

Planning Services

Gateway Determination Report

LGA	Lake Macquarie
RPA	Lake Macquarie City Council
NAME	Rezone land at Jonathan Street Eleebana for residential and environmental conservation purposes (10 dwellings, 0 jobs)
NUMBER	PP_2017_LAKEM_005
LEP TO BE AMENDED	Lake Macquarie Local Environmental Plan 2014
ADDRESS	83 Jonathan Street Eleebana
DESCRIPTION	Lot 1 DP 228896
RECEIVED	16/8/2017
FILE NO.	17/11489
QA NUMBER	NA
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

The proposal is the rezoning of a 1.25 hectare site in Eleebana for residential and environmental conservation purposes, and a change to the minimum lot size to allow subdivision of the land into about 10 residential lots and one lot for environmental conservation.

The current zoning of the site is RU4 Primary Production Small Lot, and the current minimum lot size for subdivision is 1 ha.

Site Description and Surrounding Area

The site located in a precinct of large (1 ha+) lots between the urban areas of Eleebana, Warners Bay and Tingara Heights. In this precinct, there is a low density of development (mostly one dwelling per lot), a small number of non-residential uses (plant nursery, equestrian centre, child care centre) and patches of vegetation along drainage lines.

Infill development has been occurring in this precinct over time, including detached residential housing on 450 sqm lots and seniors housing.

The site is between the two local centres of Warners Bay (1.8km by road) and Mt Hutton (2.5km by road) both of which are identified as centres of local significance in the Hunter Regional Plan 2036. Bus stops are on Warners Bay Road (600 metres from site) and Macquarie Drive (850 metres from site), and have a frequent bus services.

The road network in this precinct has limited interconnectivity, with most residential development along long cul-de-sacs/ no through roads. Jonathan Street and Cherry Road at the major connection roads in this precinct. Cherry Road is a local road that connects to Macquarie Drive (B89) which is a regional road. Jonathan Street is a local road that is a no through road at the south of the site, and connects to Warners Bay Road to the north.

Immediately adjoining the site (to the north and east) is a residential zone (R2 Low Density Residential), with a minimum lot size of 450 sqm. The vegetation on the site connects along a drainage line to corridor of land heading south that is zoned for open space (RE1 Public Recreation).

The site itself is mostly cleared and flat at the intersection of Jonathan Street and Cherry Road, where the site is close to the existing urban development. Vegetation is denser in the southern third of the site, as the site slopes towards the drainage line and the corridor of open space. There is a single dwelling on the site, accessed off Jonathan Street.

Summary of Recommendation

The proposal should proceed subject to conditions, as the site is within an urban environment and adjoining serviced residential land. The management of the vegetation and connection to a corridor is supported. A review of the large lot precinct is encouraged to plan for the orderly change to land uses and improve connections (road, environmental, utilities) and provision of social and transport infrastructure.

PROPOSAL

Objectives or Intended Outcomes

The objective of the proposal is to facilitate subdivision for additional dwelling lots and provide for the long-term protection of part of the site containing significant biodiversity values.

The objectives adequately describe the intended outcomes of the proposal and do not require amendment.

Explanation of Provisions

The provisions in the proposal are clear. They are to:

1. Rezone the subject land from Zone RU4 Primary Production Small lots to
 - a. Zone R2 Low Density Residential (approx. 0.85ha) and
 - b. Zone E2 Environmental Conservation (approx. 0.4ha)
2. Change the minimum lot size from 1 hectare to
 - a. 450sqm for that part of the site to be zoned R2, and
 - b. 40ha for that part of the site to be zoned E2.

Lake Macquarie LEP 2014 includes clauses addressing subdivision of land for split zoning and lots smaller than the minimum lot size (cl 4.1D and 4.1E), which will enable Council to consider a subdivision of the E2 land which will be well below the minimum lot size.

The R2 zoning and minimum lot size are consistent with the provisions for the adjoining land. The E2 zoning and minimum lot size differs from the adjoining drainage corridor which is zoned RE1 Public Recreation with no minimum lot size. The provisions are considered appropriate because:

- The environmental values of the site are consistent with the objectives of the E2 zone to protect areas of high ecological value. The objectives of the RE1 zone are mostly to provide for public open space and recreation. The RE1 zone is best applied to publicly owned land, and is therefore not appropriate for the proposal.
- The 40ha minimum lot size is consistent with other E2 zoned land in Lake Macquarie LEP 2014. A minimum lot size is needed to ensure that the E2 land is not re-subdivided, and so that only one lot of E2 zoned land is created.

Mapping

Maps have been provided which adequately show how the provisions apply. This is sufficient for community consultation purposes.

NEED FOR THE PLANNING PROPOSAL

The dual intended outcomes of additional dwellings and environmental conservation would be difficult to achieve without this proposal. There are alternate mechanisms to achieve seniors housing without the proposal, and other regulations to manage environmental conservation without a zone change.

However, the current proposal is a suitable means for achieving the intended outcomes.

The proposal is not the result of a strategic study or report for the Eleebana area or the precinct of large lots. Given the patchy nature of infill development, environmental/ drainage corridors and limited road interconnectivity, a strategic review of the Eleebana area would be the preferred starting point before commencing this proposal.

However, the site is adequately located by adjoining existing dwellings and a corridor of open space, and provision can be made through more detailed precinct planning to address connectivity, service provision and infrastructure improvements.

STRATEGIC ASSESSMENT

State

The Hunter Regional Plan 2036 outlines goals for a biodiversity rich natural environment and greater housing choice and jobs.

The proposal is consistent with Direction 14 to protect and connect natural areas with the provisions to zone the area with significant biodiversity values.

The proposal is mostly consistent with Direction 21 to create a compact settlement. The focus of the Direction is to promoting small-scale renewal in existing urban areas, and the site is located in precinct within the urban area of northern Lake Macquarie. Councils are encouraged to identify renewal areas in consultation with the community and industry, and this has not yet occurred for the Eleebana area. A condition requiring more detailed precinct planning is recommended for the Gateway determination.

Local

The site is not within an identified growth or expansion corridor in Council's local strategy (Lifestyle 2030), and is not consistent with the directions to increase density without a community endorsed plan. A condition requiring more detailed precinct planning and a condition for community consultation is recommended for the Gateway determination.

However the proposal is consistent with the local strategy in relation to the management of environmental areas.

Section 117(2) Ministerial Directions

Identify which Directions apply and discuss if the proposal is consistent with / not consistent with the relevant Directions. Discuss in detail where inconsistent.

The proposal is consistent with the following applicable Directions, and no further assessment is required:

- 1.3 Mining, Petroleum Production and Extractive Industries
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 4.1 Acid sulphate soils
- 4.3 Flood prone land
- 6.1 Approval and referral requirements

The proposal has not yet demonstrated consistency with the following applicable Directions, conditions requiring further consultation or assessment are recommended as conditions of the Gateway determination:

- 2.1 Environment Protection zones
- 4.2 Mine subsidence and unstable land
- 4.4 Planning for bushfire protection
- 5.10 Implementation of Regional Plans

The proposal is inconsistent with the following applicable Directions, and an assessment has been made of the inconsistency as detailed, and no further assessment is required:

- 1.2 Rural zones
The proposal is inconsistent because this Direction does not allow zoning of land from a rural zone to a residential zone. The inconsistency is considered to be of minor significance as there is no demonstrated agricultural value for the land and it is a small site.
- 3.4 Integrating Land Use and Transport
The proposal is inconsistent because the site is over 500 metres from the nearest public bus route (approx. 600 metres to Warners Bay Rd). The inconsistency is considered to be of minor significance due to the small increase in distance from a bus route, options for bus routes in Macquarie Drive and Warners Bay Road, and the frequency of bus services in this area.

State Environmental Planning Policies

The proposal is consistent with the following applicable SEPPs, and no further assessment is required:

- SEPP 71 Coastal Protection
- SEPP Infrastructure
- SEPP Exempt and Complying Codes
- SEPP Mining, Petroleum Productions and Extractive Industries
- SEPP Affordable Rental Housing

Further assessment is required to demonstrate consistency with the following applicable SEPPs, and conditions requiring further assessment are recommended for the Gateway determination:

- SEPP 19 Bushland in Urban Areas

- SEPP 44 Koala Habitat Protection
- SEPP 55 Remediation of Land

SITE SPECIFIC ASSESSMENT

Social and Economic

The proposal will create minimal social or economic changes as a result of the small dwelling yield, however the timing of the proposal preceding a strategic review of the precinct and the preparation of a community endorsed plan as required by Council's local strategy may create concerns within the local community.

A condition requiring more detailed precinct planning and a condition for community consultation is recommended for the Gateway determination.

Environmental

The proposal seeks to protect an area of vegetation (by E2 zoning) that is consistent with Council's Native Vegetation and Corridors map and contribute to the movement and viability of flora and fauna in Lake Macquarie. Vegetation outside of the proposed E2 zone may have other important environmental values and a condition requiring biodiversity assessment across the site to determine values and how they will be managed is recommended for the Gateway determination.

The potential for bushfire, mine subsidence and land contamination hazards have not been fully addressed, and conditions requiring further study and consultation with responsible agencies is recommended for the Gateway determination.

Infrastructure

In the absence of a strategic review of the precinct, it is difficult to determine if there capacity within local utility, transport, social and community infrastructure. A condition requiring more detailed precinct planning is recommended for the Gateway determination.

The site is of a size or in a location that warrants contribution towards State or regional infrastructure.

CONSULTATION

Community

A 28 day consultation period is appropriate for this proposal, and include the detailed precinct planning.

Agencies

Consultation with the following agencies is recommended for the Gateway determination:

- Subsidence Advisory NSW
- NSW Rural Fire Service
- Office of Environment and Heritage
- Hunter Water Corporation

TIMEFRAME

Council has indicated that it would take nine months to progress the proposal to LEP finalisation. This includes an anticipated timeframe for the completion of technical studies that may be conditions of the Gateway determination.

A nine month timeframe is recommended as a condition of the Gateway determination.

DELEGATION

Council has requested plan-making delegation. Given the nature of the proposal, this can be supported. Council would still need to seek the Secretary's approval for the four Local Plan-making Directions where consistency has not yet been determined.

CONCLUSION

The proposal is support to proceed with conditions that address the orderly change to land uses, improve connections (road, environmental, utilities) and provision of social and transport infrastructure for this precinct. Additional studies and consultation with agencies is required to address potential environmental impacts. Consultation with the community is required to address the proposed land use change.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Agree any inconsistencies with Section 117 Directions 1.2 Rural Zones and 3.4 Integrating Land Use and Transport are minor; and
2. Note that the consistency with Section 117 Directions 2.1 Environmental Protection Zones, 4.2 Mine Subsidence and unstable land, 4.4 Planning for Bushfire Protection and 5.10 Implementation of Regional Plans is unresolved and will require justification.

It is recommended that the delegate of the Minister for, determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, Council is to:
 - Complete a review of the large lot precinct between Jonathan Street and Macquarie Drive, Eleebana with consideration of the orderly change to land uses, improved connections (road, environmental, utilities) and provision of social and transport infrastructure.
 - Complete a biodiversity assessment to enable consideration of SEPP 19 and SEPP 44, and the objectives of Local Plan-making Directions 2.1.
 - Complete an assessment to enable consideration of SEPP 55.
 - Update the planning proposal with the outcomes of the precinct review, biodiversity assessment and SEPP 55 assessment.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:

- Subsidence Advisory NSW
 - NSW Rural Fire Service
 - Office of Environment and Heritage
 - Hunter Water Corporation
4. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be authorised to exercise delegation to make this plan.



12/9/2017

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