

2017

Section 59 Report

COWRA LEP 2012 Amendment No. 2

This Report has been prepared pursuant to the requirements of Section 59 of the Environmental Planning & Assessment Act 1979,

0.1

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1.0

Preliminary

This section of the Section 59 Report provides an overview of the LEP Amendment.

1.1. Description

Cowra Local Environmental Plan 2012 (Amendment No. 2) is formally described as PP_2016_Cowra_001_00.

1.2. Proposal

The proposal is to amend Cowra Local Environmental Plan 2012 (the LEP) by including an Additional Permitted Use in Schedule 1 that permits an animal boarding or training establishment on Lots 5 and 6 Section 10 DP 759112, being 31 Rankin Street, Woodstock NSW 2794.

1.3. Gateway Determination

A Gateway Determination for PP_2016_Cowra_001_00 was issued, subject to conditions, by the NSW Department of Planning & Environment on 21 July 2016.

The Gateway Determination provided a timeframe of 9 months for completion of Cowra Local Environmental Plan 2012 (Amendment No. 2).

1.4. Summary

Lot 5 and 6 Section 10 DP 759112, being 31 Rankin Street, Woodstock, is currently being used by P Gill and P Levett to operate a business that specialises in the breeding and training of Labrador and English Springer Spaniel Dogs.

The land is zoned RU5 under Cowra Local Environmental Plan 2012. Under the Dictionary to Cowra Local Environmental 2012, the business activity currently being carried out on the land would be defined as an animal boarding or training establishment. This is an activity that requires development consent from Council, however no such consent has ever been granted by the Council.

A Development Application was recently lodged with Cowra Council seeking consent to continue the use of the land, however it was withdrawn by the applicant upon advice from Council that development for the purpose of an animal boarding or training establishment is prohibited in the RU5 Village zone.

Subsequent to the withdrawal of the Development Application, Council received a request to amend Cowra Local Environmental Plan 2012. The request was made by Staniforth & Saunders on behalf of their Client's Pauline Gill and Peter Levett, and detailed in a Planning Proposal dated 26 March 2015.

The Planning Proposal seeks to amend Cowra Local Environmental Plan 2012 by including an Additional Permitted Use in Schedule 1 that permits an animal

boarding or training establishment on Lot 5 and 6
Section 10 DP 759112, being 31 Rankin Street,
Woodstock.

There is no proposal to alter the current zoning of the
land under Cowra Local Environmental Plan 2012 or
modify the land-use table relating to the RUS Village
zone.

Pursuant to Sections 56(2)(c) and 57 of the
Environmental Planning & Assessment Act 1979 and
resolution of Cowra Council at its Ordinary Meeting
held 26 April 2016, PP_2016_COWRA_001_00 was
placed on exhibition for public comment from 16
September 2016 to 13 October 2016. Council received
one public submissions in relation to the proposal. The
issues raised in this submission have been assessed and
there are no post-exhibition changes considered
necessary to Cowra Local Environmental Plan 2012
(Amendment No. 2).

The Gateway Determination issued by the Department
did not require any consultation with public authorities
under Section 56(2)(d) of the Environmental Planning &
Assessment Act 1979.

The Gateway Determination issued by the Department
did not require a public hearing to be held into the
matter by any person or body under Section 56(2)(e) of
the Environmental Planning & Assessment Act 1979.

On 8 March 2016, Cowra Council received an opinion
from Parliamentary Counsels Office that Cowra Local
Environmental Plan 2012 (Amendment No. 2) may be
legally made.

2.0

Gateway Determination

This section provides details of the Gateway Determination issued by the Department of Planning & Environment, and demonstrates consistency with the conditions of the determination.

2.1. Gateway Determination

- On 4 May 2016, Cowra Council wrote to NSW Planning & Environment requesting a Gateway Determination for PP_2016_COWRA_001_00.
- The Gateway Determination was not subject to a review request.
- On 21 July 2016, NSW Planning & Environment issued a Gateway Determination for PP_2016_COWRA_001_00, subject to 4 conditions. The Gateway Determination is included in Appendix 1.
- Community consultation has been completed in accordance with the requirements of condition No. 1. See Section 3 of this report for further information.
- A public hearing was not required in accordance with condition No. 2.
- In accordance with condition No. 3, an Additional Permitted Use Map has been prepared and is compliant with the Department's Standard Technical Requirements for LEP Maps".
- Condition No. 4 set a timeframe for completing the LEP of 9 months from the date of the Gateway Determination, being 21 April 2017. It is anticipated that notification of Cowra Local Environmental Plan 2012 will occur prior to this date.

3.0

Consultation

This section provides an overview of the public consultation carried out in relation to Cowra Local Environmental Plan 2012 (Amendment No. 2).

3.1. Public Exhibition

Pursuant to Sections 56(2)(c) and 57 of the Environmental Planning & Assessment Act 1979 and resolution of Cowra Council at its Ordinary Meeting held 26 April 2016, PP_2016_COWRA_001_00 was placed on exhibition for public comment from 16 September 2016 to 13 October 2016

The following strategy was used as part of the public exhibition process:

- Exhibition material notified to all adjoining and adjacent property owners.
- Exhibition material made available for inspection at Cowra Council's Customer Service Centre.
- Exhibition material made available for download from Cowra Council's website.

There was one submission received by Council as a result of the public exhibition process.

Council received one public submissions in relation to the proposal. The issues raised in this submission have been assessed and reported to Council and there are no post-exhibition changes proposed to Cowra Local Environmental Plan 2012 (Amendment No. 2).

4.0

Strategic Assessment

This section includes an assessment of the Planning Proposal for consistency with the strategic planning framework.

4.1. State Environmental Planning Policies

The Planning Proposal has been assessed for consistency against the provision of all State Environmental Planning Policies (SEPPs) that apply to land in the Cowra Local Government Area. The assessment (detailed in the table below) has not identified any inconsistencies.

Policy	Statement of Consistency
SEPP No 1 – Development Standards	The Planning Proposal has been reviewed against the SEPP. No inconsistencies identified.
SEPP No 21 – Caravan Parks	The Planning Proposal has been reviewed against the SEPP. No inconsistencies identified.
SEPP No 22 – Shops and Commercial Premises	The Planning Proposal has been reviewed against the SEPP. No inconsistencies identified.
SEPP No 30 – Intensive Agriculture	The Planning Proposal has been reviewed against the SEPP. No inconsistencies identified.
SEPP No 33 – Hazardous and Offensive Development	The Planning Proposal has been reviewed against the SEPP. No inconsistencies identified.
SEPP No 36 – Manufactured Home Estates	The Planning Proposal has been reviewed against the SEPP. No inconsistencies identified.
SEPP No 55—Remediation of Land	The Planning Proposal has been reviewed against the SEPP. No inconsistencies identified.

Policy	Statement of Consistency
SEPP No 62—Sustainable Aquaculture	The Planning Proposal has been reviewed against the SEPP. No Inconsistencies Identified.
SEPP No 64—Advertising and Signage	The Planning Proposal has been reviewed against the SEPP. No Inconsistencies Identified.
SEPP No 65—Design Quality of Residential Apartment Development	The Planning Proposal has been reviewed against the SEPP. No Inconsistencies Identified.
SEPP (Affordable Rental Housing) 2009	The Planning Proposal has been reviewed against the SEPP. No Inconsistencies Identified.
SEPP (Building Sustainability Index: BASIX) 2004	The Planning Proposal has been reviewed against the SEPP. No inconsistencies identified.
SEPP(Exempt and Complying Development Codes) 2008	The Planning Proposal has been reviewed against the SEPP. No Inconsistencies Identified.
SEPP (Housing for Seniors or People with a Disability) 2004	The Planning Proposal has been reviewed against the SEPP. No Inconsistencies Identified.
SEPP (Infrastructure) 2007	The Planning Proposal has been reviewed against the SEPP. No inconsistencies identified.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	The Planning Proposal has been reviewed against the SEPP. No inconsistencies identified.
SEPP (Miscellaneous Consent Provisions) 2007	The Planning Proposal has been reviewed against the SEPP. No inconsistencies identified.
SEPP (Rural Lands) 2008	The Planning Proposal has been reviewed against the SEPP. No inconsistencies identified.
SEPP (State and Regional Development) 2011	The Planning Proposal has been reviewed against the SEPP. No Inconsistencies Identified.

4.2. Section 117 Directions

The Planning Proposal has been assessed for consistency against the provision of all State Environmental Planning Policies (SEPPs) that apply to land in the Cowra Local Government Area. The assessment (detailed in the table below) has not identified any inconsistencies.

Policy	Statement of Consistency
Direction 1.1 – Business & Industrial Zones	The Ministerial Direction does not apply. The Planning Proposal does not involve land in a business or industrial zone.
Direction 1.2 – Rural Zones	The Ministerial Direction does not apply. The Planning Proposal does not involve land in a rural zone.
Direction 1.3 – Mining, Petroleum Production & Extractive Industries	The Planning Proposal is not inconsistent with the terms of the Ministerial Direction. The Planning Proposal does not have the effect of prohibiting mining or extractive industry operations, or restricting the potential development of resources which are of State or regional significance.
Direction 1.4 – Oyster Aquaculture	The Ministerial Direction does not apply. The proposal does not involve oyster aquaculture.
Direction 1.5 – Rural Lands	The Ministerial Direction does not apply. The Planning Proposal does not involve rural lands.
Direction 2.1 – Environment Protection Zones	The Planning Proposal is not inconsistent with the terms of the Ministerial Direction. The Planning Proposal does not affect land that is identified as environmentally sensitive, and does not involve land that is located within an environment protection zone.
Direction 2.2 – Coastal Protection	The Ministerial Direction is not relevant. Cowra Shire does not have any coastal lands.
Direction 2.3 – Heritage Conservation	The Planning Proposal is not inconsistent with the terms of the Ministerial Direction.

Policy

Statement of Consistency

The Planning Proposal does not affect land that has been identified in Schedule 5 of Cowra Local Environmental Plan 2012.

Provisions are already included in Cowra Local Environmental Plan 2012 which facilitate the conservation of items and places of European and Aboriginal heritage significance.

Direction 2.4 – Recreation Vehicle Areas

The Planning Proposal is not inconsistent with the terms of the Ministerial Direction. The Planning Proposal does not aim to enable the land to be used for purpose of a recreation vehicle area.

Direction 2.5 – Application of E2 and E3 Zones

The Ministerial Direction does not apply. The Planning Proposal does not involve land on the Far North Coast.

Direction 3.1 – Residential Zones

The Ministerial Direction is relevant as the Planning Proposal affects land within a zone in which residential development is proposed to be permitted.

The Planning Proposal is of minor significant to the residential housing market. The current use of the land for residential purposes will continue as the primary use of the land, with the animal boarding or training establishment intended to serve as an ancillary use.

The Planning Proposal will have a positive yet negligible impact in terms of broadening housing choice as it will ultimately enable the landowners to continue to live in this property whilst carrying out their business activity (note: subject to the determination of a Development Application with Council)

The Planning Proposal is assessed to be consistent with the terms of the Ministerial Direction.

Direction 3.2 – Caravan Parks & Manufactured Home Estates

The Planning Proposal is not inconsistent with the terms of the Ministerial Direction. The Planning Proposal does not aim to identify suitable zones, locations and provisions for caravan parks.

Policy	Statement of Consistency
Direction 3.3 – Home Occupations	The Ministerial Direction requires the Planning Proposal to permit home occupations to be carried out in dwellings-houses without the need for development consent. It is not proposed to alter the permissibility of home occupations in the RU5 Village zone.
Direction 3.4 – Integrating Land Use & Transport	The Planning Proposal is not inconsistent with the terms of the Ministerial Direction. The Planning Proposal will have negligible impact in terms of integrating land-use and transport. Rankin Street Woodstock is an established area defined by an existing network of public roads.
Direction 3.5 – Development Near Licenced Aerodromes	The Ministerial Direction does not apply. The Planning Proposal does not relate to land that is in the vicinity of a licensed aerodrome.
Direction 3.6 – Shooting Ranges	The Ministerial Direction does not apply. The Planning Proposal does not relate to land that is in the vicinity of a shooting range.
Direction 4.1 – Acid Sulfate Soils	The Ministerial Direction does not apply. There are no Acid Sulfate Soils mapped in the Cowra Shire.
Direction 4.2 – Mine Subsidence and Unstable Land	The Ministerial Direction does not apply. The subject land is not known to be within a Mine Subsidence District.
Direction 4.3 – Flood Prone Land	The Ministerial Direction does not apply. The land is not flood prone.
Direction 4.4 – Planning for Bushfire Protection	The Ministerial Direction does not apply. The land is not bushfire prone according to the NSW Rural Fire Service Bushfire Prone Land Map.
Direction 5.1 – Implementation of Regional Strategies	The Ministerial Direction does not apply. The land is not located within area affected by a Regional Strategy identified in the Ministerial Direction.
Direction 5.2 – Sydney Drinking Water Catchments	The Ministerial Direction does not apply. The land is not located within the Sydney Drinking Water Catchment.

Policy	Statement of Consistency
Direction 5.3 – Farming of State and Regional Significance on the NSW Far North Coast	The Ministerial Direction does not apply to land in the Cowra Shire.
Direction 5.4 – Commercial and Retail Development along the Pacific Highway	The Ministerial Direction does not apply to land in the Cowra Shire.
Direction 5.5 – Development in the vicinity of Ellalong, Paxton and Millfield	The Ministerial Direction does not apply to land in the Cowra Shire.
Direction 5.6 – Sydney to Canberra Corridor	The Ministerial Direction does not apply to land in the Cowra Shire.
Direction 5.7 – Central Coast	The Ministerial Direction does not apply to land in the Cowra Shire.
Direction 5.8 – Second Sydney	The Ministerial Direction does not apply to land in the Cowra Shire.
Direction 5.9 – North West Rail Link Corridor	The Ministerial Direction does not apply to land in the Cowra Shire.
Direction 6.1 – Approval and Referral Requirements	The Planning Proposal is not inconsistent with the terms of the Ministerial Direction. The Planning Proposal does not seek to introduce provisions into Cowra LEP 2012 that require the concurrence, consultation or referral of DA's to the Minister or other public authorities.
Direction 6.2 – Reserving Land for Public Purposes	The Ministerial Direction does not apply. There is no proposal to reserve land for a public purpose.
Direction 6.3 – Site Specific Provisions	The Ministerial Direction is relevant because the Planning Proposal seeks to amend Cowra LEP 2012 in order to allow a particular development proposal to be carried out on land at 31 Rankin Street, Woodstock. The Planning Proposal does not seek to allow development for the purposes of dwellings permissible on all RU5 Village zoned land, or does not seek to change the zoning of identified property holdings to a zone that permits development for the purpose of an animal boarding

Policy

Statement of Consistency

establishment.

Instead, the Planning Proposal seeks to use Schedule 1 of Cowra LEP 2012 to nominate 'animal boarding or training establishment as an Additional Permitted Use for Lots 5 and 6 Sec 10 DP 759112. This approach is consistent with subclause (4)(c) of the Ministerial Direction.

Direction 7.1 – Implementation of the Metropolitan Plan for Sydney 2036

The Ministerial Direction does not apply to land in the Cowra Shire.

Direction 7.2 – Implementation of Greater Macarthur Land Release Investigation

The Ministerial Direction does not apply to land in the Cowra Shire.

Direction 7.3 – Parramatta Road Corridor Urban Transformation Strategy

The Ministerial Direction does not apply to land in the Cowra Shire.

5.0

Drafting Matters

This section of the Issues Paper reviews the effectiveness of the new industrial planning framework under Cowra Local Environmental Plan 2012.

5.1. Written Instrument

On 2 March 2017, Council provided a request to Parliamentary Council to draft Cowra Local Environmental Plan 2012 (Amendment No. 2).

On 8 March 2017, Parliamentary Counsel returned a final written instrument to Council with an opinion that Cowra Local Environmental Plan 2012 (Amendment No.2) may be legally made. A copy of the instrument and opinion is provided in Appendix 2.

5.2. Mapping

In accordance with condition No. 4 of the NSW Department & Environment's Gateway Determination., an Additional Permitted Use Map has been prepared and is compliant with the Department's Standard Technical Requirements for LEP Maps".

A hard copy of the Additional Permitted Uses Map is provided in Appendix 3 with all relevant GIS data provided to the NSW Department of Planning & Environment in accordance with the instructions accompanying the Gateway Determination.



Appendix

1.0

Included in Appendix 1 is a copy of the Gateway Determination issued by the NSW Department of Planning on 21 July 2016.



Mr Paul Devery
General Manager
Cowra Shire Council
COWRA NSW 2794

16/07650

Attention: Patrick Fitzsimmons – Development Planner

Dear Mr Devery,

Planning Proposal (PP_2016_COWRA_001_00) to amend Schedule 1 of Cowra Local Environmental Plan 2012 to identify 'Animal Boarding and Training Establishment' as an Additional Permitted Use on Lot 5 and 6 Section 10 DP 759112, 31 Ranken Street, Woodstock.

I am writing in response to Council's letter dated 4 May 2016 requesting a Gateway determination in respect of the revised planning proposal received on 12 July 2016 to amend Schedule 1 of Cowra Local Environmental Plan 2012 to identify 'Animal Boarding and Training Establishment' as an Additional Permitted Use on Lot 5 and 6 Section 10 DP 759112, 31 Ranken Street, Woodstock.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination (**Attachment 1**).

I have also agreed that the planning proposal is consistent with relevant section 117 Directions. No further approval is required in relation to this Direction. Council is not required to consult with any agencies, however community consultation is required to be undertaken for 28 days and should include, but not limited to, the proposal being publicly available on Council's webpage and surrounding affected landowners notified.

The Minister has delegated plan-making powers to Councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of the planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan (**Attachment 2**).

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. The request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office (parliamentary.counsel@pco.nsw.gov.au) 10 weeks prior to the projected publication date.

A copy of the request should be forwarded to the Department of Planning and Environment (westernregion@planning.nsw.gov.au) for administrative purposes.

The amended LEP maps and GIS data is to be uploaded to the Department's Planning Portal at (<https://www.planningportal.nsw.gov.au/planning-tools/online-submission-planning-data>).

State Government is committed to reducing the time taken to complete the LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the *Environmental Planning and Assessment Act 1979* if the time frames outlined in the determination are not met.

In accordance with 'A guide for the preparation of local environmental plans' - attachment 5 Delegated plan making reporting template (**Attachment 3**) is enclosed for Council's information. Table 2 of the attachment is to be completed and included in Council's section 59 submission and forwarded to westernregion@planning.nsw.gov.au when requesting the planning proposal to be finalised.

Should you have any further enquiries, please contact Jenna McNabb, Planning Services, at the Department on (02) 02 6841 2180.

Yours sincerely,

 21-7-2016
Ashley Albury
Director Regions, Western
Planning Services

Enclosed:

Attachment 1 – Gateway Determination
Attachment 2 – Written Authorisation to Exercise Delegation
Attachment 3 – Delegated Plan Making Reporting Template



Gateway Determination

Planning proposal (Department Ref: PP_2016_COWRA_001_00): to amend Schedule 1 of the Cowra Local Environmental Plan 2012 to include 'Animal Boarding and Training Establishment' as an Additional Permitted Use on Lot 5 and 6 Section 10 DP 759112, 31 Ranken Street, Woodstock.

I, the Director Regions, Western at Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the Environmental Planning and Assessment Act 1979 to amend Schedule 1 of the Cowra Local Environmental Plan 2012 to include 'Animal Boarding and Training Establishment' as an Additional Permitted Use on Lot 5 and 6 Section 10 DP 759112, 31 Ranken Street, Woodstock, should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 (EP&A Act) as follows:
 - (a) The planning proposal is required to be made publicly available on exhibition for **28 days** as described in A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013).
 - (b) The relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs.

No agency consultation is required.

2. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
3. Prior to submission of the planning proposal under Section 59 of the Environmental Planning and Assessment Act, 1979 the LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.
4. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 2 / 1 day of July 2016.

**Ashley Albury
Director Regions, Western
Planning Services
Department of Planning & Environment**

Delegate of the Minister for Planning



Planning & Environment

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Cowra Shire Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act, 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2016_COWRA_001_00	To amend Schedule 1 of the Cowra Local Environmental Plan 2012 to include 'Animal Boarding and Training Establishment' as an Additional Permitted Use on Lot 5 and 6 Section 10 DP 759112, 31 Ranken Street, Woodstock.

In exercising the Minister's functions under section 59, the Council must comply with Planning and Infrastructure's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 21st day of July 2016


Ashley Albury
Director Regions, Western
Planning Services
Department of Planning & Environment

Delegate of the Minister for Planning



Appendix

2.0

Included in Appendix 2 is a copy of the written Instrument relating to Cowra Local Environmental Plan 2012 (Amendment No. 2) and Final Opinion from Parliamentary Counsel.