

PLANNING PROPOSAL

SNOWY RIVER RURAL LOCAL ENVIRONMENTAL PLAN 2007

February 2012



Introduction

This Planning Proposal explains the intended effect of, and justification for, the proposed amendment to the Snowy River Rural Local Environmental Plan 2007 (SRRLEP2007) to remove the current sunset clause pertaining to existing holdings as at 26 September 1985.

It has been prepared in accordance with S. 55 of the Environmental Planning and Assessment Act 1979 and the relevant Department of Planning Guidelines including (i) *A Guide to Preparing Local Environmental Plans* and (ii) *A Guide to Preparing Planning Proposals*.

Council resolved on 21st February 2012 to adopt the Planning Proposal to amend clause 22 (1) (b) to remove the sunset clause and to retain the dwelling entitlement on existing holdings that existed at 26 September 1985.

Part 1 - Objectives and intended outcomes

The objective of this planning proposal is to preserve existing development rights on existing holdings that existing at 26 September 1985. The outcome will be that the development potential (dwelling right) that an existing holding possessed as at 26 September 1985, will remain.

Part 2 - Explanation of Provisions

Councils Rural Local Environmental Plan (SRRLEP 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 existing development rights expire on 13th April 2012.

An existing holding is defined in the SRRLEP 2007 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 or adjacent lots, portions or parcels of land, the aggregation of those lots, portions or parcels as they were at 26 September 1985.

Through this Planning Proposal, clause 22 (1) (b) will be amended by removing the reference to the sunset period thereby maintaining existing development potential on holdings as at 26 September 1985.

Part 3 - Justification

Section A - Need for a planning proposal

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

No. The planning proposal is a result of Council's desire to retain dwelling rights on existing holdings. This position is supported by Council's Settlement Strategy, Draft Rural Lands Strategy and Rural Land Study which were prepared as part of the SRRLEP 2007. These document the complex nature of rural land use and the need to provide flexibility to allow for farm restructuring.

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

The planning proposal is the best and only means to modify the clause in the SRRLEP 2007 to retain the development right of existing holdings as at 26 September 1985.

Council cannot proceed to prepare a draft LEP under the 'old' provisions of the EP &A Act hence the development of a Planning Proposal for submission to the Gateway is the best and only means of proceeding.

Is there a net community benefit?

A net community benefit will be gained from maintaining existing development rights. The current clause in the SRRLEP 2007 is creating uncertainty for landowners who wish to preserve their existing development rights. The community has and continues to express its opposition to the sunset clause. This is highlighted by the numerous submissions which were made against the introduction of the sunset clause during public exhibition of SRRLEP 2007 (no submissions in support were received).

Landowners are also bearing the costs of addressing the impacts associated with preserving these development rights via development consent and substantial commencement. Removing the sunset clause will provide certainty for landowners about their development rights and remove unnecessary financial costs.

Section B - Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

There is no regional strategy applicable to the Snowy River Shire.

Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The planning proposal is consistent with the direction of the draft Community Strategic Plan for Snowy River Shire. The community plan is focused on supporting the sustainable use of rural lands within the Shire. The Planning Proposal is also consistent with Council's Settlement Strategy, Draft Rural Lands Strategy and Rural Land Study which were prepared as part of the SRRLEP 2007. These document the complex nature of rural land use and the need to provide flexibility to allow for farm restructuring.

Is the planning proposal consistent with the applicable state environmental planning policies?

SEPP (Rural Lands) 2008 -

This Planning Proposal seeking an amendment to retain dwelling entitlements on existing holdings is consistent with the Rural Lands SEPP 2008. One of the aims of this SEPP is to amend provisions relating to concessional lots in rural subdivisions. Clause 11 has a note as follows *"the amendments made by the Schedule do not affect any existing entitlement in any environmental planning instruments to erect a dwelling on land within a rural zone or an environment protection zone."*

It is clearly the intent to not alter existing entitlements and hence this amendment up holds this aim of the SEPP by seeking to retain development rights over existing holdings.

The other aims of the SEPP are encapsulated in the provisions of the SSRLEP 2007 and are not proposed to be amended by this Planning Proposal.

Is the planning proposal consistent with applicable Ministerial Directions (s 117 directions)?

The following table outlines the relevant s117 directions and the level of consistency of this planning proposal to them.

1. Employment and Resources

No.	Title	Consistency
1.1	Business and Industrial Zones	Not applicable
1.2	Rural Zones	Consistent The maintenance of existing development rights is consistent with current State policy. The amendment preserves an existing dwelling entitlement and does not substantially intensify development and therefore is considered to have minor significance.
1.3	Mining, Petroleum Production and Extractive Industries	Not applicable
1.4	Oyster Aquaculture	Not applicable
1.5	Rural Lands	Consistent No change to the broadacre minimum lot size will occur to rural zones within the Shire. The amendment preserves an existing dwelling entitlement and does not substantially intensify development and therefore is considered to have minor significance.

2. Environment and Heritage

No.	Title	Consistency
2.1	Environmental Protection Zones	Consistent The new clause will preserve development rights of existing holdings. The assessment of the potential impacts of a dwelling approved under this clause will be undertaken as part of the development assessment process. The current environmental protection clauses in SSRLEP 2007 will ensure that the potential impacts of the development are considered.
2.2	Coastal Protection	Not applicable
2.3	Heritage Conservation	Consistent The amendment preserves an existing dwelling entitlement and does not

		substantially intensify development and therefore is considered to have minor significance. The assessment of the potential impacts on heritage values of a dwelling approved under this clause will be undertaken as part of the development assessment process. The SRRLEP 2007 contain clause which ensure consideration and protection of heritage values.
2.4	Recreation Vehicle Areas	Not applicable

- 3. Housing, Infrastructure and Urban Development - Not applicable
- 4. Hazard and Risk - Not applicable
- 5. Regional Planning - Not applicable
- 6. Local Plan Making - Not applicable
- 7. Metropolitan Planning - Not applicable

Section C - Environmental, social and economic impact

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 anticipated that the proposed amendment to SRRLEP 2007 will adversely impact on the natural environment. The new clause will preserve development rights of existing holdings. The assessment of the potential impacts of a dwelling approved under this clause will be undertaken as part of the development assessment process. This process will ultimately consider the impacts of the development and possible mitigation measures that may be required.

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

There are no known other likely environmental effects which will result from the amendment of Clause 22 (1) (b). The amendment preserves an existing dwelling entitlement and does not substantially intensify development and therefore any additional environmental impacts.

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

The Planning Proposal will produce positive social and economic impacts as it provides certainty to landowners about their existing development entitlements and removes the current financial burden of landowners being required to seek development assessment approval and substantial commencement.

Section D - State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

It is considered that negligible impact on the provision of new or upgrading of public infrastructure.

What are the views of State and Commonwealth public authorities consulted in the gateway determination?

(Note: The views of State and Commonwealth Public Authorities will not be known until after the initial gateway determination. This section of the planning proposal is completed following consultation with those public authorities identified in the gateway determination)

Part 4 - Community Consultation

Details of the Community Consultation that is to be undertaken on the Planning Proposal

Community consultation will be conducted in accordance with the publication “A guide to preparing local environmental plans” released by the Department of Planning. Based on instructions in this guide the planning proposal and advice from the Department of Infrastructure and Planning is considered a to be low impact and as such would be exhibited for a period of 14 days.

The community will be notified of the consultation period through local newspapers and through notification on the Snowy River Shire Council’s website. Given that the planning proposal relates to the entire Snowy River LGA it is considered impractical to notify landholders in writing.

The notice will include a description of the planning proposal, a map showing the LGA, notification of where the proposal can be inspected, the name and address for receipt of submissions and a closing date for submissions.

All relevant materials will be made available during the exhibition period as outlined in the guide.

