



Office of
Environment
& Heritage

Our reference: DOC19/240340
Your reference: PP 2018 Yass 003.00

The General Manager
Yass Shire Council
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Attention Liz Makim

Dear Ms Makim

Planning Proposal PP_2018_YASSV 003_00 Lot 5 DP 838487, 2090 Sutton Road, Sutton

The Office of Environment and Heritage (OEH) has reviewed the additional information provided by Council on 18 March 2019 (Attachment 1). This was provided as a result of a meeting on 19 February 2019 between OEH, Council and the proponent regarding the proposed Planning Proposal to rezone rural land to RU5 Village Zone, R5 Large Lot Residential Zone and E3 Environmental Management Zones. As previously advised, the planning proposal has a range of environmental, natural hazard and cultural heritage constraints that required more detailed consideration at this stage of the planning process.

Our review of the planning proposal identified issues which we now consider addressed and as such we withdraw our objection; however, we make note of several key points for inclusion in the next revision as per below.

OEH note that the rezoning request illustrates a conceptual subdivision design for the purposes of discussion and this has enabled the proponent to surmise an indicative lot yield across the three zonings. It has also allowed for robust discussion as to the effective demonstration of the Biodiversity Assessment Method (BAM) as it relates to the principles of avoidance and minimisation of vegetation and habitat loss. This was a key factor for the OEH previously objecting to the proposal as the footprint contains areas of high value Box-Gum Woodland and Superb Parrot habitat.

Notwithstanding the other the parameters for consideration of Aboriginal cultural heritage and flood management and mitigation, the proposed zoning layout represents a more positive consideration of OEH's concerns noting:

- Adjustment of the proposed R5 Large Lot Residential zone boundary to include those areas previously proposed to be zoned RU5. This adjustment resulted in an increase in the R5 zone from 40.5 hectares to 47.7 hectares.

- Provision for the R5 zone to have a prescribed minimum lot size of 1.5 hectares applying to this zoning only. This land was noted to be subject to a suitable lot averaging clause, which would allow lots down to 5,000m² where the average area of all lots created would be 1.5 hectares.
- Inclusion of a 200m buffer to the Yass River with a notation stating that the area within this buffer would be subject to detailed archaeological investigation and consultation with the local Aboriginal community prior to any development application (DA) submission. This buffer also contains a 100m set-back for flood prone land purposes.
- Adjustment of the proposed concept subdivision layout to show a potential for three (3) 20 hectare allotments within the proposed E3 Environmental Management Zone with the 20 hectare minimum lot size.

The planning proposal will therefore be further revised to reflect the above plan amendments

- The proposed local provision will be replaced with a statement outlining the intent of the lot averaging proposal allowing Parliamentary Counsel to draft an appropriate provision. The amendment would read as follows:
 - a. *"An additional local provision is proposed for "Development of certain land in Sutton in zone R5 Large Lot Residential" which would allow subdivision of the land where the average area of all lots created would be 1.5 ha. None of the lots created would have an area less than 5000 sqm and none of the lots created would have an area greater than 2.5 ha (to prevent future requests for re-subdivision under Clause 4.6 Exceptions to Development Standards)."*

OEH is supportive of this intended measure and notes that the proponent has also provided greater justification for the proposed inconsistencies with the 9.1 Directions: Direction 2.1 Environmental Protection Zones, Direction 2.3 Heritage Conservation, Direction 4.3 Flood Prone Land and Direction 5.10 Implementation of Regional Plans (Attachment 1).

OEH anticipates the subsequent amendment and future resubmission of the planning proposal fully reflective of these agreed points. Please contact Tania Ashworth, Senior Conservation Planning Officer on 6229 7176 should further information be required regarding this matter.

Yours sincerely



25/3/19

ALLISON TREWEEK
Senior Team Leader - South East Planning
Conservation and Regional Delivery

Attachment 1

Response to Office of Environment and Heritage from Yass Valley Council

The OEH provided advice to the effect that the current proposal has a range of environmental, natural hazard, and cultural heritage constraints that require additional consideration as part of the Planning Proposal process.

In response to the matters raised, the Proponent, OEH and Council met on 19 February 2019 for the purpose of working through the issues. At that meeting, a revised conceptual subdivision design and zoning overlay were presented for discussion. It is to be noted that the revised plans presented included the following:

- Adjustment of the proposed RU5 Village zone boundary to better reflect the mapped areas of exotic vegetation. This adjustment resulted in a reduction of the RU5 Zone from 24.1 hectares to 17.3 hectares.
- Adjustment of the proposed R5 Large Lot Residential zone boundary to include those areas previously proposed to be zoned RU5. This adjustment resulted in an increase in the R5 zone from 40.5 hectares to 47.7 hectares.
- Provision for the R5 zone to have a prescribed minimum lot size of 1.5 hectares. This land was noted to be subject to a suitable lot averaging clause, which would allow lots down to 5,000m² where the average area of all lots created would be 1.5 hectares.
- Adjustment of the concept subdivision layout to reflect the changes to the RU5 and R5 zones and a reduced allotment yield from 75 lots to 68 lots (indicative only).
- Inclusion of a 200m buffer to the Yass River with a notation stating that the area within this buffer would be subject to detailed archaeological investigation and consultation with the local Aboriginal community prior to any works commencing.

Subsequent to the meeting, additional discussions with Council and the OEH resulted in the following additional plan amendment:

- Adjustment of the proposed concept subdivision layout to show a potential for three (3) 20 hectare allotments within the proposed E3 Environmental Management Zone with the 20 hectare minimum lot size.

As requested by Council, the Planning Proposal will be further revised to reflect the above plan amendments and to:

- The proposed local provision referred to in the third dot point to the first paragraph above will be replaced with a statement outlining the **intent** of the lot averaging proposal allowing Parliamentary Counsel to draft an appropriate provision.
 - a. The amendment would read as follows:
 - b. *"An additional local provision is proposed for "Development of certain land in Sutton in zone R5 Large Lot Residential" which would allow subdivision of the land where the average area of all lots created would be 1.5 ha. None of the lots created would have an area less than 5000 sqm and none of the lots created would have an area greater than 2.5 ha (to prevent future requests for re-subdivision under Clause 4.6 Exceptions to Development Standards)."*
- Provide greater justification for the proposed inconsistencies with the 9.1 Directions. In particular, Direction 2.1 Environmental Protection Zones, Direction 2.3 Heritage Conservation, Direction 4.3 Flood Prone Land and Direction 5.10 Implementation of Regional Plans. In summary, the following is noted:

Direction 2.1 Environmental Protection Zones

The subject land has established noteworthy biodiversity values. The plan amendments as requested by the OEH and Council (as noted above) will acknowledge these values through the nomination of appropriate land use zones and corresponding minimum lots size

requirements designed to control and regulate the orderly and proper development of the land.

Further, any subsequent Development Application lodged for the subdivision of the land will need to be supported by a suitably prepared Biodiversity Development Assessment Report, which will require additional investigation and assessment at that time based on the scope of the proposed subdivision.

Subsequent to that reporting, the Proponent may seek Biocertification under Part 8 of the *Biodiversity Conservation Act 2016* for those parts of the site proposed to be developed.

Direction 2.3 Heritage Conservation

The potential impact of the proposed rezoning and subsequent subdivision of the land on indigenous and non-indigenous heritage and culture was considered as part of the Planning Proposal by way of site-specific due diligence investigation and reporting.

The reporting identified areas that are archaeologically sensitive to the extent that they would require further investigation as part of any subsequent application for the subdivision of the land. At that time, the local Aboriginal Land Council would be engaged for the purpose of providing direction in the subdivision design.

To require more detailed investigations as part of the Planning Proposal process is therefore, not considered warranted.

Direction 4.3 Flood Prone Land

The land is included within a flood investigation area as defined by the adopted Sutton Flood Risk Management Plan. In relation to the revised plans, the following is noted:

- The Adopted Sutton Flood Risk Management Plan sets out Land Use Risks against Flood Risk (Low, Medium and High).
- Very limited areas immediately adjacent to the Yass River and Old Federal Highway, existing Dams are within a High Flood Risk Precinct. As per the matrix, Subdivision, Commercial, Industrial, Residential, Sensitive and Critical Use and Facilities are (potentially) unsuitable land uses within these areas. As such the PMF has been considered and managed through the SFRMP.
- The revised concept plan shows a lot created for the existing dam adjacent to Sutton Road which is a high risk area. No indicative building envelope is shown on this lot and it is proposed as Open Space. It is not considered that this raises an expectation of future development.
- Land that is proposed to be accessed from the Old Federal Highway, will involve the crossing of an area (the Yass River) within an identified Medium Flood Risk Precinct. Flooding in the area is generally contained within the river banks. The strategy for the provision of 'flood free access for pedestrians or vehicles in the event of 1% AEP design flood event' (including emergency services), would be demonstrated at the Development Application stage based on the scope of the proposed subdivision and using a more detailed topographic survey of the land.
- The proposed minimum lot sizes for the land would enable development to be located outside of the low and medium flood risk areas. Indicative Building Envelopes have been shown to demonstrate how this may be achieved. A development application, based upon a detailed land survey of the site, will nominate Building Envelopes that are outside of any flood affected areas.
- The land within the central portion of the site and comprising an identified drainage line is proposed to have a minimum lot size of 20 hectares, with building envelopes well removed from affected land.

- In the event that development (e.g a dwelling or outbuilding) was to be located within these Medium or Low Risk areas, the Sutton Flood Risk Management Plan specifies minimum requirements for floor level, building components, structural soundness, flood affectation in adjacent areas, evacuation, management and driveway access.
- A 100 metre buffer is also proposed from the Yass River which will accommodate setbacks for On Site Sewage Management Systems, as well as land within a Low-High Flood Risk precinct. It is considered that this accommodates flood and riparian constraints
- For development located within identified low and medium flood risk areas, the SFRMP specifies minimum design requirements for mitigating flood impacts. These requirements would be investigated at the Development Application stage based on the scope of the proposed subdivision.

Direction 5.10 Implementation of Regional Plans

An assessment of the proposal against the South East and Tablelands Regional Plan was provided at Section 4.3.2.1 of the original Planning Proposal submitted to Council. The assessment provided was thorough and considered to be adequate in addressing Direction 5.10, which requires Planning Proposals to be consistent with the relevant Regional Plan. On this basis, no further assessment against Direction 5.10 is considered to be warranted.

