

Snowy River Rural LEP 2007 CI 22(1)(b) Existing Holdings sunset provisions

Proposal Title : **Snowy River Rural LEP 2007 CI 22(1)(b) Existing Holdings sunset provisions**

Proposal Summary : **The planning proposal seeks to amend the Snowy River Rural Local Environmental Plan (2007) to preserve existing development rights on rural land holdings that existed as at 26 September 1985. At present, a sunset clause within the LEP will see these development rights removed on 13 April 2012.**

PP Number : **PP_2012_SNOWY_001_00**

Dop File No : **12/03190**

Proposal Details

Date Planning
Proposal Received : **24-Feb-2012**

LGA covered : **Snowy River**

Region : **Southern**

RPA : **Snowy River Shire Council**

State Electorate : **MONARO**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Policy**

Location Details

Street :

Suburb :

City :

Postcode :

Land Parcel : **Whole local government area**

DoP Planning Officer Contact Details

Contact Name : **Nathan Foster**

Contact Number : **0242249459**

Contact Email : **nathan.foster@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Rochelle Crowe**

Contact Number : **0264511564**

Contact Email : **Rochelle.Crowe@snowyriver.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Mark Parker**

Contact Number : **0242249468**

Contact Email : **mark.parker@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A**

Release Area Name : **N/A**

Regional / Sub
Regional Strategy : **N/A**

Consistent with Strategy : **N/A**

Snowy River Rural LEP 2007 CI 22(1)(b) Existing Holdings sunset provisions

MDP Number :	Date of Release :	
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots : 0	No. of Dwellings (where relevant) :	0
Gross Floor Area : 0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? : No

If Yes, comment :

Supporting notes

Internal Supporting Notes : The proposal seeks to remove the sunset provisions within the Snowy River Rural LEP 2007 to allow for the continuation of development rights that existed for existing rural land holdings as at 26 September 1985.

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment : The objective of this planning proposal is to preserve development rights for existing holdings that existed at 26 September 1985. The outcome will be that the development potential (dwelling rights) that applied to an existing holdings at 26 September 1985, will remain.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : Council's Snowy River Rural LEP 2007 includes a number of provisions that provide a parcel of rural land with a building / dwelling 'entitlement' including an 'existing holding' mechanism in clause 22(1)(b).

Clause 22(1)(b) as it currently stands includes a sunset provision intending that these development rights expire on 13 April 2012.

An existing holding is defined in the LEP as;
"an area of a lot, portion or parcel of land as it was at 26 September 1985 or where a person owned two or more adjoining lots, portions or parcels of land, the aggregation of those lots, portions or parcels as they were at 26 September 1985."

The planning proposal seeks to remove, in clause 22(1)(b), the reference to the sunset period, thereby maintaining existing development potential on holdings as at 26 September 1985.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

There is no Council strategy that has informed the planning proposal. The planning proposal seeks only to maintain existing development rights.

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

If No, explain :

The planning proposal is not inconsistent with applicable s117 Directions.

Council has argued that the intent of the Rural Lands SEPP, as identified in cl.11 is not to alter existing entitlements and ability under an environmental planning instrument to erect a dwelling on rural land, and therefore the amendment is consistent with the SEPP by seeking to retain development rights over existing holdings.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment :

Mapping is not required. The planning proposal relates to existing holdings as 26 September 1985. These lots are not mapped for the purpose of the LEP.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council is proposing a 14 day exhibition period.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

none

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

The proposal is adequate.

Proposal Assessment

Principal LEP:

Due Date : **December 2012**

Comments in relation to Principal LEP :

Council is currently preparing its draft Principal LEP. Final draft of the LEP is expected to be completed and go to exhibition by mid to late 2012.

Assessment Criteria

Need for planning proposal :	Council is seeking to maintain the current dwelling rights on existing holdings as defined in the Snowy River Rural LEP 2007. In order to achieve this, clause 22(1)(b) of the Snowy River Rural LEP requires amendment to remove reference to the 'sunset provisions' which currently see the dwelling rights removed after 5 years from the date of gazettal, being 13 April 2012.
Consistency with strategic planning framework :	No strategic planning framework is applicable to the planning proposal. The planning proposal seeks to maintain building rights on land identified as an existing holding as at 26 September 1985. Council has advised that the planning proposal is consistent with Council's settlement strategy, draft Rural Land Strategy and Rural Land study which were prepared as part of the Snowy River Rural LEP 2007.
Environmental social economic impacts :	No adverse impacts on the natural environment are predicted. The clause seeks only to maintain existing development rights on 'existing holdings' as defined in the LEP, not to increase development potential. Any future development application on these existing holdings will require thorough assessment against s79C of the EP&A Act where the possible impacts and mitigation of any such impacts will need to be addressed.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	3 Month	Delegation :	DG
Public Authority Consultation - 56(2)(d) :	Office of Communities - Aboriginal Affairs		

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **The Southern Region supports retention of the existing dwelling rights on rural land. It remains a Council choice if it seeks to remove or sunset existing holdings clauses.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons : **Resubmission is not required.**

Identify any additional studies, if required. :

If Other, provide reasons :

No studies are required.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : **State infrastructure funding is not relevant.**

Snowy River Rural LEP 2007 CI 22(1)(b) Existing Holdings sunset provisions

Documents

Document File Name	DocumentType Name	Is Public
13022012 Council letter seeking advice.pdf	Proposal Covering Letter	Yes
15022012 DoP&I advice letter to Council.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Council resolution.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.2 Rural Zones**
 1.5 Rural Lands
 2.1 Environment Protection Zones
 2.3 Heritage Conservation

Additional Information : It is recommended that the delegate of the Minister for Planning and Infrastructure, determine under section 56(2) of the EP&A Act, that an amendment to the Snowy River Rural Local Environmental Plan 2007 to amend clause 22(1)(b) 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 must be made publicly available for 14 days; and
(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 4.5 of A Guide to Preparing LEPs (Department of Planning 2009).

2. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not have any bearing on the need to conduct a public hearing under the provisions of any other legislation.

3. The timeframe for completing the LEP is to be 3 months from the week following the date of the Gateway Determination.

s117 Directions

4. Recommend that the DG can be satisfied that the planning proposal is consistent with all s117 Directions or that any inconsistencies are only of minor significance.

5. No further referral is required in relation to s117 Directions for the planning proposal in its current form.

Supporting Reasons : The planning proposal is supported. The retention of existing holding provisions in LEPs is a matter for the Council to consider. Snowy River Council has identified that this proposal is required to remove the current uncertainty experienced by land owners in relation to existing development rights and the future potential of their land.

Signature:



Printed Name:

Mark Parker
Local Planning Manager

Date:

2nd March 2012