

6.1 Wentworth Local Environmental Plan 2011 - Planning Proposal - Rezone Part of Lot 1 DP 1193874, Kelso Station, Pooncarie Road, Wentworth from RU1 Primary Production to E4 Environmental Living zone with Minimum Lot Size of 7,500sqm

File Number: RPT/16/511

Responsible Officer: Ken Ross - Director, Health and Planning

Responsible Division: Health and Planning

Reporting Officer: Michele Bos - Strategic Development Officer

Delivery Program Objective: 2. Growth & Development

Delivery Program Strategy: 2.3 Encourage land development and housing construction

Summary

Council have received a Planning Proposal requesting consideration of submitting to the Department of Planning and Environment (the Department), for a Gateway Determination. The request was submitted by Danson and Blaby Pty Ltd on behalf of the landowners, O.M. and R.M. McLeod.

The Planning Proposal seeks to amend the Wentworth Local Environmental Plan 2011 by rezoning part of Lot 1 DP 1193874 from RU1 Primary Production to E4 Environmental Living zone, with a minimum lot size of 7,500 m².

The subject site is freehold land which is part of Kelso Station and located approximately 1.5 kilometres north of Wentworth on the Pooncarie Road. The site proposed to be rezoned is located on the eastern bank of the Darling River with direct river frontage.

The area proposed to be rezoned is 28.82 hectares and forms part of the parcel of land containing 586.7 hectares. The total area of Lot 1 DP 1193874 encompasses an area of 1,323 hectares.

The Planning Proposal report includes a subdivision concept plan showing fourteen new lots ranging in size from 5,520 m² to 1.952 hectares with frontage to the Darling River. Access to each lot will be provided by two road delineations directly from Pooncarie Road.

Options

Based on the information contained in this report, the options available to address this matter are to;

- a) resolve to submit the Planning Proposal to the Department for consideration of a Gateway Determination, or
- b) await the completion and subsequent recommendations of the Rural Land Use and Rural Residential Strategy.

Recommendation

That the Planning Liaison Committee recommends that Council resolves to submit the Planning Proposal to the Minister for the Department of Planning and Environment for consideration of a Gateway Determination to amend the Wentworth Local Environmental Plan 2011 in accordance with Section 56 of the Environmental Planning and Assessment Act 1979.

Detailed Report

Purpose

The purpose of this report is to provide the Planning Liaison Committee with the information required to make an informed decision and recommendation to Council, with respect to the attached Planning Proposal.

Background

The Planning Proposal to rezone a small part of Kelso Station with river frontage for rural residential development has been the subject of discussion for a number of years.

A previous Planning Proposal was submitted for consideration of submission to the Department for a Gateway Determination in July 2014. The proponent was subsequently advised that in line with the Department's advice regarding rural planning proposals, the Proposal would be considered as part of the rural land use strategy, currently being undertaken for the Wentworth Shire Council, to provide further strategic framework and justification for the Proposal.

In line with a similar proposal being issued with a Gateway Determination to proceed, subject to amending the planning proposal to rezone the land from RU1 Primary Production to E4 Environmental Living zone, the proponent was afforded the opportunity to resubmit the Planning Proposal on the same basis.

Matters under consideration

In considering this Planning Proposal, Council needs to determine if there is sufficient justification provided in the attached report to support the proposal.

Wentworth Shire Council Draft Rural Residential Strategy December 2007

The Planning Proposal report identifies support for the proposed development based on the recommendations outlined in the Wentworth Shire Council Draft Rural Residential Strategy December 2007.

The strategy concluded that the subject site, Candidate 10, is suitable for rural residential development in the medium term, being 10 to 20 years, dependent upon the development and take up of lots on the adjacent site, the land subject of Amendment 2 to the Wentworth LEP 2011. Refer to Attachment 2 (site shown as R5 shaded in pink).

Therefore, the Planning Proposal is consistent with the timeframe recommended within the draft strategy.

The development and take up of the lots on the land adjacent to the subject site has commenced and several of the lots are known to be sold.

State Environmental Planning Policy (Rural Lands) 2008

Page 20 of the Planning Proposal report responds adequately to Clause 7 Rural Planning Principles of SEPP (Rural Lands) 2008 by:

- The site not containing significant agricultural land and not located within an area of regional significance.
- The community economic, social and environmental benefit by providing rural residential and housing choice opportunities.
- Accessibility to appropriate infrastructure services and proximity to the town of Wentworth.
- Consistency with the recommendations of the Draft Rural Residential Strategy.

Section 117 Direction 1.2 Rural Zones

The objective of this direction is to protect the agricultural production value of rural land.

The Planning Proposal Report states that *the quality of grazing...has compromised agricultural production due to intensive grazing in the past*. Therefore, it could be argued that the agricultural production value of the small area proposed to be rezoned, is insignificant.

The attached report states that the Planning Proposal is consistent with this direction in that the Proposal is justified by the Draft Rural Residential Strategy. As the Proposal aims to

rezone rural land to an environmental living zone, it is therefore considered that the Proposal is inconsistent with the terms of this direction.

However, Direction 1.2 Clause (5)(a) also states that a planning proposal may be inconsistent with the terms of the direction if the proposal is *justified by a strategy which;*

- (i) *gives consideration to the objectives of this direction,*
- (ii) *identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
- (iii) *is approved by the Director-General of the Department of Planning, or*
- (iv) *is of minor significance.*

While this Proposal is supported by the Draft Rural Residential Strategy, the strategy does not respond to the objectives of Direction 1.2 because at the time of developing the strategy this Direction did not exist. Additionally, the draft strategy was never approved by the Director-General of the Department of Planning.

Although the draft strategy does not satisfy two of the requirements above, some concession for justification of the Proposal should be allowed due to the recommendations of the draft strategy.

Therefore, the justification for the Proposal weighs heavily on whether or not the rezoning of this site is of minor significance. The proponent has stated that due to intensive grazing of the site the agricultural production value of the land has decreased and given that the Proposal aims to rezone a small portion of the total area of 1,323 hectares, it is considered to be of minor significance.

Section 117 Direction 1.5 Rural Lands

The objectives of this direction are to:

- (a) *Protect the agricultural production value of rural land.*
- (b) *Facilitate the orderly and economic development of rural lands for rural and related purposes.*

The Planning Proposal will:

- Have minimal impact on agricultural activities on surrounding land.
- Provide a balance between the social, economic and environmental interests of the local community.
- Provide for the protection and ongoing management of the riparian environment.
- Provide additional rural lifestyle opportunities within close proximity to Wentworth services.
- Have access to infrastructure services.

Once again this Proposal is supported by the Draft Rural Residential Strategy, however, the strategy does not respond to the objectives of Direction 1.5 because at the time of developing the strategy, this Direction did not exist. Additionally, the draft strategy was never approved by the Director-General of the Department of Planning.

Although the draft strategy does not satisfy two of the requirements above, some concession for justification of the Proposal should be allowed due to the recommendations of the draft strategy.

If the Department of Planning and Environment deems the Proposal inconsistent with the terms of this direction, the inconsistency is considered to be of minor significance.

Section 117 Direction 2.1 Environment Protection Zones

The objective of this direction is to protect and conserve environmentally sensitive areas.

The Planning Proposal recognises the environmental significance of the riverine corridor and the attraction for rural living with direct riverfront access.

The Environmental Living zone is the most appropriate zone for this type of development as it allows for the development of a dwelling whilst preserving and protecting the natural riverine environment.

The two objectives mandated from the standard instrument include:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.

The proponent has provided two additional objectives of the zone to be applied under E4 Environmental Living. The two additional objectives suggested for the zone include:

- To promote ecologically, socially and economically sustainable development.
- To ensure that development is compatible with the desired future character of the zone.

It is considered that the two additional objectives are appropriate for inclusion in the Wentworth LEP 2011 under the E4 Environmental Living zone land use table.

Additional Section 117 Directions

The Proposal also responds to a number of other related Directions sufficiently and appropriately to support the rezoning of the subject site. Particularly Direction 2.1 Environment Protection Zones and Direction 4.3 Flood Prone Land.

Options

Based on the information contained in this report, the options available to address this matter are to;

- to submit the Planning Proposal to the Department for consideration of a Gateway Determination, or
- to await the completion and subsequent recommendations of the Rural Land Use and Rural Residential Strategy.

Implications

The decision item has the following implications for Council:

Council can elect to expedite the progress of this Planning Proposal by submitting it to the Department of Planning and Environment for consideration of a Gateway Determination immediately.

Financial Implications

As Council does not currently charge proponents with a formal Planning Proposal fee, the process of assessing and managing the progress of planning proposals from submission to notification on the legislation website, including community consultation and LEP mapping, is solely absorbed by the Health and Planning Division operational budget.

Conclusion

Consistent with a previous planning proposal to rezone land from RU1 Primary Production zone to E4 Environmental Living zone, Council has the opportunity to facilitate rural lifestyle development within close proximity to Wentworth on the Darling River, by submitting the attached Planning Proposal to the Department of Planning and Environment for consideration of a Gateway Determination.

Attachments

1. Planning Proposal Report and Attachments.
2. Amendment 2 R5 Large Lot Residential zone.