

Gunnedah LEP 2012 Amendment No 8 - Rezoning land at Curlewis

Proposal Title : **Gunnedah LEP 2012 Amendment No 8 - Rezoning land at Curlewis**

Proposal Summary : **This Planning Proposal aims to:**

- 1. Amend the Gunnedah Local Environmental Plan 2012 (LEP) to rezone land at Curlewis for rural lifestyle, infrastructure (Curlewis Cemetery) and recreation (Curlewis Golf Club) purposes;**
- 2. Apply a 10ha minimum lot size to the proposed rural lifestyle areas and no minimum lot size to the proposed infrastructure or recreation areas;**
- 3. Amend the 'Dwelling Opportunity Maps' contained in the LEP to remove dwelling opportunities that expired in July 2014 under the provisions of clause 4.2A(4) of the LEP and to include the proposed rural lifestyle areas at Curlewis; and**
- 4. Remove the redundant sunset provision Clause 4.2A(4) from the LEP.**

PP Number : **PP_2015_GUNNE_005_00**

Dop File No : **15/14703**

Proposal Details

Date Planning
Proposal Received : **07-Oct-2015**

LGA covered : **Gunnedah**

Region : **Northern**

RPA : **Gunnedah Shire Council**

State Electorate : **TAMWORTH**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street :

Suburb : **Curlewis**

City :

Postcode : **2381**

Land Parcel : **Land outside the village boundary of Curlewis, west of the railway line, east of Bartlett Road, north of Ellcott Lane and on both sides of Preston Road as shown in the mapping contained within the Planning Proposal**

DoP Planning Officer Contact Details

Contact Name : **Jon Stone**
Contact Number : **0267019688**
Contact Email : **jon.stone@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Brendan Williams**
Contact Number : **0267402144**
Contact Email : **brendanwilliams@infogunnedah.com.au**

DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	350.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	27
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment : **The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge. The Northern Region has not met with any lobbyists in relation to this proposal, nor has the Northern Region been advised of any meeting between other Departmental Officers and lobbyists concerning the proposal.**

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

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes :

Adequacy Assessment

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

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

Comment : **The objectives and intended outcomes of the Planning Proposal are adequately expressed for the proposed amendment to Gunnedah LEP 2012.**

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

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

Comment : **The Planning Proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes.**

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

1.5 Rural Lands

2.1 Environment Protection Zones

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

6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **Yes**

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 (Infrastructure) 2007

SEPP (Rural Lands) 2008

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

The New England North West Strategic Regional Land Use Plan applies to the Gunnedah LGA

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 : **Maps have been provided with the Planning Proposal. They show the current land zoning and minimum lot size and proposed land zoning and minimum lot size for the site as well as the extent of the proposed 'dwelling opportunities'.**

It is considered that these maps are adequate for community consultation. It is noted that the proposal states that a review of the 'dwelling opportunities map' will be undertaken to ensure that only the 38 lots that will benefit from the opportunity are highlighted (and that any road reserves or former road reserves that may exist in the subject area are not included). This is considered appropriate.

Maps prepared in accordance with the Department's technical mapping standards will need to be prepared before a Parliamentary Counsel's opinion can be sought.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The relevant planning authority has identified a 28 day exhibition period for the proposal. This is considered satisfactory as the proposal seeks to rezone land not contained within a Secretary approved local growth management strategy.**

Additional Director General's requirements

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

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment : **The Planning Proposal and accompanying documentation are considered to satisfy the adequacy criteria by:**

- 1. Providing appropriate objectives and intended outcomes;**
- 2. Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes;**
- 3. Providing an adequate justification for the proposal;**
- 4. Outlining a proposed community consultation program; and**
- 5. Providing a project time line.**

Council is seeking an authorisation to exercise its plan making delegations. As the Planning Proposal deals with matters of only local significance, it is considered appropriate that an authorisation to exercise its plan making delegations be issued to Council, if the Planning Proposal is supported.

Council has provided a project time line which estimates that the LEP will be ready for notification in December 2015. To ensure an adequate period to complete the proposal, a 6 month time frame is recommended.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Gunnedah LEP 2012 was made on 29 June 2012.**

Assessment Criteria

Need for planning proposal : **Curlewis Rezoning**

Following receipt of a development application for a dwelling on an undersized lot adjoining the village of Curlewis, Gunnedah Shire Council resolved to review the rural area immediately surrounding the village, with particular regard to land zoning and minimum lot size. The outcome of that investigation was the preparation of an Addendum to the Gunnedah Rural Land Strategy in April 2015 and the current Planning Proposal. The Proposal seeks to facilitate rural residential / rural lifestyle development around Curlewis. The aim of the proposal is to cater for increased demand for rural lifestyle development in the area associated with the anticipated growth of the mining industry and to restore some dwelling opportunities that were inadvertently lost with the commencement of the Gunnedah LEP 2012.

The subject land was selected for rural lifestyle development due to its close proximity to Curlewis (and its existing community infrastructure including a school, hall, general store

and playing fields) as well as having the potential for future development to be serviced by suitable road access and reticulated water and where possible sewer infrastructure. Although the proposal aims to rezone approximately 350ha of land, the proposed minimum lot size of 10ha prevents further subdivision of the land except for one additional lot. A Dwelling Opportunities Map is proposed to permit dwellings on a number of the existing lots that are below the proposed 10ha minimum to avoid having to implement a range of lot sizes across the release area. This will also limit the number of additional dwellings that can be built in the area. Of the 38 lots within the subject area (excluding the golf course and cemetery), 11 have existing dwellings leaving only 27 vacant lots with the potential for dwellings to be erected as a result of this proposal.

Council has identified the RU4 Primary Production Small Lots Zone as the most appropriate to reflect the existing and future use of the land for rural lifestyle based on:

- its current agricultural use;
- that many of the current agricultural activities will continue into the future (just within smaller land ownership holdings);
- the adoption of a 10ha minimum lot size; and
- it providing an appropriate transition area between the village and the broad scale agriculture (RU1 Primary Production Zone) surrounding it.

Within the rural lifestyle area is the Curlewis cemetery and the Curlewis Golf Club. The Planning Proposal seeks to include them in appropriate infrastructure and recreation zones respectively. While the submitted proposal indicates a RE1 Public Recreation Zone for the Curlewis Golf Club, this matter has been discussed with Council staff who have agreed that a RE2 Private Recreation Zone would be more appropriate (and consistent with the zoning of other golf clubs in the LGA) and it is recommended that this be amended prior to community consultation.

Dwelling Opportunity Map Changes and sunset clause repeal

Gunnedah LEP 2012 introduced a Dwelling Opportunities Map to provide dwelling opportunities to some former existing holdings that had been inadvertently lost under Gunnedah LEP 1998. The LEP included subclause 4.2A(4) that established a 2 year period in which development applications for dwellings identified on the Dwelling Opportunities Map could be approved. This period ended in June 2014 making the subclause and Dwelling Opportunities Map redundant. The proposal seeks to update the maps to include the Curlewis rural lifestyle area, remove the redundant lots from the maps and delete the sunset subclause to remove any ambiguity within the LEP and allow it to facilitate the Curlewis proposal.

Consistency with strategic planning framework :

The Planning Proposal is considered to be consistent with all relevant SEPPs and the New England North West Strategic Regional Land Use Plan.

The subject land is not identified in Council's Rural Land Strategy or the Gunnedah LES Bridging Report (Secretary approved Strategies) as providing opportunity for further rural residential / rural lifestyle development. Council has however prepared an Addendum to its Rural Land Strategy in April 2015 that provides strategic justification for the proposed amendments. This addendum was exhibited and endorsed by Gunnedah Council in July 2015. To date, Council has not sought the approval of the Secretary of the Department and as such it cannot be considered as an approved strategy in the consideration of the Section 117 Directions. Despite this, the proposal is still considered to consistent with the broad themes of the Gunnedah Rural Land Strategy as it will:

- "Provide a mix of housing opportunities which includes urban, rural residential surrounding specified settlements" (Policy Action 2.4);
 - "Allow for the growth of certain villages provided that the particular constraints can be overcome." (Policy Action 2.5); and
- "Provide for new rural residential development only where appropriate services can be provided and where environmental impacts can be minimised" (one of the Growth Management Philosophies for the Shire).

The Planning Proposal is considered to be consistent with all applicable Section 117 Directions apart from the following:

2.1 Environmental Protection Zones

The Planning Proposal identifies that it is inconsistent with this Direction as it does not contain specific provisions for the protection of environmentally sensitive areas. It is considered this inconsistency is of minor significance as no land in the subject area is zoned for environmental protection and the current Gunnedah LEP already includes appropriate clauses for the protection of environmentally sensitive areas.

2.3 Heritage Conservation

The Planning Proposal identifies that it is inconsistent with this Direction as it does not contain specific provisions for the conservation of heritage items. It is considered this inconsistency is of minor significance as there are no items identified as having heritage significance in the subject area and the current Gunnedah LEP already includes appropriate clauses for the conservation of items of heritage.

4.4 Planning for Bushfire Protection

This Direction is relevant as the Planning Proposal will affect a small area of land that is identified as bushfire prone land. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

It is noted that Council has identified consistency with Direction 1.5 Rural lands. Direction 1.5 requires the Planning Proposal be consistent with the Rural Planning Principles and the Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008. The Planning Proposal indicates that it, and the Addendum to Gunnedah Shire Rural Strategy that supports this Proposal, are consistent with this SEPP. This is supported as the proposed changes to the LEP will provide opportunities for agriculture activities in a rural lifestyle setting while facilitating settlement and housing that contribute to the social and economic welfare of rural communities. Increased rural land fragmentation is also minimised under the proposal by the implementation of an appropriate minimum lot size.

Environmental social economic impacts :

It is considered the Planning Proposal will have positive social and economic impacts through its provision of rural lifestyle housing opportunities in Curlewis.

The site is flood free but has two small areas that are bushfire prone (one of these sites in

the Curlewis Cemetery where there will be no development occurring). Consultation with the NSW Rural Fire Service is proposed by Council as part of the proposal.

Council has identified that the Planning Proposal is inconsistent with the SEPP 55 Remediation of Land. The proposal concludes that this inconsistency is of minor significance as no known potential contamination of the land has been identified and because potential contamination issues can be adequately considered and addressed at the development application stage. This is considered satisfactory.

The Planning Proposal does not identify any known threatened vegetation or ecological communities within the site. The majority of the land is cleared and has been significantly altered through traditional farming practices. The Addendum also concludes adequate unconstrained land appears available on each of the vacant allotments to facilitate the future construction of a dwelling, subject to an appropriate assessment at the development application stage. It is noted that some of the land is vegetated with mature trees and it is possible that it includes potential koala habitat. The Planning Proposal confirms that any potential impacts to Koala habitat can be appropriately considered and addressed at the development application stage. This is considered satisfactory subject to consultation with the Office of Environment and Heritage.

It is considered that given its proximity to Curlewis, and the extent of land clearing and alteration via traditional farming over many years, that any potential environmental impacts from the rezoning are likely to be minimal and can be addressed adequately at development application stage.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
-----------------	----------------	---------------------------------	----------------

Timeframe to make LEP :	6 months	Delegation :	RPA
-------------------------	-----------------	--------------	------------

Public Authority Consultation - 56(2) (d) :	Office of Environment and Heritage NSW Rural Fire Service Transport for NSW - Roads and Maritime Services Other
---	--

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

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

If no, provide reasons :	Council has identified consultation with the following agencies will be undertaken as part of this LEP Amendment process: - Australian Rail Track Corporation - due to the proximity to the railway line and the primary access point to the village of Curlewis from the Kamilaroi Highway crosses the rail line; - Roads and Maritime Services – due to potential issues or need for augmentation of the existing road network; - Office of Environment and Heritage – due to potential issues or concerns relating to threatened species or ecological communities within the study area; and - NSW Rural Fire Service - due to the requirement of Direction 4.4 Planning for Bushfire Protection.
--------------------------	--

The proposed agency consultation is considered to be appropriate and is supported.

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

If Yes, reasons :

Identify any additional studies, if required. :

Gunnedah LEP 2012 Amendment No 8 - Rezoning land at Curlewis

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
2015-10-09 - Cover Letter.pdf	Proposal Covering Letter	Yes
2015-10-09 - Planning Proposal.pdf	Proposal	Yes
2015-10-09 - Addendum to Rural Land Strategy.pdf	Proposal Covering Letter	Yes
2015-10-09 - Council Report.pdf	Determination Document	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 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
- 6.2 Reserving Land for Public Purposes

Additional Information : **It is recommended that:**

1. The Planning Proposal be supported;
2. The Planning Proposal be exhibited for 28 days;
3. The Planning Proposal be completed within 6 months;
4. The proposal be amended prior to community consultation to zone the Curlewis Golf Club as RE2 Private Recreation;
5. That prior to community consultation the proposed 'Dwelling Opportunities Map' be reviewed to ensure that only the 38 lots that will benefit from the opportunity are highlighted (and any road reserves or former road reserves are not included);
6. That consultation with the NSW Rural Fire Service, the Office of Environment and Heritage, the Roads and Maritime Service and the Australian Rail Track Corporation be undertaken;
7. That the Secretary's delegate determines that the inconsistencies with s117 Directions 2.1 Environmental Protection Zones and 2.3 Heritage Conservation are justified as matters of minor significance;
8. That the Secretary's delegate notes that the inconsistency with s117 Direction 4.4 Planning for Bushfire Protection is outstanding until consultation with the NSW Rural Fire Service is complete; and
9. That a written authorisation for Council to exercise its plan making delegations be granted for this matter.

Supporting Reasons : **This proposal is supported as it will provide rural lifestyle style development opportunities on the fringes of Curlewis that can help meet the expected demand created by the anticipated growth in the local mining industry. The proposal will appropriately zone the Curlewis Golf Club and the Curlewis Cemetery and will remove a redundant clause and amend the associated mapping within the LEP.**

Signature:



Printed Name:

Craig Diss

Date:

14 October 2015