

City Strategy Committee Meeting 13 June 2017

17STRAT027 LEP Amendment Request - 83 Jonathan Street Eleebana

Council Ref: RZ/3/2017 - D08370896
Report By: Senior Strategic Landuse Planner - Andrew Donald
Previous: 16STRAT016 - LEP Amendment Request - 83 Jonathan Street,
Items: Eleebana - City Strategy Committee - 09 May 2016 5:30pm
16SP046 - Council Inspection - 83 Jonathan Street Eleebana - Ordinary
Council Meeting - 27 Jun 2016 7.00pm

Précis:

On 27 June 2016, Council resolved not to support a request to amend *Lake Macquarie Local Environmental Plan (LMLEP 2014)* to rezone land at 83 Jonathan Street Eleebana from RU4 Primary Production Small Lots to R2 Low Density Residential (16STRAT016).

Council has received another LEP amendment request from the same proponent in relation to the same land. The revised request proposes to rezone approximately two thirds of the site to R2 Low Density Residential and one third to E2 Environmental Conservation.

This report recommends that Council not support the revised rezoning request and does not seek a Gateway Determination from the Department of Planning and Environment.

Recommendation:

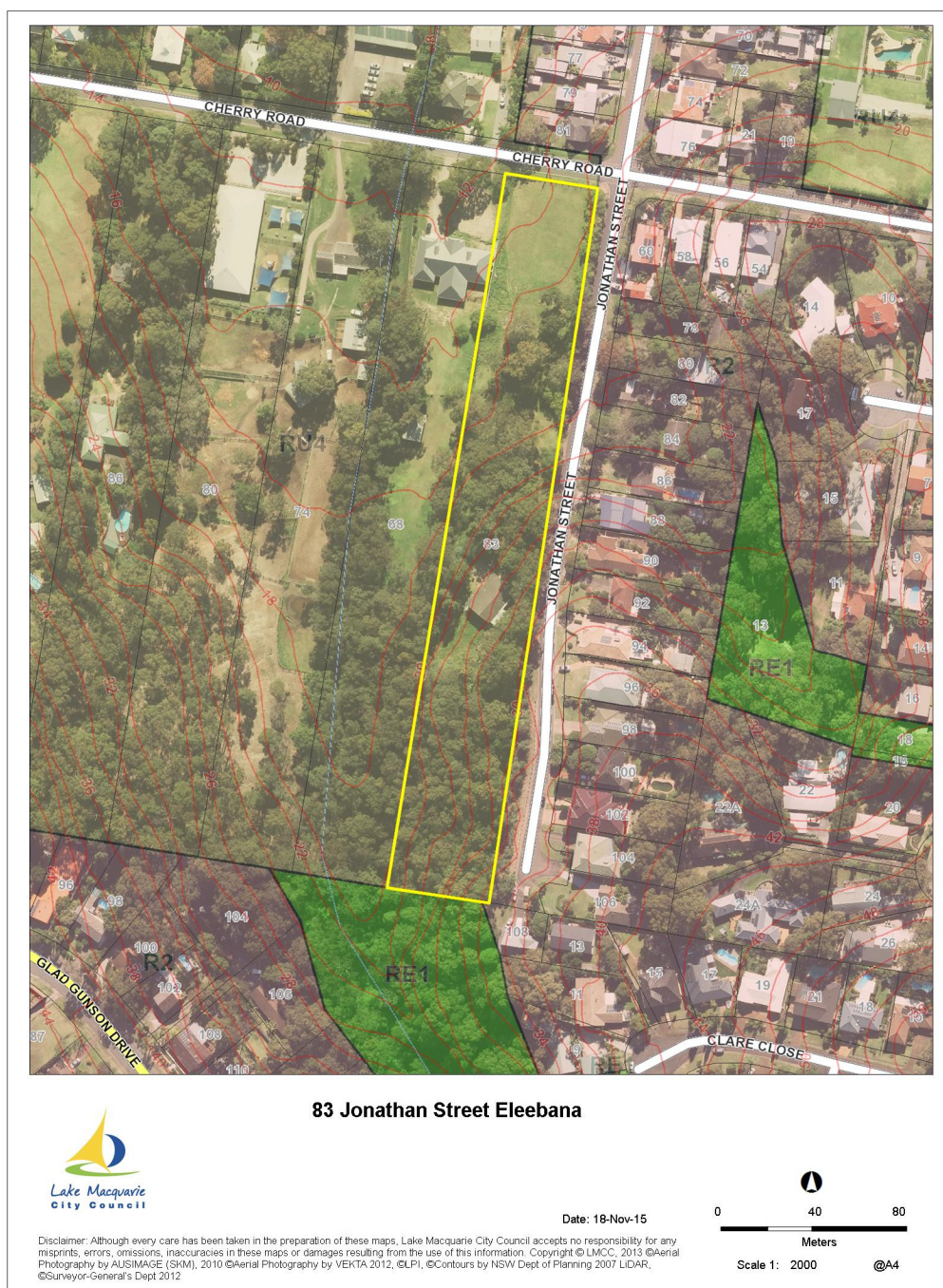
Council:

- A. Not support the request to amend *Lake Macquarie Local Environmental Plan 2014* to rezone land at 83 Jonathan Street, Eleebana from RU4 Primary Production Small Lots to R2 Low Density Residential.
- B. Writes to the proponent to advise of Council's resolution.

Background:

The site, 83 Jonathan Street, is a 1.25-hectare corner lot that fronts Cherry Road and Jonathan Street, Eleebana. It is the easternmost of a group of similar-sized lots on the southern side of Cherry Road zoned RU4 Primary Production Small Lots. Land on the opposite (eastern) side of Jonathan Street to the subject land is zoned R2 Low Density Residential and was subdivided in two stages in 1965 and 1997 respectively.

The subject land contains a brick dwelling with driveway access to Jonathan Street. The dwelling is set back approximately 150 metres from Cherry Road and is obscured by vegetation. A map of the subject land appears below.



Previous Rezoning Request

The previous request to amend *LMLEP 2014* to rezone the land at 83 Jonathan Street from RU4 Primary Production Small Lots to R2 Residential, was lodged with Council in November 2015. Records show that the proponent was consistently advised that any formal rezoning request would require strong justification having regard to Council's Lifestyle 2030 Strategy and other relevant planning policies as well as the environmental constraints of the site.

Council's Rezoning Advisory Panel (RAP) considered the previous request on 3 December 2015 where panel members unanimously agreed that the rezoning not be

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supported. Staff concerns with the proposal included the presence of native vegetation and steep topography in the southern part of the site, bushfire risk from unmanaged vegetation on the adjoining parcel to the west, impact on the semi-rural character of the broader Cherry Road area, and the amenity impact on the neighbouring property at 68 Cherry Road. Staff also felt that to support a “spot rezoning” at 83 Jonathan Street in the absence of a publicly exhibited, strategic direction or policy of Council for the locality, would set an unhelpful precedent.

In accordance with Council’s Rezoning Request Assessment Procedure, all requests that are considered by RAP are reported to the elected Council whether or not they are supported by staff.

The City Strategy Committee considered the previous request on 9 May 2016. The City Strategy Committee’s resolution at that meeting was to “*defer any decision on this matter pending a site inspection and a report on the issues raised in public access*”.

A Councillor site inspection was conducted on 26 May 2016. The inspection committee, which included Councillors Fraser, Adamthwaite, Coghlan, Johnston, Langford and Pauling, recommended that Council endorse the staff recommendation not to support the LEP amendment request for 83 Jonathan Street Eleebana from RU4 Primary Production Small Lots to R2 Low Density Residential.

At the Ordinary Council meeting on 27 June 2016, Council resolved in support of the inspection committee’s recommendation not to support the LEP amendment request.

Current Rezoning Request

The current request was submitted on 15 February 2017. In accordance with Council’s procedure, an initial merit assessment was undertaken by Integrated Planning and the matter considered by the RAP on 3 April 2017.

The current request seeks to again rezone the majority of the site from RU4 Primary Production Small Lots to R2 Low Density Residential. The difference from the previous request is that the proponent now requests an E2 Environmental Conservation zone be applied to the southern part of the property, to the south of the existing dwelling. The proposal would result in a R2 Low Density Residential zone of 7617 m² and E2 Environmental Conservation zone of 4,359m².

As per the previous request, the rezoning was justified by the proponent on the basis that it immediately adjoins existing low density residential zoning and development to the east and north, and because the site is not suited to primary production. The proponent also suggests that the presence of a watercourse and associated flood-prone land to the west of the site means there is no scope for urban development on the neighbouring parcel. The proponent argued that application of the E2 Environmental Conservation zone to the southern part of the site should alleviate concerns raised by Council in respect of the previous proposal.

Staff Assessment of Current Rezoning Request

While staff agreed that the new request has addressed a number of previous concerns, including preserving the biodiversity values of most (but not all) extant native vegetation, and avoiding development of the steeper and more bushfire prone part of the site, other concerns associated with the previous request still stand.

These include:

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- The detrimental impact on the semi-rural character of the broader RU4 Primary Production Small Lots zoned area fronting Cherry Road. The subdivision envisaged by the proponent would have a particularly adverse effect on the residents of the adjoining property, 68 Cherry Road, who objected to the previous request.
- The fact that Jonathan Street currently provides an appropriate 'hard edge' delineating the RU4 Primary Production Small Lots zone from the R2 Low Density residential zone. Under the applicant's proposal, the zone boundary would instead coincide with a series of rear boundary fences.
- The precedent that would be set by rezoning land, currently providing a unique form of 'lifestyle housing' in the northeast part of the City, in the absence of a broader strategic investigation of the merit of increasing development yields in the locality. In this regard, work has commenced on an issues paper regarding lifestyle housing options in the City. This will inform further investigations, associated with preparation of Council's new Citywide land use planning framework, relating to the potential creation and/or redevelopment of lifestyle housing precincts.

Staff do not consider *any* change to the existing zoning is appropriate at this time.

Proposal:

For the reasons outlined above, it is proposed that Council not support rezoning of land at 83 Jonathan Street, Eleebana. If the Council were to progress a Planning Proposal for the site, staff would likely seek further modifications to the proposal to lessen the impacts on the surrounding area.

Consultation:

The proposal was considered by Council's Rezoning Advisory Panel on 3 April 2017. The Rezoning Advisory Panel comprises representatives from a number of Council departments, including Integrated Planning, Asset Management, Sustainability, Development Assessment and Compliance, Community Planning and Property and Business Development. Consultants acting for the proponent gave a presentation in support of the rezoning proposal prior to the panel's deliberations on the matter.

Implications:

Policy Implications:

Council's Lifestyle 2030 Strategy (the Strategy) is the principal Council policy document against which rezoning requests are assessed. The recommendation not to support the rezoning request is consistent with the Strategy for the following reasons:

- The site is not within identified urban growth and expansion, and is not within walking distance to an existing centre.
- While it would have a lesser impact than the previous proposal, the proposed rezoning and subdivision would inevitably involve clearing of vegetation and increased impervious areas, and would be inconsistent with outcomes 1.1, 1.2, 1.10 and 1.14 under Strategic Direction 1 – A city responsive to the environment.
- Having a zone boundary at the rear of allotments fronting Jonathan Street would be inconsistent with Outcome 3.13 under Strategic Direction 3 – A well designed,

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adaptable and liveable city, which states: “The impacts associated with urban/non-urban interface are minimised”.

From a regional policy perspective, the site is not within a location specifically earmarked in the Hunter Regional Plan (the Plan) as one of Lake Macquarie’s “Future housing and urban renewal opportunities”. While the Plan does stipulate the need to “revitalise existing suburbs and explore opportunities for new infill and greenfield release areas”, it stresses priority should be given to areas “with good access to public transport and services”. The subject site is not within easy walking distance to public transport, shops or schools.

Other policy implications are assessed in the initial merit assessment contained at Attachment 1.

Environmental Implications:

Vegetation on the southern part of the site is shown in Council’s Native Vegetation and Corridors map as part of a corridor of native remnant vegetation that contributes significantly to the movement and viability of flora and fauna in Lake Macquarie City.

A preliminary ecological assessment shows the site to have a range of environmental values. The southern part of the site in particular contains steep, heavily vegetated land which contains potential habitat for several threatened species. Ten hollow-bearing trees have been counted on the site.

The site’s environmental values would be largely retained based on the conservation zoning proposed over the southern part of the site, however a small area of Redgum-Ironbark Forest, identified as a possible endangered ecological community (EEC), is located within that part of the site proposed to be zoned residential.

Social Implications:

While the rezoning of the site, to allow subdivision and residential development, would provide for additional housing opportunities in a desirable, relatively convenient location, it would have a negative effect on the immediately adjacent property. It may undermine the existing semi-rural character of the broader Cherry Road precinct and housing diversity offered by this type of property, which is uncommon in the LGA.

Infrastructure Asset Implications:

There are no infrastructure asset implications associated with the recommendation of this report.

Financial Implications:

There are no financial implications associated with the recommendation of this report.

Risk and Insurance Implications:

There are no risk or insurance implications associated with the recommendation of this report.

Options:

Council could:

1. Resolve not to support the request to rezone land at 83 Jonathan Street, Eleebana.
This is the recommended action as it maintains the integrity of Council’s Lifestyle

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2030 Strategy and reflects the existing values of the site. This is the recommended option for the reasons provided in the report.

2. Resolve to support the rezoning request and request a Gateway determination from the Department of Planning and Environment. This is not the recommended option for the reasons outlined in this report.

Conclusion:

The request to rezone land at 83 Jonathan Street, Eleebana, to allow a combination of residential development and environmental conservation, has been assessed in accordance with Council procedure and against relevant local and state planning policy. The proposal was found not to have strategic merit and staff propose that Council not support the request.

Manager - Integrated Planning - Sharon Pope

Attachments:

1. Initial Merit Assessment - Proposed residential rezoning of 83 Jonathan Street, Eleebana D08291440