

Dalwood Road, Branxton

Proposal Title : **Dalwood Road, Branxton**

Proposal Summary : **To rezone land at two locations off Dalwood Road in the locality of Leconfield, near the village of Branxton. Site A currently zoned Rural 1(a) and Site B currently zoned Rural 1(a) and 1(d) Rural Residential, are to be rezoned to a mix of residential, rural residential and conservation zones.**

Site A comprises 30 hectares and has the potential to accommodate 190 lots, Site B is 16 hectares and has the potential to accommodate 100 lots.

PP Number : **PP_2012_SINGL_003_00**

Dop File No : **11/21827**

Proposal Details

Date Planning : **31-Aug-2012**

LGA covered : **Singleton**

Proposal Received :

Region : **Hunter**

RPA : **Singleton Shire Council**

State Electorate : **UPPER HUNTER**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Dalwood Road**

Suburb : **Leconfield**

City : **Branxton**

Postcode : **2335**

Land Parcel : **Lot 6 DP 827226, Lot 2 DP 237057, Lot 4 DP 533318 and Lots 31-33 DP 571275**

DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Ken Horner**

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DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	N/A
MDP Number :		Date of Release :	
Area of Release (Ha) :	46.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	290	No. of Dwellings (where relevant) :	290
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **This matter was previously considered by the Gateway (PP_2011_SINGL_006_00) and was given a determination not to proceed. The reasons for this decision were;**

- * Insufficient strategic justification**
- * No demonstration of why the site should be rezoned despite it not being identified within the endorsed strategy.**
- * Insufficient information in relation to zoning and lot size.**
- * Insufficient information on the ability to service the site in an efficient and timely manner.**

Additional information has been obtained in response to the former Gateway Determination, in particular in relation to the ability to service the site, and is included within this revised Planning Proposal.

It is noted that Council have submitted the two proposals separately however they are adjoining sites and the submitted Planning Proposals use the same justification and propose the same outcome. It is considered appropriate that the proposals are combined and that subsequent matters, including preparation of a development control plan and determination of development contributions, are addressed considering the two sites together as an urban release area.

Adequacy Assessment**Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? **Yes**

Comment : **The objectives adequately explain that the intent of the planning proposal for site A is to facilitate residential and rural residential development with an appropriate minimum lot size and protect environmentally sensitive areas with a conservation zone.**

The objectives for site B indicate that the proposal is to facilitate residential development with an appropriate minimum lot size and a conservation zone along the riparian corridor. Later within the Planning Proposal, consideration is given to a potential rural-residential zone.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The explanation of provisions indicates that the planning proposal for both sites is intended to be delivered through an amendment to the existing Singleton LEP 1996, and also indicates how this would be translated into the new standard instrument LEP currently being prepared by Council. However the use of a rural-residential zone and environmental protection zone is not identified within the explanation of provisions for Site B. It is recommended that the Gateway requires clarification of this matter prior to public exhibition.

The explanation of provisions indicates that the preparation of a development control plan, addressing a range of specified matters, will be required prior to development consent being granted for development on the land. The Planning Proposal proposes to include an additional local clause under Singleton LEP 1996 to achieve this and this approach is consistent with other recent release areas. Alternatively this may be achieved by identifying the subject land as an urban release area under the draft Singleton LEP 2012 and triggering draft clause 6.3.

The Planning Proposal does not indicate that the subject land is required to contribute to the provision of state infrastructure, however given the scale, location and nature of the proposed development this is required under Departmental policy. It is recommended that the Gateway requires revision of the explanation of provisions to indicate that contributions will need to be considered. It is expected that this will be facilitated through the identification of the site as an urban release area for the purposes of clause 39A of Singleton LEP 1996 and draft clause 6.1 of draft Singleton LEP 2012.

The Planning Proposal indicates that a zoning map and lot size map will be prepared and provides zoning maps for both sites. No lot size map is provided for either site and it is recommended that the Gateway requires that they be prepared prior to public exhibition. The zoning map for Site A indicates that a 'mix' of residential and rural-residential uses will be provided for on the site, but does not identify the boundary of these different zones. The zoning map for Site B provides only an indicative boundary of the proposed environmental zone. It is recommended that the Gateway requires clarification of zone boundaries at both sites prior to public exhibition.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Exempt and Complying Development Codes) 2008

SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain : **It is considered that the proposal's consistency with these items will be clarified through additional site investigation and consultation.
This issue is discussed in more detail under the assessment component of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The zone boundaries on the maps included within the Planning Proposal for both sites, need to be clarified prior to public exhibition.**

Lot size maps need to be prepared and the subject land needs to be identified as an urban release area for the purposes of Part 11 of Singleton LEP 1996 or Part 6 of draft Singleton LEP 2012.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has not specified the amount of community consultation that they recommend. However because the subject land is not identified within the strategic planning framework and proposes uses different to the pattern of portions of the surrounding land, public exhibition for a period of 28 days is warranted.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **June 2013**

Comments in relation to Principal LEP : **The draft LEP was exhibited until 7 September 2012.**

It is considered likely that this will be an amendment to the new standard instrument draft Singleton LEP 2012, however it may be finalised as an amendment to the existing Singleton LEP 1996.

Assessment Criteria

Need for planning proposal : **The subject land has been identified by Council as required because of its potential to 'contribute to the supply of residential housing within the LGA in a timely manner, independent of the Huntlee proposal and as a natural expansion of the existing village'.**

Council has identified that the site has access to services and infrastructure, in particular it is located 3 kilometres from the Branxton train station and close to the Hunter Expressway currently under construction.

Dalwood Road, Branxton

The proposal indicates that additional residential opportunities are required due to the delays to the development of the Huntlee site. A supply and demand analysis is also provided and used to indicate that additional residential land is required.

An amendment to the LEP is considered the best means for achieving the objectives of providing additional residential development at the subject sites.

The Planning Proposal includes a net community benefit test that indicates that there is a community benefit in the provision of alternative residential development opportunities in proximity to an existing urban area.

Consistency with strategic planning framework :

The subject sites are not identified within the Singleton Land Use Strategy (2008). However Council indicate that this was in response to the assumption that Huntlee would provide all the required housing supply with 7,500 dwellings to the south of Branxton, and therefore that no other land needed to be identified, and that it was not a reflection on the merit of these sites.

The Planning Proposal includes an assessment against the Lower Hunter Regional Strategy, including the sustainability criteria. This information is noted, however the Strategy does not currently apply to this area.

A review of the Planning Proposal against the relevant State Environmental Planning Policies and s117 Ministerial Directions has been undertaken.

SEPP 44 Koala Habitat Protection - The proposal identifies that Site B (Lot 6 DP827226 and Lot 2 DP237057) is considered consistent with the SEPP because the environmental studies have identified that the site does not constitute Koala habitat. Clarification as to whether this is the same for Site A is required.

SEPP 55 Remediation of land - The proposal does not provide any comment in regards to consistency or otherwise with the SEPP and this is required to be clarified by Council prior to exhibition.

SEPP Rural Lands 2005 - The proposal indicates that it is consistent with the SEPP because the subject land is of poor agricultural quality and would be more appropriately used for residential development. This position is concurred with for the rezoning of Site A (Lot 4 DP 533318 and Lots 31-33 DP 571275), however further information to confirm that the rezoning of Site B does not jeopardise the existing poultry farm, adjoining the site to the south, is required before its consistency with the SEPP can be determined.

The proposal is considered consistent with all other relevant SEPP's.

Council has identified the s117 directions that it considers apply to the proposal. Consistency with many of these directions requires additional information or clarification that may be obtained from the additional studies and/or consultation process.

Direction 1.2 Rural Zones. The proposal will rezone land from a rural zone to a residential zone and is therefore inconsistent with clause 4a of this direction. The proposal identifies that any inconsistency can be considered under clause 5d as of minor significance because the land is of poor agricultural quality and more appropriately developed for residential development. Clarification of the potential impacts upon the existing poultry farm to the south of site B, and thus consistency with this direction, will be made following the Gateway Determination.

Direction 1.5 Rural Lands. The proposal will rezone land from a rural zone to a residential zone and must be consistent with the relevant principles. The proposal identifies that it is consistent with this direction because the land is of poor agricultural quality and more appropriately developed for residential development. Clarification of this matter will benefit from additional information and consultation following the Gateway Determination.

Direction 2.1 Environmental Protection Zones. The proposal affects environmentally sensitive land and clarification of whether or not the proposed measures facilitate the protection and conservation of this land (clause 4 of the direction) will be clarified during the consultation process.

Direction 4.4 Planning for Bushfire Protection. Consultation with the NSW Rural Fire Service prior to exhibition is required before the proposal can be considered consistent with this Direction (clause 4), as the land is mapped bushfire prone. This requirement forms a recommended condition of the Gateway Determination. The proposal's consistency or otherwise with this direction will be resolved once the relevant consultation has been undertaken and prior to finalisation of the LEP amendment.

Direction 5.1 Implementation of Regional Strategies: The subject land is not located within the boundaries of the current Lower Hunter Regional Strategy although cross-boundary issues are noted. This direction therefore does not apply.

The following s117 direction also applies;

Direction 3.1 Residential Zones. The Planning Proposal will affect a proposed residential zone, therefore this direction applies (clause 3a). The proposed mapping of the subject land as an urban release area will require that the residential development is appropriately serviced and will therefore be consistent with this direction (clause 5).

The proposal is considered consistent with all other relevant s117 directions.

Environmental social
economic impacts :

The Planning Proposal indicates that environmentally sensitive land, in the form of endangered ecological communities and threatened species habitat, is present on the site. Although studies have been conducted, limitations to access for Lot 4 restricted the ground based study of that vegetation. Portions of the environmentally significant land are proposed to be zoned for environmental conservation. The Planning Proposal also indicates that clearing will be required to accommodate road infrastructure. The studies indicate that the environmental impact can be mitigated, or where mitigation cannot occur may be offset. Further consultation is required to confirm this situation.

The Planning Proposal also indicates that there is an existing poultry farm approximately 200 metres from the boundary of the proposed residential development at Site B. This poultry farm is located within the Cessnock LGA. Further information and consultation with Cessnock City Council and the Department of Primary Industries (Agriculture) is required to determine any potential land use conflict.

The Planning Proposal indicates that it will have positive social and economic benefits associated with additional residential growth adjoining the village of Branxton.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	28 Days
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Timeframe to make LEP :	12 Month	Delegation :	DG
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Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage NSW Department of Primary Industries - Agriculture NSW Rural Fire Service Transport for NSW - Roads and Maritime Services Adjoining LGAs
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Is Public Hearing by the PAC required?	No
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(2)(a) Should the matter proceed ?	Yes
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If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

**Flora
Fauna
Heritage
Air Quality**

Dalwood Road, Branxton

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **Yes**

If Yes, reasons : **The subject site is expected to provide for up to 290 additional residential lots at Branxton. It is considered that this will generate additional demand for state infrastructure. It is recommended that the Gateway requires the identification of the site as an urban release area for the purposes of satisfactory arrangements for state infrastructure.**

The subject land is not located within the Lower Hunter and therefore was not identified as part of the exhibited material on the Lower Hunter Special Infrastructure Contributions Scheme. However its identification as an urban release area is consistent with other land release areas within Singleton. Approval to map the site as an urban release area has been sought from the infrastructure division of the Department and is expected to be clarified prior to a Gateway Determination being issued.

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal - LA6 2011 - Revision 1 - August2011 - PDF.pdf	Proposal	Yes
Planning Proposal LA04 Site A- Revision 1 - August 2012 - PDF.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 3.4 Integrating Land Use and Transport**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 6.1 Approval and Referral Requirements**
- 6.3 Site Specific Provisions**

Additional Information : **It is recommended that:**

The Director General as delegate of the Minister for Planning and Infrastructure determine under section 56(2) of the EP&A Act that an amendment to the Singleton LEP 1996, or draft Singleton Local Environmental Plan 2012, be prepared to rezone two sites adjoining Dalwood Road Leconfield, to facilitate residential and rural-residential development and the protection of environmentally sensitive land, subject to the following conditions;

- 1. The following studies will need to be completed as part of the Planning Proposal prior to public exhibition:**
 - *any additional flora and fauna studies required by Council and the Office of Environment and Heritage.**
 - *cultural heritage study consistent with Council and the Office of Environment and Heritage requirements.**
 - * any relevant studies to identify and if necessary address impacts from the adjoining poultry farm.**

2. That the relevant mapping is prepared and/or revised prior to public exhibition including;

- * clarification of the zone boundaries.
- * preparation of a lot size map.
- * preparation of an urban release area map.

3. That Council revise the explanation of provisions to clarify the range of land uses expected on the site and its identification as an urban release area for the purposes of satisfactory arrangements for state infrastructure, prior to public exhibition.

4 That Council clarify whether or not the proposal is consistent with SEPP 44 Koala Habitat Protection (for Site A), SEPP 55 Remediation of land (for both sites) and SEPP Rural Lands 2005 (in relation to the poultry farm) and amend the Planning Proposal to address the matter prior to public exhibition.

4. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
(a) the planning proposal must be made publicly available for 28 days; and
(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of A Guide to Preparing LEPs (Department of Planning 2009).

5. Consultation is required with the NSW Rural Fire Service, consistent with s117 direction 4.4 Planning for Bushfire Protection, and any necessary amendments to the Proposal made prior to it being placed on public exhibition.

6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- * NSW Transport Roads and Maritime Services
- * Office of Environment and Heritage
- * Department Primary Industries (Agriculture)
- * Cessnock City Council

The public authority is to be provided with a copy of the planning proposal and any relevant supporting material. The public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

7. The timeframe for completing the LEP is to be 18 months from the week following the date of the Gateway determination.

Supporting Reasons :

The proposal is for an extension of the existing urban area of Branxton and has been identified as able to be serviced and developed within a short timeframe.
The proposal has responded to the issues raised by the earlier Gateway Determination and additional information has been provided.

Signature:



Printed Name:

Monica Gibson

Date:

14/9/2012

