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PLANNING PROPOSAL

Yass Valley LEP 2013

Reclassification of Land

Lot 63 DP 1079585

Discovery Drive, Yass

July 2022



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PART 1 - OBJECTIVES / INTENDED OUTCOMES

The objective of the planning proposal is to reclassify the subject land from Community to Operational to enable its future development.

PART 2 - EXPLANATION OF PROVISIONS

The planning proposal seeks to reclassify land identified as Lot 63 DP 1079585 owned by Yass Valley Council from Community to Operational, by amending Schedule 4 (Part 1), of the Yass Valley LEP 2013



Figure 1: Aerial Image of Lot 63 DP 1079585

Section 27(1) of the *Local Government Act 1993* states that reclassification of public land may be made through a local environmental plan. As the land was not classified Operational by a resolution of Council within three months after the land was acquired, it is unable to be reclassified under section 31, 32 or 33 of the Act.

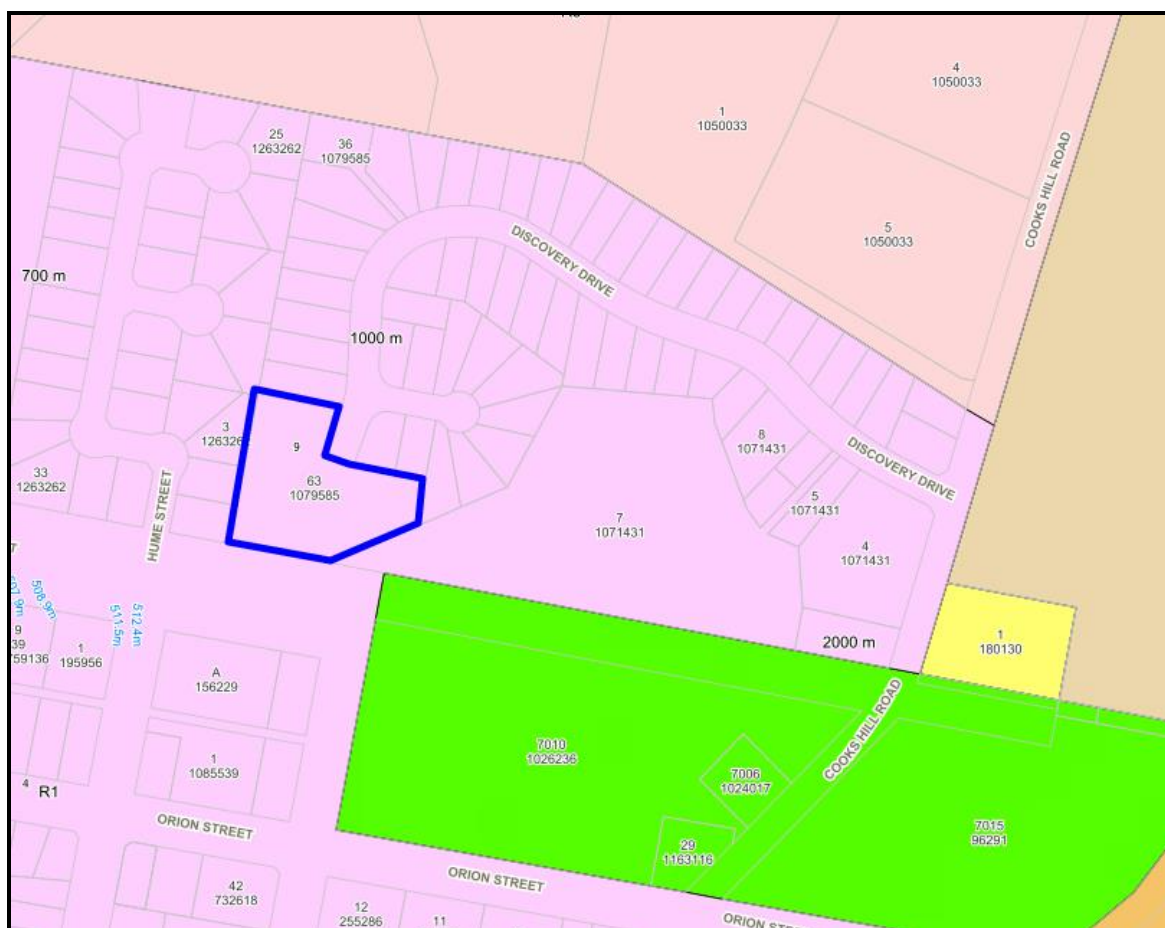


Figure 2: Land Use Zoning: -Yass Valley LEP 2013 (Subject Site outlined in Blue)

PART 3 - JUSTIFICATION

Section A - Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

No, it only relates to an action that was not taken when it was purchased by Council.

The land was purchased in 2014 as a long term strategic purchase given its R1 General Residential zoning and valid development consent for the final stage of the Discovery Drive development. The report to Council and subsequent resolution on 25 June 2014 omitted to make any reference to any proposed classification under the *Local Government Act 1993*. Pursuant to section 31(2A) any land that is not classified at the end of the 3 month period following, is taken to be classified as community land.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Pursuant to section 27(1) of the *Local Government Act 1993*, the classification of public land may be made by a local environmental plan, and the only way to do this is through the planning proposal process.

Section B - Relationship to strategic planning framework.

Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

South East and Tablelands Regional Plan 2036, Direction 25: Focus housing growth in locations that maximise infrastructure and services. The planning proposal to reclassify the land from community to operational will enable the land to be developed for housing as originally intended. All services are available for connection within the Discovery Drive development.

Q4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or another endorsed local strategy or strategic plan?

The proposed amendment to the YVLEP 2013 is not inconsistent with the LSPS and Yass Valley Settlement Strategy, particularly as the land is already zoned R1 General Residential and a valid development consent applies to the land.

Q5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

No other state or regional studies are relevant to this planning proposal.

Q6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The table below outlines the applicability and consistency of the planning proposal with all State Environmental Planning Policies (SEPPs) applicable within the Yass Valley.

Title	Description	Consistency
SEPP Biodiversity and Conservation 2021	This policy includes provisions relating to: <ul style="list-style-type: none">▪ Koala Habitat Protection that encourages identification of core koala habitat and requires the preparation of plans of management within those areas.▪ Vegetation in Non-Rural Areas that preserves the amenity and protects the biodiversity values of trees and other vegetation in non-rural areas	Not applicable.
SEPP Building Sustainability Index: BASIX 2004	This policy ensures state-wide consistency in the implementation of the BASIX scheme to encourage sustainable residential development.	Not applicable.
SEPP Exempt and Complying Development Codes 2008	This policy sets out exempt and complying development codes for development that is of minimal environmental impact that may either be carried out without the need for development consent or may be carried out in accordance with a complying development certificate.	Not applicable.

SEPP Housing 2021	Facilitates the development of affordable and diverse housing including Co-living housing, independent living units, Boarding houses, Build-to-rent housing, Secondary dwellings, Seniors housing and Social housing.	Not applicable.
SEPP Industry and Employment 2021	This policy includes provisions relating to: <ul style="list-style-type: none"> ▪ Advertising & Signage to provide for time limits on the display of certain advertisements and regulate display of signage in transport corridors 	Not applicable.
SEPP Planning Systems 2021	This policy includes provisions relating to: <ul style="list-style-type: none"> ▪ State & Regional Development ▪ Concurrences & Consents 	Not applicable.
SEPP Primary Production 2021	This policy includes provisions relating to: <ul style="list-style-type: none"> ▪ Primary Production and Rural Development to reduce rural land use conflict 	Not applicable.
SEPP Resilience & Hazards 2021	This policy includes provisions relating to: <ul style="list-style-type: none"> ▪ Remediation of Land which is contaminated to reduce the risk to human health or the environment ▪ Hazardous & Offensive Development to ensure measures are employed to reduce any adverse impact 	Not applicable.
SEPP Resources & Energy 2021	This policy includes provisions relating to: <ul style="list-style-type: none"> ▪ Mining, Petroleum Production & Extractive Industries to provide for the proper management and development of resources 	Not applicable.
SEPP Transport & Infrastructure 2021	This policy includes provisions relating to: <ul style="list-style-type: none"> ▪ Infrastructure to provide greater flexibility in the location of infrastructure and development which is minimal impact as exempt development. ▪ Educational Establishments & Childcare Facilities to identify development which is minimal impact as exempt development as well as establishing assessment requirements and design considerations 	Not applicable.
SEPP No. 65 Design Quality of Residential Flat Development	This policy aims to improve the design quality of residential flat development to achieve better built form and aesthetics of buildings and streetscapes. It also aims to maximise amenity, safety and security and minimise consumption of energy.	Not applicable.

Q7. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The following table documents the relevance and consistency of relevant Ministerial Directions

issued under section 9.1 of the *Environmental Planning & Assessment Act 1979*.

Ministerial Directions under Section 9.1 of the EP&A Act	
1.3 Approval and Referral Requirements	<ul style="list-style-type: none"> ▪ A planning proposal to which this direction applies must: <ul style="list-style-type: none"> (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: i. the appropriate Minister or public authority, and ii. the Planning Secretary (or an officer of the Department nominated by the Secretary), prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act, and (c) not identify development as designated development unless the relevant planning authority: i. can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the class of development is likely to have a significant impact on the environment, and ii. has obtained the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act. <p><i>Consistent.</i></p>
1.4 Site Specific Provisions	<ul style="list-style-type: none"> ▪ A planning proposal that will amend another environmental planning instrument in order to allow particular development to be carried out must either: <ul style="list-style-type: none"> (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. (2) A planning proposal must not contain or refer to drawings that show details of the proposed development. <p><i>Consistent.</i></p>
4.3 Planning for Bushfire Protection	<ul style="list-style-type: none"> ▪ In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 3.34 of the Act, and prior to undertaking community consultation in satisfaction of clause 4, Schedule 1 to the EP&A Act, and take into account any comments so made. ▪ A planning proposal must: <ul style="list-style-type: none"> (a) have regard to Planning for Bushfire Protection 2019,

	<p>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</p> <p>(c) ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ).</p> <ul style="list-style-type: none"> ▪ A planning proposal must, where development is proposed, comply with the following provisions, as appropriate: <ul style="list-style-type: none"> (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: i. an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and ii. an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with, (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for firefighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area. <p><i>These considerations will be addressed within the development applications prepared for the land. Note there is an existing valid development consent for the subdivision of stage 3 (7 lots).</i></p>
<p>5.2 Reserving Land for Public Purposes</p>	<ul style="list-style-type: none"> ▪ A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary). ▪ When a Minister or public authority requests a relevant planning authority to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, the relevant planning authority must: (a) reserve the land in accordance with the request, and (b) include the land in a zone appropriate to its intended future use or a zone advised by the Planning Secretary (or an officer of the Department nominated by the Secretary), and (c) identify the relevant acquiring authority for the land. ▪ When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal relating to the use of any land reserved for a public purpose before that land is acquired, the relevant planning authority must: (a) include the requested provisions, or (b) take such other action as advised by the

	<p>Planning Secretary (or an officer of the Department nominated by the Secretary) with respect to the use of the land before it is acquired.</p> <ul style="list-style-type: none"> When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the relevant planning authority must rezone and/or remove the relevant reservation in accordance with the request. <p><i>Consistent. Although the land is currently classified community, it was done so through omission. There was never any intent to set this land aside as a public reserve.</i></p>
<p>6.1 Residential Zones</p>	<ul style="list-style-type: none"> A planning proposal must include provisions that encourage the provision of housing that will: (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. A planning proposal must, in relation to land to which this direction applies: (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land. <p><i>Consistent. The land is already zoned R1 General Residential, with a development consent in place. Services are able to be connected/augmented from Discovery Drive.</i></p>

Section C - Environmental, social and economic impact

Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. This proposal applies to land dominated by exotic groundcover and weeds, and there are no existing trees on the subject site

Q9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

Q10. Has the planning proposal adequately addressed any social and economic effects?

The proposal relates to land which already has a development consent in place, and it not expected that there will be any adverse social or economic effects.

Section D - State and Commonwealth interests

Q11. Is there adequate public infrastructure for the planning proposal?

Infrastructure requirements were considered prior to the issue of development consent over this lot, and there does not appear to be any change to these.

Q12. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Council has not consulted any state or commonwealth public authority regarding the planning proposal, but will do so if required post the issue of a Gateway Determination.

PART 4 – MAPPING

No maps are required to be prepared.

PART 5 - COMMUNITY CONSULTATION

In considering a planning proposal, community consultation is required under section 3.34(2)(c) of the *Environmental Planning and Assessment Act 1979*. It is envisaged that the planning proposal would be exhibited for a minimum period of **28 days** under the Department's 'Local Environmental Plan Making Guideline' (December 2021).

A Public Hearing will be held as land is proposed to be reclassified, as required under section 29 of the *Local Government Act 1993*.

It should be noted that Council is seeking authorisation to exercise its delegation of local plan-making authority under section 3.36 of the *Environmental Planning and Assessment Act 1979*, as this planning proposal is considered to be a local, minor matter.

PART 6 - PROJECT TIMELINE

The following timeline is indicative and is provided to assist the Department in preparing the Gateway determination. It is acknowledged that the timeline will be influenced by a range of external factors, and is also subject to amendments by the Department through the Gateway process.

Stage	Estimated timeframe
Anticipated commencement date (date of Gateway determination)	August 2022
Completion of any additional required technical information	N/A
Government Agency Consultation	September-October 2022
Public Exhibition (28 days)	September-October 2022
Consideration of submissions by staff	End October 2022
Public Hearing	November 2022
Anticipated date RPA will forward the plan to the department to be made, if not delegated	November-December 2022