



qA268764

13/16884

Department Generated Correspondence (Y)

DEPARTMENT OF PLANNING & INFRASTRUCTURE*Planning Operations & Regional Delivery***YASS VALLEY GATEWAY DETERMINATION: PP 2013 YASSV 003 00**

The attached draft Gateway determination and letter is submitted for the Acting Deputy Director General's signature, if approved.

Note: The proposal to reduce the minimum lot size for subdivision and the erection of a dwelling in certain rural zones has been proposed by Council, having regard to a report prepared by the Yass Rural Lands Planning Committee. The Committee includes members who may have a pecuniary interest in the outcome of the proposal, as members will potentially receive an increase in subdivision potential over their land. While Council provides some separation between the members of the Committee and the outcome of the proposal, a greater level of transparency would be achieved if an independent peer review of the Committee's work was undertaken. Andrew Thomas, Executive Manager, City of Sydney Council, who sat on the LEP Review Panel on 10 October 2013, raised concern with regard to pecuniary interest. LEP Review Panel supported a peer review being undertaken and an extended public exhibition of 40 days for the proposal.

Contact Officer: Sabina Miller
Senior Planner
Planning Coordination & Support
Phone number: 9228 6589

Neil Selmon
Acting Executive Director
Rural & Regional Planning
Planning Operations & Regional Delivery

Neil McGaffin
Acting Deputy Director General
Planning Operations & Regional Delivery

25.10.13.



Contact: Martin Brown
Phone: (02) 6229 7900
Fax: (02) 6229 7901
Email: Martin.Brown@planning.nsw.gov.au
Postal: c/- PO Box 5475, Wollongong NSW 2520

Our ref: PP_2013_YASSV_003_00 (13/15085)
Your ref: Pp-2012-01

Mr David Rowe
General Manager
Yass Valley Council
PO Box 6
YASS NSW 2582

Dear Mr Rowe,

Planning proposal to amend Yass Valley Local Environmental Plan 2013

I am writing in response to your Council's letter dated 2 September 2013 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to reduce the minimum lot size for subdivision and the erection of a dwelling in zones RU1 Primary Production and RU2 Rural Landscape from 80ha to 40ha, amend the lot averaging clause to allow a minimum lot size of 20ha and a maximum lot size of 70ha for land zoned RU1 and RU2 and to permit 'dual occupancies' in certain rural and environmental protection zones, where a dwelling is permitted.

As delegate of the Minister for Planning and Infrastructure, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

Council will still need to obtain the Director General's agreement to satisfy the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

Council is reminded that it must not use its delegation where there is an unresolved agency objection to the proposal. In this instance, Council is to contact the regional office of the department to seek assistance in resolving the matter so that the plan may proceed under delegation.

The amending Local Environmental Plan (LEP) is to be finalised within 18 months of the week following the date of the Gateway determination. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

The State Government is committed to reducing the time taken to complete 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 EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Martin Brown of the regional office of the Department on 02 6229 7900.

Yours sincerely,


25.10.13
Neil McGaffin
Acting Deputy Director General
Planning Operations & Regional Delivery

Encl:

Gateway determination

Written Authorisation to Exercise Delegation

Attachment 5 – Delegated plan making reporting template

Gateway Determination

Planning proposal (Department Ref: PP_2013_YASSV_003_00): to reduce the minimum lot size for subdivision and erection of a dwelling in certain rural zones.

I, the Acting Deputy Director General, Planning Operations and Regional Delivery at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Yass Valley Local Environmental Plan (LEP) 2013 to reduce the minimum lot size for subdivision and the erection of a dwelling in zones RU1 Primary Production and RU2 Rural Landscape from 80ha to 40ha, amend the lot averaging clause to allow a minimum lot size of 20ha and a maximum lot size of 70ha for land zoned RU1 and RU2 and to permit 'dual occupancies' in certain rural and environmental protection zones, where a dwelling is permitted should proceed subject to the following conditions:

1. Council is to update the planning proposal to include sufficient additional information to adequately demonstrate consistency or justify any inconsistency with the below S117 Directions and other documents:
 - 1.2 Rural Zones
 - 1.5 Rural Lands
 - 5.1 Implementation of Regional Strategies
 - State Environmental Planning Policy (Rural Lands) 2008
 - Sydney - Canberra Corridor Regional Strategy
2. Prior to undertaking public exhibition, Council is to update the 'objectives or intended outcomes' and 'explanation of provisions' sections in the planning proposal to address the proposal to permit 'dual occupancies' in certain rural and environmental protection zones, where a dwelling is permitted, consistent with the additional information provided by Council on 9 October 2013.
3. Prior to undertaking public exhibition, Council is to update the planning proposal to include existing and proposed lot size maps, which are at an appropriate scale and clearly identify the subject land.
4. 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 a minimum of **40 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 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning & Infrastructure 2013).
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - ACT Government
 - Office of Environment and Heritage
 - Murrumbidgee Catchment Management Authority
 - Department of Primary Industries - NSW Office of Water
 - Department of Primary Industries - Agriculture

- NSW Rural Fire service (S117 Direction 4.4 Planning for Bushfire Protection)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

6. 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).
7. The timeframe for completing the LEP is to be **18 months** from the week following the date of the Gateway determination.

Dated *15th* day of *October* 2013.



Neil McGaffin
Acting Deputy Director General
Planning Operations & Regional Delivery
Department of Planning & Infrastructure

Delegate of the Minister for Planning & Infrastructure

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Yass Valley Council is authorised to exercise the functions of the Minister for Planning and Infrastructure 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_2013_YASSV_003_00	Planning proposal to reduce the minimum lot size for subdivision and the erection of a dwelling in zones RU1 Primary Production and RU2 Rural Landscape from 80ha to 40ha, amend the lot averaging clause to allow a minimum lot size of 20ha and a maximum lot size of 70ha for land zoned RU1 and RU2 and to permit 'dual occupancies' in certain rural and environmental protection zones, where a dwelling is permitted.

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

Dated 28th October 2013



Neil McGaffin
Acting Deputy Director General
Planning Operations & Regional Delivery
Department of Planning & Infrastructure

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2013_YASSV_003_00
Date Sent to Department under s56	02/09/2013
Date considered at LEP Review Panel	10/10/2013
Gateway determination date	25 OCT 2013

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information:

Yass Valley - Proposal to Reduce Rural Lot Size from 80ha to 40ha with lot averaging

Proposal Title : Yass Valley - Proposal to Reduce Rural Lot Size from 80ha to 40ha with lot averaging

Proposal Summary : The proposal seeks to reduce minimum lot size for subdivision and erection of a dwelling in RU1 Primary Production and RU2 Rural Landscape Zones from 80ha to 40ha and amend the lot averaging clause to allow a minimum of 20ha and maximum of 70ha.

Council also seeks to make 'dual occupancies' permissible in RU1 and RU2 Zone wherever a dwelling is permitted.

PP Number : PP_2013_YASSV_003_00

Dop File No : 13/15085

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
5.1 Implementation of Regional Strategies**

Additional Information : The Deputy Director General, as delegate of the Minister for Planning and Infrastructure, determine under section 56(2) of the EP&A Act that an amendment to Yass Local Environmental Plan 2013 to reduce the minimum lot size in RU1 and RU2 Zones should proceed subject to the following conditions:

1. Prior to consultation with the community, Council is to arrange a peer review of the report prepared by the Yass Valley Rural Lands Planning Committee by a suitably qualified and independent consultant. The peer review is to examine the consistency of the planning proposal with section 117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 5.1 Regional Strategies and SEPP (Rural Lands) 2008. The outcomes of this peer review are to be provided to the Regional Director of the Southern Region, relevant agencies and publicly exhibited together with the Committee's Report.

2. Council is to prepare draft LEP Map sheets prior to exhibition, in accordance with the Department's 'Standard technical requirements for LEP maps'.

3. Council is to amend the planning proposal to ensure that the amendments to allow dual occupancies permissible in RU1 and RU2 zones are documented appropriately.

4. 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 40 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 5.2 of A guide to preparing local environmental plans (Department of Planning and Infrastructure 2013).

5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- * ACT Government;
- * Murrumbidgee Catchment Management Authority;
- * Department of Primary Industries (Office of Water);
- * Department of Primary Industries (Agriculture);
- * NSW Rural Fire Service (s117 Direction 4.4); and

* Office of Environment & Heritage.

Each public authority is to be provided with a copy of the planning proposal, the peer review report and any other relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

6. No public hearing is required to be held into the matter 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).

7. The timeframe for completing the LEP is to be 18 months from the week following the date of the Gateway determination.

8. Council is not to be authorised to use its delegation of the Minister's plan making functions.

s117 DIRECTIONS

9. The Council will need to justify the inconsistencies with s117 Directions 1.5 Rural Lands, which triggers the Planning and Subdivision Principles of the Rural Lands SEPP, and 5.1 Implementation of Regional Strategies through an independent peer review of the Yass Valley Rural Lands Planning Committee's Report. This justification will need to be provided when the planning proposal is submitted for finalisation.

10. The Deputy Director General can be satisfied that the planning proposal is consistent with all other s117 Directions when consultation with NSW Rural Fire Service, under s117 Direction 4.4 has been undertaken, or that any inconsistencies with any other s117 Directions are of minor significance.

11. No further referral is required in relation to s117 Directions, other than 1.5 and 5.1, while the planning proposal remains in its current form.

Supporting Reasons :

Council will need to justify the planning proposal against section 117 Directions 1.5 Rural Lands and 5.1 Implementation of Regional Strategies and the Rural Lands SEPP by way of a peer review of the s355 Committee's Report.

Panel Recommendation

Recommendation Date : **10-Oct-2013**

Gateway Recommendation : **Passed with Conditions**

Panel

Recommendation :

The planning proposal should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, a peer review of the report prepared by the Yass Valley Rural Lands Planning Committee is to be undertaken by a qualified independent consultant. The peer review is to examine the consistency of the planning proposal with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands and 5.1 Implementation of Regional Strategies and State Environmental Planning Policy (SEPP) Rural Lands 2008. The outcomes of the peer review are to be forwarded to the regional office of the department and relevant public authorities and placed on public exhibition with the planning proposal.
2. Council is to update the planning proposal to include sufficient additional information to adequately demonstrate consistency or justify any inconsistency with the below S117 Directions and other documents, once the peer review has been undertaken:
 - 1.2 Rural Zones
 - 1.5 Rural Lands
 - 5.1 Implementation of Regional Strategies
 - SEPP (Rural Lands) 2008
 - Sydney - Canberra Corridor Regional Strategy
3. Prior to undertaking public exhibition, Council is to update the 'objectives or intended

outcomes' and 'explanation of provisions' sections in the planning proposal to address the proposal to permit 'dual occupancies' in certain rural and environmental protection zones, where a dwelling is permitted, consistent with the additional information provided by Council on 9 October 2013.

4. Prior to undertaking public exhibition, Council is to update the planning proposal to include existing and proposed lot size maps, which are at an appropriate scale and clearly identify the subject land.

5. 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 a minimum of 40 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 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013).

6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

- ACT Government
- Office of Environment and Heritage
- Murrumbidgee Catchment Management Authority
- Department of Primary Industries - NSW Office of Water
- Department of Primary Industries - Agriculture
- NSW Rural Fire service (S117 Direction 4.4 Planning for Bushfire Protection)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

7. 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).

8. The timeframe for completing the LEP is to be 18 months from the week following the date of the Gateway determination.

Plan making delegation:

The Minister delegated his plan making powers to councils in October 2012. Council has now accepted this delegation. Council should not be issued with plan making delegation in this instance because various matters are to be addressed by Council before the planning proposal can proceed to public exhibition, including undertaking a peer review of the report prepared by the Yass Valley Rural Lands Planning Committee.

Signature:



Printed Name:

NEIL SELMAN

Date:

16/10/13