

**18) ADDENDUM REPORT**  
**PLANNING PROPOSAL TO AMEND THE BLAYNEY LOCAL ENVIRONMENTAL PLAN 2012 - PP3: SIX (6) UNSEWERED VILLAGES AND SURROUNDS**

**Department:** Planning and Environmental Services

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**CSP Link:** 5. Protect Our Natural Environment

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**Updated Recommendation:**

That Council:

1. Endorse, the amendment to the Blayney Local Environmental Plan 2012 *PP3 Six (6) Unsewered Villages & Surrounds* as outlined in this report.
2. Include 6450 Mid Western Highway, Lyndhurst (Lots 5 DP 1108340) as a lot under PP3B: Dwelling Permissibility – within 500m of the Village zone provision.
3. In exercising its delegation under Section 3.36 of the Environmental Planning and Assessment Act 1979, as endorsed by NSW Department Planning and Environment, forward the required documentation to Parliamentary Counsel for opinion to amend the Blayney Local Environmental Plan 2012.
4. Delegate authority to the General Manager to finalise the amendments to Blayney Local Environmental Plan 2012 with advice from Parliamentary Counsel and the NSW Government on terms that are broadly consistent with the Planning Proposal and this report, including any final feedback from government agencies.
5. Not implement the changes in the Planning Proposal to the Blayney Local Environmental Plan 2012 prior to 1 March 2023.

**Reason for Report:**

This report is an addendum to report 18, Planning Proposal (PP) to Amend the Blayney Local Environmental Plan 2012 – PP3: Six (6) Unsewered Villages and Surrounds, having further specifically reviewed submissions 1 and 2 under PP3B: Dwelling Permissibility – within 500m of the Village zone provision.

**Report:**

The PP (specifically pages 21 and 22) states:

PP3B: Dwelling Permissibility – within 500m of the Village zone

The Proposal is to allow an application for a dwelling house on a lot or holding that complies with the following:

Core criteria:

- a) Is in Zone RU1 Primary Production or Zone RU2 Rural Landscape;
- b) Has no existing dwelling house or dual occupancy;

- c) All (or a significant part) of the lot is within 500m of designated ‘urban’ zones of each village as set out in the table below;

Settlement/Village	Zone(s) from which 500m is Measured
Carcoar, Mandurama, Newbridge & Neville	Zone RU5 Village
Lyndhurst	Zone RU5 Village + Zone R5 Large Lot Residential
Barry	Zone R5 Large Lot Residential

- d) Has a minimum lot/holding area of 1.5ha;  
 e) Is not significantly affected by any environmental or other constraints (including, but not limited to, minimising impacts on agricultural lands and land use conflict); and  
 f) Has a legal access to a public road (that does not require substantial road extensions/upgrades to achieve access).

Additional Constraint Criteria

The more detailed environmental or other constraints that may prevent a lot/holding from being suitable for consideration for a dwelling and include, but are not limited to (focussed on key issues for the six (6) villages & surrounds) – the lot/holding:

- a) **Access:** Has the ability to create a safe and legal point of access to a public road (not a Crown Road and preferably not a Classified Road);  
 b) **Growth:** Is not identified in the *Settlement Strategy 2020* for future rezoning for additional urban or large lot residential growth;  
 c) **Heritage:** Is not a heritage item and would not impact significantly on any heritage conservation area (Newbridge is only relevant village with a HCA);  
 d) **Environment:** Has a suitable dwelling envelope and access that is unlikely to be affected by natural hazards such as flooding or bushfire and is setback from any key watercourses and sensitive biodiversity. Where there is no existing flood study then the precautionary principle is applied to avoid land that foreseeably is below the flood planning level of 1% Annual Exceedance Probability (AEP) + 500mm freeboard;  
 e) **Visual Impact:** Is likely to have a suitable dwelling envelope/location that would not compromise the overall vista and/or create a detrimental visual amenity impact (e.g., steeper slopes around Carcoar in the visual catchment of the village and key heritage items);  
 f) **Land Use Conflict:** Is likely to have a suitable dwelling envelope/location that provides a suitable setback/buffer to avoid or minimise any significant land use conflict on an adjoining or nearby property, particularly for protection of agricultural land and operations and/or known mineral potential lands/existing extractive resource buffers.  
 g) **Agricultural Potential:** Is on significantly fragmented land (lot size generally < 10ha) and is not part of a large agricultural holding where an additional dwelling would conflict with the agricultural potential of the land and extend dwellings significantly beyond the historic urban subdivision pattern of each village.

Other Limitations


a) **Merit Assessment:** It is important to note that the identification of a lot as having '**dwelling opportunity**' does not 'entitle' that land owner to a dwelling approval. Any application will still need to address the requirements of the relevant planning controls and is subject to a merit assessment. Therefore, it does not avoid the need to address any site-specific constraints or requirements in accordance with the relevant planning controls and the merit assessment may still prohibit a dwelling on that land.

b) **Time Limitation:** This 'dwelling opportunity' will only be valid for **five (5) years** from the Date of Commencement of this Amendment to BLEP2012. This will give a reasonable time for land owners to seek consent plus another five (5) years to physically commence any consent. The time limitation ('sunset clause') seeks to avoid additional impacts on agriculture after that time period has elapsed.

c) **Consistency:** This 'dwelling opportunity' is an extension of the same or similar opportunity given to Millthorpe that may be approved under an earlier Planning Proposal named PP2B. This creates consistency for all of the smaller settlements (other than the Town of Blayney).

It is important to note that if a lot/holding is mapped as having a '*Dwelling Opportunity*' it does not guarantee that a dwelling will be approved. Council may still request additional studies/information and will assess each application on its merits. In addition, the 'dwelling opportunity' only remains valid for 5 years from the Date of Commencement of this amendment to the BLEP2012 so an application ideally needs to be approved prior to that end date.

No.	Submission Summary	Council Staff Comment
1	6450 Mid Western Hwy LYNDHURST (Lot 5 DP1108340). Area GIS ~15.4ha/16.08ha	
	Request to be included in Dwelling Potential Mapping within 500m of existing urban area.	<p><b>RECOMMENDED FOR INCLUSION</b></p> <p>Lot appears to meet all Core and Additional Constraint Criteria detailed in PP3B: Dwelling Permissibility – within 500m of the Village zone.</p> <p>In the PP it states;</p> <p><i>g) Agricultural Potential: Is on significantly fragmented land (lot size generally 10ha) and is not part of a large agricultural holding where an additional dwelling would conflict with the agricultural potential of the land anextend dwellings significantly beyond the historic urban subdivision pattern of each village</i></p> <p>This lot is on the edge of the village, has houses near / around it and critically is not part of a larger agricultural holding.</p>

	<p>As agricultural holdings can be numerous lots, provision ‘g’ was included to ensure smaller lots part of a larger agricultural holding remained part of the agricultural holding. This lot is 15ha and not part of a larger agricultural holding.</p> <p>The following should be noted;</p> <ul style="list-style-type: none"> <li>• Inclusion is contingent on inclusion not delaying / holding up finalisation of the PP,</li> <li>• Subject to lodgement of a Development Application and merits based assessment, not limited to but noting;             <ul style="list-style-type: none"> <li>○ The applicant would likely have to upgrade North Street (including culver crossing) from the Mid-Western Highway to the property boundary, to Councils standard. Direct access to the Mid Western Highway is not supported.</li> <li>○ Preliminary contamination investigation.</li> <li>○ Preliminary flood investigation to ensure dwelling can be located outside a flood planning level.</li> <li>○ Dwelling location to not impact adjoining agricultural operations (located towards the Southeast corner of the property.</li> </ul> </li> </ul>
<p>2</p>	<p>108 Brady Rd CARCOAR (Lot 1 DP626899). Area GIS ~9.15ha.</p>
<p>Request to be included in Dwelling Potential Mapping within 500m of existing urban area.</p>	<p><b>NO CHANGE - NOT RECOMMENDED FOR INCLUSION</b></p> <p>In addition to the points in report 18:</p> <p>It is considered provision ‘a’) being safe and legal point of access to a public road cannot be easily met, or would require significant native vegetation in Councils road reserve to be removed.</p> 

	<p>No suitable dwelling envelope can be easily identified that specifically addresses provision 'd) and e)'.  Given the significantly steep topography, which in turn would require cut and fill and/or excavation to be undertaken, with a mapped watercourse in close proximity, provision d) Environment is considered not to be met.</p>
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### Submission 7 & 8

Having considered submission 7 & 8, specifically that the changes do not come into effect until the end of March, whilst the PP will not likely be completed before March 2023, it is proposed to reaffirm this by including an additional point in the recommendation that the Planning Proposal is not completed prior to 1 March 2023.

Note: This date cannot be pushed back any further as the Gateway Determination from NSW Department of Planning requires the PP to be completed by 31 March 2023.

### **Risk/Policy/Legislation Considerations:**

Inclusion of 1 additional lot under Planning Proposal, *PP3: Six (6) Unsewered Villages & Surrounds* is still largely consistent with the *Blayney Settlement Strategy 2020*, adopted at the Ordinary Meeting of 15 February 2021.

To quote the report from Councils 15 February 2021 meeting:

*“The number of constraints within the Blayney Shire is considered high and some of the proposals, in particular the activation of existing rural lot/s around the un-sewered villages are, from a land use planning perspective considered innovative and forward thinking.*

*The intent of the proposed changes, in particular in and around the un-sewered villages is to facilitate growth of these communities in a sustainable and environmentally appropriate manner. The changes are also intended to facilitate quality development that does not create poor environmental and social outcomes, whilst also providing desirable and attractive villages to reside in.*

*It is not just Blayney Shire Council that sets the content of the Blayney Settlement Strategy. The NSW Department of Planning Industry and Environment must informally endorse the final version of the Blayney Settlement Strategy, noting its basis for future Planning Proposals.”*

The intent of this innovative provision was principally to stimulate growth on the fringe of the villages, without creating poor social and/or environmental outcomes.

It would be recommended for Council to undertake a holistic review of the of the provision (including options for expansion) after the 5 year time moratorium for the provision to be activated is completed.

Additionally, it is not considered desirable to consider individual PPs for ad hoc / individual lot inclusion under the PP3B criteria prior to the 5 year moratorium.

**Budget Implications:**

No change to original report.

**Enclosures (following report)**

Nil

**Attachments (separate document)**

Nil