

6 BATHURST REGIONAL LEP 2014 AMENDMENT NO 7 – LOT 182, DP 1013217, SYDNEY ROAD, KELSO (20.00293)

Recommendation:

That Council:

- (a) not support the application to rezone Lot 182, DP 1013217 Sydney Road, Kelso from RU1 Primary Production to R1 General Residential;
- (b) advise the applicant of its decision; and
- (c) call a division.

Report:

Council has recently received a Planning Proposal to rezone Lot 182, DP 1013217, Sydney Road Kelso. A map of the subject land is provided at **attachment 1**.

The landowner has requested to rezone the subject land from RU1 Primary Production to R1 General Residential. A copy of the Planning Proposal is at **attachment 2**.

Site description

The site is generally rectangular in shape and has an area of approximately 31 hectares and fronts Sydney Road. The site has a slope of approximately 8 degrees downslope from the northern boundary and is generally south facing. The site slopes into a tributary of Raglan Creek and has been used for grazing activities for a number of decades. The majority of the site is above the 708m contour.

In considering whether Council should support the request, some preliminary investigations have been undertaken, particularly relating to sewer and water serviceability and traffic management. Investigations relating to consistency with Council's strategic documents, namely the Bathurst Region Urban Strategy, Housing Strategy and other relevant planning studies have also been undertaken. Each of the issues have been addressed below.

Planning considerations:

Bathurst City Housing Strategy 2001

The Bathurst City Housing Strategy 2001 identified the subject land as being suitable for development up to the 708m contour with adequate water pressure. The subject land, at the time of the report, was prioritised equal third. It should be noted that:

- a) the project identified as priority one (Mount Stewart, West of Windradyne) has not been rezoned,
- b) the project identified as equal priority two (Area surrounding Eglinton Village) was rezoned in 2011 and its development is currently underway. It should be noted that the area rezoned in 2011 is less than that identified in the 2001 Housing Strategy, and
- c) the project identified as equal priority two (Area east of Kelso up to 708m contour) was rezoned in 2014 as part of the Bathurst Regional LEP 2014. It should also be noted

that with the proposed Kelso reservoir (off Limekilns Road), land up to the 730m contour was zoned.

It should also be noted that the projects identified as priority three or four have not been commenced for rezoning for residential purposes at this point in time. The land west of Corporation Avenue (equal priority 4) was rezoned as part of the Bathurst Regional LEP 2014 for the expansion of the Service Trade Centre, not for residential purposes.

The subject land was identified in the 2001 Housing Strategy as being suitable for residential development, albeit only up to the 708m contour. The development of the city and the demand for further residential land has meant that the land has not been rezoned to date. Council has identified the need to review its Housing Strategy, and a discussion on this review is located below in this report.

It should be noted that the 2001 Housing Strategy precedes the Bathurst Vegetation Management Plan (2004), the Bathurst Region Urban Strategy (2007) and the Bathurst 2036 Community Strategic Plan, which identified the importance of protecting the City's gateway entrances. The later Urban Strategy identified that the gateways to the City were worthy of protection and therefore despite the earlier Housing Strategy 2001 recommendations, did not recommend the site as being suitable for urban expansion.

Bathurst Vegetation Management Plan 2004

The Vegetation Management Plan (VMP) describes that Bathurst has a distinctly rural identity, characterised by the surrounding rural landscape, the rural backdrop of the City when viewed from many of the streets, its valley setting, the floodplain and the visible ranges on the eastern horizon. The gateways need to reflect this identity.

Section 11 – Gateways of the VMP contains a number of objectives. Objective 4 reads “**To create a significant eastern gateway into Bathurst that enhances the rural vistas, provides unity amongst many discordant visual effects and reflects the heritage values of the City.**”

The rezoning of the land would be contrary to achieving this objective, particularly the loss of the rural vista from Sydney Road.

Bathurst Region Urban Strategy 2007

The Urban Strategy does not identify the subject land for future urban development or residential expansion. Investigations undertaken for the Urban Strategy excluded the subject land from urban development for the following key reasons:

1. The land has high scenic value to the entrance of the City;
2. The land has south facing slopes, generally unsuited to sustainable housing developments;
3. The land cannot, at this time, be adequately serviced with reticulated water;
4. Council is concerned that there may be insufficient capacity to service the subject land with reticulated sewer;
5. The land adjacent to the subject land is identified by the Urban Strategy for future service business development including a freight terminal, previously approved by the Department.

The Urban Strategy has been adopted by Council and endorsed by the Department of Planning. An LEP should be consistent with the endorsed strategic local landuse strategy of a Council.

Bathurst Community Strategic Plan 2036

The Bathurst 2036 Community Strategic Plan identifies several strategies to minimise urban sprawl within the Bathurst Region, one being compliance with Council's Urban Strategy. The emphasis from the community is that the entrances to Bathurst are of great importance, particularly the retention of the rural vistas and the protection of the City's gateways.

Development of the land for residential purposes would be contrary to the objectives of the Bathurst 2036 CSP.

Service considerations

Water availability

Council's Engineering department have investigated whether or not the land, and the future dwellings, could be serviced using existing water infrastructure.

- Reservoir 10 – Top of Raglan hill
Can service land up to the 708m contour. The reservoir is unable to service the entire lot if it were to be rezoned to R1 General Residential. The development cannot be adequately serviced by this reservoir.
- Reservoir 11 – Behind Raglan
Can service land up to the 730m contour. The existing reservoir does not have any spare capacity to service the development. The development cannot be serviced by this reservoir.
- Proposed Kelso reservoir – off Limekilns Road
Once constructed the reservoir will service land up to approximately the 730m contour. The reservoir has been designed to service the land which was zoned as part of the 2014 LEP, which did not include the subject land. The land cannot be adequately serviced by this reservoir.

Council's Engineering Department is **not** satisfied that the development can be serviced with an appropriate water supply based on current water infrastructure.

Sewer availability

Council's Engineering Department have investigated whether or not the land, and the future dwellings, could be serviced using existing sewer infrastructure.

Investigations have shown that the subject land could be serviced by sewer, although some upgrades to existing infrastructure may be required dependant on final design.

Traffic management

The applicant has indicated that the land could be serviced by an unformed road adjacent to the eastern boundary (see **attachment 3**). The Planning Proposal has not been supported by a traffic study to determine whether this option is valid, nor has it been identified in the Planning Proposal whether the road connection has been discussed with the Roads and Maritime Services.

Council has identified this road as an alternative road to be funded through Section 94 contributions connecting to Limekilns Road in the longer term. This option has been

supported by the Kelso Traffic Study, however the study was predicated on the basis of servicing the land recently zoned as part of the Bathurst Regional LEP 2014. It should be noted that the Kelso Traffic Study **did not** include the subject land in its calculations for traffic volumes or infrastructure requirements.

Other Issues

Loss of Class 1, 2 and 3 Agricultural land

The property has approximately 6.6ha of Class 2 land and approximately 25 hectares of Class 3 land. The Department of Primary Industries have previously raised concerns with the incremental loss of Class 2 & 3 agricultural land for urban purposes.

Appropriate land use buffers

In considering whether to rezone the land, Council would need to apply appropriate land use buffers to the adjoining land uses and natural features of the site. It would need to be consistent with other such restrictions placed on other residential land and would typically consist of, but not be limited to:

- a) 50 metre agricultural land use buffer to the agricultural land to the east.
- b) A major road buffer to Sydney Road. Generally this would be in the order of 40 metres at a minimum, but an appropriate buffer would need to be developed taking into consideration the Development Near Rail Corridors and Busy Roads – Interim Guideline (NSW Planning 2008).
- c) 20 metre (measured either side of the top of bank) riparian buffer for the Raglan Creek tributary.

Based on initial sketches, this would significantly limit the developable land below the 708 metre contour.

Justification for the application to rezone

The applicant cites that the rezoning of the land is warranted due to a “shortage of good quality residential land which is ready for residential construction.” The applicant also acknowledges that the request to rezone the land is not the result of any specific study or report, but relies on previous studies undertaken by Council including the Bathurst Structure Plan (1996). The applicant however has not addressed the conclusion of the Bathurst Region Urban Strategy (Council's current endorsed local land use strategy) which does not support the rezoning of the land for urban purposes.

As Council would be aware, the Bathurst Regional LEP 2014 rezoned a large area of land, east of the existing Kelso, to cater for the continued growth of the City. It is anticipated that approximately 4500 lots will be created as a result of this rezoning. In addition, the LEP provides for the expansion of Eglinton (approximately 600 lots) and further development at Windradyne. It is considered that the amount of land zoned for residential purposes at this time is sufficient to cater for the growth of the City in the long term (10 to 20 years). No additional lands are therefore considered necessary, particularly lands not proposed for urban expansion by the Bathurst Region Urban Strategy.

Future Planning Studies

Council has identified the need to review its Housing Strategy. At this time, the review of the Housing Strategy is anticipated within the next twelve months. Given that the review of the Housing Strategy is imminent, it would seem premature to support the planning proposal

to rezone the land at this time. The Housing Strategy will then inform the next review of the Urban Strategy.

The review of the Urban Strategy is anticipated to commence within the next three to five years. On this basis rezoning at this time is considered premature in terms of Council's strategic planning responsibilities.

Information gaps & further investigations by the applicant

It should be noted that if Council chooses to support the application to rezone the land, Council officers will require additional information from the applicant prior to the preparation of a draft Plan and its public exhibition. In particular a Local Environmental Study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* would be required to address issues such as, but not limited to, traffic and intersections, noise, appropriate land use buffers (including that of the Raglan Creek tributary), justification on the departure from the Bathurst Region Urban Strategy, contamination, Aboriginal and European heritage and preliminary lot and road layout. It should be noted that the LES process is similar to the process undertaken for the expansion of Eglinton.

Conclusion

Council's strategic documents and recent water investigations have demonstrated that there is no strategic basis on which to support the proposal at the present time. The rezoning of the site has not been supported by the Bathurst Region Urban Strategy (2007). The proposal, therefore, is **not** consistent with Council's endorsed local land use strategy. It is **strongly** recommended that Council **not** proceed with a planning proposal to rezone the subject land at this time.

Financial Implications

Nil.

Bathurst 2036 Community Strategic Plan - Objectives and Strategies

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|--|----------|------------|
| ● Objective 13: To minimise the City's environmental footprint. | Strategy | 13.1 |
| ● Objective 28: To plan for the growth of the region and the protection of the region's environmental, economic, social and cultural assets. | Strategy | 28.1, 28.9 |

Meeting type:	ORDINARY MEETING OF BATHURST REGIONAL COUNCIL		
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Minute Section:	PUBLIC QUESTION TIME	Section Number	5
Minute Status:	Released		
Minute Security:	Standard		

SubSection:	PUBLIC QUESTION TIME	SubSection Number:	5
Created By:	[All Access]	Division Required:	

Subject:	PUBLIC QUESTION TIME		
Item Number:	999		
File Number:			
Minute Number:	5		

Moved By:	Nil	Seconded By:	Nil
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Resolution:

M Wales - DEPBS Item # 6 - LEP Amendment, Sydney Road

Requests a deferral of this matter to the next meeting of Council. Feels there are a number of the matters in this report they would like to review and provide further information to Council. Would seek to also have discussions with Council staff.

Dana – Mount Rankin Landcare Group - DEPBS Item # 4

Seeks deferral of the matter and would like to keep land in community ownership.

L Cottee – Physical Disability Council

Spoke to roll out of NDIS and the opportunities this presents to Bathurst. It is a great opportunity for the town.

B Triming

On behalf of Peter Dowling - Green Bins

Peter has previously addressed this matter with Council. Mr Triming read a letter from Mr Dowling raising issues such as; one cap fits all, articles in Western Advocate, surveys undertaken, lack of consultation, needs to be optional. Requests Councillors support Bobby Bourke.

Mr Triming also raised his own concerns and questioned why not provide a waste tumbler bin for composting?

Microphones

Spoke to problems, noted seems to be fixed now. Asked can staff use the end microphone when providing advice.

M Dunbar – Bathurst Go-Kart Steering Committee - DEPBS Item # 3

Supports the DA in front of Council. This is a win-win for everyone.

L Sullivan - Green Bins

Supports proposal of green bins. Feels however there should be an opt-in-out option. Spoke to user pays system at Penrith, who have 20 options. Concern at the autocratic decision making of Council. Spoke to community survey undertaken after decision made to implement the bin. Queries the wording of the survey and noted process undertaken by the Blue Mountains. Queried whether the Council has breached its charter under the 1983 Act. Community have not been kept informed, there is no cost/benefit analysis provided. Spoke to letters received by ratepayers from Council and the Director Engineering Services report of 2013. Noted Bathurst Regional Council is not in the State levy area. Council has failed in its duty to the community.

G Crisp**Green Bins**

Cannot add to Mr Sullivan's presentation, very well done and hope Western Advocate publishes it.

Spoke to tendency to put items into confidential, this item should not have been dealt with as this. There is a lack of transparency.

Amalgamations

Spoke to comments made by the Mayor with respect to amalgamations. Noted further at page 61 of the Business Paper the level of investments held by the Council that are not restricted are less than \$1 million.

P Cole - Green Bins

Can speak on both sides of this matter. Referred to prior introduction of recycling bin. If bin introduced then impose a charge and gain should occur from reduced greenhouse gas and life of landfill. Stuck between a rock and a hard place.

Precis:

Meeting type:	ORDINARY MEETING OF BATHURST REGIONAL COUNCIL		
Minute Section:	RECEIVE AND DEAL WITH DIRECTORS' REPORTS	Section Number	12
Minute Status	Released		
Minute Security:	Standard		
SubSection:	Director Environmental Planning & Building Services' Report	SubSection Number:	12.02
Created By:	Sally Moore/BathurstCC	Division Required:	Yes
Subject:	BATHURST REGIONAL LEP 2014 AMENDMENT NO 7 - LOT 182, DP 1013217, SYDNEY ROAD,		
Item Number:	6		
File Number:	(20.00293)		
Minute Number:	24		
Moved By:	Cr W Aubin	Seconded By:	Cr I North

Resolution: **RESOLVED:** That Council:

- (a) defer consideration of the rezoning application.
- (b) refer the matter to a Working Party of Council.
- (c) call a division.

On being **PUT** to the **VOTE** the **MOTION** was **CARRIED**

The result of the division was:

In favour of the motion - Cr W Aubin, Cr B Bourke, Cr G Hanger, Cr J Jennings, Cr M Morse, Cr I North, Cr G Rush,

Against the motion - Cr G Westman,

Absent - Cr M Coote,

Abstain - Nil

Precis: