

Planning and Assessment

IRF20/4529

Gateway determination report

LGA	Yass Valley
PPA	Yass Valley Council
NAME	Rezone Part 208 Sibley Road (Coolawin), Gundaroo to R5 Large Lot Residential Zone (approximately 9 lots/homes)
NUMBER	PP_2020_YASSV_003_00
LEP TO BE AMENDED	Yass Valley Local Environmental Plan 2013
ADDRESS	Part 208 Sibley Road, Gundaroo
DESCRIPTION	Part Lot 6 DP 1056285
RECEIVED	2 September 2020 (v.2)
FILE NO.	EF20/24494 and IRF20/4529
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend Yass Valley Local Environmental Plan 2013 (Yass Valley LEP) to rezone part of 208 Sibley Road (part Lot 6 DP 1056285), Gundaroo from RU1 Primary Production with a 40ha minimum lot size to R5 Large Lot Residential Zone with a 2ha minimum lot size.

1.2 Site description

The 18ha site is flat agricultural land located north-west of Gundaroo Village with frontage to Gundaroo Road (**Figure 1**). The northern part of the site is used for cropping and the southern section of the site is used for grazing.

The Yass River runs through Lot 6 and is located west of the subject site. McLeods Creek runs through the southern section of the site before it joins up with the Yass River to the west. The southern section of the site is located approximately 50 metres from the Yass River.

The site is flood prone and is mapped as having vulnerable groundwater resources.

1.3 Existing planning controls

The site is currently zoned RU1 Primary Production with a 40ha minimum lot size under Yass Valley LEP.

The site is identified as a 'flood planning area' in the Sutton Flood Plain Risk Management Study and Plan and is affected by clause 6.2 'Flood planning' of the LEP.

The site is mapped as 'groundwater vulnerability' on the Groundwater Vulnerability Map and affected by clause 6.4 'Groundwater vulnerability' of the LEP.

Part of the southern section of the site is mapped as a watercourse on the Riparian Lands Watercourse Map (i.e. McLeods Creek) and affected by clause 6.5 'Riparian land and watercourses' of the LEP.

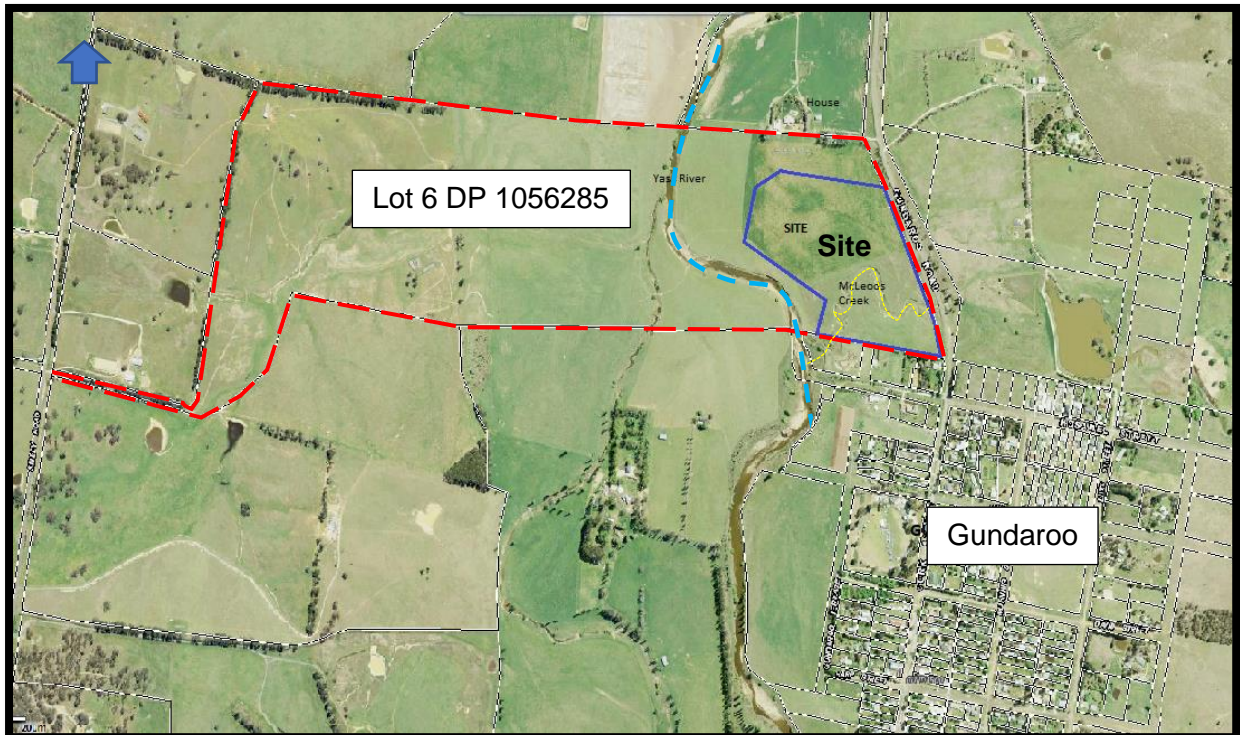


Figure 1: Site Location

1.4 Surrounding area

Farmland adjoins the site to the north and west and south west. Rural land and Gundaroo Village adjoin the site to the south (**Figure 1**). Land rezoned for urban development to accommodate the growth of Gundaroo is located approximately 75 to 200 metres to the east of the site on the eastern side of Gundaroo Road (**Figure 2**).

1.5 Summary of recommendation

It is recommended that the planning proposal be refused because it is inconsistent with local and regional strategic planning objectives. The key reasons for refusal are summarised in Section 10 of this report.

2. PROPOSAL

2.1 Objectives or intended outcomes

The planning proposal clearly indicates that it seeks to rezone the site to R5 Large Lot Residential with a 2ha minimum lot size.

2.2 Explanation of provisions

The planning proposal is clear in identifying that the relevant Land Zoning Map and Lot Size Map will require amendment to change the zoning and minimum lot size.

2.3 Mapping

The planning proposal acknowledges that amendments will be required to LEP Map sheets LZN_005E and LSZ_005E to achieve the intended outcomes.

Should the proposal be supported, a Gateway condition would be recommended requiring draft maps to be prepared and exhibited with the planning proposal.



Figure 2: Concept subdivision of the site shown in purple

3. NEED FOR THE PLANNING PROPOSAL

It is stated in the planning proposal that it is needed for the following key reasons:

- the proposal represents an opportunity to cap adjacent areas to Gundaroo Village from future small subdivisions whilst reducing rural-urban conflicts;
- the rezoning makes good sense given the recent inclusion of similar zones around the perimeter of the village and fills a glaring gap in the Gundaroo Masterplan;
- future owners could submit subdivision proposals in the future if the site was subdivided down to 20ha or 40ha under clause 4.1B of the Yass Valley LEP 2013;
- the site is located adjacent to the current village and across the road from a current 50ha lot subdivision and is in a prime location for future subdivisions in the future;

- the planning proposal will reduce angst within the community over the expansion of the village and assist Council by eliminating the need for planning proposals involving this area in the future; and
- the proposal will allow a flow of larger lots adjacent to the village ultimately locking up the village from future development on this fringe.

Comment

The Yass Valley Settlement Strategy 2017-2036 endorsed by the Department and the Gundaroo Masterplan 2017 adopted by Council identifies sites to the north and south of Gundaroo (**Figure 3**) that will almost double the population of the village and accommodate the demand for housing until 2036.

The identified sites are zoned for residential development and already represent a 'cap' on Gundaroo's growth consistent with the Strategy's intent to limit growth for Gundaroo to protect village character, reduce urban sprawl, promote containment and contiguous development, to protect productive rural land and to protect biodiversity and natural resources.

The view that this proposal would prevent future growth of the village on this north – western front is not supported. In fact, support for the proposal would potentially encourage other speculative proposals for residential development that are not strategically justified.

The Strategy's limited growth for Gundaroo recognised that Gundaroo village has limited services, that the quality of water sourced from groundwater is often quite poor and the frequency of rainfall is not sufficient to meet demand for domestic supply.

Insufficient evidence has also been provided to demonstrate that there is a significant land use conflict between the current use of the site for grazing/cropping and nearby urban development to justify rezoning, including the notion that rural lifestyle development will act as an urban/rural transition area.

Conversely, it is considered the proposal could increase land use conflicts between rural lifestyle development and adjoining agricultural uses.

The planning proposal is not identified for urban development in the Yass Valley Settlement Strategy endorsed by the Department. If this proposal is approved to proceed it may create a precedent that will encourage other landholders to submit planning proposals to rezone rural land for urban development that have not been identified in the Yass Valley Settlement Strategy endorsed by the Department.

Recommendation

That the planning proposal be refused because it is not strategically justified and as the suitability of the site for residential development has not been adequately justified, particularly in relation to flooding.

4. STRATEGIC ASSESSMENT

4.1 State

State Environmental Planning Policy - Primary Production and Rural Development 2019

The planning proposal provides a response to SEPP (Rural Lands) 2008. This SEPP was repealed in February 2019 and replaced with SEPP Primary Production and Rural Development.

The SEPP Primary Production and Rural Development focuses on the assessment of development applications in rural areas and the protection of land identified as “State significant agricultural land”. Currently there are no areas identified in NSW as State significant agriculture land under the SEPP.

The provisions of the SEPP Primary Production and Rural Development do not apply to planning proposals.

4.2 South East and Tablelands Regional Plan

The planning proposal found there are aspects of the South East and Tablelands Regional Plan which support the proposal. The planning proposal identifies two specific actions being Actions 8.2 and 8.4 of the Regional Plan as follows:

- *Action 8.2: Protect identified important agricultural land from land use conflict and fragmentation and manage the interface between important agricultural land and other land uses through local environmental plans.*
- *Action 8.4: Minimise biosecurity risks by undertaking risk assessments that take into account biosecurity plans and applying appropriate buffer areas.*

The planning proposal states that the recent subdivision across the road and adjacent to the subject land (**Figure 2**) will increase the potential for rural land conflict (e.g. noise from animal production and animal protection, lighting and domestic animal attack).

Council considers the R5 Large Lot Residential zone will create a transitional zone between the current and new urban lot development and agricultural activities.

Comment

In relation to Action 8.2, the site is currently used for cattle grazing and cropping and is described in the Environmental Report prepared by NGH in support of the planning proposal as “*productive agricultural land, having been improved for pasture production*”.

The site is separated from future urban development located on the northern side of Gundaroo by Gundaroo Road and an E3 Environmental Protection zone. This creates a variable separation distance of approximately 75 metres to 210 metres between the subject site and Gundaroo’s northern urban release area. Gundaroo Road and the E3 Environmental Management Zone acts as a buffer area between future housing in northern Gundaroo and agricultural land to the to the west.

The site has a common boundary (approximately 180 metres) with the north western part of the village and land zoned RU1 Primary Production Zone (approximately 150 metres). The current interface with Gundaroo Village is substantially less than the 880-metre interface that will be created between the proposed R5 Large Lot Residential Zone and agricultural land on the residue of Lot 6.

The proposal therefore has potential to increase land use conflict between proposed rural residential development and agricultural land uses (e.g. increase in domestic dogs near grazing stock, weed management and boundary fence management issues). Inappropriate siting of dwellings houses, dual occupancies or other potential non-rural uses permitted on the proposed rural residential lots may potentially increase land use conflict with adjoining rural activities.

Conversion of the site to rural lifestyle lots may also potentially create an increase in land use conflict with the amenity of nearby Gundaroo residents (e.g. noise from use of the lots for recreation such as motor bike riding).

Based on the current low intensity use of the site for agriculture, and the small interface with Gundaroo Village, it is not considered that this represents a significant land use conflict that requires rezoning the site to a R5 Large Lot Residential 'transition area'.

Furthermore, the planning proposal will fragment productive agricultural land, to create potentially 9 rural residential lots and a residual rural lot of approximately 80ha.

Action 8.4 seeks to apply appropriate buffer areas that are consistent with biosecurity plans to minimise the risk associated with exotic pests and disease that may enter Australia, i.e. protect agricultural industries that may be sensitive to the risk of exotic pests and disease.

It is unclear from the planning proposal what agricultural activities on the site are at risk from exotic pests and disease from Gundaroo village or what biosecurity risks are associated with Gundaroo village. Action 8.4 is not considered relevant to the planning proposal and does not justify rezoning the site.

In addition to the above, the planning proposal does not address the following relevant Directions and Actions in the Regional Plan:

- *Action 16.1: Locate development, including new urban release areas, away from areas of high bushfire risk, known flooding hazards, or high coastal erosion /inundation; contaminated land; and designated waterways to reduce the community's exposure to natural hazards.*

Comment

The proposal is inconsistent with this action because the site is affected by the probable maximum flood (PMF) and approximately 50 percent is affected by the 1% AEP flood event (Gundaroo Floodplain Risk Management Study and Plan). The site is designated a 'flood planning area' and this issue is further discussed in section 4.4 of the report dealing with inconsistencies with Direction 4.3 Flood Prone Land.

McLeods Creek also runs through the southern section of the site. The Environmental Report accompanying the planning proposal indicates that McLeods Creek has active erosion that needs to be addressed. Consistent with the planning approach for rezoning for Gundaroo's northern urban release area, McLeods Creek should be zoned E3 Environmental Management Zone because it is an environmentally sensitive area.

Although the planning proposal indicates that the likelihood of land contamination is low in response to the requirements of SEPP 55 'Contamination of Land' (now replaced by DPIE with Direction 2.6), an independent analysis on land contamination has, at this stage, not been carried out. This matter should have been addressed in

the Environmental Report that accompanied the planning proposal. Should the proposal be supported, the requirement for analysis of contamination would be conditioned in a Gateway determination.

- *Action 18.1: Locate, design, construct and manage new developments to minimise impacts on water catchments, including downstream impacts and groundwater sources.*

Comment

The site is identified as a flood planning area, is mapped as having 'ground water vulnerability', is in proximity to the Yass River and incorporates a section of McLeods Creek. The presence of these natural hazards raises concerns about the suitability of the site for rural residential development.

The proposed rural residential development is also intended to be serviced by on-site effluent disposal systems and does not address Action 18.1 regarding the potential impacts of on-site effluent disposal on surface and groundwater resources.

- *Actions 28.1: Enable new rural residential development only where it has been identified in a local housing strategy prepared by council and approved by the Department of Planning and Environment.*
- *Actions 28.2: Locate new rural residential areas:*
 - *close to existing urban settlements to maximise the efficient use of existing infrastructure and services, including roads, water, sewer and waste services, and social and community infrastructure;*
 - *to avoid and minimise the potential for land use conflicts with productive, zoned agricultural land and natural resources; and*
 - *to avoid areas of high environmental, cultural and heritage significance, important agricultural land and areas affected by natural hazards.*

Comment

The planning proposal does not address consistency with Direction 28 'Manage rural lifestyles' or the requirements of Actions 28.1 and 28.2. The planning proposal is inconsistent with this Direction and these actions which are very relevant to the planning proposal.

The planning proposal is inconsistent with Action 28.1 because the site has not been identified for urban development in the Yass Valley Settlement Strategy 2017-2036 prepared by Council and endorsed by the Department on 20 September 2018 or the Gundaroo Masterplan.

The Strategy recommended limited growth of the village (population 474 people – 2016 Census) to the north and south of the existing settlement could be accommodated without having a negative impact on the character of the village, subject to the availability of a secure water supply and demonstration that sewage effluent could be satisfactorily addressed.

The limited growth for Gundaroo was consistent with the intent of the Strategy to protect village character, reduce urban sprawl, promote containment and contiguous development, protect productive rural land, biodiversity and natural resources.

Areas to the north and south of the village were rezoned for urban development in 2017 to accommodate limited growth in the village to 2036 to protect its character and in recognition of the lack of services.

The planning proposal is also inconsistent with Action 28.2 because the site has limited access to infrastructure and services (water, sewer), constitutes productive agricultural land affected by natural hazards and could result in increased land use conflicts with adjoining productive zoned agricultural land.

Recommendation

That the planning proposal be refused because it is inconsistent with the above-mentioned Directions and Actions of the South East and Tablelands Regional Plan and the inconsistencies have not been identified or justified.

4.3 Local

Yass Valley Settlement Strategy 2017-2036

The planning proposal states that there are two principles of the Strategy that are supported by the planning proposal as follows:

- *“Future development should complement existing settlement structure, character and use and allow for the creation of legible and integrated growth”*
- *“Future development, particularly at the residential/agricultural and residential/industrial interfaces should be planned for and managed to minimise conflict between adjacent land uses.”*

The planning proposal indicates that it supports this principle by continuing the zone land around the perimeter of the village.

The planning proposal indicates that it supports this principle by creating transitional zones between urban village lots and agricultural activities. The planning proposal also indicates that the proposed ‘transitional zones’ reduce sprawl and promote containment and contiguous development’ consistent with the Strategy’s narrative for Gundaroo.

Comment

The planning proposal is inconsistent with Council’s Yass Valley Settlement Strategy which has been endorsed by the Department.

The planning proposal does not acknowledge that the site is not identified for urban development in either the endorsed Strategy or the Gundaroo Masterplan.

The Strategy recommends that the limited growth of Gundaroo *“be allowed to occur to the north and south of the existing settlement, subject to the availability of a secure water supply”*.

The Strategy recommends *“Development should be consistent with the outcome and recommendation of the Gundaroo Master Plan”*.

The Gundaroo Master Plan has not identified the subject site for future development. At its meeting of 24 June 2020, Council resolved to amend the Gundaroo Masterplan to include the subject land to accommodate rural residential development if the subject Planning Proposal is approved.

The Strategy indicates that the population of Gundaroo was 474 people in the 2016 census. The northern and southern urban release areas in Gundaroo (**Figure 3**) will provide housing to almost double Gundaroo's population (additional 340 people at 2.6 occupancy rate). According to the Strategy, the Gundaroo urban release areas will accommodate the forecast population increase for Gundaroo village to 2036. As such, there is no justification to rezone additional land to accommodate demand for housing in Gundaroo.

The planning proposal undermines the strategic planning and community consultation process undertaken for the Strategy to identify suitable land for urban development.

Recommendation

That the planning proposal be refused because it is inconsistent with the Yass Valley Settlement Strategy and the inconsistencies have not been identified or justified.

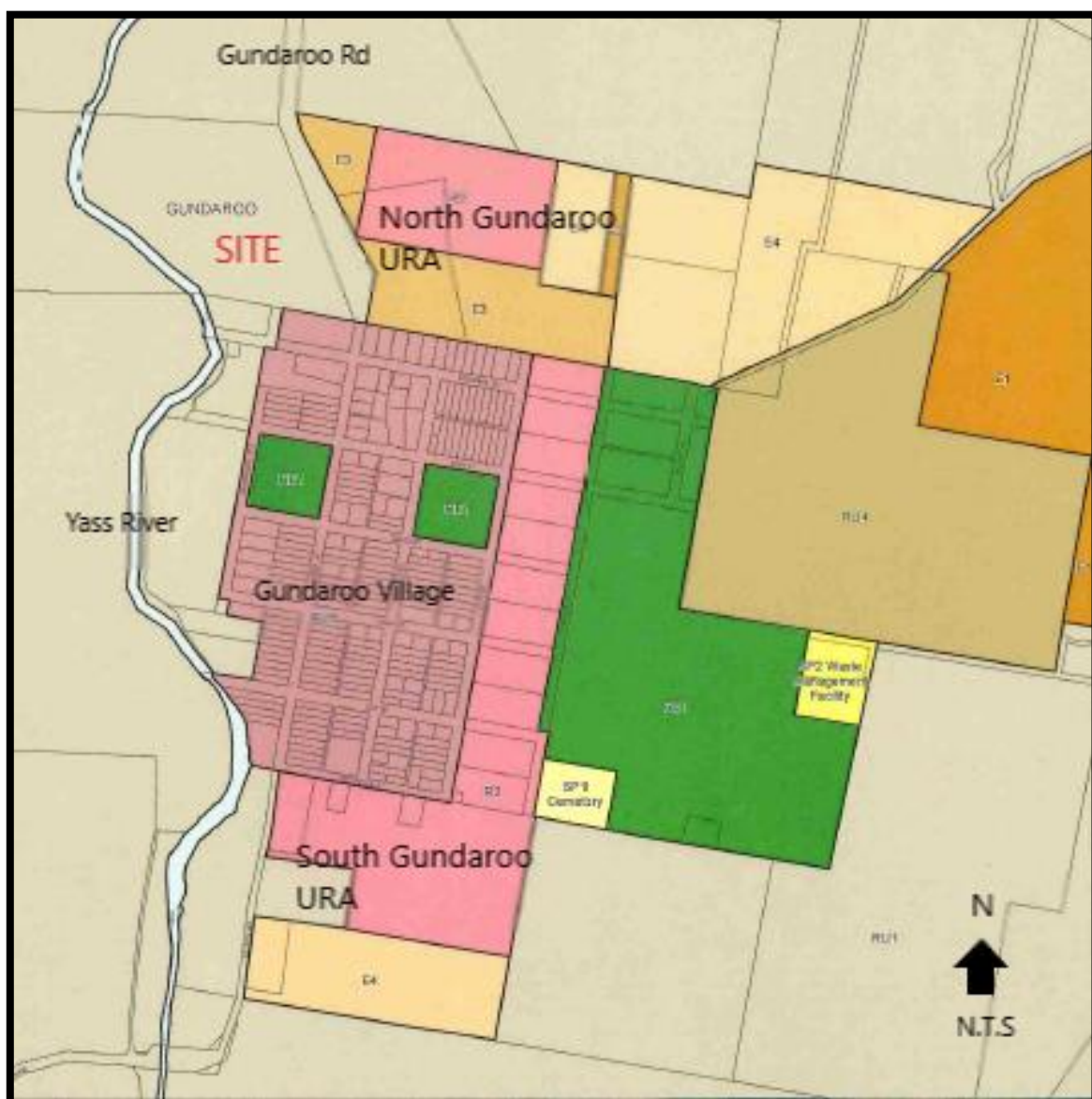


Figure 3: Northern and southern Gundaroo urban release areas

Yass Valley Local Strategic Planning Statement 2020

Comment

The planning proposal does not address the implications of the proposal against the Yass Valley Local Strategic Planning Statement as required by section 3.33 (2) (c) of the *Environmental Planning and Assessment Act 1979*.

Yass Valley Council adopted the Yass Valley Local Strategic Planning Statement (LSPS) in May 2020. The LSPS clearly states that the majority of this future growth will be focused in the existing settlements of Yass, Murrumbateman and the cross-border development at Parkwood. The LSPS further states that the villages of Binalong, Bookham, Bowning, Gundaroo, Sutton and Wee Jasper are expected to retain their small village character and only accommodate minimal growth. This is consistent with the intent of the Yass Valley Settlement Strategy.

Recommendation

That the planning proposal be refused because it is inconsistent with Yass Valley Local Strategic Planning Statement and the inconsistencies have not been identified or justified.

4.4 Section 9.1 Ministerial Directions

The planning proposal indicates that it is consistent with the relevant section 117 Directions. The reference to section 117 Directions should be amended to refer to section 9.1 Directions.

The planning proposal provides commentary on the following Directions in support of the statement that it is consistent with all relevant Directions.

Direction 1.2 Rural Zones and 1.5 Rural Lands

The planning proposal states that it assists in creating a transition zone between agricultural and urban activities, whilst still offering small lots that can be utilised for intensive agriculture.

Comment

The planning proposal has not acknowledged that it is inconsistent with Direction 1.2 because it seeks to rezone rural land to a residential zone and reduce the minimum lot size from 40ha to 2 ha to accommodate rural residential development.

The planning proposal has not specifically addressed the matters under clause (4) of the Direction 1.5 Rural Lands, particularly clause (4) (a) that requires a planning proposal to be consistent with local and regional strategic plans endorsed by the Secretary. The planning proposal is inconsistent with the Yass Valley Settlement Strategy and South Eastern and Tablelands Regional Plan and is therefore inconsistent with Direction 1.5.

The proposal is inconsistent with key objectives of these Directions as it would result in fragmentation of productive agricultural/rural land which has the potential to increase land use conflicts between rural lifestyle development and adjoining agricultural uses.

Recommendation

That the planning proposal be refused because it is inconsistent with Direction 1.2 and Direction 1.5 and the inconsistencies have not been adequately justified.

2.1 Environmental Protection Zones

The planning proposal indicates that although the site is not an environmentally sensitive area the proposed R5 Zone will encourage environmental protection.

Comment

Direction 2.1 requires that planning proposals include provisions that facilitate the protection and conservation of environmentally sensitive areas.

The Environmental Report provided in support of the application concludes the site has low biodiversity value. The accompanying Aboriginal Heritage Due Diligence Assessment Report identified the presence of an Aboriginal artefact scatter and two areas of Potential Aboriginal Deposits (PADs) within the proposed subdivision area near McLeods Creek. The report concluded that these locations have potential to contain additional artefacts and it is likely that avoidance of the artefacts would be possible with the current proposal. DPIE Biodiversity and Conservation has raised concerns about flooding of the site and not biodiversity values or Aboriginal heritage.

McLeods Creek and its associated riparian zone runs through the southern section of the site (**Figure 2**). The Environmental Report described the creek as a deep and incised erosion gully and it is suggested the proposed development would provide opportunities to *“undertake stabilisation and revegetation of the erosion gully to prevent or minimise erosion of McLeods Creek”*.

Consistent with the rezoning the northern Gundaroo urban release area in 2017 (**Figure 3**), it is considered that McLeods Creek riparian area should be zoned E3 Environmental Protection Zone because of its environmental sensitivity (i.e. active creek erosion and flooding). This approach is consistent with Practice Note PN009_002 which states that the E3 zone can be applied to an environmental hazards/process *“that require careful consideration/management”*. There is no guarantee that the creek will be stabilised and rehabilitated as part of rural lifestyle development.

Recommendation

That the planning proposal be refused because it is inconsistent with Direction 2.1 and the inconsistencies have not been adequately justified.

2.6 Remediation of Contaminated Land

Direction 2.6 requires the planning proposal authority to obtain and have regard to a report specifying the findings of a preliminary contamination investigation of the land. The report must be prepared in accordance with the Department’s guidelines for managing contaminated land.

Comment

The Environmental Report accompanying the planning proposal did not include preliminary contamination investigation of the land.

The planning proposal states the site has been and is currently used for agricultural purposes and the likelihood of contamination is low. It is proposed that testing for contamination from agricultural activities be confirmed following the Gateway determination.

Should the proposal be supported, it is recommended that the planning proposal be updated prior to public exhibition to include a preliminary contamination investigation

prepared in accordance with the Department's guidelines for managing contaminated land.

3.1 Residential Zones

The planning proposal indicates that it could provide various housing lot sizes, zones and shapes and maintain community requirements for sustainable and controlled growth.

Comment

Direction 3.1 applies to the planning proposal because it will affect land within a proposed residential zone. When this Direction applies a planning authority must include provisions that:

- broaden the choice of building types and locations available in the housing market, - make efficient use of existing infrastructure and services;
- reduce consumption of land for housing on the urban fringe;
- be of good design; and
- ensure land is not permitted until it is adequately serviced, or satisfactory arrangements have been made to service the land.

The planning proposal is inconsistent with Direction 3.1 because the proposal would increase the consumption of land for housing on the urban fringe of Gundaroo. Further, it would create a ribbon development along Gundaroo Road which is not considered to be of 'good design' (refer to Section 5.2 of this report). The inconsistency with the Direction has not been justified by a study or strategy approved by the Secretary or a strategy prepared by the Department.

Recommendation

It is recommended that the planning proposal be refused because it is inconsistent with Direction 3.1 and the inconsistencies have not been justified.

4.3 Flood Prone Land

The site is flood prone land in both the Probable Maximum Flood (PMF) and 1 in 100-year flood events. Direction 4.3 applies because proposes to alter a zone affecting flood prone land.

Comment

Key reasons provided to support the rezoning with regards to flooding include:

- the majority of the site is outside of the 1:100-year modelled flood levels;
- minor impacted areas only fall within the 0.1 metre to 0.5 metre (natural surface) zones and floor heights of dwellings above these levels and associated services can easily be achieved;
- the site will be less impacted by flooding than a fair portion of the Gundaroo village; and
- levels used in the flood study may misrepresent flood water encroachment across the site.

The entire site is identified as flood prone land and a flood planning area by the Gundaroo Floodplain Risk Management Study and Plan (FRMSP).

The FRMSP indicates the entire site is covered by the probable maximum flood and approximately 50 percent of the site is covered by either a floodway (McLeods Creek) or flood fringe within the 1% AEP flood event (**Figure 4**).

A detailed flood study has not been provided in support of the application.

The Department has undertaken preliminary consultation with DPIE Biodiversity and Conservation's who advised:

- the site is flood affected as identified in the Gundaroo Floodplain Risk Management Study and Plan (FRMS&P, 2016), with depth of flooding across the site exceeding 6m in the PMF; and
- the planning proposal should be considered in accordance with Section 9.1 Direction 4.3, Yass Valley LEP 2013 (6.2) and the NSW Government's Flood Prone Land Policy as set out in the Floodplain Development Manual, 2005 (FDM).

DPIE Biodiversity and Conservation concluded the impact of flooding had not been adequately addressed in the planning proposal and listed several matters that need to be considered regarding overland flows, flood behaviour, flood safety and emergency access, climate change and landform modifications.

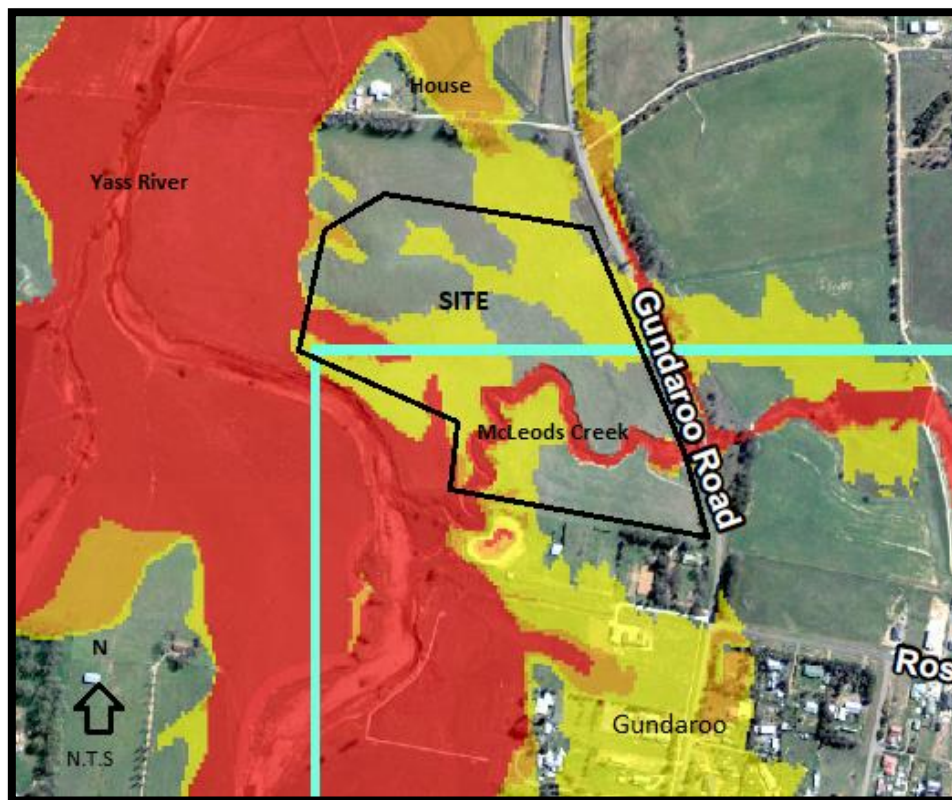


Figure 3: Extract from Gundaroo FRMSP – Flood Hazard 1% AEP Flood Event (red – floodway and high hazard, yellow – flood fringe and low hazard)

It is considered the planning proposal is inconsistent with Direction 4.3 Flood Prone Land because it:

- seeks to rezone land within a flood planning area from RU1 Primary Production Zone (rural zoned land) to R5 Large Lot Residential Zone (residential zoned land);

- will include provisions that permit development in floodway areas; and
- will permit a significant increase in the development of the land.

The planning proposal has not justified the inconsistencies with Direction 4.3 and DPIE Biodiversity and Conservation have confirmed the impact of flooding has not been adequately addressed.

A detailed flood study has not been provided with the planning proposal to support the statements made in the planning proposal in relation to flooding.

Recommendation

It is recommended that the planning proposal be refused because it is inconsistent with Direction 4.3 and the inconsistencies have not been justified.

5.10 Implementation of Regional Plans

The Direction requires the planning proposal to be consistent with the South East and Tablelands Regional Plan.

Comment

As outlined in Section 4.2 of this report, the planning proposal is inconsistent with key Directions and Actions in the Regional Plan.

Recommendation

It is recommended that the planning proposal be refused because it is inconsistent with Direction 5.10 and the inconsistencies have not been adequately justified.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social and Economic Impacts

The planning proposal states there are no social or economic effects that the proponent is currently aware of.

Comment

It is considered there are several potential social and economic impacts that could result from the proposal (e.g. economic impacts to landowners from providing housing on flood prone land).

Should the proposal be supported, a Gateway condition requiring the planning proposal to be updated prior to exhibition to properly consider social and economic impacts is recommended.

5.2 Environmental

The planning proposal states there is no likelihood that the critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal.

Comment

DPIE Biodiversity and Conservation did not raise concerns in relation to biodiversity values or Aboriginal heritage but concluded the impact of flooding had not been adequately addressed in the planning proposal.

As noted earlier in this report, the Department also has concerns about onsite effluent disposal on flood prone land and the potential impacts on surface and groundwater resources. It is also considered that McLeods Creek riparian area

should be zoned E3 Environmental Protection Zone because of its environmental sensitivity (i.e. active creek erosion and flooding).

It is concluded the proposal has not provided sufficient strategic justification for rezoning environmentally sensitive land for rural residential development.

Should the proposal be supported, Gateway conditions requiring the planning proposal to properly consider all potential environmental impacts are recommended.

5.3 Infrastructure

The planning proposal states it falls well short of the 150 lots that applies when considering the adequacy of public infrastructure.

The planning proposal further states that power and communication currently exist through or adjacent to the site and the proposed lots would have access to a major road with no real effect on roads. Communication services are also available from Telstra and Optus.

Gundaroo is not currently serviced by reticulated public water supply or sewerage systems. The planning proposal states that the proponent has recommended using water tanks with a minimum capacity of 100,000 litres to harvest rainwater for a water supply.

The planning proposal includes an objective to limit access to Gundaroo Road but includes a concept subdivision plan showing five proposed rural residential lots with frontage to Gundaroo Road (classified road).

Comment

The relevance of the 150-lot threshold on infrastructure is not clear.

The planning proposal should include an assessment of the suitability of the site for on-site sewerage management systems noting it is not serviced by sewer and the site is flood prone in an identified groundwater sensitivity area.

Preliminary consultation undertaken by the Department with Transport for NSW (TfNSW) notes further assessment (as a minimum) is required in relation to:

- the safety and efficiency of the classified road network and the provision of limited access to that network;
- the provision of safe access to the proposed allotments having consideration to the volumes and types of vehicles within the current speed zone; and
- the provisions of SEPP (Infrastructure).

TfNSW have also previously raised safety concerns with ribbon development and multiple new road access points along Gundaroo Road to service urban development as part of its response on the draft Gundaroo Masterplan.

TfNSW recommended that Council provide road, cycle and pedestrian access to urban development from the surrounding local road network to allow for integration with the adjoining land uses and minimise the impact on the Gundaroo Road (classified road). It further recommended that Council policies include provisions restricting direct access to Gundaroo Road.

The concept subdivision plan in the planning proposal shows potential for multiple access point to Gundaroo Road and access alternatives via Rosamel Street are constrained by McLeods Creek and by flooding.

It is considered the planning proposal has not justified the proposed ribbon development with multiple road access point along Gundaroo Road. Should the proposal be supported, Gateway conditions requiring the planning proposal address the above are recommended.

6. CONSULTATION

6.1 Community

If the planning proposal proceeds it is recommended that community consultation be a minimum of 28 days consistent with the planning proposal.

6.2 Agencies

It is recommended that if the proposal proceeds that consultation be undertaken with the following state agencies;

- DPIE Biodiversity and Conservation;
- State Emergency Service;
- DPI Agriculture;
- NSW Fisheries;
- Transport for NSW;
- TransGrid;
- Natural Resource Access Regulator; and
- ACT Government (noting the site location near the NSW/ACT border).

7. TIME FRAME

The planning proposal has not provided a timeframe for finalising the plan. Should the proposal be supported, it is recommended the planning proposal be updated prior to exhibition to include a timeframe for completing the plan.

8. LOCAL PLAN-MAKING AUTHORITY

Council has asked for plan-making authority for this proposal.

Should the proposal be supported, it is recommended Council not be given local plan-making authority noting the significant issues and inadequacies raised within this report.

9. CONCLUSION

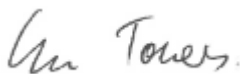
It is recommended that the planning proposal be refused because it is inconsistent with local and regional strategic planning objectives. Additionally, it has not been demonstrated that the site is suitable for rural residential development. The key reasons for refusal are summarised in Section 10 of this report.

10. RECOMMENDATION

The proposal should not proceed for the following reasons:

- Council has not provided adequate justification for making the proposed amendment, including demonstrating the strategic need for the planning proposal to meet housing demand.

- The planning proposal is inconsistent with the Yass Valley Local Strategic Planning Statement 2020 and the Yass Valley Settlement Strategy 2017-2036 which seek to provide only limited growth in Gundaroo to protect its character and due to limited availability of services. The site is not identified for development in either strategy.
- The planning proposal is inconsistent with the South East and Tablelands Regional Plan because:
 - (a) it would result in fragmentation of productive agricultural land which has the potential to increase land use conflicts between rural lifestyle development and adjoining agricultural uses, therefore is inconsistent with Action 8.2;
 - (b) it would result in an urban release area being located on flood prone land containing a designated waterway and erosion hazards with the potential to impact on groundwater sources, therefore is inconsistent with Actions 16.1 and 18.1;
 - (c) the subject land has not been identified for rural residential development in the Yass Valley Settlement Strategy 2017-2036 prepared by Council and endorsed by the Department, therefore is inconsistent with Direction 28 and Action 28.1; and
 - (d) the site has limited access to infrastructure and services (water, sewer), constitutes productive agricultural land affected by natural hazards and could result in increased land use conflicts with adjoining productive zoned agricultural land, therefore is inconsistent with Direction 28 and Action 28.2.
- The planning proposal is inconsistent with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 3.1 Residential Zones, 4.3 Flood Prone Land and 5.10 Implementation of Regional Plans, and the inconsistencies have not been adequately justified.
- There is already sufficient urban zoned land located in the north and south Gundaroo urban release areas to meet projected housing demand until 2036.
- The planning proposal may create a precedent for the rezoning of rural land in the area for residential development that has not been identified in the Yass Valley Settlement Strategy.



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23/10/2020

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