

**DIRECTOR - ENVIRONMENTAL SERVICES REPORT TO THE
ORDINARY COUNCIL MEETING TO BE HELD ON MONDAY
27 MARCH 2017**

Author: Director – Environmental Services.

Item No: 1.

Subject: Cowra Local Environmental Plan 2012 (Amendment No. 2).

Precis: This report details the findings of public exhibition relating to Cowra Local Environmental Plan (Amendment No. 2) and seeks an endorsement from Council to finalise the plan making process in accordance with Section 59 of the Environmental Planning & Assessment Act 1979.

Budget: Nil.

Recommendation:

- 1. That Council's General Manager 'make' Cowra Local Environmental Plan 2012 (Amendment No. 2) pursuant to Section 59 of the Environmental Planning & Assessment 1979 using the delegations provided by the NSW Department of Planning & Environment in the Written Authorisation dated 21 July 2016.**
- 2. That Council endorse the Section 59 Report for submission to the NSW Department of Planning & Environment with a request for notification of Cowra Local Environmental Plan 2012 (Amendment No. 2) on the NSW Legislation website.**

1. Cowra Local Environmental Plan 2012 (Amendment No. 2).

Introduction

At the Ordinary Council Meeting of Council held 26 April 2016, Council resolved to place Cowra Local Environmental Plan 2012 (Amendment No. 2) on public exhibition.

The request to amend Cowra Local Environmental Plan 2012 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. A copy of the Planning Proposal is included in Attachment 'A' to this report.

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 Lots 5 and 6 Section 10 DP 759112, being 31 Rankin Street Woodstock.

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This report provides Council with the relevant details of the public exhibition of Cowra Local Environmental Plan 2012 (Amendment No. 2) and informs the Council on the next and final step in the plan making process.

Background

Cowra Local Environmental Plan 2012 (Amendment No. 2) relates to an existing property at Woodstock. The land is formally identified as Lots 5 and 6 Section 10 DP 759112, 31 Rankin Street Woodstock, and is currently being used by P Gill & 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 Village. Under the Dictionary to Cowra Local Environmental Plan 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.

The activity was first brought to the attention of Council as a result of a complaint. The landowner subsequently lodged a Development Application with Council seeking consent to continue the operation of the business activity. However, Council was unable to grant consent, as the use of the land for the purposes of an animal boarding or training establishment is currently prohibited in the RU5 Village zone. For this reason, the Development Application was withdrawn by the applicant, and a Planning Proposal is now being pursued by the applicant, seeking an amendment to Cowra Local Environmental Plan 2012 that would enable an animal boarding or training establishment as a permissible use on Lots 5 and 6 Section 10 DP 759112.

Public Exhibition

Cowra Local Environmental Plan 2012 (Amendment No.2) was placed on public exhibition from 16 September 2016 to 13 October 2016.

The following strategy was implemented as part of the public exhibition of the Planning Proposal:

- 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.

Council received one submission as a result of the public exhibition process. The submission was received from J E Hill & K Ridge. An analysis of the issues raised in the submission has been included in Attachment 'B' to this report.

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The issues raised in the submission have been assessed and it is considered that they do not warrant any post-exhibition changes to Cowra Local Environmental Plan 2012 (Amendment No. 2).

Strategic Justification

The proposal to amend Cowra Local Environmental Plan 2012 by allowing an animal boarding or training establishment as a permissible use on Lots 5 and 6 Section 10 DP 759112, is considered justified for the following three main reasons:

1. The scope of the proposed amendment to Cowra Local Environmental Plan 2012 is of relatively minor significance in the broader context of strategic planning for the Cowra Shire. The proposal relates to only one property.
2. Identifying an animal boarding or training establishment as an Additional Permitted Use for Lots 5 and 6 Section 10 DP 759112 enables Council to consider a Development Application for the continued use of the land for such purposes without altering the existing land-use planning framework for all land in the RU5 Village zone.
3. The objective of the RU5 Village zone is to provide for a range of land-uses, services and facilities that are associated with a rural village. NSW Planning Guidelines also state that the RU5 Village zone is suitable to be applied to areas where a mix of residential, retail, business, industrial and other compatible land-uses may be provided to service the local rural community.

Changes are proposed to Cowra Local Environmental Plan 2012 that would enable the continued use of the subject land for residential purposes (dominant use) as well as a business purpose (ancillary use). The proposal is therefore not inconsistent with the objectives of the RU5 Village zone, and is therefore capable of being supported by Council.

It is appropriate for Council to consider the finer operation aspects of the existing business activity, and subsequent suitability of the site, as part of the assessment of a future Development Application.

Section 59 Report

Pursuant to the requirements of Section 59 of the Environmental Planning & Assessment Act 1979, a report has been prepared by Environmental Services which:

1. Demonstrates that the conditions of the Gateway Determination have been satisfied.
2. Details the findings of the public exhibition process.
3. Demonstrates that the amendment is consistent with the relevant State Environmental Planning Policies and Section 117 Ministerial Directions.
4. Provides a copy of Parliamentary Counsel's Opinion that the Cowra Local Environmental Plan 2012 (Amendment No. 2) may be legally made.

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The Section 59 Report is included in Attachment 'C' to this report. Council is requested to endorse this report to enable its submission to the NSW Department of Planning & Environment.

Making of the Plan

As part of the Gateway Determination issued to Council by the NSW Department of Planning & Environment on 21 July 2016, Cowra Council's General Manager was issued delegations to exercise the functions of the Minister for Planning & Environment under Section 59 of the Environmental Planning & Assessment Act 1979. This allows the General Manager (rather than the Minister for Planning & Environment) to 'make' Cowra Local Environmental Plan 2012 (Amendment No. 2) by signing off on the final written instrument and associated mapping.

The written instrument relating to Cowra Local Environmental Plan 2012 (Amendment No. 2) was drafted with assistance from NSW Parliamentary Counsel's Office. A final opinion was issued to Cowra Council on 8 March 2017 that the instrument may be legally made. A copy of the final written instrument is included in Attachment 'D' to this report.

The final map relating to Cowra Local Environmental Plan 2012 (Amendment No. 2) has been prepared with assistance from the NSW Department of Planning & Environment's GIS team and it complies with all technical requirements. A copy of the final map and map cover sheet is included in Attachment 'C', however the public exhibition draft has been included in Attachment 'D' to this report.

A recommendation has been included in this report that the General Manager 'make' Cowra Local Environmental Plan 2012 (Amendment No. 2) by signing the final written instrument, map and map cover sheet.

The Next Steps

Subject to Council's endorsement, the General Manager will sign the official documentation relating to Cowra Local Environmental Plan 2012 (Amendment No. 2) which will be submitted to the NSW Department of Planning & Environment together with the Section 59 Report.

The NSW Department of Planning & Environment will arrange for Cowra Local Environmental Plan 2012 (Amendment No. 2) to be notified on the NSW Legislation website, at which point the Plan will commence operation.

Commencement of the Plan will enable the landowners to proceed with the lodgement of a Development Application with Council for the continued use of the land as an animal boarding or training establishment.

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Conclusion

Cowra Local Environmental Plan 2012 (Amendment No. 2) was placed on public exhibition from 16 September 2016 to 13 October 2016. Council received one submission as a result of the public exhibition process. The issues raised in this public submission have been assessed and do not warrant any post-exhibition changes to Cowra Local Environmental Plan (Amendment No. 2).

This report recommends that Council's General Manager 'make' Cowra Local Environmental Plan 2012 (Amendment No. 2) and that the Section 59 Report be submitted to the NSW Department of Planning & Environment together with a request for the Plan to be notified on the NSW Legislation website.

Attachments

Attachment A	Planning Proposal
Attachment B	Assessment of Public Submission
Attachment C	Section 59 Report
Attachment D	Final Written Instrument, Map & Map Cover Sheet

Kate Alberry
Director – Environmental Services
21 March 2017

ATTACHMENT A

**PLANNING PROPOSAL TO AMEND
Cowra LEP 2012**

**To Permit a
Dog Breeding & Training Facility**

**31 Rankin Street
WOODSTOCK NSW 2793**

RECEIVED
Cowra Shire Council
12 JUL 2016
PLAN
No. _____

**MINUTES OF THE ORDINARY MEETING OF COWRA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS ON MONDAY 27 MARCH 2017**

DIRECTOR – CORPORATE SERVICES

Donation - Woodstock Swimming Pool Committee Inc.

76/17 Moved Cr JA Smith, Seconded Cr MA Nobes:

That in recognition of the service provided by the Woodstock Pool, Council apply the Access Charge for a 20mm water meter backdated to 1 July 2016 and continue to be charged as a 20 mm meter in future.

CARRIED

Fire and Emergency Services Levy (FESL)

77/17 Moved Cr RJ Walsh, Seconded Cr RA Fagan:

That Council note the report on the effects of the Fire and Emergency Services Levy.

CARRIED

DIRECTOR – ENVIRONMENTAL SERVICES

Cowra Local Environmental Plan 2012 (Amendment No. 2)

78/17 Moved Cr JA Smith, Seconded Cr BE Miller:

- 1. That Council's General Manager 'make' Cowra Local Environmental Plan 2012 (Amendment No. 2) pursuant to Section 59 of the Environmental Planning & Assessment 1979 using the delegations provided by the NSW Department of Planning & Environment in the Written Authorisation dated 21 July 2016.**
- 2. That Council endorse the Section 59 Report for submission to the NSW Department of Planning & Environment with a request for notification of Cowra Local Environmental Plan 2012 (Amendment No. 2) on the NSW Legislation website.**

CARRIED

FOR: Councillors RA Fagan, BE Miller, MA Nobes, JA Smith, RJ Walsh, WJ West, IP Whitty and KJ Wright.

AGAINST: Nil.

