

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 received a Planning Proposal to rezone Lot 182, DP 1013217, Sydney Road Kelso in late 2015. A map of the subject land is provided at **attachment 1**.

The application proposes to rezone the subject land from RU1 Primary Production to R1 General Residential. A copy of the Planning Proposal is at **attachment 2**. A copy of the additional information provided by the applicant, including a constraints map is at **attachment 3**.

Background

Council staff prepared a report in respect of this application to the Ordinary Meeting of Council held 16 September 2015. At the meeting the applicant requested that Council defer the matter to enable them to submit additional information to Council for its consideration to support their planning proposal. Council resolved at the meeting to defer consideration of the rezoning application and refer the matter to a working party of Council. A copy of the Council report of 16 September 2015 and the minute are at **attachment 4**.

Subsequent to the Council meeting of 16 September 2015 the following events have occurred:

- A working party was held on 23 September 2015 with Council staff to discuss the issues and rationale for the recommendation not to support the proposed rezoning. The Council Officer's presentation and constraints map to the working party is at **attachment 5**.
- Council staff met with the applicant on 7 October 2015 to discuss the planning proposal, including the content of the Council report of 16 September 2015.
- The applicant and landowners met with the Councillors on 11 November 2015 and made a presentation to support their rezoning application. The applicants gave the undertaking that additional information would be supplied to Council for its consideration.
- Additional information in the form of a draft constraints map and 2-page letter was forwarded to Council from the applicants (see **attachment 3**) on 11 April 2016 in support of the planning proposal and requesting that the matter be further considered by Council.

The key points raised in the 2 pages of additional information are:

- The construction tender for the new Kelso Reservoir has been let and expected to be completed by July 2017 enabling lands up to the 730 metre contour to be serviced with reticulated water. The subject land is below the 730m contour and therefore can be adequately serviced from the new reservoir.
- The issues raised by Council staff and in the Council report can be addressed through additional reports following the Gateway Determination from the NSW Department of Planning.
- The commitment of the landowners to provide the additional information prior to public exhibition of the Planning Proposal will not place Council at any disadvantage in relation to the Planning Proposal.

Council staff are not satisfied with the additional information provided by the applicant, nor the constraints map prepared by them. A basic level of justification supporting the departure from the Bathurst Region Urban Strategy at a minimum was expected. The concerns raised by Council staff in the report to the Council meeting held 16 September 2015 largely remain, and are reiterated below.

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 by Council staff, 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 are 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.

The 2001 Housing Strategy preceded 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. **Should Council support the Planning Proposal, a detailed justification supporting the departure from the Urban Strategy will need to be undertaken as part of the Local Environmental Study (LES) process.**

Bathurst Community Strategic Plan 2036

The Bathurst 2036 Community Strategic Plan (CSP) 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

Able to 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

Able to 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 additional lots that would be generated if the land were to be rezoned (estimated to be up to 110 lots as determined from the Council staff constraints map) would represent a small increase in the overall lots being serviced by the reservoir. This would not jeopardise the operation of the reservoir. Additional trunk mains would be required to extend the water supply to the property, however, no investigations have been undertaken to determine whether any changes to the pipe sizing will need to be amended upstream of the proposed rezoning.

Council's Engineering Department have indicated that they are able to service the subject land above the 708m contour once the reservoir is constructed. Some concern is raised, however, that this will set a precedent in allowing additional connections to the water reservoir which was designed for a specific number of lots, jeopardising the contingency factor and the ability to maintain the minimum pressure within the network.

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 6**). 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) 30 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. (See Council's constraints map at **attachment 5**.)

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 commenced the review of its Housing Strategy. The initial visioning of the Bathurst community has been undertaken and the development of the strategy has commenced. The Housing Strategy will then inform the next review of the Urban Strategy as well as making recommendations about increasing the density, and better use of the existing residential land, into the future.

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

If Council chooses to support the application to rezone the land, Council would 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. The LES process is similar to the process undertaken for the expansion of Eglinton.

It should be noted that there are significant differences between the constraint maps of the applicant and Council staff. These issues will require detailed investigations prior to the public exhibition of the Planning Proposal.

Conclusion

Notwithstanding the commitment from the landowners to provide the additional information following the gateway determination, the landowners and their consultant have not addressed the fact that the rezoning of the subject land is contrary to the Bathurst Region Urban Strategy. The constraints identified by Council staff are of sufficient weight to warrant the additional information being provided prior to a gateway determination.

Council's strategic documents 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

- 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		
Minute Section:	RECEIVE AND DEAL WITH DIRECTORS' REPORTS	Section Number	9
Minute Status	Released		
Minute Security:	Standard		
SubSection:	Director Environmental Planning & Building Services' Report	SubSection Number:	9.01
Created By:	Sally Moore/BathurstCC	Division Required:	Yes
Subject:	BATHURST REGIONAL LEP 2014 AMENDMENT NO 7 - LOT 182, DP 1013217, SYDNEY ROAD,		
Item Number:	6.02		
File Number:	(20.00293)		
Minute Number:	16		
Moved By:	Cr I North	Seconded By:	Cr W Aubin

Resolution: **RESOLVED:** That Council:

- (a) 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.

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 J Jennings, Cr I North, Cr G Rush,
Against the motion - Cr G Hanger, Cr M Morse, Cr G Westman,
Absent - Cr B Bourke, Cr M Coote,
Abstain - Nil

Precis: