

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**

Proposal Details

Date Planning Proposal Received : **11-Sep-2013** LGA covered : **Yass Valley**

Region : **Southern** RPA : **Yass Valley Council**

State Electorate : **BURRINJUCK** Section of the Act : **55 - Planning Proposal**

LEP Type : **Policy**

Location Details

Street :

Suburb : City : Postcode :

Land Parcel : **Applies to all RU1 Primary Production and RU2 Rural Landscape Zones in Yass Valley.**

DoP Planning Officer Contact Details

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Contact Email :

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Sydney-Canberra Corridor Regional Strategy	Consistent with Strategy :	No
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 : **Yes**

If No, comment :

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

If Yes, comment :

Supporting notes

Internal Supporting Notes :

Yass Valley Council is seeking to reduce its standard for rural settlement across the Shire. This would result in the minimum lot size for subdivision and the erection of a dwelling house in both RU1 and RU2 Zones being reduced from 80ha to 40ha. Lot averaging would also be amended to allow lots down to 20ha with a maximum of 70ha.

This has been proposed by Council having regard to a report prepared by the Yass Rural Lands Planning Committee (convened under section 355 of the Local Government Act 1993). The Committee is made up of a number of individuals with an interest and relevant experience in rural planning matters.

The planning proposal also seeks to amend Yass LEP 2013 to permit 'dual occupancies' in RU1 and RU2 Zones wherever a dwelling is permitted to address an error in translating the exhibited version of the principal LEP to its final notified version. However, whilst Council has indicated this in the covering letter, there is no reference to this issue in the written planning proposal. Council should update the planning planning proposal to address this matter in in the statement of objectives and and explanation of planning provisions.

External Supporting Notes :

The Yass Valley Rural Lands Committee has devised the proposed changes to the rural subdivision controls as a means of encouraging the diversification of agricultural activity and the freeing up of planning restrictions on farmers to encourage sustainable growth in the sector. While these are appropriate and admirable objectives, there is a concern that the proposal is contrary to the Rural Planning Principles in the Rural Lands SEPP. Alternative means of allowing new agricultural pursuits and creating capital for farmers should be investigated before a final decision is made on the change proposed by the Council.

Although not agreeing with the conclusions and recommendations of the Council's Rural Lands Committee, there is no compelling reason why the State should not allow the proposal to at least proceed to exhibition so the issues and countervailing viewpoints can be debated. However, Council should be encouraged to ensure that the report of the Rural Lands Committee is peer reviewed, as this allows for the consideration of the alternative

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options suggested by the Department, as well as protects the planning proposal against any perceptions of pecuniary interests that may arise from the report of the Committee.

DELEGATION

Council has not sought delegation for the planning proposal and given its likely contentious nature and need for evaluation of different State agency viewpoints (including possibly the ACT Government), it is recommended that delegation not be given in this instance.

Adequacy Assessment

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

Is a statement of the objectives provided? **Yes**

Comment : **Yes in respect of the change to minimum and average rural lot sizes.**

As noted, the proposal also seeks to amend Yass LEP 2013 to ensure 'dual occupancies' are permissible in RU1 and RU2 Zones wherever a dwelling is permissible to address an error in finalising the Principal LEP. However, whilst Council has indicated this in the covering letter there is no reference to this issue in the written planning proposal. Accordingly a statement of objectives has not been received for this matter.

Council should be encouraged to address this issue before the planning proposal is exhibited.

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

Is an explanation of provisions provided? **Yes**

Comment : **Yes in respect of the change to minimum and average rural lot sizes. It will amend the Lot Size Map and the lot averaging clause 4.1B.**

As noted, the proposal also seeks to amend Yass LEP 2013 to ensure 'dual occupancies' are permissible in RU1 and RU2 Zones wherever a dwelling is permitted to address an error in finalising the Principal LEP. However, whilst Council has indicated this in the covering letter there is no reference to this issue in the written planning proposal. Accordingly an explanation of provisions has not been provided for this matter.

Council should be encouraged to address this issue before the planning proposal is exhibited. As the change relates to the inclusion of a sub-clause to 4.2C, the amendment should not be difficult to make and the intent of the planning proposal is quite clear.

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**
5.1 Implementation of Regional Strategies

Is the Director General's agreement required? **Yes**

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 : **The social, environmental and economic impacts of the proposal need to be objectively detailed, including consideration of the precedent of such a proposal for rural lands in the Region. As such it is noted that the supporting justification for the proposal comes from the Council's Rural Lands Planning Committee, although the Committee's recommendations have not been independently verified.**

It is acknowledged that the Rural Lands Planning Committee includes members who

may have a pecuniary interest in the outcome of the proposal as they will potentially receive an increase in subdivision potential over their lands if the planning proposal proceeds. It is also acknowledged that the Council, by considering the Committee's recommendations before adopting them, provides some separation between the members of the Committee and the outcome of the proposal. However, it would provide a greater level of transparency if an independent peer review of the work of the Committee was undertaken and exhibited with the Committee's Report.

Have inconsistencies with items a), b) and d) being adequately justified? No

If No, explain :

s117 Direction 1.5 Rural Lands - The proposal seeks to change the minimum (and average) lot size within rural zones. The planning proposal does not fully meet consistency criteria of the Direction which reference the Rural Planning and Subdivision Principles of the Rural Lands SEPP. Again, the s355 Committee report is not considered to be a thorough consideration of all relevant issues (see below).

SEPP (Rural Lands) - Council has reviewed the relevant provisions of the Rural Lands SEPP. However, it is considered this does not appropriately respond to all of the relevant planning issues in the circumstances. It is arguable whether the planning proposal has demonstrated consistency with the 'Rural Planning and Subdivision Principles' of the SEPP as identified below:

Planning Principle "(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas";

Within the Yass Valley Shire and based on data from the planning proposal, 98% of the agricultural lands are used for grazing with an average holding size of 1170ha (2700ha for sheep grazing). Halving the overall minimum lot size across the LGA could undermine current farming activities by encouraging subdivision, thereby increasing land values and changing the financial costs for genuine farming activities (eg increased barriers to entry through high land costs or high rates). The current minimum lot size and lot averaging provisions enable subdivision between 40ha and 150ha which protects current agricultural practices and provides opportunities for new activities and subdivision. The outcome sought by this planning proposal could be achieved by reducing the minimum lot size allowed under the current lot averaging provisions without doubling the lot potential (eg average size of lots are still to be 80ha, but there can be smaller lot sizes).

Alternatively the Council could adopt a clause that allows for subdivision with a dwelling for the purposes of intensive agriculture. An example of this is clause 4.2A in the Cowra LEP 2012. This would allow new and innovative entrants to the agricultural sector to establish on lots (with a dwelling) below the minimum lot size without necessarily encouraging further land subdivision and an escalation of land prices.

Planning Principle "(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development";

The current minimum lot size provisions are consistent with this Principle and allow for innovative development. Halving the minimum lot size could undermine the social and economic benefits by encouraging subdivision for residential rather than agricultural uses and thereby lifting land values not based on agricultural potential. As discussed above some modification may be appropriate to the minimum lot size that can be achieved through lot averaging to encourage innovative farming operations to establish or the use of an intensive agriculture clause.

Planning Principle "(d) in planning for rural lands, to balance the social, economic and environmental interests of the community";

It has not been clearly established in the planning proposal that halving the minimum lot size will address these issues. The need for off farm income has been acknowledged by the Department since the 'Central West Rural Lands Inquiry'. However, doubling the potential number of lots and halving their size will not necessarily resolve all the issues

and may well exacerbate others. While it may provide greater borrowing ability, potential capital from sale of land, ability to house family members for succession planning and some level of 'superannuation', it increases land value, creates barriers to entry if land prices escalate and potentially creates rural residential pockets with future land use conflict. There may be some wins but these could be overwhelmed by the losses.

There is also the concern that the proposal will impact on the broader economic and social benefits of protecting urban capable land from fragmentation. This is important in Yass Valley as there are potential growth corridors that extend from Canberra and the ACT. If the land becomes too fragmented it can be costly and difficult to develop for more intensive uses in the future.

Planning Principle "(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General";

The planning proposal is not fully consistent with the Sydney Canberra Corridor Regional Strategy as it doubles the potential lot yield in rural zones outside an agreed strategy. Council has not produced a strategy from the Committee's Report for the Director General's endorsement.

Subdivision Principle (SP) "(a) the minimisation of rural land fragmentation";

Doubling the potential intensity of subdivision and limiting the maximum lot size achievable under lot averaging to 70ha does not achieve this principle. It will create more smaller lots and less larger lots.

It is understood that the ACT Government and the broader ACT Community (as part of its 'Time to Talk' consultations on the ACT Planning Strategy), are concerned about the progressive fragmentation of rural lands on the ACT borders. These concerns involve issues of food security, infrastructure and servicing concerns, as well as congestion on road networks and the loss of important visual catchments. While the planning proposal should be determined on its own merits and to the benefit of NSW residents, it is important to reflect on the views and comments of the neighbouring ACT.

Subdivision Principle "(c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands";

Council's planning proposal argues that the establishment of a 30ha standard for some rural small holdings areas in Yass LEP 2013 recognises that the 80ha minimum lot size is not required across the entire LGA. However, the establishment of the 30ha areas has been close to towns, indicates a strategic approach to their location and satisfies that particular demand close to settlement. It does not reflect the existing nature of rural holdings which for grazing land averages 1170ha or that the existing LEP caters for a large range of smaller lot sizes that can be allocated through a strategic review. Lot averaging under the existing 80ha minimum lot size can also provide lots down to 40ha. As discussed earlier there may be an alternate solution in adjusting the minimum lot size that lot averaging enables or considering an intensive agriculture clause.

s117 Direction 4.4 Planning for Bushfire Protection - Council has indicated that it will consult with the NSW Rural Fire Service as required by the Direction which will satisfy consistency.

s117 Direction 5.1 Implementation of Regional Strategies - The planning proposal addresses a range of issues including minimum lot size, houses on rural lands and potential rural residential use that the Sydney Canberra Corridor Regional Strategy requires to be considered in a strategic approach. This across the board reduction in

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minimum lot sizes has not been approached in a strategic way. The inconsistency cannot be considered to be of minor significance nor can it be considered to be achieving the overall intent of the Regional Strategy.

Mapping Provided - s55(2)(d)

Is mapping provided? No

Comment : Council will need to prepare relevant mapping consistent with 'Standard technical requirements for LEP maps' prior to community consultation.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment : Council has proposed a 28 day community consultation period. Given the complex issues stemming from the changes proposed by the planning proposal it is recommended that this be extended to 40 days.

Additional Director General's requirements

Are there any additional Director General's requirements? Yes

If Yes, reasons : There is concern that the make up of the s355 Committee of Council could raise pecuniary interest considerations given that its members are primarily landowners that may benefit from increased subdivision potential of their land under the proposal. It is noted that the Council has endorsed the committee's report in preparing its planning proposal. However, in the interests of transparency, Council should engage a suitably qualified and independent consultant to undertake a peer review of the s355 Committee Report. This would protect Council and the Committee from any claims of inappropriate pecuniary interests, as well as providing an opportunity for investigation of the alternate options put forward by the Department.

The peer review should be placed on public exhibition with the planning proposal and the Committee's report.

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment : The proposal is adequate for Gateway consideration. More work is necessary to address inconsistencies with section 117 directions and the Rural Lands SEPP and to ensure that potential pecuniary interests are not a concern.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : Principal LEP was notified on 19 July 2013.

Assessment Criteria

Need for planning proposal : The planning proposal is the only means of addressing the minimum lot size and lot averaging provisions of the LEP.

Council has recently had notified a new Principal LEP which has provided for rural lot averaging on an 80ha basis with a minimum lot size of 40ha. The planning proposal significantly amends this standard across the entire LGA.

Council could alternatively seek to reconsider the details of the lot averaging provisions in

Consistency with strategic planning framework :

its LEP including permitting a smaller resulting lot size. Alternatively the Council could adopt the intensive agriculture clause (clause 4.2A in Cowra LEP 2012), to achieve its outcomes of allowing greater agricultural diversification.

Council does not have an endorsed Rural Lands Strategy.

The Sydney-Canberra Corridor Regional Strategy notes that fragmentation of farm holdings can reduce the profitability of farms, lead to land use conflicts and increase the price of rural lands. The Regional Strategy draws on the planning principles set out in the Rural Lands SEPP 2008, including promoting sustainable economic activities, providing opportunities for rural lifestyle and balancing the social, economic and environmental interests of the community.

The planning proposal has not been fully justified against the Regional Strategy.

Council has spent considerable time and effort on a Town and Villages Strategy that accommodates the Shire's future growth. The Strategy was endorsed by the Director General in 2011 and was implemented through rezonings in the recent Principal LEP. As a result of the rezonings there is extensive capacity for residential and large lot residential within the periphery of the Shire's towns and villages to meet expected demands.

Environmental social economic impacts :

The planning proposal represents an attempt by the Council (on advice from the Rural Lands Planning Committee), to encourage the sustainable growth of the agricultural sector.

The arguments put forward by Council in support of the planning proposal are:

- 1 that location to the ACT supports small lot primary production,
- 2 that location to Canberra allows for off-farm income to be sourced which provides additional economic certainty for landowners that reduces the need to give consideration to the economics of scale associated with the size of rural lots (where dwellings are proposed),
- 3 that it responds to demand for rural lifestyle,
- 4 that 80 hectares is already less than an area required to be productive so there is no value in continuing to apply this standard anyway,
- 5 that other niche production can be undertaken on smaller lots such as alpacas, goats, exotic sheep breeds and miniature cattle,
- 6 that lots between 20 hectares and 40 hectares are suitable for intensive agriculture,
- 7 that it will allow existing farmers to make money that can be reinvested in the enterprise,
- 8 smaller lots will support tourism (such as viticulture tourism),
- 9 provides flexibility to respond to changing trends and evolving pressures,
- 10 that further subdivision potential will increase the borrowing power of farmers,
- 11 that farmers lost assets and money during the drought and that subdivision opportunities should be given to provide an economic buffer to any future downturn in the economy,
- 12 provides opportunities for intergenerational farm succession, and
- 13 that additional subdivision will result in better environmental outcomes through better weed and feral animal control.

Looking at each of the arguments in turn:

The arguments about diversification can be resolved by simply amending the lot averaging provision to enable smaller lots to be created or by using the intensive agriculture clause (4.2A of Cowra LEP 2012).

The argument about off farm income is acknowledged through the Central West Rural Lands Review 2007 but its relevance to reducing lot sizes to the extent intended is vague.

The argument about the need for additional rural lifestyle opportunities has been addressed by Council already in identifying a 25 year supply of rural residential land separately and this is not the objective of this planning proposal.

The argument that 80ha is less than what is already needed for sustainable agriculture

would not necessarily lead to a reduction in lot size and does not recognise that a minimum lot size of 80 requires at least 152ha before subdivision can occur. It also does not acknowledge that demand for 80ha lots as rural lifestyle is low and therefore will only be purchased by those interested in agriculture.

The argument that farmers need to be able to sell off parts of their holdings to obtain capital appears to be unsustainable in the longer term. If the output of a farm is dependent on a certain rate of production per hectare and if the available land shrinks over time, it also stands to reason that the output of the farm will reduce. It is acknowledged that it is possible to 'trade' land for capital investment (eg become more intensive), but there is a limit on how much land can be traded before productive capacity is lost.

Allowing additional subdivision potential to increase the borrowing power of farmers comes at a cost of increased land values for those farmers who want to expand or 'buy in'. The reason for this is that financial institutions are lending money on the basis of the 'Opportunity Cost' of the land if they need to recover their money. Reducing the lot size and increasing subdivision potential means that the opportunity cost of agriculture is rural lifestyle uses, which in turn will drive land costs up (as the demand is for residential occupation, not farmland). If land values rise there is a consequential flow on to rates, affecting the cost structures of agricultural activities.

Similarly, the argument that subdivision provides an economic buffer is also unsustainable in the longer term and could encourage 'cashing in' now rather than later.

The arguments about farm succession and the ability to get better environmental outcomes from smaller lots are debatable but acknowledged.

The value of rural land is determined by both its agricultural productivity, and, the value of any dwelling entitlement held by the land. In areas distant from major settlements, the value of any dwelling entitlement held by the land is generally low. However, in areas such as Yass that experience significant demand for hobby farming from the ACT, the value of the dwelling entitlement is generally high and probably makes up the majority of the value of the land. Accordingly, allowing a doubling of dwelling entitlements across the LGA is likely to significantly increase the price of the land. Whilst this creates an economic windfall for the current owners, it further reduces the economies of scale for existing or future farmers to acquire the land for agricultural production, or other uses, in the future. It also makes it difficult for new farmers to enter the market as the high land costs represent a barrier to entry.

If the Council wants to encourage diversification of agricultural activities and reduce costs for the entry of new farming activities an alternative approach to the change to the minimum lot size can be used. The Cowra LEP 2012 (clause 4.2A), allows rural subdivision for the purpose of intensive agriculture (and an accompanying dwelling), below the minimum lot size provided certain considerations about the genuine nature of the proposed intensive use are met. This could be quite successfully applied to the Yass Valley to recognise viticulture, niche grazing and niche cropping activities.

The overarching concern is that the planning proposal would make it easier to fragment land in the face of evidence that more profitable farms seem to be increasing their areas under production. If the planning proposal sees viable farming land become used for rural lifestyle purposes it can be difficult (due to costs and consolidation issues) to return that land to primary production.

Page 8 of planning proposal notes 'In recent years, returns from sheep have improved, and the outlook for the Yass Valley is that it will continue to have a significant grazing industry into the future'. Page 8 of the Planning Proposal also provides figures that indicate over 80% of rural business in the LGA continue to undertake sheep/cattle grazing and broadacre cropping. Further that these uses also account for over 99% of rural land use. It appears that the Council's own evidence suggests a need to maintain larger lot sizes to protect ongoing agricultural activity.

There is also an assumption in the planning proposal 'intensive agriculture' can instead be undertaken throughout the LGA on smaller lots. In reality, Yass Valley only has water resources available for limited intensive agriculture throughout the LGA and such uses are unlikely to be a significant proportion of overall rural landuses and can be accommodated under existing planning provisions or with minor amendment.

Again, a concern with the planning proposal is that the potential that it creates for additional rural settlement not associated with traditional agricultural production, is unlikely to promote better social outcomes for residents and the broader community. Dispersed and unplanned rural settlement can result in poorer access to social facilities such as employment, education, health, recreational and cultural facilities. Such settlement requires significant private vehicle use to access these resources/facilities. The Council's planning proposal has not given consideration to the social costs and benefits of seeking to double the rural population of the LGA.

Land use conflict can also occur with increased and dispersed rural settlements given the different expectations of landowners, some who see their land as being for production and those that see it as being for lifestyle purposes. Developments for the purposes of wind farming, mining, coal seam gas extraction and other rural activities will have double the number of immediate neighbours to contend with and the difficulties that go with this.

Rural lands also have significant environmental qualities including for water catchment and fauna/flora habitat. Yass Valley currently sources its water supply from the Yass River where much of the catchment is used for rural purposes.

The planning proposal is unable to quantify the additional number of allotments and dwelling demands that would impact on natural resources. For example, the proposal would double the number of private effluent systems in the catchment, as well as doubling the number of bores and dams for private water supply. The Department is aware of previous research indicating that water extraction in the Yass River Catchment was already well above its sustainable extraction limits. Council has argued that smaller lots are suitable for intensive agriculture (such as viticulture) but has given no consideration to the area of land required to source a water supply for such activities. Discussions in respect of intensive agriculture need to be undertaken in the context of available water supply.

The proposal would also result in an increase in bushland cleared for asset protection zones, additional fencing restricting animal movements, additional firewood collection, additional cats and dogs and impacts on native species. As noted, settlement (both residential and rural residential) are best directed to planned areas and communities, and Yass has sufficient supply to cater for this demand for at least 25 years.

Assessment Process

Proposal type :	Inconsistent	Community Consultation Period :	40 Days
Timeframe to make LEP :	18 months	Delegation :	DG
Public Authority Consultation - 56(2)(d) :	Murrumbidgee Catchment Management Authority Office of Environment and Heritage NSW Department of Primary Industries - Agriculture Adjoining LGAs Other		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :	While there appear to be fundamental conflicts between Council's view of the planning proposal and the Department's view, the issue on whether the planning proposal should		

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proceed turns on an interpretation of economics of rural land use in the Yass Valley Shire.

It is not questioned that Council's intention is to encourage greater agricultural activity through diversification of products, as well as the freeing up of capital for re-investment in existing enterprises. However, there is concern that the Council's proposed approach to achieve these intentions would have the unintended consequence of fragmenting land and increasing rural land prices, thereby creating increased costs for existing farmers and creating greater barriers to entry for new and innovative intensive activities. The Council's proposal may also have the unintended consequence of changing growth and servicing plans for future outwards growth of the ACT.

As these are issues of philosophy, it would seem appropriate to allow the planning proposal to proceed to exhibition to allow for a broader community discussion over the issue. However, the Council should be asked to ensure that its justification is independently reviewed (to ensure the highest perceptions of transparency) and that the Department's alternative approaches to achieve greater diversity of agricultural activity are considered.

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

If Yes, reasons :

Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

Council should engage a suitable qualified and independent consultant to undertake a peer review of the Yass Valley Rural Lands Planning Committee Report. The make up of the Committee could raise pecuniary interest considerations as members are also significant landowners that could obtain increased subdivision potential as a result of the planning proposal. It is noted that the Council has endorsed the Committee's Report, however, in the interests of transparency, it is suggested that both reports be placed on public exhibition.

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 :

Documents

Document File Name	DocumentType Name	Is Public
Yass Valley Council_09-09-2013_Rural Lands Planning Proposal 2012-01 - Yass Valley LEP 2013_.pdf	Proposal Covering Letter	Yes
Planning Proposal 2012-01.pdf	Proposal	Yes
Council Report 28.08.13.pdf	Proposal Covering Letter	Yes
Cowra_LEP_2012_Clause_4.2A.pdf	Determination Document	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
 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.

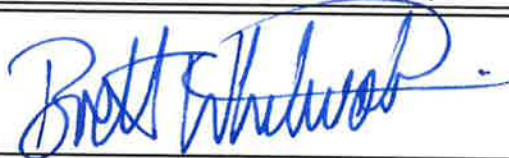
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Supporting Reasons :

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.

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.

Signature:



Printed Name:

BRETT WHITWORTH

Date:

4 October 2013

**Regional Director
SOUTHERN REGION**