

Cabonne LEP 2012 - Amendment 3 - Rezone land from zone RU1 Primary Production to zone R5 Large Lot Residential at 1099 Ophir Road, Summer Hill

Proposal Title :	Cabonne LEP 2012 - Amendment 3 - Rezone land from zone RU1 Primary Production to zone R5 Large Lot Residential at 1099 Ophir Road, Summer Hill		
Proposal Summary :	To amend the Cabonne LEP 2012 to rezone land from zone RU1 Primary Production to zone R5 Large Lot Residential at Lot 2 DP 794456, No. 1099 Ophir Road, Summer Hill, with a reduction in minimum lot size from 100 hectares to 5 hectares.		
PP Number :	PP_2015_CABON_002_00	Dop File No :	15/16687

Proposal Details

Date Planning Proposal Received :	16-Nov-2015	LGA covered :	Cabonne
Region :	Western	RPA :	Cabonne Shire Council
State Electorate :	ORANGE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	1099 Ophir Road		
Suburb :	City :	Postcode :	2800
Land Parcel :	Lot 2 DP 794456		

DoP Planning Officer Contact Details

Contact Name :	Jenna McNabb
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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :	Wayne Garnsey
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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	N/A

Cabonne LEP 2012 - Amendment 3 - Rezone land from zone RU1 Primary Production to zone R5 Large Lot Residential at 1099 Ophir Road, Summer Hill

MDP Number :

Date of Release :

Area of Release (Ha) **96.00**

Type of Release (eg Residential / Employment land) :

Residential

No. of Lots : **0**

No. of Dwellings (where relevant) : **14**

Gross Floor Area : **0**

No of Jobs Created : **0**

The NSW Government **Yes**

Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **There have been no known meetings or communications with registered lobbyists.**

Supporting notes

Internal Supporting Notes :

The proposal seeks to rezone the subject land currently zoned RU1 Primary Production to zone R5 Large Lot Residential, with the subsequent reduction in the minimum lot size from 100 hectares to 5 hectares.

The subject land has an area of 96 hectares, and the proposal will facilitate the subdivision of the land to create 14 large lot residential allotments ranging in area from 5 hectares to 10 hectares, reflecting the constraints and opportunities on the site.

The proposal requires the amendment of Land Zoning Map - Sheet LZN_004 and LZN_004D from zone RU1 Primary Production to zone R5 Large Lot Residential; and also the amendment of Lot Size Map Sheets LSZ_004 and LSZ_004D to amend the minimum lot size of the site from 100 hectares to 5 hectares.

The request is in accordance with the endorsed "Blayney, Cabonne and Orange Rural and Industrial Land Use Strategy July 2008". One objective of the Strategy was to provide a range of residential opportunities within the Sub-Regional which are compatible with the natural environment, settlement patterns, community aspirations, and economics pursuits of people living and working in the Sub -Region. A number of new 'lifestyle areas' were identified within the Sub-Region. The subject land was identified as part of Strategy Area 4 (SA4) – Spring Glen as an area suitable for rezoning and land use intensification. The Planning Proposal is consistent with the endorsed "Blayney, Cabonne and Orange Rural and Industrial Land Use Strategy July 2008" as a result can be determined under delegation by the Acting General Manager, Western Region.

Council has requested delegations to complete the Planning Proposal, this is considered appropriate.

External Supporting Notes :

Adequacy Assessment

Cabonne LEP 2012 - Amendment 3 - Rezone land from zone RU1 Primary Production to zone R5 Large Lot Residential at 1099 Ophir Road, Summer Hill

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The intent of the Planning Proposal is to rezone Lot 2 DP 794456, 1066 Ophir Road, Summer Hill Creek, from zone RU1 Primary Production to zone R5 Large Lot Residential to enable a large lot residential subdivision. The Planning Proposal also seeks to provide a Minimum Lot Size (MLS) for the subject land of 5 hectares.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions is consistent with the objectives of the proposal.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

Section 117 Directions:

1.2 Rural Zones – The planning proposal is inconsistent with this direction as the proposal rezones land from a rural zone to a residential zone. The Acting General Manager Western Region can be satisfied that the inconsistency is justified by a strategy (Blayney, Cabonne and Orange Rural and Industrial Land Use Strategy July 2008) which has been endorsed by the Department on 30 June 2011.

1.3 Mining, Petroleum Production and Extractive Industries - The site is not known to contain any resources that are of state or regional significance. The Acting General Manager Western Region can be satisfied that the inconsistency is justified by a strategy (Blayney, Cabonne and Orange Rural and Industrial Land Use Strategy July 2008) which has been endorsed by the Department on 30 June 2011.

1.5 Rural Lands – The Planning Proposal affects land within an existing rural zone as well as changes the existing minimum lot size on land within a rural zone. The Acting General Manager Western Region can be satisfied that the inconsistency is of minor significance as the proposal is justified by a strategy (Blayney, Cabonne and Orange Rural and Industrial Land Use Strategy July 2008) which has been endorsed by the Department on 30 June 2011.

2.3 Heritage Conservation - The proposal is consistent with this direction. Artefacts of aboriginal heritage significance have been identified on the subject site. It is noted that no changes to heritage conservation provisions are proposed. The existing controls in place provide protection to the known artefacts on site. Additional detailed investigations are required to be undertaken during the development application stage to subdivide the land. It is therefore considered that while the proposal is consistent with this direction with consultation with OEH is required to satisfy the inconsistency.

Cabonne LEP 2012 - Amendment 3 - Rezone land from zone RU1 Primary Production to zone R5 Large Lot Residential at 1099 Ophir Road, Summer Hill

3.1 Residential Zones – The planning proposal proposes a new residential zone to provide a variety of residential opportunities. This is consistent with the Blayney, Cabonne and Orange Sub-regional Rural and Industrial Land Use Strategy July 2008 which has been approved by the Department on 30 June 2011.

3.4 Integrating Land Use and Transport - the proposal is inconsistent with the objectives of the direction. The existing and planned road system would be of an adequate standard to cater for the additional traffic that would be generated by this proposal. School bus routes operate in the vicinity of the subject land however there are no current passenger services. The distance of the site from the CBD does not warrant the provision of pedestrian and cycling pathways. The proposal is consistent with this type of development in regional areas and in accordance with an approved strategy.

4.4 Planning for Bushfire Protection – The subject of land is mapped bushfire prone land, containing Vegetation Category 1 and Vegetation Category 2, and is therefore inconsistent with this direction. Consultation with NSW RFS is to be undertaken with this planning proposal to satisfy this inconsistency and is to be addressed prior to community consultation being undertaken.

6.1 Approval and referral requirements - The planning proposal is consistent with this direction.

SEPPS:

State Environmental Planning Policy 44 Koala Habitat Protection - No koala feed tree species have been identified on the site, as a result of the "Flora, Fauna and Bushfire Assessment" undertaken on the site by DPM Envirosiences and submitted with the planning proposal. The proposal is considered to be consistent with this direction.

State Environmental Planning Policy 55 Remediation of Land - A stage 1 contamination assessment has been undertaken and submitted with the proposal, which has identified that some areas of land on the site may be potentially contaminated (through septic tank leakage and landfill). Additional investigations will be required at subdivision stage. The proposals inconsistency with this SEPP is considered to be of minor significance and can be addressed at development application stage.

State Environmental Planning Policy (Rural Lands) 2008 – The loss of agricultural land is justified by the approved Blayney, Cabonne and Orange Rural and Industrial Land Use Strategy July 2008.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Indicative mapping has been provided. Mapping prepared in accordance with the Department's Technical Guidelines will be required to be submitted at Section 59 stage.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has proposed a consultation period of 14 days, however, it is considered that 28 days is more appropriate in this instance.**

Cabonne LEP 2012 - Amendment 3 - Rezone land from zone RU1 Primary Production to zone R5 Large Lot Residential at 1099 Ophir Road, Summer Hill

Additional Director General's requirements

Are there any additional Director General's requirements? **Unknown**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Cabonne LEP 2012 was notified on 18 January 2013.**

Assessment Criteria

Need for planning proposal : **To enable the land to be developed for large lot residential a planning proposal is required to amend the zoning of the land. The proposal is consistent with the zoning of adjoining lands as zone R5 – Large Lot Residential and consistent with the approved “Blayney, Cabonne and Orange Rural and Industrial Land Use Strategy July 2008”.**

Consistency with strategic planning framework : **The rezoning request is the result of the approved “Blayney, Cabonne and Orange Rural and Industrial Land Use Strategy July 2008”. One objective of the Strategy was to provide a range of residential opportunities within the Sub-Regional which are compatible with the natural environment, settlement patterns, community aspirations, and economics pursuits of people living and working in the sub region. A number of new ‘lifestyle areas’ were identified within the Sub-Region. The subject land was identified as part of Strategy Area 4 (SA4) – Spring Glen.**

Environmental social economic impacts : **A preliminary flora and fauna assessment has been undertaken. The assessment concluded that no impact from the proposed rezoning is expected on threatened flora and fauna which may occur in the locality. Environmental impacts will be further considered in detail at DA stage.**

The social and economic benefits of the planning proposal are considered to be positive.

Assessment Process

Proposal type : **Consistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation :

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
NSW Rural Fire Service**

Cabonne LEP 2012 - Amendment 3 - Rezone land from zone RU1 Primary Production to zone R5 Large Lot Residential at 1099 Ophir Road, Summer Hill

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Summer Hill Creek Planning Proposal.pdf	Proposal	Yes
27 October 2015 Council Meeting and Minutes.pdf	Proposal	Yes
Cover Letter.pdf	Proposal Covering Letter	Yes
Evaluation Criteria for Plan Making Delegations.pdf	Proposal	Yes
Mapping.pdf	Map	Yes
Project Timeline.pdf	Proposal	Yes
Request for Initial Gateway Determination.pdf	Proposal	Yes
Strategy Extract.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.5 Rural Lands**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 4.4 Planning for Bushfire Protection**
- 6.1 Approval and Referral Requirements**

Additional Information : **It is recommended that the planning proposal proceed subject to the following conditions:**

1. Prior to community consultation Council is to consult with NSW Rural Fire Service to address section 117 Direction 4.4 Planning for Bushfire Protection. Council is to submit the NSW Rural Fire Service comments to the Department of Planning and Environment for approval prior to community consultation being undertaken.

2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 (EP&A Act) as follows:

(a) The planning proposal is required to be made publicly available on exhibition for 28

Cabonne LEP 2012 - Amendment 3 - Rezone land from zone RU1 Primary Production to zone R5 Large Lot Residential at 1099 Ophir Road, Summer Hill

days as described in A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013).

(b) The relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs.

3. Consultation is required with the following State Agencies under Section 56 (2)(d) of the EP&A Act and/or to comply with the requirements of relevant section 117 Directions:

- (a) Office of Environment and Heritage
- (b) Department of Primary Industries - NSW Office of Water

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the planning proposal prior to community consultation.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

5. Prior to submission of the planning proposal under Section 59 of the EP&A Act, the LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for LEP maps'.

6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons :

The rezoning request is consistent with the approved "Blayney, Cabonne and Orange Rural and Industrial Land Use Strategy July 2008". A number of new 'lifestyle areas' were identified within the Sub-Region. The subject land was identified as part of Strategy Area 4 (SA4) – Spring Glen. The proposed rezoning of the subject site will correspond with the zoning of adjoining lands as R5 – Large Lot Residential. The rezoning is supported on this basis.

The Acting General Manager of the Western Region can exercise the Ministers delegation in this case as the proposal is consistent with the approved Blayney, Cabonne and Orange Rural and Industrial Land Use Strategy July 2008.

Signature:



Printed Name:

Jenna Meredith

Date:

26/11/15

Endorsed
W. Gamsey 26/11/15
TLWR

