

14 September 2020

Ms Sarah Lees
Director- Southern Region
Planning Services
NSW Department of Planning, Industry & Environment
wollongong@planning.nsw.gov.au

Dear Sarah

Request agreement of the Secretary - Planning Proposal (PP.2019.04)

I refer to the Planning Proposal - Administrative Amendment: 82 Laidlaw Street, Yass and Gateway determination issued on 17 February 2020.

Following the conclusion of public exhibition, Council received submissions from the landowner and DPIE - Biodiversity & Conservation (Flood Team). The issues raised in the submissions were addressed and subsequently, a report was presented to Council and accordingly, Council at its meeting of 26 August 2020 resolved that:

1. *The Planning Proposal - Administrative Amendment: 82 Laidlaw Street, Yass (PP.2019.04) be adopted*
2. *The amendment to Yass Valley LEP 2013 be forwarded to the Parliamentary Counsel's Office (PCO) to request a formal legal opinion that the amendment can be made*
3. *The amendment to Yass Valley LEP 2013 be made by Council as a local plan-making authority under s3.36 Environmental Planning & Assessment Act 1979*

As such, Council as the local plan-making authority, satisfied all the conditions of the Gateway determination. The Planning Proposal is consistent with section 9.1 Direction 6.2 Reserving Land for Public Purposes and Direction 4.3 Flood Prone Land as noted in the Gateway determination and DPIE's email of 15 January 2020 respectively.

The Department subsequently advised Council on 9 September 2020 that it is required to obtain the agreement of the Secretary to comply with the requirements of the relevant section 9.1 Direction 4.3 Flood Prone Land. It is noted that the Department in its email of 15 January 2020 advised that the Planning Proposal is consistent with section 9.1 Direction 4.3 Flood Prone Land as land within the 1:100 flood event will remain as RE1 Public Recreation Zone. Council understands that the Department now considers that the Planning Proposal is inconsistent with Direction 4.3 Flood Prone Land due to comments from the DPIE-Biodiversity & Conservation (Flood Team).

The Planning Proposal mainly relates to removing the anomalies that are resulting from a realignment of the Yass River cadastre warranting a change to the W1 Natural Waterways zone to align with the Yass River and subsequently, RE1 Public Recreation and R1 General Residential Zones. As such, the proposed rezoning is different from usual rezoning requests where land is proposed to be rezoned anticipating development potential. Only two small portions of land identified as flood prone land (1% AEP) will be rezoned R1 General

Residential as a development consent had already been issued. Please refer Council Report (marked red on Figure 1 of the Council report) for further detail.

Comments made by the DPIE-Biodiversity & Conservation (Flood Team) are based on Probable Maximum Flood (PMF) level as the flood planning level whereas Council applies the 1:100 year (1% AEP) flood as the flood planning level which is consistent with the NSW Government Flood Prone Land Policy and the principles within the Floodplain Development Manual 2005.

The NSW Government Flood Prone Land Policy states *"a merit approach shall be adopted for all development decisions in the floodplain to take into account social, economic and ecological factors, as well as flooding consideration". Furthermore, the Policy provides for, "a merit based approach to selection of appropriate flood planning levels (FPLs). This recognises the need to consider the full range of flood sizes, up to and include the probable maximum flood (PMF) and the corresponding risks associated with each flood, whilst noting that with few exceptions, it is neither feasible nor socially or economically justifiable to adopt the PMF as the basis for FPLs. FPLs for typical residential development would generally be based around the 1% AEP flood event plus an appropriate freeboard (typically 0.5m)".*

Based on the 1% AEP as the flood planning level (FPL), all land identified as high & medium flood risk and within a floodway, flood storage or flood fringe as shown on the Flood Risk and Hydraulic Categorisation Maps of the Yass Flood Study has been included within the RE1 Public Recreational Zone, with the exception of the two small portions referred to above. The site has been identified within the Interim Flood Planning Area within the Yass Flood Study which means flood related development controls would apply to the development proposed on this land. Council has been applying the development controls within the Gundaroo and Sutton Flood Risk Management Study and Plan, as an interim measure until the Yass plan is currently being finalised with the input of the DPIE-Biodiversity & Conservation (Flood Team).

As Council is the manager of flood prone land and is responsible for determining an appropriate FPL, Council considers the Planning Proposal to be consistent with section 9.1 Direction 4.3 Flood Prone Land with the exception of the two small portions of land within the 1% AEP to be rezoned R1 General Residential as a development consent has been issued. Development controls within the Yass Flood Risk Management Study and Plan will be applied to these small areas, and therefore as an inconsistency, it is of minor significance and the agreement of the Secretary is requested for the inconsistency with section 9.1 Direction 4.3 Flood Prone Land.

Should you wish to discuss the matter further, please contact Arif Chohan - Strategic Planner on 02 6226 9219 or email at Arif.Choan@yass.nsw.gov.au.

Yours sincerely,



Liz Makin
Strategic Planning Manager