SEPP No. 52 – Farm Dams and Other Works
- SEPP No. 70 – Affordable Housing
- SEPP No. 71 – Coastal Protection

- SEPP (Kosciuszko National Park – Alpine Resorts) 2007
- SEPP (Kurnell Peninsula) 1989
- SEPP (Penrith Lakes Scheme) 1989
- SEPP (Sydney Drinking Water Catchment) 2011
- SEPP (Sydney Region Growth Centres) 2006
- SEPP (Three Ports) 2013
- SEPP (Urban Renewal) 2010
- SEPP (Western Sydney Employment Area) 2009
- SEPP (Western Sydney Parklands) 2009

The following State Environmental Planning Policies apply to the Cowra Local Government Area, but do not contain provisions which are particularly relevant or inconsistent with the proposed clause amendment to Cowra Local Environmental Plan 2012:

- SEPP No. 21 – Caravan Parks
- SEPP No. 30 – Intensive Agriculture
- SEPP No. 33 – Hazardous & Offensive Dev.
- SEPP No. 36 – Manufactured Home Estates
- SEPP No. 50 – Canal Estate Development
- SEPP No. 55 – Remediation of Land
- SEPP No. 55 – Remediation of Land
- SEPP No. 62 – Sustainable Aquaculture
- SEPP No. 64 – Advertising and Signage
- SEPP No. 65 – Design of Quality Res. Apartments
- SEPP (Affordable Rental Housing) 2009
- SEPP (BASIX) 2004
- SEPP (Educational Establishments & Child Care Facilities) 2017
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Housing for Seniors & People with a Disability) 2004
- SEPP (Infrastructure) 2007
- SEPP (Integration & Repeals) 2016
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007

- SEPP (Miscellaneous Consent Provisions) 2007
- SEPP (Rural Lands) 2008
- SEPP (State and Regional Development) 2011
- SEPP (Vegetation in Non-Rural Areas) 2017

The following State Environmental Planning Policies apply to the Cowra Local Government Area, and warrant an assessment to ensure consistency with the proposed clause amendment to Cowra Local Environmental Plan 2012.

SEPP No. 1 – Development Standards

SEPP 1 provides flexibility in the application of planning controls by allowing Council's to approve a development application that does not comply with a development standard where this can be shown that compliance is unreasonable or unnecessary.

SEPP 1, however, no longer applies to land in the Cowra Shire. This is because Cowra Local Environmental Plan 2012 was prepared in accordance with the Standard Instrument (LEP Template) and adopts Clause 4.6 Exception to Development Standard. This clause effectively replaces SEPP 1.

For reasons above, the proposed changes to Clause 4.1AA do not create an issue of inconsistency with the provisions contained in SEPP No. 1 – Development Standards.

6.4.4. Consistency with Section 9.1 Directions

The following Section 9.1 Ministerial Directions are assessed as not applying to the proposed clause amendment:

- Direction 1.1 – Business and Industrial Zones
- Direction 1.2 – Rural Zones
- Direction 1.3 – Mining, Petroleum Production and Extractive Industries
- Direction 1.4 – Oyster Aquaculture
- Direction 1.5 – Rural Lands
- Direction 2.1 – Environment Protection Zones
- Direction 2.2 – Coastal Protection
- Direction 2.3 – Heritage Conservation
- Direction 2.4 – Recreation Vehicle Areas
- Direction 2.5 – Application of E2 and E3 Zones
- Direction 3.2 – Caravan Parks and Manufactured Home Estates
- Direction 3.3 – Home Occupations
- Direction 3.4 – Integrated Land Use and Transport
- Direction 3.5 – Development Near Licensed Aerodromes
- Direction 3.6 – Shooting Ranges
- Direction 4.1 – Acid Sulfate Soils
- Direction 4.2 – Mine Subsidence and Unstable Land
- Direction 4.3 – Flood Prone Land
- Direction 4.4 – Planning for Bushfire Protection
- Direction 5.1 – Implementation of Regional Strategies
- Direction 5.2 – Sydney Drinking Water Catchments
- Direction 5.3 – Farmland of State and Regional Significance
- Direction 5.4 – Commercial and Retail Development along the Pacific Hwy
- Direction 5.5 – Development in the vicinity of Ellalong, Paxton & Millfield
- Direction 5.6 – Sydney to Canberra Corridor
- Direction 5.7 – Central Coast
- Direction 5.8 – Second Sydney Airport: Badgerys Creek
- Direction 5.9 – North West Rail Link Corridor Strategy
- Direction 5.10 – Implementation of Regional Plans
- Direction 6.1 – Approval and Referral Requirements
- Direction 6.2 – Reserving Land for Public Purposes
- Direction 6.3 – Site Specific Provisions
- Direction 7.1 – Implementation of A Plan for Growing Sydney
- Direction 7.2 – Implementation of Greater Macarthur Land Release Inv.

- Direction 7.3 – Parramatta Road Corridor Urban Transformation Strategy
- Direction 7.4 – Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan.
- Direction 7.5 – Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan.
- Direction 7.6 – Implementation of Wilton Priority Growth Area Land Use and Infrastructure Implementation Plan.

The following Section 9.1 Ministerial Directions apply to the proposed clause amendment to Cowra Local Environmental Plan 2012. An assessment has been carried out to ensure consistency with the terms of the direction.

Direction 3.1 – Residential Land

This Ministerial Direction applies as the Planning Proposal affects land within an existing residential zone. The Ministerial Direction requires the Planning Proposal to include provisions that:

- broaden the choice of building types and locations available in the housing market, and
- make more efficient use of existing infrastructure and services, and
- reduce the consumption of land for housing and associated urban development on the urban fringe, and
- provide for housing that is of good design.

The proposed changes to Clause 4.1AA will provide the local community with more choice in terms of the type of subdivision possible for existing and new residential developments in Cowra. Council has received feedback on many occasions that Community Title is increasingly preferred by property owners because it involves less administrative complexities than Strata Title, but still enables separation of landownership and increased independence for property owners.

Direction 3.4 – Integrated Land Use and Transport

This Ministerial Direction applies as the Planning Proposal creates a new provision that affects land zoned for residential purposes. The Ministerial

Direction requires the Planning Proposal to be consistent with the aims, objectives and principles of:

- Improving Transport Choice – Guidelines for planning development (DUAP 2001), and
- The Right Place for Business and Services – Planning Policy (DUAP 2001).

These policy documents generally encourage local planning that supports and enables development that is highly accessible by walking, cycling and public transport.

The changes to Clause 4.1AA will affect land in the R1 General Residential zone generally. For this reason, individual developments will likely have varying levels of accessibility to local services and facilities by means of walking, cycling and public transport.

Notwithstanding, Cowra Township is a relatively small community but still enjoys high levels of transport accessibility for all residents. The pedestrian and cycleway network connects the CBD to key areas of residential growth, and public transport options extend to most areas of town.

The Planning Proposal consistent with the terms of Ministerial Direction 3.4.

6.4.5. Environmental, Social & Economic Impact Assessment

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?

It is not possible to accurately measure potential impacts because the clause would enable development on any land in the R1 General Residential zone.

Council would however be required to assess the potential for adverse impacts on environmental values as part of each Development Application.

The clause would also be supported by the existing environmentally sensitive land overlay mapping in Cowra Local Environmental Plan 2012.

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

It is not possible to accurately measure potential impacts because the clause applies generally to land in the R1 General Residential zone. The likelihood of significant or unacceptable impacts occurring is however considered to be low.

Potential impacts associated with the new developments seeking consent for the subdivision of land under Community Title in the R1 General Residential zone would vary on a case by case basis and would need to be properly assessed as part of individual Development Applications.

Has the planning proposal adequately addressed any social and economic impacts?

Detailed social and economic assessment is considered unnecessary due to the nature of the Planning Proposals.

Positive impacts may be created by:

- Increased employment opportunities linked to new activity in the local housing construction market.
- Increased choice for the local residential housing market.

6.4.6. State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

The planning proposal does not increase demand for public infrastructure including public transport, roads, utilities, waste management or essential services, beyond the capacity of the existing system.

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

The Planning Proposal is likely to be of minor significance to State and Commonwealth public authorities. Notwithstanding, appropriate consultation will be completed as part of the public exhibition of the Planning Proposal following the gateway determination.

6.5. Mapping

Council intends to allow Community Title subdivision below the minimum lot size throughout the whole the R1 General Residential zone. In this regard, the Planning Proposal does not need to be supported by a new map series for Cowra Local Environmental Plan 2012.

7.0

Community Consultation

This section outlines the Community Consultation that is to be undertaken for the Planning Proposals detailed in previous sections of this report.

7.1. Community Consultation

In accordance with Section 57(2) of the Environmental Planning and Assessment Act 1979, this planning proposal must be approved prior to community consultation being undertaken by the local authority (Cowra Council).

The following consultation strategy will be adopted by Cowra Council for the Planning Proposal.

- Advertisement on Council's website for 28 days.
- Advertisement in the Cowra Guardian on at least two occasions.

The following material will be made available for inspection throughout the exhibition period:

- Issues Paper for the Review of Cowra Local Environmental Plan 2012 – July 2017
- Issues Paper for the Review of Cowra Local Environmental Plan 2012 – July 2017 – Summary of Recommendations.
- Planning Proposal.
- Gateway Determination, as issued by NSW Department of Planning & Environment.

The following government agencies are considered to have interests that are particularly relevant to the issues being addressed by this Planning Proposal, will be consulted as part of the public exhibition:

- NSW Office of Water.
- NSW Department of Primary Industries.
- NSW Office of Environment and Heritage.
- Housing NSW.

Council will also consult in accordance with the requirements of the Cowra Shire Council's Aboriginal Consultation Policy.

8.0

Project Timeline

This section outlines the expected timeframes required to complete the Planning Proposal relating to the clause amendments to Cowra Local Environmental Plan 2012.

8.1. Project Timeline

Description	Milestone	Anticipated Completion Date	Status
Issues Paper for Review of Cowra Local Environmental Plan 2012	Preparation	April 2017	Completed
	Report to Council	July 2017	Completed
	Public Exhibition	August 2017	Completed
	Consideration of Submissions	September 2017	Completed
	Report to Council for Endorsement	October 2017	Completed
Planning Proposal	Resolution to Prepare	October 2017	Completed
	Preparation	November 2017	Completed
	Report to Council	February 2018	Completed.
	Submission to Gateway	September 2018	To be completed
	Issue of Gateway Determination	October 2018	To be completed
Public Exhibition	Advertisement of Planning Proposal	October 2018	To be completed
	Public Hearing	N/A	N/A.
Consideration of Submissions	Consideration of Submissions	November 2018	To be completed
	Report to Council	November 2018	To be completed
	Resolution to prepare LEP	December 2018	To be completed
Preparation of LEP	Preparation of Written Instrument	January 2019	To be completed
	Preparation of Mapping	January 2019	To be completed
	Parliamentary Counsel Opinion	February 2018	To be completed
Making of LEP	Ministerial signature	March 2018	To be completed

Appendix 1.0

Included in Appendix 1 is a copy of clause that has been settled by NSW Department of Planning & Environment relating to the undertaking of rural boundary adjustments.

1. Boundary changes between lots in certain rural, residential and environmental protection zones

- (1) The objective of this clause is to permit the boundary adjustment between 2 or more lots to be altered in certain circumstances, to give landowners a greater opportunity to achieve the objectives of a zone.
- (2) This clause applies to land in any of the following zones:
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU3 Forestry,
 - (c) Zone RU4 Primary Production Small Lots,
 - (d) Zone R5 Large Lot Residential,
 - (e) Zone E1 National Parks and Nature Reserves,
 - (f) Zone E2 Environmental Conservation,
 - (g) Zone E3 Environmental Management.
- (3) Despite clause 4.1(3), development consent may be granted to the subdivision of 2 or more adjoining lots, being land to which this clause applies, if the subdivision will not result in any of the following:
 - (a) an increase in the number of lots,
 - (b) an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots.
- (4) Before determining a development application for the subdivision of land under this clause, 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 (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 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.

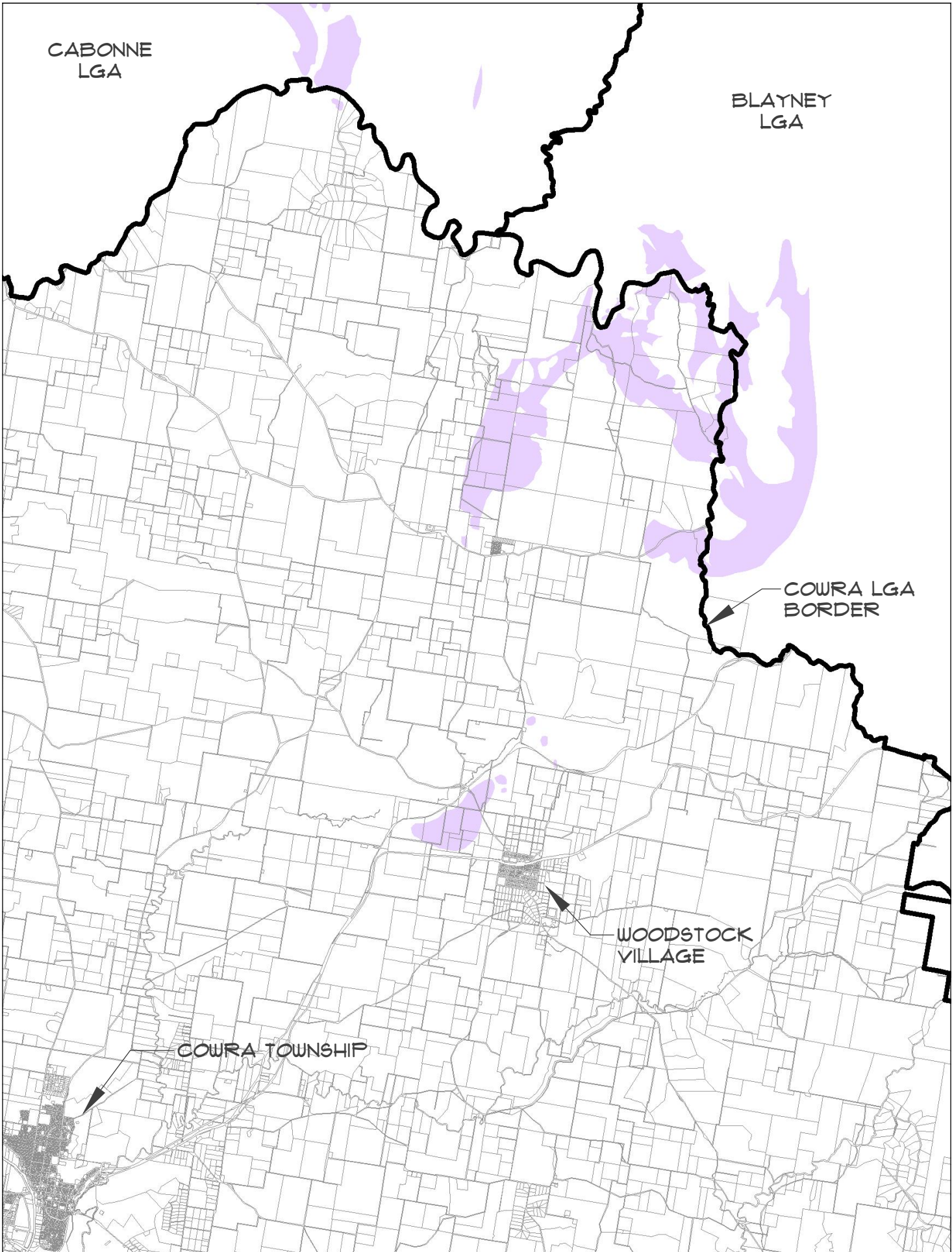
Appendix 2.0

Included in Appendix 2 is a copy of clause that has been settled by NSW Department of Planning & Environment relating to the protection of karst ecosystems, and a copy of the draft Map.

Development on land in karst areas

- (1) The objective of this clause is to protect, maintain or improve the following:
 - (a) karst features, systems and development processes (geodiversity),
 - (b) water quality and flow within karst catchments,
 - (c) ecological processes within karst environments,
 - (d) sensitive or threatened flora and fauna species, communities, populations and habitats,
 - (e) scenic and cultural values of karst landscapes.
- (2) This clause applies to land identified as “Identified Karst Environment” on the Natural Resources Sensitivity—Land Map.
- (3) In deciding whether to grant development consent, the consent authority must take into consideration the following matters:
 - (a) identification of any adverse impact on the values of the karst environment, including ecological, geological, historical and recreational values (the karst environment values),
 - (b) the extent of the impact of the development on karst environment values, including but not limited to air quality, water quality, biodiversity, geodiversity and heritage,
 - (c) any proposed measures to be undertaken to ameliorate any potentially adverse impacts,
 - (d) whether the development will cause an appreciable deterioration in the quality or natural flow of water entering the karst environment,
 - (e) whether the development will cause an appreciable deterioration in the quality or natural movement of air entering the subterranean portion of any karst environment,
 - (f) whether the development will result in any change to the richness and distribution of indigenous flora and fauna species in any karst environment,
 - (g) whether the development will result in any loss, damage or harm to caves or other geomorphological features.
- (4) Before granting consent to development to which this clause applies the consent authority must be satisfied that:
 - (a) the development is designed, sited and managed to avoid potential adverse environmental impacts on karst features, systems and development processes, or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise the impact.
- (5) In this clause:

karst environment means an area of land, including subterranean land, that has developed in soluble rock through the processes of solution, abrasion or collapse, together with its associated bedrock, soil, water, gases and biodiversity.



LEGEND

 Karst Extent

0 3.5 7km



Appendix 3.0

Included in Appendix 3 is a copy of the NSW Department of Planning & Environment's Model Clause 4.1C relating to the exception of minimum lot size standards for certain residential developments.

4.1C Exceptions to minimum lot sizes for certain residential development

General Information

The direction under Clause 4.1 of the Standard Instrument states that 'an exception to the minimum lot size shown on the Lot Size Map may be provided in certain circumstances, for example, in the case of land that is to be used for 'attached dwellings'. Given Clause 4.2 deals with flexibility for rural subdivision in zones RU1, RU2, RU4 and RU6, this model clause is not to be used for those rural zones.

Through a strategic analysis of the local government area, councils will identify where medium density and smaller lots will be most suitable based on the current and future neighbourhood character and provision of infrastructure and services.

This model local provision sets a minimum lot size for residential development to ensure there is adequate amenity for smaller lot sizes as well as the surrounding area in higher residential densities.

To ensure amenity is not compromised on the smallest lots, the provision also enables a development application for subdivision of land and the erection of dwellings on those subdivided parcels to be considered at the same time by the consent authority. This is to ensure that dwelling design is suited to and is appropriate for small lot sizes.

Matters for consideration:

- Subclause (3) requires the consent authority to prescribe the size of the resulting individual lot which may be registered as a conventional torrens title, part of a community title scheme or a lot in a strata plan.
- In addition, it is expected that councils will develop appropriate controls in their development control plans that would support this local provision and ensure that building design is appropriate for smaller lot sizes. Special consideration should be given to building envelope, orientation, solar access and privacy of the dwellings and desired streetscape character.
- Where council would like to apply this provision but differ the minimum required for different zones or to apply to certain land within a zone, this should be discussed with the Department.

(1) The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.

(2) This clause applies to development on land in the following zones:

(i) *[insert name of zone]*,

(ii) *[insert name of zone]*.

(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 *[insert a number not less than 3]* or more lots,
- (b) the erection of an attached dwelling, a semi-detached dwelling or a dwelling house on each lot resulting from the subdivision, if the size of each lot is equal to or greater than:
 - (i) for the erection of a dwelling house - *[insert number in m²]*, or
 - (ii) for the erection of an attached dwelling - *[insert number in m²]*, or
 - (iii) for the erection of a semi-detached dwelling - *[insert number in m²]*.

Appendix 4.0

Included in Appendix 4 is a copy of the suggested wording for a revised Clause 4.2A of Cowra Local Environmental Plan 2012.

4.2A Subdivision for the purposes of intensive livestock agriculture or intensive plant agriculture

- (1) The objectives of this clause are as follows:
 - (a) to provide flexibility in the application of standards for subdivision for the purpose of intensive livestock agriculture or intensive plant agriculture in certain rural zones,
 - (b) to encourage sustainable intensive livestock agriculture and intensive plant agriculture,
 - (c) to minimise unplanned rural residential development.
- (2) This clause applies to the following rural zones:
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU4 Primary Production Small Lots.
- (3) Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose of intensive livestock agriculture or intensive plant agriculture to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) However, development consent must not be granted to such a subdivision if an existing dwelling house would, as a result of the subdivision, be situated on a lot created by the subdivision unless the consent authority is satisfied that:
 - (a) the lot will have an area of at least 40 hectares, and
 - ~~(b) the lot is or is to be subject to irrigation requiring a water licence and the volume of, and entitlement to, water available under that licence is or will be adequate for the use of the land for the purpose of intensive livestock agriculture or intensive plant agriculture, and~~
 - (b) the lot has or arrangements have been made for the lot to be provided with a sustainable water supply that is adequate having regard to the nature and scale of the intensive livestock or plant based agricultural activity, and
 - (c) the lot is suitable for, and is to be used for, intensive livestock agriculture or intensive plant agriculture, and
 - (d) the dwelling house is required to support the carrying out of such a purpose.
- (5) Development consent may be granted for the erection of a dwelling house on a lot created by a subdivision under this clause or on an existing lot of any size that only contains land in a zone to which this clause applies if the consent authority is satisfied that:
 - (a) the lot complies with subclause (4) (a) and (b), and
 - (b) the lot is suitable for, and is being used for, the purpose of intensive livestock agriculture or intensive plant agriculture, and
 - (c) the dwelling house is required to support the carrying out of that purpose.

Note. State Environmental Planning Policy (Rural Lands) 2008 and Assessing Intensive Plant Agriculture Developments (published by the Department of Primary Industries) set out other relevant issues for the consideration of consent authorities when assessing development applications for intensive plant agriculture.

Appendix 5.0

Included in Appendix 4 is a copy of the suggested wording for a revised Clause 4.1AA of Cowra Local Environmental Plan 2012.

4.1AA Minimum subdivision lot size for community title schemes

- (1) The objectives of this clause are as follows:
 - (a) to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements.
- (2) This clause applies to a subdivision (being a subdivision that requires development consent) under the Community Land Development Act 1989 of land in any of the following zones:
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU4 Primary Production Small Lots,
 - ~~(c) Zone R1 General Residential,~~
 - (d) Zone R5 Large Lot Residential,
 - (e) Zone E3 Environmental Management.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property within the meaning of the Community Land Development Act 1989) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.