

GRAND JUNCTION
PLANNING PROPOSAL AT SOUTH AND NORTH POMONA
PROPOSED REZONING OF LAND FROM RU1 TO RU4

PLANNING ASSESSMENT

WARRICK FISHER – CONTRACT PLANNER

***RESPONSE TO PLC MEETING DATED 08 NOVEMBER 2013 AND FURTHER INFORMATION
SUBMITTED FROM GRAND JUNCTION DATED 08 NOVEMBER 2013***

11 NOVEMBER 2013

The applicant (Grand Junction) presented the proposal at Council's Planning Liaison Committee (PLC) meeting dated 08 November 2013. Grand Junction has submitted a planning proposal to rezone land north and south of Pomona from RU1 – Primary Production to RU4 – Primary Production Small Lots.

The RU1 land has a total area of 490 hectares and it is proposed to rezone the land to RU4 to enable lot sizes of a minimum of 5 to 10 hectares enabling the creation of 49 lots. The applicant considers that each lot will have a dwelling entitlement, although any future development application would be required to be determined on the merits of each individual application and must meet the objectives of the relevant zone.

The applicant has submitted they also own 4,997 hectares of RU1 land west of Pomona that they would 'surrender' the dwelling entitlements of the land and 'transfer' the dwelling entitlements to the rezoned land north and south of Pomona.

Grand Junction have submitted additional information to support their application for rezoning on 08 November 2013. The additional information was in response to the PLC meeting on the same day. An assessment of the additional information is contained on page 4 and 5 of this report.

The RU1 – Primary Production Zone is detailed below:

Wentworth Local Environmental Plan 2011

Current version for 1 July 2013 to date (accessed 8 November 2013 at 09:01)

Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- To minimise the fragmentation and alienation of resource lands.*
- To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- To ensure the protection of both mixed dryland and irrigation agricultural land uses that together form the distinctive rural character of Wentworth.*
- To ensure land is available for intensive plant agricultural activities.*
- To encourage diversity and promote employment opportunities related to primary industry enterprises, including those that require smaller holdings or are more intensive in nature.*

2 Permitted without consent

Environmental protection works; Extensive agriculture; Farm buildings; Forestry; Home-based child care; Home businesses; Home occupations; Intensive plant agriculture; Roads; Water reticulation systems

3 Permitted with consent

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Community facilities; Correctional centres; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; Educational establishments; Environmental facilities; Extractive industries; Farm stay accommodation; Freight transport facilities; Heavy industrial storage establishments; Helipads; Home industries; Home occupations (sex services); Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Jetties; Landscaping material supplies; Moorings; Offensive industries; Open cut mining; Plant nurseries; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Roadside stalls; Rural industries; Rural workers' dwellings; Sewerage systems; Veterinary hospitals; Water recreation structures; Water supply systems

4 Prohibited

Dual occupancies (detached); Schools; Any other development not specified in item 2 or 3

Wentworth Shire Council does not have any RU4 – Primary Production Small Lot zoned land in the current Wentworth LEP 2011. An example of the RU4 zone from the Dubbo Shire Council is detailed below detailing the objectives of the zone:

Dubbo Local Environmental Plan 2011

Zone RU4 Primary Production Small Lots

1 Objectives of zone

- *To enable sustainable primary industry and other compatible land uses.*
- *To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage intensive plant agriculture activities which meet sustainable natural resource management principles.*
- *To ensure land with high potential agricultural productivity is protected from inappropriate use and is conserved for intensive plant agriculture activities.*
- *To enable function centres, restaurants and appropriate forms of tourist and visitor accommodation to be developed in conjunction with agricultural uses.*

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations; Roads

3 Permitted with consent

Agricultural produce industries; Agriculture; Animal boarding or training establishments; Boat launching ramps; Boat sheds; Cellar door premises; Charter and tourism boating facilities; Community facilities; Correctional centres; Dairies (pasture-based); Depots; Dwelling houses; Educational establishments; Environmental facilities; Extractive industries; Farm buildings; Function centres; Group homes; Health services facilities; Home businesses; Home industries; Information and education facilities; Intensive plant agriculture; Jetties; Mooring pens; Moorings; Open cut mining; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Research stations; Restaurants or cafes; Roadside stalls; Rural workers' dwellings; Sewerage systems; Signage; Tourist and visitor accommodation; Truck depots; Veterinary hospitals; Water recreation structures; Water reticulation systems; Water treatment facilities; Wharf or boating facilities

4 Prohibited

Advertising structures; Hotel or motel accommodation; Intensive livestock agriculture; Serviced apartments; Any other development not specified in item 2 or 3

The applicant has submitted the proposal should enable dwelling entitlements with lot sizes of a minimum of 5 to 10 hectares but the zoning is directly related to small lot primary production and any new dwelling should have an associated farming use.

The applicant has submitted the proposal is for rural/residential purposes which the objectives of the RU4 do not support.

The Department of Planning Practice Note PN 11-002 details the purpose of the creation of the RU4 zone and is detailed below:

RU4 Primary Production Small Lots

This zone (previously named Rural Small Holdings) is for land which is to be used for commercial primary industry production, including emerging primary industries and agricultural uses that operate on smaller rural holdings.

In 2011, the name of the zone was changed to clarify that it is a rural zone for agricultural uses, not a pseudo-residential zone. The objectives of the zone have been changed to encourage employment opportunities in relation to primary production on small lots and to minimise fragmentation and alienation of resource lands important for food security. The changed zone name, modified core zone objectives and additional mandated permissible uses ('intensive plant agriculture' and 'plant nursery') better reflect the intent of the zone – being an agricultural industry/food production focus and not a rural residential lifestyle zone.

As per Practice Note PN11-002, the objectives of the RU4 zone do not accord with the proposal from Grand Junction and the proposed zone is inappropriate in this instance.

ASSESSMENT OF FURTHER INFORMATION RECEIVED ON 08 NOVEMBER 2013

Grand Junction have submitted further information detailing the RU4 zone is appropriate *“as it best reflects the proposal for small rural holdings”* and RU1 is not suitable due to the restrictions that apply to dwellings contained in Section 4.2B and 4.2D of the Wentworth LEP.

Comments:

- In accordance with Section 4.2B, a dwelling is prohibited unless the land meets the minimum lot size of the zone or it meets an exemption from prohibition under the Clause. Currently the minimum lot size is 10,000 therefore prohibiting a dwelling if subdivided into smaller lots for farming use.
- In accordance with Section 4.2D, any proposed dwelling should have an existing farming use or intended to be used for a farming purpose.
- The RU1 zone has objectives relating to sustainable primary industry and encourages intensive plant agriculture activities and also encourages diversity and promotion of employment opportunities related to primary industry enterprises, including those that require smaller holdings or are more intensive in nature.

- A dwelling is permitted with consent and should be related to an agricultural use.
- It is considered the RU1 zone may be appropriate with a minimum lot size introduced to reflect the proposal.

Grand Junction believes the R5 zone is not appropriate for the proposal given the range of permitted with consent land uses which would not be appropriate in a small rural holdings area such as food and drink premises and neighbourhood shops.

Comment:

- It is agreed the R5 zone is not appropriate for the reason agriculture and primary industries is prohibited under the zone. Given the proposed lot sizes being 5-10 hectares, there should not be a restriction on the land for farming purposes.
- The R5 zone should not be considered for this proposal as it would restrict the ability of the land to be farmed.

Grand Junction has indicated the RU4 zone is the most appropriate as *“it best reflects the proposal for small rural holdings”*. Grand Junction have used the Balranald LEP as an example template and Council have considered other Council LEP’s such as Dubbo and Upper Hunter.

Comment:

- The RU4 zone would require a DA for any proposed dwelling on the land similar to the RU1 zone. The objectives of each zone are for farming purposes with the RU4 zone allowing some additional ‘value-adding’ uses such as restaurants, function centres and appropriate forms of tourist accommodation but must be used in conjunction with agricultural use.
- It is considered a dwelling should also be used in conjunction with a farming use to meet the objectives of the zone.
- It is clear the intention of Grand Junction is to develop dwellings on each lot and the objectives of the RU4 zone from its introduction to its implementation in LEP’s does not support a dwelling on an allotment unless it is associated with an intensive rural use such as horticulture. The main consideration is the RU4 zone was not created to become a rural residential lifestyle zone.

In addition to the above preliminary assessment, below are the main points of this summary:

1. The RU4 zone is not considered an appropriate zone for the land as the applicant has submitted the land is to be for rural/residential purposes which the RU4 zone does not promote and was not created for rural/residential purposes.
2. Any future dwelling would be required to be assessed against the RU1 or RU4 zone which does not promote dwellings unless directly associated with a small lot rural use (eg, horticulture).
3. The southern parcel of land creates a separation of the Pomona township and a large parcel of RU1 land will separate the township from the subject land. This is not considered proper and orderly planning as the rezoning of the southern part of Pomona is not contiguous with the Pomona township.
4. Should any rezoning occur, the land abutting the southern portion of the Pomona township should be included in the proposal to ensure contiguous zoning or minimum lot size between the township boundary and the land subject to the proposal.
5. The proposal creates rural land fragmentation the SEPP (Rural Lands) 2008 discourages.
6. The proposal may create rural land use conflicts between residential land uses and rural land uses.
7. The proposal is creating a rural/residential area which would ultimately surrender productive agricultural land for residential purposes.
8. The transfer of dwelling entitlements is not considered an appropriate way to create dwelling entitlements in 'other' areas and is not considered adequate planning justification.
9. Placing a restriction on the 4,997 hectares of land prohibiting a dwelling is not considered proper and orderly planning for future farming enterprises on the land as a future farmer may require a dwelling on the land to operate the farm. The proposal would restrict a farmer from constructing a dwelling on the land that has a direct association with a rural use.

The applicant has submitted the application should be dealt with promptly as:

1. There is a significant socio-economic benefit to the community
2. The planning proposal will create 49 additional ratepayers for Wentworth Shire
3. The core of the proposal was put to Council in 2004, nine years ago. Further the South Pomona site was recommended by Council in 2011 as part of the LEP process to be in the 10ha lot size area but this did not take place. The delay in considering the matter has cost the Wentworth community significant investment
4. No new dwelling entitlements are created so there is minimal impact on the Shire's Strategic Planning.

Conclusion

The proposal could be considered in two (2) different scenarios:

1. Continue with proposed rezoning to RU4 but the proposed use of the land does not accord with the zone (rural/residential use); or
2. Propose a minimum lot size within the existing RU1 zone.

The statutory requirements for a dwelling within each zone is similar (DA required) and given the purpose of the proposal from Grand Junction is to create rural/residential allotments, it would be recommended the RU1 zone remain and create a minimum lot size for each lot (eg. 10ha) and each application for a dwelling can be assessed on its merits.

The issue remains of township separation of the southern land. It would be recommended to include the RU1 land between Pomona and the proposed southern parcel of land.

It is highly recommended to include the land with the rural land use strategy currently being completed as this is the ideal opportunity to ensure the decision is consistent with Council's future rural land use objectives.