

Rezone deferred land at Cartwrights Hill to R5 Large Lot Residential and RU1 Primary Production

Proposal Title : **Rezone deferred land at Cartwrights Hill to R5 Large Lot Residential and RU1 Primary Production**

Proposal Summary : **To rezone deferred land at Cartwrights Hill to R5 Large Lot Residential with a 1 ha minimum lot size and RU1 Primary Production with a 200 ha minimum lot size.**

PP Number : **PP_2016_WAGGA_001_00** Dop File No : **10/03634-6**

Proposal Details

Date Planning Proposal Received : **03-Nov-2016** LGA covered : **Wagga Wagga**

Region : **Southern** RPA : **Wagga Wagga City Council**

State Electorate : **WAGGA WAGGA** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Old Bomen Road**

Suburb : **Cartwrights Hill** City : Postcode :

Land Parcel : **Lot 1 DP 572883; Lot 2 DP 612237; Lot 10 DP 255059**

Street : **East Street**

Suburb : **Cartwrights Hill** City : Postcode :

Land Parcel : **Lot 1 - 4 DP 700660**

DoP Planning Officer Contact Details

Contact Name : **Meredith McIntyre**

Contact Number : **0262297912**

Contact Email : **meredith.mcintyre@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **David McDonald**

Contact Number : **0269269555**

Contact Email : **mcdonald.david@wagga.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Deanne Frankel**

Contact Number : **0242249468**

Contact Email : **deanne.frankel@planning.nsw.gov.au**

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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
MDP Number :		Date of Release :	
Area of Release (Ha) :	23.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	23
Gross Floor Area :	0	No of Jobs Created :	5

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

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : This site has a long and complex history.
The land was deferred by Council in its principal LEP in 2010.

Site 1 (the northern part) is approximately 23 ha and is currently zoned for residential and open space uses in the Wagga Wagga LEP 1985. There is currently no minimum lot size.

Site 2 (the southern part) is approximately 14 ha and is currently zoned Rural in the Wagga Wagga LEP 1985.

In 2013, the then relevant planning authority for Wagga Wagga, the Southern Joint Regional Planning Panel, resolved to rezone deferred land at Cartwrights Hill to RU6 Transition Zone and R5 Large Lot Residential Zone with a minimum lot size of 200 ha and 1 ha respectively.

After this resolution, DA13/0457 was lodged for a 26 (800sqm) lot subdivision on Site 1. The DA was refused on the basis that it was inconsistent with the proposed rezoning that had been publicly exhibited and the LEP amendment had been sent to the Minister to be made.

When Council requested the LEP be made, the Department no longer supported the rezoning of the subject land due to the uncertainty that had arisen about the future upgrading of the Bomen Industrial Sewerage Treatment Facility that would negatively impact on the subject land. The Minister made the LEP but the subject land remained deferred (other parts of Cartwrights Hill were rezoned).

The refusal of DA13/0457 was challenged by the landowners in the Land and Environment Court. On 28 October 2015, the Court upheld Council's refusal of the DA on the basis that

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approving residential development in the area was not consistent with the strategic intent for the Cartwrights Hill area.

A further appeal was lodged in November 2015 challenging the findings of the Commissioner.

In December 2015, Council resolved to rezone the subject land (being Site 1 and Site 2) to RU1 Primary Production Zone with a 200 ha minimum lot size. This was submitted to the Department with a request for a Gateway determination.

In early 2016, the landowners lodged a new DA16/0007 for a 23 lot (1ha in size) subdivision on Site 1.

The Department postponed processing the Gateway request given the uncertainty around the development of the site with the appeal lodged for DA13/0457 and the DA16/0007 being considered by Council.

On 26 April 2016, Council resolved to approve DA16/0007 and to amend the planning proposal to rezone the land to reflect the approved DA.

In September 2016, Council requested a Gateway determination to rezone Site 1 and Site 2 as currently proposed. However, there were drafting errors with the planning proposal. Once these errors were corrected and additional information had been provided, the planning proposal was formally accepted on 3 November 2016.

Adequacy Assessment

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

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

Comment : The objective is to rezone the subject land and to change the lot size applying to the land.

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

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

Comment : **Yes. The proposal is to:**
1. amend land zoning map LZN_003E to rezone Site 1 to R5 Large Lot Residential Zone and rezone Site 2 to RU1 Primary Production Zone;
2. amend Lot Size Map LSZ_003E to apply a lot size of 1ha to Site 1 and 200ha to Site 2;
and
3. amend the Cartwrights Hill Precinct Map CHP_003E to apply the Cartwrights Hill Precinct to both Site 1 and Site 2.

Council should also amend the Land Application Map to remove the Deferred Matter status from the subject land.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

3.1 Residential Zones

* May need the Director General's agreement

3.4 Integrating Land Use and Transport

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

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

d) Which SEPPs have the RPA identified?

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

SECTION 117 DIRECTIONS:

1.2 RURAL ZONES: Council has not identified that this Direction applies to the planning proposal, however it does apply as it will affect land within an existing or proposed rural zone.

The proposal is considered to be **CONSISTENT** with this direction.

1.5 RURAL LANDS: Council has not identified that this Direction applies to the planning proposal, however it does apply as the planning proposal as it will affect land within an existing or proposed rural zone.

The proposal is considered to be **CONSISTENT** with this direction.

3.1 RESIDENTIAL ZONES: This Direction does apply to the planning proposal as it will affect land within an existing or proposed residential zone.

The proposal is considered to be **CONSISTENT** with this direction.

3.4 INTEGRATING LAND USE AND TRANSPORT: This Direction does apply to the planning proposal as it will create/alter/remove a zone/provision relating to urban land.

The proposal is considered to be **CONSISTENT** with this direction.

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 : The mapping is appropriate for public exhibition. Final maps will need to be prepared prior to completing the LEP.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has proposed to exhibit the planning proposal for 28 days.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

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 : **Wagga Wagga LEP 2010**

Assessment Criteria

Need for planning proposal : **Council resolved to rezone the Sites 1 and 2 to RU1 Primary Production Zone in Dec 2015.**

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Council approved a development application over Site 1 to allow 23 x 1ha lots. Council also resolved to amend the planning proposal to rezone Site 1 to R5 with a 1ha minimum lot size.

The land is currently deferred from the Wagga Wagga LEP 2010 and needs to be rezoned to be consistent with the Standard Instrument.

Consistency with strategic planning framework :

Given the site history, consistency with strategic planning framework is complicated for this site.

There is no Regional Strategy that applies to Wagga Wagga. The proposal is quite minor in terms of residential development. The importance of protecting the Bomen Industrial Area from increased residential receptors has been explored and found to be of strategic importance by the Land and Environment Court. However, Council felt that the DA16/0007 was consistent with the Wagga Wagga LEP 1985 zoning and 2005 development controls for the site and that there were not strong grounds to refuse the DA.

Environmental social economic impacts :

The site is predominantly cleared and there are no known threatened species, endangered ecological communities or critical habitat.

Site 2 has an existing dwelling on each of the four lots.

The Court found that there were no existing noise or odour impacts on the Land from the Bomen Industrial Sewerage Treatment Facility (BISTF). The Court also found that there could be no impact of noise or odour on residential development of the Land from the BISTF that would be lawful and that if the BISTF is to operate at 100% capacity, or to expand, work would be required to ameliorate noise. The evidence is that there are no current plans to expand the BISTF.

Large lot residential development of Site 1 is considered to be consistent with and suitable for the surrounding area given the mix of rural and rural residential development in the vicinity.

Site 2 is currently zoned Rural and is considered to be more sensitive to noise and odour due to its proximity to the Bomen Industrial Area. Therefore, the proposed zoning is intended to reflect this sensitivity and does not allow for any further subdivision for dwellings.

Council has not identified any other environmental, social or economic issues relating to either site.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
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Timeframe to make LEP :	12 months	Delegation :	RPA
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Public Authority Consultation - 56(2)(d)

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

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

If no, provide reasons :

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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
Letter to the Department of Planning & Environment.pdf	Proposal Covering Letter	Yes
Amended Cartwrights Hill Planning Proposal (4).pdf	Proposal	Yes
Council Report Policy and Strategy Committee Meeting 7 December 2016.pdf	Proposal	Yes
Minutes of Ordinary Council Meeting held on Monday 14th December 2015.pdf	Proposal	Yes
Council Report Policy & Strategy Committee Meeting 11 April 2016.pdf	Proposal	Yes
Minutes of Ordinary Council Meeting held on Tuesday 26 April 2016.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions: **3.1 Residential Zones**
3.4 Integrating Land Use and Transport

Additional Information : **RECOMMENDATIONS**

It is **RECOMMENDED** that the Acting Director Regions, as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Wagga Wagga Local Environmental Plan 2010 to rezone and amend lot sizes on deferred land at Cartwrights Hill should proceed subject to the following conditions:

AMENDMENTS TO THE PLANNING PROPOSAL

1. Amend the Explanation of Provisions section of the planning proposal prior to community consultation to reflect an appropriate amendment to the Land Application Map to remove the deferred matter status from the subject land.

COMMUNITY CONSULTATION

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 must be made publicly available for 28 days; and
(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 local environmental plans (Planning and Infrastructure, 2013)'.

3. No public hearing is required to be held into the matter under section 56(2)(e) of the

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Production**

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).

TIMEFRAME

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

DELEGATION

Council be authorised to use the Minister's plan making functions under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.

SECTION 117 DIRECTIONS

It is recommended that:

(a) The Secretary's delegate can be satisfied that the planning proposal is consistent with s117 Directions 1.2 Rural Zones, 1.5 Rural Land, 3.1 Residential Zones, 3.4. Integrating Land Use and Transport.

(b) The Secretary's delegate can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are of minor significance; and

(e) No further consultation or referral is required in relation to s117 Directions while the planning proposal remains in its current form.

SEPPS

The planning proposal is considered to be consistent with all relevant SEPPs.

Supporting Reasons :

Given that Council has approved DA16/0007, there is little reason to raise concerns or issues with the proposal for Site 1. Site 2 is consistent with the Department's previous policy advice for this site and reflects its current use and Council's long held desired outcome.

Signature:



Printed Name:

Deanne Frankel

Date:

21/11/16

